

# **It won't stop until you protect the victims**

**Complex divorces and suspicions/allegations  
of domestic violence**

Working group of complex divorces - multidisciplinary collaboration (CSMS)

2019

2019

CSMS, It won't stop until you protect the victims. Complex divorces and suspicions/allegations of domestic violence.

This book is a translated and slightly adapted version of the Dutch original: "Het houdt niet op, todat je de slachtoffers beschermt. Complexe scheidingen en vermoedens/beschuldigingen van huiselijk geweld." The greatest possible care has been taken to make the book available and understandable for international readers. The CSMS takes no responsibility for the accuracy of the translation.

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**Only refer to this book if you have read the entire book yourself.**

## *Preface*

This book is about the absence of help for children and parents who are victims of domestic violence, after a divorce. There are erroneous thoughts about these victims and the situation in which they find themselves. As a result, they are completely abandoned. This is at odds with the aim that people have in the Netherlands to combat domestic violence and, in particular, child abuse.

Imagine that you are treating a child who has been sexually abused by a parent and that this child is told that she needs to have contact with this parent who is also the perpetrator. The child vomits as a result of the distress.

Or try to imagine that you are sheltering a woman who ended up in hospital after a punch from her ex. After years of domestic violence, she dared to take the step to achieve safety for her children and herself. She is afraid that her ex will kill her out of revenge, but every week she has to meet him at the mediator's office to make arrangements about the children. According to the Child Protection Services, this mother is engaged in a hate campaign towards her ex and the children will be better off with their father.

*What would you do if you were professionally involved in such situations?*

We (the authors of this book) shared our stories with other professionals and found recognition and support, but also a great sense of powerlessness. We discovered that our stories were no exception. The presence of a complex divorce context turned out to be a trigger for the application of the wrong theoretical frameworks, the use of wrong interventions and the taking of disastrous decisions time and again. This realization has led to the establishment of the working group on complex divorces - multidisciplinary cooperation (CSMS). We studied the guidelines and existing systems and compared them with the (international) scientific findings and the international conventions. This has enabled us to describe the current state of affairs and the reasons why victims are often unprotected. Our recommendations follow from these findings. We hope that they will be implemented and that we will achieve our goal of protecting and helping victims of domestic violence.

We have decided that anyone dealing with complex divorces should be aware of our findings and we have therefore written this book and opted for a form of publication that will be accessible to everyone.

As the subject may be of interest to an international readership, this book is a translation and slightly adapted version of the Dutch original. The adaptations consist of explanatory notes to clarify the Dutch context and a number of examples with the same connotation that have been replaced by English ones.

The working group consists of counselors and scientists. It was a deliberate choice not to associate names with this book. The intention is to allow science to do its work. Personal titles, opinions and personal experiences do not belong in this book. Moreover, on the internet (in blogs, social media, etc.) we came across blunt personal attacks on scientists. We found the tone of some of the pieces intimidating and the content inappropriate. Of course, there may be a discussion about the themes discussed in this book. However, we want to prevent the book from leading to unjustified personal attacks. We hope that any comments or discussions will take place with integrity, that they will deal with the content and that they will lead to (even) more insight into the theme.

CSMS, May 2019

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- Just think about it. We all have to take good care of children. If you want to help a child, you should always think carefully about who is sweet and who is not and who can help well. (translated quote)

- a little child

# ***1. Introduction***

## ***1.1 Purpose***

This book is about the mistakes that are made towards victims of domestic violence in a complex divorce context. The aim is to inform the readers about this and to provide them with the correct information. We also want to give the reader insight into the reasons why mistakes are made and prejudices exist, thereby creating motivation for change. By the same token, we will explain to the reader that the current policy leads to insecurity and further damage for the victims of domestic violence. The ultimate goal is to convince the reader of the need to better protect and help victims. To this end, we also present recommendations, which will hopefully lead to policy changes.

## ***1.2 Method***

In the search for literature, we have used many different search terms in google scholar. We also looked up references from relevant publications and checked which publications referred back to a reference to find out whether there was any criticism and/or new findings. We searched in Dutch and English. The simple reason for this was that the members of the working group master these languages best. To obtain as many recent findings as possible, the group preferred to search on (but not limited to) articles from 2015 on. We have also made use of websites and case-law. These were last checked in March 2019.

We didn't just use scientific articles. Other sources include legal websites and reports from advisory boards. Given that it is virtually impossible to obtain a guarantee of the value and quality of a resource, we have used as many different sources as possible from as many different authors and we have carefully read and used critiques of methods. We have asked some authors questions over the phone about their work. These questions were about their thoughts, and on the basis of their thoughts. We then checked whether these arguments indeed had further scientific support. We have listed all the sources used as clearly as possible in the book. In the current text, the surnames of the authors and the year of the publication are mentioned. If there are repetitions or more than five authors, the surname of the first author is simply mentioned, followed by 'et al.'. The complete references can be found in the reference list. Sources where this system did not work well, such as case-law and sources without

authors, were noted using a footnote. For all sources, the hyperlinks to the document are mentioned as much as possible in the references or footnotes.

The CSMS has focused in particular on the scientific literature in which research-based statements are made. For readers who are not or less familiar with science, please refer to Appendix I. We regularly came across publications that mentioned figures and statements with a reference that empirically, insufficiently supported them. Figures can be copied in pieces from other publications that do not state on what basis these figures are founded: for example, whether it is an estimate, a calculation, or a study among a representative sample. Also, relatively more was written on the subject of complex divorces by the same persons in the same (international) journals. As long as these are scientists who focus on the subject and carry out a great deal of empirical research, which they describe in their publications, this can result in new information about a subject (such as a PhD thesis that is always about one subject). It is conceivable that these publications will be published more often in the same journal if this is a specialized journal. The problem arises when theories are explained and it is not (clearly) indicated that the theories do not (yet) have empirical support or are contradicted by scientific data. If these papers are always judged by the same people with the same ideas, they can be unjustly published. The CSMS has come across publications on complex divorces in which the substantiation consisted almost entirely of references to earlier own work and/or work by authors with similar ideas without actually presenting evidence for the statements made. Of course, we have either not used such publications, or only used them to investigate which theories are put forward and to describe the extent to which they are supported by scientific literature, are used in practice, and with what possible effects.

### ***1.3 Description of the content***

Before discussing the theoretical frameworks and substantive findings, an overview is given of the relevant figures. First, a description is given of the number of Dutch children that are involved in divorces, and then of the arrangements of parenting time. Next, the 'complex divorces', also known as 'high conflict divorces', are discussed. There have been regular newspaper reports and documentaries about these matters, and these kinds of divorces also

tend to be a topic of conversations between people.<sup>1</sup> Nevertheless, complex divorces are poorly understood and defined ([Geurts. & Voert, 2014](#)). The term refers to problematic divorces, but it remains unclear exactly what problems or conflicts are involved, nor is it clear how long these conflicts should last in order for it to be termed a complex divorce ([Geurts. & Voert, 2014](#)). Based on the international definition, of 'high conflict divorce' complex divorces are generally defined as: the minority of divorces in which the parents who break up fail to come apart from each other and show this inability for years after the divorce ([De Ruiter. & Van Pol, 2017](#)).<sup>2</sup>

In chapter 2, by giving the figures, a first step is taken to clarify what we are talking about when we are referring to a complex divorce context. The chapter concludes with the prevalence figures for domestic violence.

Chapter 3 will look in detail at domestic violence as a cause of complex divorces. This chapter will explain domestic violence, the causes of domestic violence and the reasons why domestic violence and divorce are related. It will be substantiated that domestic violence plays a role in the vast majority of the complex divorces.

In Chapter 4 we then come to an extensive explanation of the lack of recognition of domestic violence within the context of a complex divorce. This chapter explains which incorrect theories and prejudices lead to the denial of domestic violence. It also explains why there is so much room for these wrong thoughts.

Chapter 5 will deal with the recognition of children's views and interests. We will explain that children's experiences are a strong determinant of what is in their best interests. We will then explain why people nevertheless attach too little importance to their experiences, do not

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<sup>1</sup> A few examples in dutch: 'Employer must help prevent fighting divorce' in the Telegraaf (17 febr. 2018) <https://www.telegraaf.nl/nieuws/1685156/werkgever-moet-vechtscheiding-helpen-voorkomen>; the television broadcast 'Fighting Divorce' from the Monitor, aired on 29 Jan. 2017. <https://demonitor.kro-ncrv.nl/onderzoeken/vechtscheidingen>

<sup>2</sup> It should be noted that the content of this document is limited to complex divorces within the context of heterosexual relationships. The reason for this is that there were not enough data available to make statements about the divorces of parents who had a homosexual relationship with each other.

pay enough attention to their interests and are unable to acknowledge their experiences of abuse and maltreatment.

Chapter 6 describes the referrals, investigations and interventions that divorced parents and their children encounter. In each case, specific attention will be paid to the (in)effectiveness and risks of domestic violence.

Chapter 7 then explains the consequences for protective parents and children. Both the legal consequences and the consequences for physical and emotional safety will be discussed. The findings from this chapter have led to the writing of this book. With the right numbers and knowledge of domestic violence in mind, as well as awareness of the wrong theoretical assumptions and prejudices, Chapter 7 therefore reflects the seriousness of the problem.

In Chapter 8 we will present our conclusions and arrive at the recommendations. We have divided the recommendations into the necessary changes in legislation, improvements in expertise, room for correct reasoning and considerations and the fight against prejudice.

## ***2. Figures on divorce, distribution of care and domestic violence***

### ***2.1 Figures on the number of parental divorces***

There is confusion about how many children in the Netherlands are involved in a legal divorce or a separation of parents unconnected by marriage ([Sharifi, 2017](#)). This has to do with figures that are incorrectly calculated and/or figures that are not copied correctly. To get a good idea of the number of children who will have to deal with parental divorce, we have looked up the most recent figures that have been published on this subject.

In the Netherlands, there are approximately 18,000 couples of children per year who enter into an official marriage dissolution (based on figures from 2017; Centraal Bureau voor de Statistiek, [2018a b](#))<sup>3</sup>. Approximately 32,000 to 33,000 children are involved.<sup>4</sup> In addition, it is estimated that approximately 20,000 children are involved in unmarried parents who break off their relationship ([Centraal Bureau voor de Statistiek, 2018b](#); [Van der Wal, 2018](#)).<sup>5</sup> Based on these numbers, the recent estimate is that approximately 53,000 children a year will have to deal with the separation of their parents ([Van der Wal, 2018](#)). This remains an estimate. The actual number of parents who break off their relationship and therefore stop living together fluctuates per year. Also, some parents do not register their cohabitation through a registered partnership or marriage. These people are not included in the tables of the national statistical office (Centraal Bureau voor de Statistiek). For additional data, we, therefore, searched for large-scale structured studies in which Dutch participants were asked about experienced divorces of parents. A survey among pupils in the last two grades of primary school yielded a percentage of 25.8% of the children who said they had experienced parental divorce ([Vink, Pal, Eekhout, Pannebakker, & Mulder, 2016](#)). In an earlier survey among students from the first three grades of secondary education, 18.7% of them indicated that their parents were divorced (13.2% legal divorce, 5.5% divorce after cohabitation; [Van der Valk, & Spruijt, 2013](#)); and in a survey

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<sup>3</sup> Also see (in Dutch): <https://www.nji.nl/Scheiding-Achtergronden-Cijfers>

<sup>4</sup> In Dutch: <https://www.nji.nl/Scheiding-Achtergronden-Cijfers>

<sup>5</sup> Where not further explained, 'divorce' in this document refers both to official divorces and to divorces of parents that break up without a prior marriage.

conducted among adults in 2010, 15% reported that they as a child had experienced a parental separation ([Kuiper, Dusseldorp, & Vogels, 2010](#)).

## ***2.2 The distribution of care for the children***

The media paint the picture that men often experience adverse effects as regards their role as fathers as a result of a divorce. Many fathers would hardly be allowed to see their children after a divorce, or not at all (see for example [Den Hartog, 2016](#)). However, this picture is unjustified.

In 1971 it was made legally possible to divorce if one or both partners felt that the relationship had been permanently disrupted in the Netherlands ([Janssen, Poortman, Graaf, & Kalmijn, 1998](#)). Before that, there were only a few legitimate reasons to divorce, such as adultery ([Janssen, et al., 1998](#)). This change in legislation was a consequence of social changes ([Van Poppel, & De Beer, 1993](#)). These changes did not just occur in the Netherlands and Europe. Also in other places in the world, such as Australia, America, and Canada, what is called a 'no-fault divorce' became possible ([Brown, Frederico, Hewitt, & Sheehan, 2000](#)).

Research has been done among a large group of adults who were born after 1971, between 1971 and 1991. Of the respondents who at that time experienced that the parents split up, 50% remained with the mother, 5.6% with the father and for 19.9% there appeared to be another arrangement. For the remaining 24.5%, different circumstances applied, for example, because one of the parents died ([Kalmijn, et al., 2018](#)). Before 1980, co-parenting, in which the child of divorced parents spends about as much time with the father as with the mother, was very rare (1%). Between 1980 and 1998, this percentage rose to approximately 5% ([Poortman, & van Gaalen, 2017](#)). Only a small percentage of divorced fathers at this time (1991-1998) rarely or never saw their children, i.e. 11% ([Westphal, 2015](#)). This study did not determine the reason why these fathers did not see their children. However, it was indicated that the percentage was lower than in earlier times and that it was linked to fatherly involvement in upbringing. As a result of social changes, fathers would become more involved, which would also be reflected in the number of fathers who would maintain contact with the children even after divorce ([Westphal, 2015](#)).



Although these figures are still frequently referred to, they are outdated. In 2013, more than a quarter of the parents who divorced came to a co-parenting arrangement, which in 80% of the cases was still maintained after two years ([Poortman, & van Gaalen, 2017](#)). Since 2009, parents are obliged to make agreements when they break up and to record them in a parenting plan. Research into 200 of these parenting plans showed that 38% of these parents agreed that the child (or possibly the children) would spend an average of at least 3 nights with each of the parents. A group of 42.5% opted for a 'weekend plus arrangement', which means that the child lives with one parent (usually the mother) and is with the other parent one weekend every fourteen days, supplemented by more contact moments. An example of this is an extra overnight stay in the other week. A small group opted for the child to stay only with one of the parents: 7.5% with the mother and 2% with the father. The remaining 10% had not (yet) determined the distribution of care and left this to the child's wishes, for example, or to how circumstances would look if both parents had found a new home ([Nikolina, 2015](#)). The percentage of young people who indicated in the survey among secondary school students that they had no contact with their father at all was less than 5% and the majority had contact with their father (as well as with their mother) once or more a week ([Van der Valk, & Spruijt, 2013](#)).

These figures show that the vast majority of the children maintain frequent contact with their father after a divorce. Although on average, children spend more time with the mother than with the father after the divorce, this also applies to children who grow up with parents who live together or are married. Research has shown that it is customary for mothers to spend more time raising children ([Centraal Bureau voor de Statistiek, 2015](#)). Even if parents have paid employment on an equal footing, it is the mother who most often takes on parenting duties, such as putting the children to bed and staying with them when they are sick ([Centraal Bureau voor de Statistiek, 2015](#)). Of the couples with children, in 18% only the father works and the mother does not, and in 58% the man works full-time and the woman part-time (data collected in 2015; [Portegijs, & Van den Brakel, 2016](#)). Research conducted in 2013 showed that one in three fathers has a 'papa day': a weekday is spent at home while the partner is working ([Portegijs, & Van den Brakel, 2016](#)). For mothers, it appears that the vast majority of them are at home for at least one weekday while their partner is working: 70% of the mothers are at home for more than one weekday, a good 20% of the mothers have one 'mama day' ([Portegijs,](#)

[& Van den Brakel, 2016](#)). These figures make it clear that the imbalance in the distribution of fathers' and mothers' care<sup>6</sup> is not specific to parents who are divorcing.

The legal position of fathers has been strengthened at the end of the last century. Since 1998, after a divorce, parents have, unlike before, in principle retained joint legal custody ([Poortman, & van Gaalen, 2017](#)). In 2009, the legal principle that fathers and mothers have an equal role in the care and upbringing of their children was also established ([Poortman, & van Gaalen, 2017](#)). Equality does not equate to an equal distribution of time. Parents or judges, if they have to take a decision, can, but are not obliged to choose for co-parenting.<sup>7</sup> If a parent submits a request to the court, the court will use this as a starting point. When determining the distribution of care, the court will consider practical matters such as the distance between the homes of both parents, as case-law has shown ([Nikolina, 2015](#)). It may happen that a father, after the divorce, is granted co-parenting on the basis of a decision by a judge, even if the father spent much less time caring for the children before the divorce ([Nikolina, 2015](#)). Research into case law has shown that judges arrive at various care schemes and substantiate their decisions on a case-by-case basis and per child with different reasoning ([Nikolina, 2015](#)). It also appears that, following the legislative changes, a mother cannot easily frustrate the contact with the other parent. If a parent does not or not fully comply with an existing visitation scheme, the other parent can bring the matter to court. The consequences vary from case to case. In case-law, examples are mothers who have to pay a fine, are sentenced to community service, lose the custody and/or residence of the children to the other parent ([Nikolina, 2015](#)).<sup>8</sup> The aforementioned study among secondary school students shows that they have the experience that parents generally adhere to the existing care arrangements and that the percentage of mothers and fathers who do not adhere to them (less than 10%) is the same no matter which gender ([Van der Valk, & Spruijt, 2013](#)).

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<sup>6</sup> In this document, 'distribution of care' means the division of care between two parents and 'visitation arrangement' means the part of the distribution of care that relates to the contact of the child with the parent with whom the child is not residing (who may or may not be in charge of the custody of the child).

<sup>7</sup> The Supreme Court of the Netherlands. Dutch case-law: [ECLI:NL:HR:2010:BL7407](#)

<sup>8</sup> Dutch case-law: [ECLI:NL:GHAMS:2005:AS6020](#)

### ***2.3 Figures on the number of complex separations***

The Dutch media sometimes wrongly paint a picture that a large percentage of children experience a complex divorce ([Geurts, & Voert, 2014](#)). In the absence of a clear definition, it is difficult to give an exact figure or percentage of the number of complex separations. That is why we describe the percentages of the divorces that run into problems.

The vast majority of divorces go without (major) problems ([Geurts, & Voert, 2014](#)). Over the period 2001-2012, about 60% of all divorces (including divorces of couples without children) were made on joint request, which means that both partners ask for the divorce together and they agree on the consequences of the divorce ([Geurts, & Voert, 2014](#)). A further 22% was requested unilaterally, but without the other party's opposition, and 18% were contradictory ([Geurts, & Voert, 2014](#)). If cases are brought before the court, this may involve disagreements about care and upbringing tasks, but also, for example, about the division of the matrimonial community. These are, therefore, rather general figures.

Research into files from 2010 on divorces of couples with children gives more details. In 83% of this year's cases parents made all agreements themselves, in 7% the judge decided, in 8% the judge took part of the decisions and the parents had agreed on part of the decisions themselves, in 2% nothing was arranged and 1% was declared inadmissible (rounded to the nearest whole number) ([Tomassen-Van der Lans, 2015](#)). Just over three quarters of the cases in which the judge gave a decision in 2010 concerned child support. In 9% of the cases, at least one follow-up procedure was initiated within two years concerning the arrangements made ([Tomassen-Van der Lans, 2015](#)). Furthermore, the study among secondary school students shows that between 7 and 10% of the young people of divorced parents spoke to someone from the Child Protection Services; between 6.5 and 14% of them spoke to the family judge. ([Van der Valk, & Spruijt, 2013](#)). Based on these figures, our cautious conclusion is that probably 5 to 20% of all divorces are complex.

### ***2.4 The figures on domestic violence***

We have chosen to present figures based on self-reports by respondents. Any method used to estimate the prevalence of domestic violence has its drawbacks. A disadvantage mentioned in

research into self-reports is that there may be a higher degree of non-response among current victims and perpetrators because they do not dare to participate (e.g. fear of reprisal or fear of being identified) ([Van Eijkern, Downes, & Veenstra, 2018](#)). Nevertheless, research based on self-reports poses fewer systematic problems than other methods ([Mathews, Norman, Dunne, & Marston, 2017](#)). It is known that research that is conducted through institutions (e.g. police, the national child abuse center) and relevant professional groups (e.g. clinics for routine baby check-ups, schools) causes many problems. Due to lack of time, incomplete data, changes in the methods of registration, unwillingness to cooperate, cases that remain invisible, a bias in the cases that are known, and subjectivity in the assessments, this type of research cannot provide a representative estimate ([Alink, et al., 2011](#); [Van der Heijden, Cruyff, Van Gils, & Snippe, 2019](#)).

In the United States, a questionnaire was developed on the basis of far-reaching youth experiences, referred to as 'adverse childhood experiences', which is now being used internationally ([Felitti, et al., 1998](#); [Vink, et al., 2016](#)). This includes ten categories, including six forms of child abuse, which are: physical abuse, emotional abuse, sexual abuse, witnessing partner violence, emotional neglect, or physical neglect (the other four categories are: growing up in a family with a problem drinker, alcoholic or drug user, living together with a psychiatric or suicidal family member, the experience of imprisonment of a family member). In a survey of more than 600 Dutch children using this questionnaire, it appeared that 27% of the children in the last two grades of primary school experienced or had experienced one or more forms of domestic violence (see the first column of Table 1 for a specification of these figures by type of domestic violence) ([Vink, et al., 2016](#)). Of course, children can also experience (further) far-reaching experiences in their secondary school years. In an earlier study among adults who reported on their youth, higher percentages were indeed found (see the second column of Table 1). A study was also conducted among secondary school students (12-18 years old). This study yielded higher prevalence figures, namely 24% for neglect, 4% sexual abuse, 33% physical violence, 58% psychological violence (which may not always be child abuse, such as shouting) and 15% exposure to violence between parents (rounded off to whole percentages). ([Schellingerhout, & Ramakers, 2017](#)). Since different definitions and operationalisations (i.e. a different questionnaire) were used in this investigation, they cannot be directly compared to the other investigations.

Research among adults into only physical and sexual domestic violence further shows that 5.5% of them indicate that they have experienced one or both of these forms of domestic violence in the past 5 years. ([Van Eijkern, et al., 2018](#)). Within this group, 55.6% were (ex)partner violence. Because of the high level of non-response, it is thought that this is a minimum prevalence ([Van Eijkern, et al., 2018](#)).

Table 1. Percentages of children (10-12 years old) and adults who report experiencing or have experienced domestic violence in childhood rounded off to whole percentages, from two large scale Dutch studies of Vink et al. (2016) and Kuiper et al. (2010)

Child abuse	Percentages found by Vink et al. (2016) among children aged 10-12 years old (of 664 children)	Percentages found by Kuiper et al. (2010) among adults (of 2208 adults)
Emotional neglect	13 %	21 %
Emotional abuse	12 %	19 %
Physical abuse	9 %	17 %
Witness violence against parent	8 %	8 %
Physical neglect	3 %	5 %
Sexual abuse	3 %	10 %

### ***3. Domestic violence as a cause of complex divorces***

#### ***3.1 Complex divorces require an explanation***

The reason why CSMS was founded is that professionals question the current state of affairs regarding complex divorces. Studying the scientific and non-scientific literature on this subject made it clear that the theories that exist about complex divorces and the interests of children do not all correspond to the facts. In history, theories that seemed to be generally accepted were more often rejected at a later stage because they turned out to be incorrect. An example of this is that in the 1950s and 1960s autism in children was regularly attributed to 'refrigerator mothers': mothers who were emotionally unavailable for their child. Even in the 1980s and 1990s, some people still thought this way about the cause of autism while the theory was officially outdated by then ([Weusten, 2010](#)).

In the existing documents that deal with the theory and approach of complex divorces, the negative consequences of a complex divorce are mainly highlighted ([Anthonijsz, Spruijt, & Zwikker, 2017](#); [Berben, 2014](#); [Groenhuijsen, 2014](#)). In this respect, attention is paid to the fact that a complex divorce is different from a divorce in which parents have little or no contact with institutions due to problems. On the other hand, an explanation is given about the cause of a complex divorce that does not contain an explanation of the seriousness and/or duration of the problems. It is usually explained that divorce is an event in the lives of those involved that can trigger a mourning reaction and where conflicts between parents can escalate ([Berben, 2014](#); [Groenhuijsen, 2014](#)). However, as explained in the previous chapter, most parents come to appointments themselves over time and rarely go to court repeatedly. To explain these cases, there would have to be other and/or additional causes for the problems. This document focuses on (suspicions of) domestic violence within the context of complex divorces. Parental alienation will be discussed because this is often seen as a cause but can conceal the presence of domestic violence as will be substantiated.

From the findings that will be described in this chapter and the following, it can be concluded that domestic violence is very often the underlying explanation for a complex divorce. We have not come across any other common causes in the scientific literature, which makes us reluctant to provide alternative explanations that might help to make a good

distinction and to intervene appropriately in complex divorces. The Dutch Inspection of Youth Care ([Inspectie Jeugdzorg, 2013a](#)) talks about the fact that parents 'have very different views about the upbringing and interests of the children'. Theoretically, it is conceivable that parents may have more difficulty in making and following agreements when they are very different from each other (in world view, religion, norms, and values, wishes for the future, etc.), but whether this (frequently) leads to a complex divorce, we have not been able to find out. Other possibilities that are mentioned are the psychopathology of the parents and the use of substances (drugs, alcohol) ([Antokolskaia, et al., 2019](#)).

Perhaps the belief in incorrect theoretical assumptions has led to little scientific attention for alternative explanations. Domestic violence is an exception to this, presumably because it occurs in so many cases and the consequences of wrongdoing can have dramatic, visible consequences ([Bream, Buchanan, 2003](#)).<sup>9</sup> We do not know whether the explanations for complex divorces in cases where there is no domestic violence are homogeneous (the same/alike) or heterogeneous (different/various). In this section, the working group chooses to emphasize that one should be careful in explaining complex divorces and should not come to conclusions too easily, but should conduct thorough research.

### ***3.2 Definition and nature of domestic violence***

A situation in which divorces can be difficult is when there is 'domestic violence': this will be explained in more detail below. Domestic violence is usually defined as violence committed by someone in the victim's home or family circle ([Van der Veen, & Bogaerts, 2010](#)). Violence is defined as attacks on personal integrity ([De Boer, 2005](#)). Domestic violence can therefore be physical, sexual and psychological in nature. Generally, neglect (when parents do not meet their child's basic needs) is also seen as child abuse (and therefore part of domestic violence; see for example [Nederlands Centrum Jeugdgezondheid, 2016](#)). Domestic violence includes both

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<sup>9</sup> In the media, attention is paid to cases in which a parent murders his or her children in a divorce context, see for example (in Dutch):  
<https://www.ad.nl/binnenland/slepende-scheiding-reden-van-familiedrama-schoonloo~a7ff3188/> &  
<https://www.ad.nl/binnenland/7-jarig-meisje-alsnog-overleden-na-gezinsdrama-halfweg~ac5d92e7/>

parental violence and child abuse<sup>10</sup>, although it also happens that the term 'domestic violence' is used to refer to forms of (ex)partner violence and that child abuse is mentioned separately from this (see for example [Johnston, Lee, Olesen, & Walters, 2005](#)). Domestic violence between parents in the form of (ex)partner violence is also seen as a form of child abuse ([Dong, et al., 2004](#)).

Within (ex)partner violence, a distinction is sometimes made according to the assumed underlying dynamics, such as whether the violence is related to substance use or not ([Ali, Dhingra, & McGarry, 2016](#); [Johnson, 2006](#); [Van Eijkern, et al., 2018](#)). The most important distinction is that between the initiator (perpetrator) and the victim, who can also use violence for self-protection, child protection and/or revenge purposes ([Ali, et al., 2016](#)). It turns out to be extremely difficult to find further classifications or profiles within the group of perpetrators that can be distinguished from each other ([Ali, et al., 2016](#); [Meier, 2015](#); [Van Dokkum, 2017](#)). Studies into the dynamics of domestic violence have shown that the presence of controlling and coercive behavior in domestic violence in particular has serious psychological consequences for victims, even more so than physical abuse ([Smith, 2018](#)). These are behaviors that are intended to make the other person subordinate and/or dependent, to harm, to punish and to frighten the other person. These include: isolating the other person from contact with family and friends, not meeting the other person's basic needs, determining the other person's behavior, keeping an eye on the other person's behavior at all times, threatening to do so, and intimidating him or her ([Smith, 2018](#)).

Research further shows that various forms of domestic violence can occur within one family (e.g. partner violence as well as child abuse) and that if there is a form of domestic violence, there is a greater chance that other forms of domestic violence will also occur within a (divorced) family ([Appel, & Holden, 1998](#); [Dong, et al., 2004](#); [Wolzak, & Ten Berge, 2005](#)). Many children and young people who are exposed to violence from one parent towards the

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<sup>10</sup> Domestic violence includes other forms of violence, such as abuse of parents by their children and forced marriages. In this paper, we will only discuss (ex)partner violence and child abuse as these are the most relevant forms of domestic violence for complex divorces.



other are also physically, sexually and/or emotionally abused directly themselves ([Assink, et al., 2019](#); [Schellingerhout, & Ramakers, 2017](#)).

Domestic violence is therefore a broad and somewhat unspecific concept that includes various related, but sometimes distinct, forms of abuse. For this reason, the specific label will only be used in this book where figures or findings refer to a specific form of domestic violence, but we often have no choice but to use the broad term 'domestic violence'. Parents who are responsible for domestic violence will be referred to as 'violent', by which we refer not only to physical or sexual violence, but also to emotional/psychological violence.

### ***3.3 Causes of domestic violence***

The cause of domestic violence is not known, insofar as it is assumed that domestic violence is caused by a complex interrelationship and accumulation of risk factors that are neither the same for every situation and nor for every form of domestic violence ([MacKenzie, Kotch, & Lee, 2011](#)). Across studies, there is at the same time a lot of overlap in the risk factors for different forms of domestic violence ([Assink, Van der Put, Kuiper, Mulder, & Stams, 2016](#)). Research into these risk factors is complex because you cannot simply make statements about cause-and-effect relationships. For example, do certain characteristics make a child vulnerable and therefore an 'easier' victim of child abuse, or do these child characteristics arise as a result of having experienced child abuse? ([Assink, et al., 2016](#)). Another example is the question of how a correlation between socio-economic status and domestic violence can be explained. There are three possibilities. Possibly having a low-social economic status contributes to the risk of domestic violence. It is also possible that both domestic violence and the low socioeconomic status are a consequence of certain perpetrator characteristics. The third explanation is that domestic violence is more often visible or recognized in families with a low socioeconomic status. Meta-analyses (in which analyses are carried out on the data found in a larger number of previous studies) show that the children of parents who were abused themselves in their youth are at greater risk of being abused ([Assink, et al., 2016](#); [Madigan, et al., 2019](#)). The perpetrators of this are not always the parents themselves. A partial explanation given is that child abuse may come to light sooner if parents themselves have a history of abuse ([Widom, Czaja, & DuMont, 2015](#)). In addition, explanations are usually sought in the complexity of risk factors in

which parents who have been abused find themselves ([Assink, et al., 2016](#); [Madigan, et al., 2019](#)).

Throughout studies, a number of explanatory mechanisms are assumed for a causal relationship between certain risk factors and domestic violence. It is believed that domestic violence is more likely to take place in a context where there is a lower threshold for the use of violence (such as finding violence more acceptable, or the use of substances, as a result of which a person is less inhibited in the use of violence) ([Woicik, et al., 2019](#)). It is also assumed that domestic violence is more likely to occur when there is an unequal distribution of power (such as an adult towards a child, or a physically stronger partner towards a physically weaker partner) ([Lünneman, Goderie, Tierolf, & Römkens, 2010](#); [Woicik, et al., 2019](#)). It is further assumed that domestic violence occurs sooner when the perpetrator has some inability (inability to adequately regulate emotion, a lack of adequate parenting skills) ([Lünneman, et al., 2010](#); [Woicik, et al., 2019](#)). Finally, it is thought that the mental health of the perpetrator can play a role, ranging from stress to psychopathology, including personality disorders (e.g. serious forms of domestic violence by an offender with an antisocial personality disorder) ([Lünneman, et al., 2010](#); [Woicik, et al., 2019](#)).

### ***3.4 Consequences of domestic violence for children***

Children exposed to domestic violence can experience serious physical and emotional consequences ([Heim, 2018](#); [Norman, et al., 2012](#)). This applies both to direct child abuse and to being exposed to domestic violence ([Kimball, 2016](#)). The emotional stress that domestic inflicts on children appears to have an adverse effect on their (neuro)biological development ([Nemeroff, 2016](#)). In the short term there are many consequences of domestic violence for the child, such as: emotional problems, educational problems (e.g. lower performance, school dropout), bullying, attachment problems, disobedience, aggressiveness, post-traumatic stress disorders and physical injuries ([Callaghan, Alexander, Sixsmith, & Fellin, 2015](#); [Maglione, Caputi, Moretti, & Scaini, 2018](#); [Kimball, 2016](#)).

Research into the experiences of children shows that domestic violence has a major negative impact on their sense of being a child. ([Swanston, Bowyer, & Vetere, 2014](#)). For children, the upbringing of violent parents often evokes ambivalent feelings ([Buckley, Holt, &](#)

[Whelan, 2007](#)). They wish for a parent who is loving, but have extreme fears, often have to live with secrets, and are worried ([Buckley, et al., 2007](#); [Peled, 2000](#); [Swanston, et al., 2014](#)). They don't understand everything that happens and can experience disappointment and confusion ([Peled, 2000](#)). In addition to his violent behavior, a parent can, for example, also show positive behavior and/or explain the cause of his behavior outside himself ([Buckley, et al., 2007](#); [Peled, 2000](#)). Children sometimes realize that certain positive behavior of their parent comes with conditions such as buying affection with a gift ([Callaghan, et al., 2015](#)). Some children reject a violent parent, especially if they learn from others that this is allowed and get the message that violence is wrong, for example from their other parent, social workers, or the police ([Peled, 2000](#)). There are also children who continue to show affection towards their violent parent and work hard to have pleasant interactions ([Peled, 2000](#)). These children may suffer from feelings of guilt and a negative self-image, try to find excuses for their parent's behavior, feel responsible and can adapt their behavior in the hope of preventing further violence ([Swanston, et al., 2014](#); [Tierolf, Lünemann, & Stekete, 2014](#)). Children may fear about their own safety, but also that of their mother and/or brothers and sisters - and actively try to protect them ([Callaghan, et al., 2015](#); [Peled, 2000](#)). Children indicate that not being taken seriously and the lack of help from agencies contributes to their feelings of insecurity and rejection ([Buckley, et al., 2007](#); [Swanston, et al., 2014](#)). Because domestic violence is unpredictable, it gives children a low sense of control and constant stress ([Swanston, et al., 2014](#)). The feeling of continuous insecurity in anticipation of possible violence is so strong that children often name the moments and places that were an exception ([Callaghan, et al., 2015](#)). In what children say about how they enter into relationships with others outside the family, the following themes are often discussed: they feel ashamed, feel different, are afraid to be rejected and do not want to be dependent on others ([Callaghan, et al., 2015](#); [Swanston, et al., 2014](#)).

The consequences of experiencing domestic violence in childhood also increases the risk of various problems in adulthood, such as: anxiety, depression, PTSD, delinquency, some chronic diseases, and sleep disorders ([Callaghan, et al., 2015](#); [Gilbert, et al., 2009](#); [Kimball, 2016](#)).

### ***3.5 Relationship between domestic violence and divorce***

Domestic violence plays a role in the vast majority of complex divorces ([Hirst, 2002](#); [Jaffe, Crooks, & Poisson, 2003](#); [Johnston, et al., 2005](#); [Trinder, Connolly, Kellet, Notley, & Swift, 2006](#)). In this section we will discuss the linkages between domestic violence and divorce.

A meta-analysis of the international literature on risk factors for domestic violence shows that child abuse is more common in children whose parents have interpersonal problems. ([Assink, et al., 2016](#)). In situations where there is partner violence, parents also by definition have problems with each other. The presence of domestic violence can therefore be a reason for divorce. Research from 2006 showed that physical violence was a reason for divorce for 26% of the women and 6% of the men ([De Graaf, & Kalmijn, 2006](#)). Research in Britain shows that for a large group of victims of domestic violence, divorce can signify an ending of domestic violence, for 63% of the women who leave a violent man and for 78% of the men who leave a violent woman ([Walby, & Allen, 2004](#), also see [European Union Agency for Fundamental Rights \(FRA\), 2014](#) for a similar finding in European research including women only). Within the group for whom domestic violence did not stop, some of them experienced an escalation, for some it marked the start of the violence and for some the form of domestic violence changed to stalking or intimidation ([Walby, & Allen, 2004](#)). For 24% of the women and for 9% of the men, a divorce meant that there was an exacerbation in domestic violence compared to the period of cohabitation ([Walby, & Allen, 2004](#)). Large-scale American research found that the risk of victimization of (ex)partner violence is highest for women during a separation where there was no official divorce (yet) ([Rezey, 2017](#)). A start or increase in domestic violence after a divorce is associated with the feelings that the divorce evokes ([Douglas, et al., 2008](#); [Toews, McKenry, & Catlett, 2003](#)). In particular, the presence of controlling behavior during the relationship predicts stalking and violence after divorce ([Ornstein, & Rickne, 2013](#)). Children who are abused by a parent often indicate that the abuses started after their parents' divorce ([Sharon, Newall, & Backett-Milburn, 2015](#)). Factors that seem to be related to this are: frustration and anger on the part of the perpetrator, availability of the child (and absence of the other parent), the possibility of exhibiting unacceptable conduct without witnesses, and the use of substances ([Sharon, et al., 2015](#)).

Another link between domestic violence and divorce is that suspicions of child abuse by a parent may arise more easily if the parents do not live together. First, the threshold for the child to speak of child abuse would be slightly lowered ([Faller, 2000; 2016; Lamers, 1995](#)). It is known that perpetrators often threaten with negative consequences if the child reveals the abuse ([Alnock, & Miller, 2013; Collin-Vézina, De La Sablonnière-Griffin, Palmer, & Milne, 2015; Lamers, 1995](#)) and the absence of the perpetrator may help the child to have the courage to nevertheless do so ([Faller, 2000; 2016](#)). Secondly, a parent who is also a victim of the ex-partner's own violence might be in a better position to recognize domestic violence and its impact on the children after a divorce ([Faller, 2000](#)). Thirdly, it would be easier for a parent to wrongly accuse another parent of child abuse or to express suspicions, by mistake (e.g. misinterpretation) or intentionally (e.g. revenge); it should be noted that research shows that this is very rare ([Faller, 2016; Petherick, 2019; Trocmé, & Bala, 2005](#)).

It is not the case that parents who have experienced violence by definition demand that the contact between the other parent (the perpetrator) and their children stops ([Hardesty, & Ganong, 2006](#)). They may out of ideology, guilt, or fear believe that there must be contact ([Hardesty, & Ganong, 2006](#)). However, it is known that perpetrators often use lawsuits as a means of further (psychological) abuse and exercise of control, while the protective parents often do everything they can to achieve the safety of their child (and themselves), including defending their child and themselves and preventing unsafe contact with the perpetrator (as much as possible) ([Campbell, 2017](#)). The result can be a 'complex divorce'.

## ***4. Recognition of domestic violence as a cause of complex divorce***

### ***4.1 How seriously do people take domestic violence in complex divorces?***

Taking into account the prevalence figures, it is not surprising that there are divorces in which suspicions of domestic violence play a role. There is no reason to assume that domestic violence is any less common among parents who break up. As explained, there are rather reasons to assume that the prevalence figures are higher. Indeed, research among secondary school students showed that young people from divorced parents report more domestic violence than young people whose parents live together ([Schellingerhout, & Ramakers, 2017](#)). In the previous chapter, it was explained that a separation that involves domestic violence will often be complex. It is therefore understandable that domestic violence plays a role in the vast majority of complex divorces ([Hirst, 2002](#); [Jaffe, Crooks, & Poisson, 2003](#); [Johnston, et al., 2005](#); [Trinder, Connolly, Kellet, Notley, & Swift, 2006](#)).

When a parent accuses or suspects the other parent of domestic violence within a divorce context, however, this is received with skepticism by the professionals involved (such as judges, employees of the Child Protection Services, employees of the certified institutions (of youth protection) and the police) ([Berben, 2014](#); [Groenhuijsen, 2014](#); [Inspectie Jeugdzorg, 2015a](#); [Smit, Antokolskaia, & Bijleveld, 2017](#)). Within a group of legal and social professionals, it was investigated how the percentage of false declarations was assessed in a complex divorce context. Within this group, 34% of the professionals appeared to estimate the percentage of false declarations at approximately 30%, and 12% of the professionals even at 50% or more, despite the fact that estimates based on the scientific literature are less than 10% ([De Ruiter, & Van Pol, 2017](#)). International research shows that even when custody cases are at stake, false accusations are rare ([Penfold, 1995](#); [Trocmé, & Bala, 2005](#)).

Research into possible secondary victimization (when the process following the events further harms the victim) shows that especially divorced mothers who report suspicions of sexual abuse of their child are often not taken seriously ([Wijers, & Boer, 2010](#)). In such cases, in the Netherlands, the national expertise center for special moral affairs (Landelijke Expertisecentrum Bijzonder Zedenzaken, LEBZ) can be consulted. Professionals involved in victim support, however, have the experience that LEBZ's reporting suggests that a

denunciation of sexual abuse by divorced mothers is in fact always aimed at obstructing the ex-partner ([Wijers, & Boer, 2010](#)). The LEBZ does indeed paint a one-sided negative picture of accusations of sexual abuse of children after a divorce: in 95% of these cases, the LEBZ advises to stop the investigation and suggests that it is often a matter of over-anxiety, revenge or manipulation by mothers ([Nierop, & Van den Eshof, 2008](#)). When there are or have been family court cases about legal or physical custody and/or contact, it is suggested that the accusations have no basis other than as part of a struggle between parents ([Nierop, & Van den Eshof, 2008](#)).

This tendency is reflected in civil law. In the Netherlands, a study was conducted into 87 cases involving a complex divorce, in which one parent accused or suspected the other parent of sexual abuse of their child ([Smit, et al., 2017](#)). The child protection reports and the decisions of the judges were examined. In general, it remained unknown whether sexual abuse had taken place or not. The suspicions arose in almost all cases by child signals. Only in the 3 convicted cases, it was decided that there would be no contact between the child and the perpetrator. The judges generally followed the advice of the Child Protection Services. The Child Protection Services turned out to be concerned not so much with the likelihood of the sexual abuse, but rather with potentially negative consequences of the accusation itself, referring, for example, to a negative image of the parent, loyalty problems and parental alienation ([Smit, et al., 2017](#)).

This attitude is not specific to allegations of sexual abuse. Divorce guidelines emphasize that accusations of child abuse from one parent to another may be unjustified and do not provide guidance as to what signals to pay attention to in order to detect domestic violence, nor do they provide guidance as to how to act when domestic violence is proven or deemed likely ([Anthonijsz, et al., 2017](#); [Berben, 2014](#); [Groenhuijsen, 2014](#)). The 2017 guideline does make a reference to the 'Child Abuse Directive for youth aid and youth protection' ([Vink, De Wolff, Broerse, & Kamphuis, 2017](#)). This guideline (on child abuse) states that it relates to 'divorces', but does not elaborate on a possible divorce context of the parents.

## ***4.2 Parental alienation***

### ***4.2.1 Parental alienation theory***

In the divorce guidelines, lists are given of signals that would indicate a 'Parental Alienation Syndrome' (abbreviated as PAS) or symptoms of 'parental alienation' (i.e. without speaking of a syndrome) ([Groenhuijsen, 2014](#)). This would mean that a child completely rejects one of the parents after a divorce and speaks negatively about this parent, without this being justified. ([Groenhuijsen, 2014](#)). The cause of the rejection would lie in the behavior and expressions of the other parent. Because of the parent's hateful attitude towards the other parent, the child would be brainwashed and take over the hatred towards the other parent (Gardner, [1992a b](#); [Groenhuijsen, 2014](#)).

Gardner introduced the term PAS in the 1980s, primarily to explain maternal accusations of fathers sexually abusing their children ([Gardner, 1987](#)). According to Gardner, such accusations would often be false or a wrong response to actual sexual abuse ([Gardner, 1987](#); [1992a b](#)). He also assumed that sex or sexual activities with children are useful from an evolutionary perspective, among other things because they would lower the age of possible reproduction ([Gardner, 1992b](#)). In addition, he stated that the abuse could be enjoyable for children and that the negative effects were not so much caused by the abuse as by the reaction of society and especially of the mothers ([Gardner, 1992b](#)). The mothers would do well not to overreact when a father would have sex with a child because otherwise the child would turn against the father. ([Gardner, 1992b](#)). In fact, according to Gardner, children should be punished for statements about sexual abuse committed by their fathers ([Gardner, 1992b](#)). This working group (the CSMS) studied Gardner's ideas in detail and came to the unanimous conclusion that the theories, ideas, and opinions he expressed are similar to those of pro-pedophile organizations, albeit more centralized on sexuality within the father-child relationship. Appendix II contains several quotes from Gardner's work that are frequently quoted to illustrate why his ideas should be regarded as objectionable ([Dallam, 1998](#); [Hout, 2006](#), [Meier, 2009](#)).

More recent works on parental alienation do not generally include this type of statement and it is stated in some of them that parental rejection would not apply in cases of domestic violence ([Childress, no date](#); [Ellis, 2008](#); [Von Boch-Galhau, 2018](#)). Nevertheless, these authors



continue to state that children in a complex divorce often reject a parent because of a hate campaign by the other parent and that suspicions/accusations of domestic violence are false in these cases ([Childress, no date](#); [Ellis, 2008](#); [Von Boch-Galhau, 2018](#)). There is a persistent assumption that divorced mothers in particular make false accusations and/or that they successfully turn their child against the other parent, without always (explicitly) referring to Gardner's theory of parental alienation ([Neustein, & Goetting, 2000](#)). For example, there is a reference to an overprotective mother or to unrealistic fears on the part of the mother ([Neilson, 2018](#)).

#### ***4.2.2 Scientific status of parental alienation***

There are various international publications in which authors point out that there is no scientific basis for the theory of PAS, nor for the theory of parental alienation disorder/ parental alienation without a 'syndrome' (hereinafter all referred to as 'parental alienation' for the sake of readability). ([Bruch, 2006](#); [Campbell, 2017](#); [Meier, 2009](#); [Van Horn, & Groves, 2006](#)). These papers also explain how it is possible that there is a lot of literature on parental alienation, which *suggests* that there is scientific support for parental alienation. In these papers it becomes clear that the parental alienation literature was initially mainly written by Gardner himself on the basis of his ideas and interpretations. ([Bruch, 2006](#); [Campbell, 2017](#); [Meier, 2009](#); [Smith, 2016](#); [Van Horn, & Groves, 2006](#)). He relied on his clinical experience and not on scientific research ([Van Horn, & Groves, 2006](#); [Smith, 2016](#)).

A group of adherents of the theory has emerged ([Smith, 2016](#)). This group constantly refers to their own work and/or presents methodologically shaky research and often publishes in the same journals, where they follow a biased or no review process ([Bruch, 2006](#); [Campbell, 2017](#); [Meier, 2009](#); [Smith, 2016](#)). The majority of these articles do not provide results from empirical research, but an overview of previous literature, sometimes a meta-analysis of previous publications, which makes little sense if the previous publications are insufficiently valid (see for example [Bernet, 2008](#); [Warshak, 2015](#)). This makes it unclear and more difficult to check on the basis of which data certain statements are made (see for examples and a more detailed analysis [Bruch, 2006](#)). Both these articles, as well as articles describing an empirical investigation, give wrong interpretations of the findings, set out opinions that have no empirical support, and present untrue reasoning as facts ([Bruch, 2006](#); [Faller, 1998](#)).

Recently there have also been authors who use the label 'parental alienating behavior' much more broadly, that is, for all kinds of known forms of domestic violence that are obviously harmful to children and protective parents ([Harman, Kruk, & Hines, 2018](#)). This leads to even more confusion. Researchers who are aware of the criticism of the parental alienation theory incorrectly assume that there is apparently solid empirical evidence for the parental alienation theory after all ([Antokolskaia, et al., 2019](#)).

It is relevant to mention that where researchers have focused on parental rejection by the child, they have found that there is often actual domestic violence in complex divorces and that children rarely reject a parent, even in complex divorce situations ([Johnston, 2003](#); [Johnston, & Campbell, 1993](#); [Johnston, et al., 2005](#)). A disagreement has arisen between these researchers and Gardner about how to look at parental alienation ([Gardner, 2004](#)). Even Gardner himself has changed his views over the years on a number of points ([Gardner, 2004](#)).

Research has shown that a child is not simply brainwashed and does not simply reject a parent after a divorce when one parent has expressed a negative opinion about the other parent. Divorced parents (but also parents who are together) can have a negative attitude towards the other parent ([Johnston, 2003](#)). However, this negative attitude does not appear to be a sufficient condition for a child to reject the other parent; at most, it contributes to a more negative reaction of the child to the other parent if the child has reasons to do so itself ([Huff, 2015](#); [Johnston, 2003](#); [Johnston, et al., 2005](#)). In addition, there are children who reject a parent without the other parent displaying behavior that could be counted as parental alienation ([Johnston, 2003](#); [Johnston, et al., 2005](#)).

A child may have a preference for a parent, something that does not only apply to children of divorced parents ([Goldberg, Kinkler, Moyer, & Weber, 2014](#)). More frequent siding with one parent and more rejection of the other parent are associated with each other and are both related to a lack of warmth and the presence of violence from the rejected parent ([Huff, 2015](#)). Few children reject a parent (or both parents) and if they do, it is often only temporary and for their own reasons ([Johnston, & Goldman, 2010](#); [Katz, 2019](#)). If the relationship with a parent is good for the child (i.e. the child is securely attached and experiences warmth and an emotional connection), then the child will usually not reject this parent ([Huff, 2015](#); [Katz, 2019](#); [Sutton, 2018](#); [Szepeswol, & Simpson, 2019](#); [Szymanska, et al., 2019](#)). If the relationship is not good

for the child, the child will still not always (completely) reject the parent ([Katz, 2019](#)). For example, if the other parent also offers no or insufficient safety or if rejection entails a risk of further violence ([Katz, 2019](#)). A child will be most likely to have a preference for one parent and reject the other parent if this is the safest option for the child ([Katz, 2019](#)). In this case, the child also appears to be less receptive to behavior of the unsafe parent that tries to undermine the relationship between the child and the other parent ([Katz, 2019](#)). This undermining behavior can be annoying, harmful and/or confusing for the child, and its relationship with the safe parent, but does not lead to the rejection of the warmth in the relationship with the safe parent ([Katz, 2019](#)). When children consistently reject a parent, it is usually the result of a process characterized by disappointment in that parent, who has shown serious problems such as domestic violence or addiction problems ([Johnston, & Goldman, 2010](#)). Research among adults who are not in contact with one or both parents reveals that they mention the following reasons: maltreatment or abuse in their childhood, bad parenting and/or betrayal (including not protecting the child against violence by others) ([Agllias, 2016](#)).

### ***4.3 Why is the idea of parental rejection so common?***

The research results just described are generally not mentioned in the media and communications when it comes to complex divorces.<sup>11</sup> Although some (including [Johnston, 2003](#); [Johnston, et al., 2005](#)) in the scientific literature have started to point out other reasons why children reject a parent (including, in particular, domestic violence and a lack of warmth in the parent's upbringing), the persistent idea remains that children who reject a parent (to a certain extent) usually do so unjustly. ([Spruijt, 2011](#)). The emphasis also remains on bringing about change in the other parent (i.e. the parent who is not rejected, usually the person with whom the child lives, usually the mother) ([Spruijt, 2011](#)). The fact that there is so much room for the idea of parental alienation seems to have a number of causes.

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<sup>11</sup> For example (in Dutch):

- <https://mens-en-samenleving.infonu.nl/psychologie/187400-pas-ouderverstotingssyndroom-bij-echtscheidingen.html>;

- <https://www.echtscheiding-wijzer.nl/ouderverstoting.html>;

- <https://www.jeuqdformaat.nl/uploads/content/file/wat-is-ouderverstoting-en-6-tips2.pdf>

### ***4.3.1 Behavior of divorced parents***

A probable cause is that people recognize the behavior that would lead to parental rejection in the behavior that people show after a divorce. A positive relationship between the parents, without hostility, is seen as the best for the child ([Gasper, Stolberg, Macie, & Williams, 2008](#)). On average, however, parents who divorce more often have a negative attitude towards the (former) partner than parents who stay together; after all, there were reasons to divorce ([Gasper, et al. 2008](#); [Johnston, 2003](#)). This behavior may be confused with parental alienation, even though the child does not reject either parent ([Mercer, 2019](#)). Other aspects that are mentioned in the theory of parental alienation (such as a child with a preference for a parent and accusations of domestic violence) can also occur in divorce situations, as already explained. These behaviors can be seen as a sign of 'proof' of parental alienation, without this theory being correct ([Rotgers, & Barrett, 1996](#)).

In addition, the emotions and reactions shown by victims of domestic violence can be confusing for others ([Epstein, 1999](#); [Long, 2016](#)). Traumas and fears caused by domestic violence, for example, can cause people to show flattened emotions or intense emotions. ([Epstein, 1999](#)). If these are attributed to divorce stress or feelings of revenge, these emotions can wrongly be seen as a sign that the parent in question is more likely to be engaged in a hate campaign towards the other parent and/or has lost the perspective on the interests of the children ([Campbell, 2017](#)). This does not only apply to the protective parents. Research has shown that also children who talk about abuses that have been inflicted on them can show negative emotions, but often show a neutral emotion ([Sayfan, Mitchell, Goodman, Eisen, & Qin, 2008](#)). This may wrongly lead to the belief that they are not telling the truth ([Sayfan, et al., 2008](#)). Conversely, a perpetrator of domestic violence, in accordance with the controlling, manipulative nature of his behavior, can do his best to make a good impression and come across as cooperative, enjoyable, charming and succeed in doing so ([Campbell, 2017](#), [Parker, Rogers, Collins, & Edleson, 2008](#)).

### ***4.3.2 Acceptance***

A second possible reason is that parental alienation may be easier to accept than domestic violence. Domestic violence generally has a hidden character, where not only perpetrators and victims, but also outsiders can have reasons to conceal or ignore the abuse ([Saunders, Faller, &](#)

[Tolman, 2011](#)). In particular, people seem to find serious forms of domestic violence so terrible that they find it hard to believe ([Davies, Matthews, & Read, 2014](#)). It's a frightening thought for people that unjustly bad things can happen to them ([Valor-Segura, Expósito, & Moya, 2011](#)). People prefer to believe in a just world in which, by being careful and behaving well, you can achieve that life smiles at you ([Valor-Segura, et al., 2011](#)). When bad things happen, people want to see it as a logical or fair consequence of the personality of those people, their behavior or the circumstances they have created for themselves ([Valor-Segura, et al., 2011](#)). The latter is also called 'victim blaming' ([Epstein, & Goodman, 2019](#); [Valor-Segura, et al., 2011](#)). Research conducted for the European Commission shows that victim blaming in the case of violence against women is widespread in Europe ([Gracia & Lila, 2015](#)). Both men and women can tend to blame victims ([Gracia, & Lila, 2015](#)).

Also, unpleasant events are preferably seen as rare, less serious and, as far as possible, controllable ([Valor-Segura, et al., 2011](#)). People don't expect 'normal men' to be able to commit violence or abuse, but think they should be 'deviant' men, who are, for example, drug addicts or who clearly have objectionable ideas ([Saunders, et al., 2011](#); [Forssell, 2016](#)). For example, journalists often present serious cases of domestic violence as incidents, describing softening circumstances for the perpetrator and a suggestion of guilt on the part of the victim ([Lee, & Wong, 2019](#)). When a parent kills the children, the other parent and/or himself, the divorce is often used in this way by mentioning the divorce as a "cause" in headlines like: "Professor Who Killed Daughter, 3, Before Suicide Wrote 7-Page Letter Citing Custody Battle".<sup>12</sup>

### ***4.3.3 Male-female balances***

A third reason lies in the context in which the theory is placed, namely that of male-female balances. Just before the wave of feminism, a pediatrician, together with colleagues, published his findings that children could suffer serious physical consequences from child abuse ([Kempe, Silverman, Steele, Droegemuller, & Silver, 1962](#)). This publication has led to the recognition and acknowledgement of child abuse in the medical world. This finding has played a role in

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<sup>12</sup> <https://people.com/crime/professor-killed-daughter-murder-suicide-wrote-letter-custody-battle/> & <https://tinyurl.com/y2sf9dhl> yet for a discussion on this type of headlines, see: <https://tinyurl.com/yxw27odr>

feminism, which more generally dealt with equal rights for women and opposed the exercise of men's physical, psychological and sexual power over women ([Adams, 2006](#)). In other words, partly because the increasing attention for child victims of domestic violence coincided with feminism, domestic violence has become part of discussions about male-female balances.

Feminism saw women as victims of patriarchal discrimination. In response to this, a counter-movement arose from men, in particular fathers ([Adams, 2006](#); [Burman, 2016](#)). At a time when divorce without guilt had also become possible, father rights movements focused on a gender-neutral family law system ([Adams, 2006](#)). This movement has given rise to fathers' rights groups that are still active. A 2009 survey of the content of websites of 285 fathers' rights groups found that these groups share a common goal of ensuring that allegations of domestic violence by mothers are seen as false, of setting co-parenting and reducing child support as the norm, and of portraying women as perpetrators of domestic violence ([Burman, 2016](#); [Rosen, Dragiewicz, & Gibbs, 2009](#)). These groups do not reflect men or fathers in general, but do present themselves as such ([Rosen, et al., 2009](#)). They use parental alienation as a means to refute accusations of domestic violence within a divorce context and draw the debate to general male-female discussions each time ([Adams, 2006](#); [Burman, 2016](#); [Rosen, et al., 2009](#)). Although they claim to strive for equality between men and women and therefore to fight against stereotypes about men, they themselves make use of the stereotype of a woman who, out of revenge, does everything in her power to destroy the man ([Adams, 2006](#); [Behre, 2015](#); [Burman, 2016](#)). These groups put a lot of energy into responding to concerns about domestic violence within a divorce context and putting it away as a parental alienation ([Adams, 2006](#); [Sheehy, 2016](#)). Although the theory suggests that both mothers and fathers may be guilty of parental alienation, it is used primarily against mothers ([Priolo-Filho, et al., 2019](#)).

#### ***4.4 Gender differences in domestic violence***

A complicated point in this whole discussion is that within complex divorces more fathers than mothers are suspected of domestic violence ([Bala, & Schuman, 2000](#)). However, this does not mean that the accusations made by mothers about fathers are more often false than the other way round. Indeed, it appears that false accusations are more often made by a non-custodial parent (these are more often fathers) and least often by the parent with custody or the parent with the main residence (these are more often mothers) ([Penfold, 1995](#); [Trocmé, & Bala, 2005](#)).

Gender differences in the prevalence rates of domestic violence can give an insight into the expected gender differences in suspicions within a complex divorce context.

#### ***4.4.1 Gender differences in the prevalence of domestic violence***

International research has revealed that a larger group of women than men indicate that they have experienced, or have ever experienced, violence from their partners or ex-partners. ([Catalano, 2012](#); [Curtis, Larsen, Helweg-Larsen, & Bjerregaard, 2002](#); [Office for National Statistics, 2019](#)). Large-scale research in Australia indicates that 5% of men and 17% of women have experienced physical violence or threats from a partner during cohabitation ([Cox, 2015](#)). Of the total group of women who have experienced partner violence (i.e. 25% of all women, including violence whilst not living together), 18% indicated that they (also) experienced violence during pregnancy and 23% that their children have seen and/or heard the violence ([Cox, 2015](#)). Such large-scale research into men and women specifically about violence within a (former) partner relationship has not been published in the Netherlands. In 2014, however, a large-scale European study was published on the prevalence of women who experience or have experienced violence from their (former) partner, in which 1500 Dutch women took part, which shows percentages of roughly the same order of magnitude as those mentioned above ([European Union Agency for Fundamental Rights \(FRA\), 2014](#)).

Gender differences in domestic violence are mainly found 1) when asked about the wide range of violence and the methodology minimizes a selective dropout of respondents (people who do not participate precisely because they have experienced domestic violence) and 2) in clinical groups (where there is a natural selection in the respondents in the sense that there are more respondents who have experienced (more serious forms of) domestic violence; [Johnson, 2006](#)). An analysis of scientific studies that looked not only at the figures but also at all other available information, leads to a further interpretation of the gender differences in domestic violence. Men use domestic violence more often than women as a way of exercising power and control ([Kimmel, 2002](#)). Women were found to use violence more often than men in response to violence from their (former) partner and in particular to defend themselves ([Dobash, Dobash, Wilson, & Daly, 1992](#); [James, & Shackelford, 2018](#); [Kimmel, 2002](#)), a smaller percentage as an expression of aggression ([Miller, & Meloy, 2006](#)). Women rarely use forms of violence that are seen as serious or painful by their partner, sometimes rather as laughable ([Dobash, et al.,](#)

[1992](#)). Women are more likely than men to admit to the violence they have committed ([Dasgupta, 2002](#)). Dutch data confirm that more systematic domestic violence is more often committed by men ([Van Eijkern, et al., 2018](#)). The consequences of (ex)partner violence are generally greater for female victims than for male victims, both physically and psychologically ([Dobash, et al., 1992](#); [Statistics Canada, 2000](#); [Kimmel, 2002](#)).

#### ***4.4.2 Differences in domestic violence between fathers and mothers***

The above studies are about men and women. Domestic violence studies have also been carried out specifically on parents. In those (international) studies that provide specific information on prevalence rates of child abuse committed by biological fathers and mothers, it is found that there are gender differences in some forms of child abuse. Sexual abuse and other more serious forms of abuse are more likely to be perpetrated by fathers than by mothers ([Curtis, et al., 2002](#); [Hamby, Finkelhor, & Turner, 2013](#); [Sieswerda-Hoogendoorn, et al., 2013](#); [Statistics Canada, 2000](#)). Girls are more often than boys victims of sexual abuse ([Taefi, 2009](#); [Vink, e a., 2016](#)).

For mothers, the risk of domestic violence is double compared to the risk of domestic violence for women without children ([Walby, & Allen, 2004](#)). For men, having or not having children has no effect on the risk of domestic violence ([Walby, & Allen, 2004](#)). Furthermore, international research shows that most and most serious (ex)partner violence takes place against women who have left their partner, in particular mothers. ([Catalano, 2012](#); [Dobash, Dobash, Cavanagh, & Lewis, 2004](#); [Walby, & Allen, 2004](#); see [Inspectie Jeugdzorg, 2015b](#) for a concrete example with a fatal outcome).

In Australia, the experiences of more than 1,000 divorced parents (90%) and children (10%), who responded to a widely distributed request for participation, were the subject of a study ([Bagshaw, et al., 2010](#)). For many of the respondents, domestic violence played a role. Men and women appeared to differ in their definitions of domestic violence, their experiences and their reactions. Men mainly described verbal/psychological violence by their ex-wife with a defensive or retaliatory character. Men more often than women made a link with mental illness. They also saw the failure of their ex to comply with the stereotypical role of the woman in the family as maltreatment. Women were more likely than men to report violence with a controlling



character, physical and sexual violence and more serious forms of violence against them. They indicated that the violence increased after the divorce and they experienced a great deal of fear of their ex when there was or had been domestic violence, in contrast to men who were often angry. The participating children were not asked about domestic violence, but some of them did mention it spontaneously: mainly by fathers and in some cases by fathers and mothers in the form of verbal violence between the parents. Although some of them indicated that the violence had decreased after the divorce, none of the children mentioned that the violence had stopped.

#### ***4.4.3 Gender inequality***

Gender differences in the prevalence and nature of violence are unpopular in a society that strives for gender equality and gender-neutral policies ([Römkens, 2016](#)). In the Netherlands it is often assumed that emancipation has taken place and that emancipation is completed ([Römkens, 2016](#)). Violence against women (and children) does not fit within this picture, which is why violence against women and children can be seen as something that does not belong to one's own culture, but (especially) to that of 'the other' ([Römkens, 2016](#)). Prevalence rates are therefore often called into question and violence against women is often downplayed ([Römkens, 2016](#)). In recent studies on domestic violence, gender is not always included as a factor, or methodologically controversial methods are chosen (such as broad definitions and the combination of incidents with very different nature and seriousness) that conceal a gender difference in perpetrators ([De Vaan, Dijkstra, & Witkamp, 2016](#); [Portegijs, & Van den Brakel, 2016](#); [Römkens, 2016](#)). At the policy level, too, there is inconsistent attention for the importance of gender-sensitive policy, while at the same time a shift towards gender-neutral policy. The UN committee that monitors the Netherlands' compliance with the UN Convention on the Status of Refugees has therefore criticised Dutch policy on several occasions ([Römkens 2016](#); [Dutch CEDAW Network, 2016](#); [UN Committee on the Elimination of Discrimination Against Women 2016](#)).

International attention is drawn to the fact that large-scale violence against women is linked to the fact that they have a more vulnerable social and cultural position than men ([García-Moreno, Jansen, Ellsberg, Heise, & Watts, 2005](#); [Scottish Government, 2015](#)). In 2011, the Council of Europe adopted the Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention ([Council of Europe, 2011](#)). It

states that violence against women is a violation of human rights and a form of discrimination against women. In the Netherlands, this treaty entered into force on 1 March 2016. A shadow report was published in 2018 by the UN Women's Convention Network in which an evaluation is given of the implementation of the convention, subsidized by the Ministry of Health, Welfare and Sport ([Dutch CEDAW Network, 2018](#)). This report states that government policy is mainly gender-neutral and therefore not gender-sensitive. As a result, insufficient attention is paid both to the prevalence of male violence against women and children and to the effects and underlying dynamics of power and control ([Dutch CEDAW Network, 2018](#)). The network also notes that professionals (such as child protection and judges) are not (sufficiently) familiar with the convention and hardly apply it. It appears that in situations of domestic violence, too, joint custody is usually assigned on the assumption that 'where two fight, two are to blame', as is evident from the study of case-law ([Dutch CEDAW Network, 2018](#)). Female victims of domestic violence do not dare to approach the national child abuse center because they fear being accused of child abuse themselves, with the consequence that they lose contact with their children. ([Dutch CEDAW Network, 2018](#)).

#### ***4.5 The three planet model***

In addition to the idea of parental alienation, complex divorce is usually explained, as mentioned earlier, on the basis of a theory of grief and conflict escalation without any further explanation for those divorces in which parents do not adequately manage to come to joint agreements within a normal period of time ([Anthonijsz. et al., 2017](#); [Berben, 2014](#); [Groenhuijsen, 2014](#)). This model is based on the assumption that both parents are to blame and that they must be persuaded to stop the (legal) struggle ([Anthonijsz. et al., 2017](#); [Berben, 2014](#); [Groenhuijsen, 2014](#)). This model is also applied in situations where it is known or suspected that there is domestic violence ([Dutch CEDAW Network, 2018](#)). There is talk of a 'grim symmetrical battle' in which parents 'demonize each other', even in situations where forced sex and mistreatment have played a role. ([Van Lawick, 2012](#)).

An explanation given for this is the three-planet model of Hester ([2011](#)). The different types of care and/or involvement are referred to as planets in this model because they are so far apart. There is a planet focused on domestic violence, a planet focused on child protection in situations of domestic violence and a planet focused on custody and visitation after divorce.

While the first planet focuses on domestic violence and is primarily concerned with achieving safety and recovery among adult victims of domestic violence (especially women), the second planet focuses on the protection of children ([Hughes, & Chau, 2012](#); [Tierolf, et al., 2014](#)).

Within this second planet, social workers have a strong tendency to focus primarily on mothers ([Brown, Callahan, Strega, Walmsley, & Dominelli, 2009](#); [Risley-Curtiss, & Heffernan, 2003](#)). When a mother commits domestic violence (or this is suspected), there is a strong tendency to intervene (such as an out of home placement of the child). ([Brown, et al., 2009](#); [Risley-Curtiss, & Heffernan, 2003](#)). Fathers are largely ignored in this case. If a father commits domestic violence (or this is suspected), mothers are held responsible for protecting the children ([Jenney, Mishna, Alaggia, & Scott, 2014](#); [Mandel, 2010](#); [Tierolf, et al., 2014](#)). The idea here is mainly that in situations where a father abuses the mother and/or the children, the mother must leave the father ([Hester, 2011](#); [Tierolf, et al., 2014](#)).

Leaving a violent partner is usually a process in which the victim usually grows towards the actual permanent termination of the relationship, sometimes preceded by previous attempts to do so ([Anderson, & Saunders, 2003](#)). Both socio-emotional and material resources play a role in this ([Anderson, & Saunders, 2003](#)). From a socio-emotional point of view, this involves, for example, recognizing the violence, feeling the strength to break free from it, and daring to take on increasing risks, such as the revenge of the violent partner. From a material point of view, for example, it is a question of income and a place of residence. For instance, it is difficult to leave a partner on which you depend financially. Social workers do not always pay sufficient attention to this process and can think in terms of stereotypes (for example by victim blaming), such as that they are bad mothers and/or women who opt for violent partners ([Anderson, & Saunders, 2003](#)). Within this planet one often does not look beyond the moment of divorce, in spite of the fact that it is known that the risks increase in the period of separation and immediately after that ([Hester, 2011](#); [Hughes, & Chau, 2012](#); [Jaffe, et al., 2003](#)).

After a divorce (regardless of whether before or at the same time the other 'planets' are involved), victims of domestic violence end up on the planet of contact and custody ([Hester, 2011](#)). In the Netherlands (as in other Western countries) shared legal custody and care for children after a divorce has become the norm when parents turn to the courts ([Bagshaw, et al., 2010](#)). On this planet one often only recognizes the right of children and parents to to be in

contact with each other ([Hester, 2011](#); [Hughes, & Chau, 2012](#); [Tierolf, et al., 2014](#); [Trinder, Firth, & Jenks, 2010](#)). The focus is often on the future and establishing contact between the child and both parents, whereby domestic violence is seen as something left behind in the past of the relationship, as something that is not present (unless there is clear evidence) and/or as something that is irrelevant ([Bagshaw, et al., 2010](#); [Hester, 2011](#)). As a result, the presence of domestic violence is downplayed or ignored (or not believed, as previously explained) ([Trinder, et al., 2006](#)). Due to this attitude, little investment is put into studying domestic violence, and for this reason no (further) evidence will be found ([Trinder, et al., 2006](#)). The guidelines on complex divorces are followed, with any signs or evidence of domestic violence being put away under the heading of 'parental conflict' ([Anthonijsz, et al., 2017](#); [Berben, 2014](#); [Groenhuijsen, 2014](#)). In some cases the victims of domestic violence (still) stay in a women's shelter (first planet) when there is pressure from the third planet on a contact arrangement. This has led to awareness of the women's shelter that in many cases this contact is harmful and does not serve the interests of the child ([Schakenraad, & Den Hoed, & Hens, 2018](#); [Van Eijkern, & Rus, 2014](#)).

#### ***4.6 How perpetrators and protective parents are perceived***

The personality of perpetrators of domestic violence and the presentation of both perpetrators and the protective parent can contribute to confusion and disbelief about the situation, as briefly touched upon in the explanations of why the idea of parental alienation is so common. In particular, forms of partner violence that use a lot of power, control and intimidation (intimate terrorism) appear to create confusion among outsiders about what is really going on ([Neilson, 2004](#)). These perpetrators are usually very manipulative and skilled in presenting a positive image of themselves (warm, caring, charming, helpful) ([Campbell, 2017](#); [Neilson, 2004](#)). It is likely that these perpetrators suffer from personality problems ([Leedom, Bass, & Almas, 2013](#)). In particular, problems on the dimensions of narcissism and psychopathy are recognized among perpetrators of domestic violence with a strongly controlling, intimidating dynamic ([Carton, & Egan, 2017](#); [Crouch, et al., 2015](#); [Leedom, et al., 2013](#)). Narcissism refers to a pattern of feelings of greatness, lack of empathy and the need to be admired ([Carton, & Egan, 2017](#)). It can express itself in overt arrogance and bloated self-esteem, but people with strong narcissistic qualities can also show a lack of self-confidence and initiative and appear insecure. In this case, delusions of greatness and a sense of being entitled are more hidden, but also

present ([Krizan, & Herlache, 2018](#)). Psychopathy also refers to an exaggerated feeling of self-esteem, in combination with a flat emotional experience in which one does not conform to social-moral norms, but uses and manipulates others instrumentally for the satisfaction of one's own needs without experiencing repentance or guilt ([Carton, & Egan, 2017](#); [Howell, 2018](#)).

However, the ability to present oneself positively and to manipulate others can lead to the perpetrators of domestic violence coming forward positively when they undergo personality tests ([Neilson, 2004](#)). They usually have a strong tendency to insufficiently acknowledge their own conduct, blame the victim and/or even accuse the victim of maltreatment ([Neilson, 2004](#)). Protective parents, on the other hand, often have problems with their presentation in court and in front of other professionals/social workers ([Campbell, 2017](#); [Epstein, & Goodman, 2019](#); [Miller, & Manzer, 2019](#)). Because of their experiences with the perpetrator, protective parents can make a confused, unwilling, anxious, emotionless or aggressive impression that works against them ([Campbell, 2017](#); [Epstein, & Goodman, 2019](#); [Miller, & Manzer, 2019](#); [Shea Hart, 2011](#)). Neither impressions of a person's personality nor professional personality tests will make it possible to determine whether a person is a perpetrator of domestic violence or whether a person rightly or wrongly claims to be a victim of domestic violence or to be a parent of a victim of domestic violence ([Silberg, Dallam, & Samson, 2013](#)). Nevertheless, a personality test is sometimes used for this purpose.<sup>13</sup>

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<sup>13</sup> Dutch case-law: [ECLI:NL:GHLEE:2010:BM0581](#)

## ***5. Recognition of the child's experiences and interests***

### ***5.1 The child's experience matters***

#### ***5.1.1 Children's experiences strongly determine what is in their best interest***

According to Article 12 of the Convention on the Rights of the Child, it is the child's right to be heard ([Lansdown, 2011](#); [United Nations, 1989](#)). It is important for children that they are heard ([Alnock, & Miller, 2013](#); [Buckley, et al., 2007](#); [Callaghan, Fellin, Mavrou, Alexander, & Sixsmith, 2017](#); [Lansdown, 2011](#)). This is not only important for their feelings, but also because better decisions can be made for them if it is known what they have experienced, how they have experienced it, what is important to them and what expectations they have ([Alnock, & Miller, 2013](#); [Buckley, et al., 2007](#); [Callaghan, et al., 2017](#); [Lansdown, 2011](#)). This is also a right of children: according to article 3 of the same Convention on the Rights of the Child, the best interests of the child must be paramount in all measures that affect children ([United Nations, 1989](#)).

Professionals sometimes assume that they know what is in the best interest of the child, without knowing what the child has been through, feels and thinks. This is due to two strong assumptions that are followed by default after a divorce. We will explain in the following paragraphs that the presence of (suspected) domestic violence should be a reason not to follow these assumptions automatically.

#### ***5.1.2 Unjustified assumption that parents can solve it (together)***

The first assumption of professionals is that parents should be encouraged to improve their mutual communication and that parents should and can take their responsibility ([Raad voor de Kinderbescherming, 2017](#)). Although the assumption is appropriate for 'normal' divorces, there is often a very strong focus on it, even in cases of suspected domestic violence ([Smit, et al., 2017](#)). Without sufficient observation of the child, security plans come into use that rely on agreements with the parents ([Inspectie Jeugdzorg, 2013b](#); [2015b](#); [2016](#)). For example, an agreement can be made that a parent will seek contact with someone in his or her environment when certain difficult circumstances arise ([Inspectie Jeugdzorg, 2013b](#)). Apparently, there is confidence that the parent will comply with this agreement, which is a risky estimate in cases

where there is (suspected) domestic violence ([Inspectie Jeugdzorg, 2013b; 2015b; 2016](#)). If the parents make progress in their communication, it may be accepted that no investigation into the child's experiences will be carried out or that this information will not be shared ([Inspectie Jeugdzorg, 2013b](#)). The investigations into cases with a dramatic outcome (such as the death of the children) show time and again that the child was insufficiently visible, partly because of the focus on making agreements with and between the parents ([Inspectie Jeugdzorg, 2013b; 2015a b; 2016](#)).

### ***5.1.3 Why the assumption of "always contact" is wrong***

The second assumption is that contact between children and their parents is always in the child's best interests, even in the case of domestic violence ([Bagshaw, et al., 2010; Coy, Scott, Tweedale, & Perks, 2015](#)).<sup>14</sup> The reasoning is that contact with both biological parents is necessary for good identity development.<sup>15</sup> However, research shows that abuse by a parent poses a risk to the development of children's identities ([Ibrahim, Cosgrave, & Woolgar, 2018](#)).

The "always contact" belief is based on an outdated theory that children feel an existential loyalty towards their biological parents and that this relationship should be maintained ([Coy, et al., 2015; Willems, 2017](#)). Some even go so far as to assume that the child would be less human if there were no contact with a biological parent.<sup>16</sup> We know from research that it is not the mere presence of a (biological) parent that is important for the child, but positive attachment, safety and developmental opportunities are important for a healthy development. ([Willems, 2017](#)). For example, a child may experience a safe attachment relationship with an adoptive parent when the latter responds sensitively to the child's needs ([Raby, & Dozier, 2019](#)). Research shows that the effect of contact with a non-resident parent (usually the father)

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<sup>14</sup> Dutch case-law: [ECLI:NL:GHSGR:2010:BN0373](#)

<sup>15</sup> Dutch case-law: [ECLI:NL:GHSGR:2010:BN0373](#); [ECLI:NL:GHSHE:2017:4264](#), but for one exception, see in Dutch this case law: [ECLI:NL:RBMAA:2012:BX3373](#)

<sup>16</sup> Quote from a special representative: "Je ziet dat kinderen soms het contact met een ouder verliezen. Dat heeft heftige gevolgen voor een kind, want dat betekent dat jij een stuk van jezelf mist. Je bent 50% de ene ouder 50% de andere ouder"[You see that children sometimes lose contact with a parent. This has serious consequences for a child, because it means that you miss a part of yourself. You are 50% one parent 50% the other parent] (Lips, 2017: 'Vechtscheiding' van de Monitor, broadcasted 29 Jan. 2017 <https://demonitor.kro-ncrv.nl/onderzoeken/vechtscheidingen>)

depends on the circumstances, such as: whether the contact is of good quality and a continuation of a previously developed bond between the child and the parent, the family dynamics, and demographic factors ([Gilmore, 2006](#); [Jaffee, Moffitt, Caspi, & Taylor, 2003](#)).

The circumstances in the case of domestic violence by fathers can be of such a negative nature that contact causes more psychological problems in their children in adulthood, more so than for children who grew up without a father ([Downs, & Rindels, 2004](#)). Where domestic violence relates to partner violence, there is a high risk of child abuse ([Salisbury, Henning, & Holdford, 2009](#)). Fathers who commit violence often have no insight into the damage they inflict on their children ([Holt, 2015](#), [Salisbury, et al., 2009](#)). A new partner in the father's life can reduce the violence against his ex-partner, mother of his children. However, the experience is that the new partner can also become a victim of his violence, which means that the children are still exposed to it during the contact with their father ([Hardesty, & Ganong, 2006](#)).

Men who commit domestic violence, in addition to violence, which in itself poses a serious risk of problems for the child, tend to display problematic parenting in a broader sense ([Heward-Belle, 2016](#); [Perel & Peled, 2008](#)). The parenting practices of these fathers are characterised by a high degree of control ([Holt, 2015](#); [Katz, 2016](#)). For example, they strongly determine how the child should behave, with whom it is allowed to socialize and what is and is not allowed ([Katz, 2016](#)). They often have expectations that do not match the age/development of their child, are often unpredictable and put their own interests and wishes above those of their child ([Sharman, & Horne, 2015](#)). They also often deliberately denigrate the parenting of the mother of their children and they use the children to hurt their (former) partner ([Heward-Belle, 2017](#)).

The aspects of control and coercion are a recurring theme in the domestic violence that plays a role in complex divorces. It is seen that especially those fathers who demand great control and use coercion are fighting for custody and frequent contact with their children ([Hardesty, & Ganong, 2006](#)). For them, contact with their children is a way of continuing to exercise control over them and their ex-partner ([Hardesty, & Ganong, 2006](#); [Holt, 2015](#)). A study of men who participated in a program because of partner violence shows that these violent men, despite often wanting to be a good parent, often fail to be so ([Lünnemann, Hermens, Roeleveld, Dijkstra, & Yerden, 2012](#)). They often feel insufficiently responsible for the



violence they committed, attribute the blame for the violence outside themselves (with their ex-partner) and in many cases insufficiently recognize their own part in the bad relationship with their children ([Lünnemann, et al., 2012](#)). However, these findings are not mentioned and explained in the guidelines for social workers in the field of child protection and do not always seem to be known by judges or other professionals who may be involved. ([Anthonijsz, et al., 2017](#); [Berben, 2014](#); [Groenhuijsen, 2014](#)).

There are situations where it may be in the child's best interest to grow up with or be in contact with a parent who has committed violence. We know, for example, that it may happen that one parent hits the child to prevent the other parent from using more serious violence.<sup>17</sup> Despite the violence used, it would probably be in the child's interest to grow up with the protective parent and for the child and this parent to be able to receive help if necessary. Another example could be that a parent suffers from psychotic episodes in which he/she is violent, but also has periods in which he/she is non-violent and loving towards his/her child and there may be some form of contact.<sup>18</sup>

In many cases, however, children and their protective parents suffer from forced contact ([Harrison, 2008](#)). The physical and emotional safety of the child and the protective parent should be ensured, and their wishes and interests should be paramount, rather than the rights of a parent who has violated the child and/or the other parent. This is in line with international conventions ([UNCRC 1989](#), [Convention of Istanbul 2011](#), [Convention of Lanzarote 2007](#), [UN resolution 61/143 2006](#)). The [Convention on the Rights of the Child](#) states that the child has the right to protection against all forms of physical and mental abuse and neglect.<sup>19</sup> The Lanzarote Convention ([Council of Europe, 2007](#)) states, inter alia: "Each Party may adopt other measures in relation to perpetrators, such as withdrawal of parental rights or monitoring or supervision of convicted persons" (Article 27:4).

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<sup>17</sup> <https://tinyurl.com/yxeobu6s>

<sup>18</sup> <https://tinyurl.com/y57zzffr>

<sup>19</sup> The full text of the convention can be read here: <https://tinyurl.com/y5dhhyp3> and specially for children: <https://www.unicef.org/rightsite/files/uncrcchildfriendlylanguage.pdf>

## *5.2 It is difficult for children to talk about domestic violence*

Sometimes children talk about domestic violence ([Alnock, & Miller, 2013](#); [Augeo Jongeren Taskforce, 2018](#)). For example, because they need support, discover what it is and that it is wrong, or because others detect signals and ask about it ([Alnock, & Miller, 2013](#); [Augeo Jongeren Taskforce, 2018](#)). A reason may also be that they want to protect themselves or others (such as a brother or sister) ([Alnock, & Miller, 2013](#)). Children do not seem to easily confide in social workers, but they rather confide in their mother, other people near to them (such as friends) and teachers ([Alnock, & Miller, 2013](#); [Augeo Jongeren Taskforce, 2018](#); [Jernbro, Otterman, Lucas, Tindberg, & Janson, 2017](#); [Schellingerhout, & Ramakers, 2017](#)).

Children do not easily talk about the domestic violence they have experienced ([Augeo Jongeren Taskforce, 2018](#); [McElvaney, Greene, & Hogan, 2014](#)). Children are often afraid to talk about domestic violence because they:

- fear the consequences
- suffer from emotions such as guilt and shame and the related feelings towards the perpetrator (who, for example, has said that it must remain secret)
- are unable to find the right time
- fear of not being believed
- worry about others and themselves

([Callaghan, et al., 2017](#); [Jernbro, et al., 2017](#); [McElvaney, et al., 2014](#); [Morrison, Bruce, & Wilson, 2018](#)).

Children are not always able to identify what is happening to them and/or try to suppress and deny it ([Collin-Vézina, et al., 2015](#)). Perpetrators often use manipulative techniques to prevent the child from telling about abuses and being believed ([Alnock, & Miller, 2013](#); [Collin-Vézina, et al., 2015](#), [Everson, 1997](#)). For example, perpetrators say it's normal, blame the child, promise it won't happen again, arouse pity, threaten or use violence, and threaten to hurt or kill the child or others ([Alnock, & Miller, 2013](#); [Collin-Vézina, et al., 2015](#)). It can therefore happen that children do not talk about domestic violence they have suffered or even deny it ([Alnock, & Miller, 2013](#); [Collin-Vézina, et al., 2015](#); [Jernbro, et al., 2017](#)).

Some children are willing and try to talk about it, but do not have the courage to do so or they do not succeed ([Alnock, & Miller, 2013](#); [McElvaney, et al., 2014](#)). For example, they only tell part of what they have been through, such as only about physical violence and not about sexual abuse ([Alnock, & Miller, 2013](#)). Children (like adults) can sometimes talk with euphemisms (softening or concealing terms) about what they have been through ([Callaghan, et al., 2017](#)). They may also only use more indirect means in their attempts to make it clear that a situation is damaging to them ([Alnock, & Miller, 2013](#); [Callaghan, et al., 2017](#)). This can be non-verbal as through behaviour or drawings, but also verbal. For instance, children try to avoid a situation by mentioning other reasons. An example is a child who says that someone snores as a reason for not wanting to stay with him because she doesn't dare to tell about sexual abuse ([Alnock, & Miller, 2013](#)). Or children do tell about someone else who has experienced something (such as a sister), but not about themselves ([Alnock, & Miller, 2013](#)). Such signals are in some cases detected by others, but not always ([Alnock, & Miller, 2013](#)).

### ***5.3 It is difficult for professionals to talk with children***

#### ***5.3.1 Professionals often do not dare to talk about the topic***

Conversely, the professionals also do not easily talk to with the child about any negative events that the child may have experienced ([Albaek, Kinn, & Milde, 2018](#)). They can feel like they are walking through a minefield, with the risk of triggering emotions in the child, doing it wrong and making it worse ([Albaek, et al., 2018](#); [O'Malley, Kelly, & Cheng, 2013](#); [Turoy-Smith, Powell, & Brubacher, 2018](#)). Young people who have experienced domestic violence point out as a problem that the professionals often did not ask directly about domestic violence or what was going on and did not provide the right conditions to talk about it ([Alnock, & Miller, 2013](#); [McElvaney, et al., 2014](#)). Professionals do not always feel able to ask about it, to identify what is going on and/or to respond in the appropriate way. ([Konijnendijk, Boere-Boonekamp, Fleuren, Haasnoot, & Need, 2016](#)). The fact that professionals do not feel able to do this may be due to how they feel about their own competencies, but also to how they think about the culture of their organisation and their appreciation of the system ([Albaek, et al., 2018](#); [Konijnendijk, et al., 2016](#); [Louwers, Korfage, Affourtit, De Koning, & Moll, 2012](#); [O'Malley, et al., 2013](#)). For example, a professional may be afraid that he or she will not be able to help the child sufficiently because he or she does not have the right means to do so ([Albaek, et al., 2018](#); [O'Malley, et al.,](#)

[2013](#)). In some cases, professionals can have personal fears: for example, they fear violence or problems stemming from a parent who has committed the violence ([Louwers, et al., 2012](#); [O'Malley, et al., 2013](#)). Professionals may also find it difficult to confront the domestic violence that the child has suffered: 'facing evil' ([Albaek, et al., 2018](#); [Engl Kraft, Rahm, Eriksson, 2017](#); [O'Malley, et al., 2013](#)). It can evoke (intense) emotions in the professional ([Albaek, et al., 2018](#)). In addition, a person can have experienced similar events, has sometimes experienced them up close or has children of his/ her own, as a result of which stories can evoke even more negative associations and feelings ([Coles, & Mudaly, 2010](#); [Esaki, & Larkin Holloway, 2013](#)).

Researchers of child abuse who make use of interviews with the victims also describe how much they were touched by the children and their stories ([Coles, & Mudaly, 2010](#)). Afterwards, they had difficulty letting go, had to cry and felt nauseous ([Coles, & Mudaly, 2010](#)).

### ***5.3.2 The appropriate knowledge and skills are required***

Moreover, when talking to children more generally, it requires knowledge about their communication, which can be different from the communication of adults. For example, young children may use metaphors with less awareness than adults ([Miller, 2008a](#)). For example, a child says a crocodile *bit* him when it *felt like* a crocodile bit him. ([Miller, 2008a](#)). During a conversation it can also happen that the child, by means of associations, ends up in a different event in his or her mind ([Miller, 2008a](#)). Especially young children are not so much concerned with what their conversational partner knows or doesn't know and simply continue to talk. They relate the other person's questions to what they are thinking at that moment ([Miller, 2008a](#)). This can lead to miscommunication.

In the context of a complex divorce, there can be a variety of people who talk to the child, such as the judge, the social workers, etc., without having the right knowledge and skills about communication with (traumatized) children ([Anthonijsz, Van Julsingha, Van der Sluijs, Kleinjan-van Zwet, & Mobach, 2014](#); [Turoy-Smith, et al., 2018](#)). It is acknowledged that talking to children requires specific skills, but people want to solve this by using certain methods ([Anthonijsz, et al., 2014](#); [Turoy-Smith, et al., 2018](#)). At the moment, the conversation methods from Signs of Safety are particularly popular ([Anthonijsz, et al., 2014](#); [Baginsky, Moriarty, Manthorpe, Beecham, & Hickman, 2017](#); [Turoy-Smith, et al., 2018](#)). However, the methods do not provide solutions to the difficulties described in talking with children (who have experienced

domestic violence), which require insight and conversation techniques from the professionals. ([Baginsky, et al., 2017](#)). We will illustrate this with an example of the three houses method from Signs of Safety. The intention is to talk to the child about the worries, the strengths and wishes. For this purpose, three drawn or pre-printed houses will be used: the house of worries, the house of good things and the house of dreams. The child can draw and/or write while talking in the houses. This method assumes that the child can think outside the here and now and that he understands the metaphor. This is not always a realistic assumption. Take, for example, a conversation with a four-year-old girl at the house of dreams. She said that in her house of dreams were witches. In this way she literally indicated that her dreams (nightmares) were about witches and thus missed the intention of the metaphor to talk about what she would desire. ([Bunn, 2013](#)). Also, methods do not remove any prejudices that may influence the conversations and interpretations of professionals ([Turoy-Smith, et al., 2018](#)).

For criminal law purposes, a child is to be interrogated according to fixed techniques in an interrogation room. In this way, any statements made by the child about abuse or abuse will have evidential value. However, a child does not always tell the interviewer (sufficiently) during police questioning, for example because the child is afraid or does not feel at ease with the interviewer, who after all is unfamiliar ([Hövels, 2010](#)). In the Netherlands, children are usually interrogated only once. Interviewing children appears to be difficult ([Wood, & Garven, 2000](#)). Interrogators often learn to avoid mistakes, such as suggestive questions, but many interrogators remain clumsy in interrogating children. For example, they use too little warmth or overly difficult words ([Wood, & Garven, 2000](#)). They also sometimes lack knowledge about the communication of (young) children ([Miller, 2008a b](#)). These kinds of factors can mean that an interrogation does not provide evidence ([Wood, & Garven, 2000](#)). Studies where children were known to have been sexually abused (based on evidence other than interrogation, such as videos) revealed no more than 50% of them reached disclosure during the interrogation ([Olafson, & Lederman, 2006](#)).

#### ***5.4 Children are often not believed***

When children indicate that they have experienced domestic violence, they are often not believed. In a divorce context, it often happens that people think that a child who talks about abuse or maltreatments by the father does so by (unconsciously) being influenced by the

mother ([Gardner, 1999](#); [Nierop, & Van den Eshof, 2008](#)). There are a number of other, more general ( non-divorce specific ) factors that can contribute to children not being believed when they talk about abuse and/or maltreatment.

#### ***5.4.1 Abuse can be unimaginable***

As already discussed, it is difficult to believe that terrible things happen. This is particularly true of horrific experiences that are unimaginable for 'normal' people ([Everson, 1997](#)). However, because there are cases where there was evidence of the cruelties, we know that the unimaginable sometimes happens ([Middleton, 2013](#)). An example of this is the very gruesome abuse committed by Fritzl.<sup>20</sup> When cases like this come to light, it is often only after years. ([Middleton, 2013](#)). We warn the reader that reading these cases can be shocking.

Strange experiences can also seem untrue ([Everson, 1997](#)). However, a perpetrator can do bizarre things out of his (sexual) fantasies or to make sure that the child will not be believed ([Everson, 1997](#)). One example of this is that of perpetrators who dress up as fantasy figures during abuse ([Everson, 1997](#)) or as an animal.<sup>21</sup>

#### ***5.4.2 Children's statements may contain inaccuracies***

Inaccuracies in children's statements can also contribute to their incredibility ([Van der Sleen, no date](#)). However, just like improbabilities, inaccuracies do not need to indicate that the child has not actually experienced domestic violence.

Inaccuracies can arise because concepts are too difficult for the child to grasp, express and/or remember ([Lyon, Stolzenberg, & McWilliams, 2017](#)). Younger children in particular, but even adults may find it difficult to tell, for example, when and/or how often something has happened, even though they have an accurate reminder of the event(s) ([Pipe, Lamb, Orbach, & Esplin, 2004](#); [Wandrey, Lyon, Quas, & Friedman, 2012](#)). Also, a child cannot yet understand some situations and sometimes misses the right words, causing his statement to be inaccurate in terms of content, while being a sincere representation of how the child has experienced and

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<sup>20</sup> [https://en.wikipedia.org/wiki/Fritzl\\_case](https://en.wikipedia.org/wiki/Fritzl_case)

<sup>21</sup> <https://www.mirror.co.uk/news/world-news/paedophile-group-men-dressed-up-9719198>

interpreted it ([Everson, 1997](#)). Examples of this are a child who talked about abuse: “Daddy spit on my leg with his pee-pee” ([Everson, 1997](#), p. 140). Another example is a child who told that after an experience of sexual abuse it was taken to a building where the adults drank blood. It later became clear that the child was referring to communion in a Catholic church ([Miller, 2008b](#)).

In addition, there are several reasons why children sometimes talk about events that did not actually take place ([Everson, 1997](#); [Miller, 2008a](#)). For example, a perpetrator may have given drugs (such as a sedative) to the child, as a result of which the child no longer had a (fully) correct perception of the situation ([Everson, 1997](#)). It also happens that a child uses fantasy because the situation evokes emotions, which he can reduce with fantasies, such as overcoming the perpetrator with physical violence ([Everson, 1997](#)). Another example is that a child can adapt a story and, for example, exaggerates events in the hope of being taken seriously and helped ([Miller, 2008b](#)).

These statements and examples help to understand that improbable and/or untrue elements in a child's statement do not need to indicate that no domestic violence has occurred. Research into so-called 'gold standard' cases shows that improbable and untrue elements occur most frequently in the statements of children who have experienced serious domestic violence (such as serious physical violence or sexual abuse) ([Everson, 1997](#); [Olafson, & Lederman, 2006](#)). 'Gold standard' means that, based on evidence other than the child's story, it is clear that violence has actually taken place (such as video material) ([Olafson & Lederman, 2006](#)).

#### ***5.4.3 The way children tell can be misinterpreted***

Not only the content, but also the how children tell can cause them not to be believed. Children can show negative emotions through the emotional consequences of the violence, or conversely flattened emotions. This may be because they feel depressed, or because they are traumatised and exhibit 'dissociation' (disconnection from their feelings and thoughts) ([Sayfan, et al., 2008](#)). When people are confronted with unexpected emotions and/or with a lack of perceivable emotions that they would expect (such as anger), they are less likely to believe the child. ([Sayfan, et al., 2008](#); [Wessel, Eilertsen, Langnes, Magnussen, & Melinder, 2016](#)).

In some cases, children withdraw an earlier statement. This may be because they made a false statement, but it can also happen that their previous statement was correct ([Malloy, Lyon, & Quas, 2007](#); [Malloy, & Mugno, 2016](#); [Olafson, & Lederman, 2006](#)). Inconsistencies and complete withdrawals contribute to a child's lack of credibility, while children may have various motives for doing so, such as the reasons mentioned that complicate talking about domestic violence and negative reactions from the environment to the disclosures ([Katz, 2014](#); [Malloy, & Lamb, 2010](#)).

### ***5.5 Criminal law affects family law***

In the vast majority of cases where there are suspicions or allegations of domestic violence, it will never be established with absolute certainty whether it has occurred ([Trocmé, & Bala, 2005](#); [Vink, Van den Broek, Van Harten, Lenting, Elzinga, 2015](#)). Domestic violence is difficult to prove under criminal law: there are often no witnesses other than the victims and the consequences can often be attributed to another cause (e.g. by the perpetrator) ([Vink, et al., 2015](#)). The victims of the Amsterdam sexual abuse case (ASAC) were investigated because of the gold standard present. This research revealed that even the sexual abuse of young children often does not lead to specific physical abnormalities or complaints that could prove the abuse ([Vrolijk-Bosschaart, et al., 2017](#)).<sup>22</sup>

The police indicate that it often happens that even if evidence of domestic violence might be found, there is insufficient time and capacity to investigate ([Vink, et al., 2015](#)). Mainly physical injury is detected by the police, while other supporting evidence could sometimes be obtained ([Vink, et al., 2015](#)). For example, it turns out that dentists regularly (24% of dentists within a year, with an average of 2.4 patients) notice signs of domestic violence and record them in their files ([Van Dam, Van der Sanden, & Bruers, 2015](#)). During psychological or pedagogical diagnostics and/or treatment, it may also turn out that the child is likely to have been mistreated or abused, but this often does not count as evidence for criminal law ([Hövels, 2010](#)). It is assumed that the interrogation in the studio is no longer useful because the violence has already been discussed with the child ([Hövels, 2010](#)). Within the judicial system (criminal

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<sup>22</sup> [https://en.wikipedia.org/wiki/Amsterdam\\_sex\\_crimes\\_case](https://en.wikipedia.org/wiki/Amsterdam_sex_crimes_case)



judges, police psychologists, police investigators), people are suspicious of the findings of psychologists and pedagogues who do not work for the judiciary ([Nierop, & Van den Eshof, 2008](#)). Because domestic violence is difficult to prove, police reports often end in dismissal or acquittal ([Vink, et al., 2015](#)). After all, we have a criminal justice system based on the negative legal evidentiary system: a person is innocent until proven guilty in a legal and convincing manner ([Van Zanten, & Brenninkmeijer, 2011](#)).

Family law falls under civil law: it regulates the legal relationships between citizens ([De Boer, 2005](#)). The Dutch Supreme Court has stated that evidence in civil procedural law does not always require that the facts and circumstances to be proved are established beyond doubt, but it is sufficient that they become sufficiently probable.<sup>23</sup> A family judge could therefore assume domestic violence if from the facts and circumstances that are presented it can reasonably be concluded that the domestic violence has occurred (for a discussion of evidence and substantiation in civil procedural law, see [Alt, 2018](#)). The family judge has to decide what is in the interest of the parties and in particular the child ([Van Zanten, & Brenninkmeijer, 2011](#)).

To minimize the number of wrong decisions, family law should carefully consider the most likely scenario ([Van Zanten, & Brenninkmeijer, 2011](#)). However, people (such as the family judge and social workers within the child protection services) may tend to postpone decisions until decisions have been made by the public prosecutor's office or the criminal court ([Smit, et al., 2017](#); [Van Zanten, & Brenninkmeijer, 2011](#)). In case of a dismissal or acquittal, it is assumed that this means that no domestic violence took place and that the report was (deliberately) false, while there is also no evidence that no domestic violence took place ([Smit, et al., 2017](#); [Van Zanten, & Brenninkmeijer, 2011](#)).

If present, a report by an evaluator of the interrogation often contributes to this reasoning. The evaluators make little reference to scientific publications and relevant empirical facts and report opinions and statements that go beyond their remit ([Nierop, Van den Eshof, & Brandt, 2006](#)). Although the exact practices of the evaluators vary, it is common for them to at least consider the existence of possible alternative scenarios ([Nierop, et al., 2006](#); [Van der Sleen, no](#)

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<sup>23</sup> Dutch case-law from the supreme court: [ECLI:NL:HR:2018:182](#), also see [ECLI:NL:HR:2018:220](#)

[date](#)). For this purpose, in addition to the (child) interrogation, further information from the file is also used ([Nierop, et al., 2006](#)). As described earlier, the evaluators assume that the presence of a divorce context is an alternative scenario ([Nierop, & Van den Eshof, 2008](#); [Wijers, & Boer, 2010](#)).

### ***5.6 Insufficient recognition***

The consequence of all these factors is that professionals often pay insufficient attention to domestic violence that the child may have experienced and do not ask about it, fail to pick up on signals, avoid, deny, do not believe or do not take it seriously enough ([Albaek, et al., 2018](#)).

If professionals do report on domestic violence, they often use euphemisms and veiled terms because they distance themselves emotionally from the violence and the case, as well as from the victims ([Albaek, et al., 2018](#)). However, the words a person uses affect the message they give to the reader ([Saunders, 2017](#)). An example of this was given by [Sharman and Horne \(2015, p. 110\)](#) by two descriptions of the same event. The first in which domestic violence is described in an abstract and concealing way:

-“Last night there was a domestic violence incident between the parents. Mr X verbally and physically assaulted Ms Y. The children were in bed at the time”.

The second, in which domestic violence is specifically described and the possible exposure of the children is identified:

-“Last night, Mr X physically and verbally assaulted Ms Y. He shouted loudly at her, called her a “fucking whore” and punched her in the face, causing her nose to bleed immediately. Ms Y was crying and attempting to protect her face with her hands. Ms Y’s two children were in bed at the time, in an adjacent room, but it is highly likely that they would have been woken by the loud shouting, crying and sounds of Mr X assaulting their mother. The next morning the children would have noticed that Ms Y’s face was swollen and bruised, and that there was a hole in the kitchen wall.”

The abstract, concealing way in which domestic violence is often reported can cause the reader not to understand the seriousness of the violence, the direction of the violence (who the

(primary) perpetrator was, for example by talking about 'violence between the parents') and the possible effects on the victims ([Sharman & Horne, 2015](#)).

In practice, conversations with the child do not always lead to a correct assessment of the child's perceptions and interests and appropriate measures ([Inspectie Jeugdzorg, 2016](#)). Only a few young people report with satisfaction that they have been helped by professionals who intervened to stop the violence and that they no longer needed to have contact with a violent parent ([Jernbro, et al., 2017](#)). Other young people report that they received no help or help that came far too late: the police did nothing because of a lack of evidence and the child protection services did not believe them, did not dare to act or even sided with the violent parent ([Jernbro, et al., 2017](#)).

## ***6. The referrals, investigations, and interventions***

### ***6.1 Referrals***

Decision-making in relation to the protection and safety of children often gives rise to feelings of fear and power ([Taylor, Beckett, & McKeigue, 2008](#)). Someone may feel like he's being asked to play God ([Taylor, et al., 2008](#)). One way to deal with this is to postpone and/or leave the decision to others ([Knowlton, 2015](#); [Taylor, et al., 2008](#)). In many situations this leads to the transfer of the decision to someone with more experience and expertise. There is a strong consensus on difficult decisions within fields such as medicine that certain specialties are required ([Beddoe, 2011](#); [Taylor, et al., 2008](#)). A problem is that decisions on parenthood and family life do not have such a consensus ([Taylor, et al., 2008](#)). The result is that there are several referral options, without necessarily leading to an increase in expertise ([Taylor, et al., 2008](#)). All kinds of referrals and redirections between the different organisations are possible as long as the parents or the judge allow them ([Anthonijsz, et al., 2017](#); [Janssen, et al., 2004](#)). In the case of complex divorces (in which domestic violence may or may not play a role), parents and children may therefore have to deal with various investigations and interventions, sometimes consecutively and sometimes at the same time ([Janssen, Loeffen, & Ooms, 2004](#)). Various healthcare professionals and agencies may be involved in this ([Anthonijsz, et al., 2017](#)). Known drawbacks of referral are that the transfer does not always go well, there are waiting times, and families have to deal with many different professionals ([Bruning, 2008](#); [Hollenberg, 2018](#); [Inspectie Jeugdzorg, 2019](#); [Vlaardingerbroek, 2010](#)).

In addition, referral in itself can have an impact on the information and the interpretation of the information. The questions posed by the judge, for example, influence the answers he receives ([Giard, 2013](#)). Also, recent information has more impact on decisions than older information ([Platt, & Turney, 2013](#)). This can, for example, put domestic violence into the background and information about a parent's cooperation can become a determining factor in the judge's decision ([Dore, 2004](#); [Platt, & Turney, 2013](#)). Another problem is that, because of the fear about their decisions, people may have a tendency to want to act according to fixed protocols and only to rely on facts, as a result of which the more uncertain but relevant information does not end up in the reports and recommendations ([Taylor, et al., 2008](#)). In some

cases, professionals can hide a discrepancy between their actions and the professional expectations and may even lie ([Reamer, 2008](#)). The professions concerned with families involved in family law seem to be particularly sensitive to this ([Reamer, 2008](#); [Strom-Gottfried, 2000](#)). This is because violations of their professional codes can lead to shame, loss of face, a complaint, litigation, decrease in enrolments, a reduction in income and job losses ([Reamer, 2008](#)). Errors on the part of these professionals can have major consequences ([Strom-Gottfried, 2000](#)).

## ***6.2 Mediation and parent assessment***

Parents can make use of mediation on their own initiative or on recommendations (e.g. by the judge or the social worker of the certified institution), or they are obliged to do so ([Geurts, Sportel, Beenackers, Afrikan, 2015](#)). Mediation consists of conversations between parents and a professional (usually a psychologist or a lawyer) ([Geurts, et al., 2015](#)). The objective is for the parents to come to an agreement ([Geurts, et al., 2015](#)). Mediation can be experienced as unsafe by female victims of partner abuse, both physically and emotionally ([Fischer, Vidmar, & Ellis, 1992](#); [Van Dokkum, 2017](#)). Mediators often pay little or no attention to signs of domestic violence ([Ballard, Holtzworth-Munroe, Applegate, & Beck, 2011](#); [Feresin, Folla, Lapierre, & Romito, 2018](#); [Johnson, Saccuzzo, & Koen, 2005](#)). When domestic violence is mentioned during mediation, it is often ignored, trivialized, or seen as a mutual conflict ([Feresin, et al., 2018](#)). Female victims of violence in particular do not succeed in reaching safe agreements through mediation ([Fischer, et al., 1992](#); [Johnson, et al., 2005](#); [Rossi, Holtzworth-Munroe, & Applegate, 2015](#)).

A parent assessment is a process imposed by the court in which investigation and mediation are combined (also known as forensic mediation; [Kluwer, 2013](#)). If parents are unable to reach agreements themselves using this mediation process, the expert will write a report on the findings during the mediation and the further assessment that the judge will use as information in his decision. Research shows that parents more often than a control group reach agreement with this method ([Kluwer, 2013](#)). However, parents did not consider the results for their child to be better than the control group, nor did they achieve a better mutual relationship ([Kluwer, 2013](#)). In addition, parents who had participated in the parental assessment consider the judicial procedure to be less fair than parents in the control group.

([Kluwer, 2013](#)). The effects of the parent assessment were not considered separately for parents and children with suspicions of domestic violence. Within this intervention there are no further measures to protect children and parents in case of domestic violence ([Kluwer, 2013](#)). If there is a perception that children need protection from one of the parents, it is preferred to wait for the parental assessment before proceeding to an investigation by child protection services if communication between parents does not improve ([Kluwer, 2013](#)). In case of suspicions of abuse, a parenting investigator cannot investigate this, because he or she is not equipped to do so and the parent assessment is not aimed at doing so ([Kluwer, 2013](#)).

### ***6.3 Special representative***

The court may also appoint a special representative (Dutch: bijzonder curator). The special representative cannot apply for legal protection measures and is therefore not a member of the child protection system (see next section). In theory, this can take place before, at the same time or after an investigation by the Child Protection Services. A special representative stems from the fact that children have fewer legal opportunities to represent their interests than adults ([Klankbordgroep bijzondere curator, 2016](#)). There is still a lot of discussion about the age (in principle from 12, but sometimes younger), the time and the way in which children's opinions should be heard by the judge ([Groenhuijsen, 2007](#); [Mattaar, & Van Arkel, 2015](#)).<sup>24</sup> If a special representative has been appointed, it is intended that he/she should represent the best interests of the child ([Klankbordgroep bijzondere curator, 2016](#)). If the special representative is a lawyer, he/she can make requests on behalf of the child.

In practice, it appears that the investigation by the special representative is very similar to that conducted by the Child Care and Protection Board ([Valenkamp, Sondorp & van Montfoort, 2017](#)). The experiences of parents and children with the special representative seem to be varied ([De Kinderombudsman, 2012](#); [Valenkamp, et al., 2017](#)). In the premises concerning the use of a special representative, it is stated that parents can accuse each other of domestic violence and that the ability and courage to solicit further questions about domestic violence is a precondition for a special representative, without any requirements being made about the

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<sup>24</sup> Vision document Law on divorce and separation of parents with children 2016 (in Dutch)  
<https://tinyurl.com/y2twavzf>

expertise on this subject for the special representative ([Valenkamp, et al., 2017](#)). We have been unable to determine whether the special representative is often involved in complex divorces. Nor did we find any research into the experiences of parents or children in cases in which domestic violence plays a role. In case-law, we have come across various reactions from special representatives to reports of domestic violence in a divorce context. In a case in which the mother indicated that her ex-husband had maltreated her in the past, she suspected sexual abuse of the child by the father, and the child itself made statements about this as well, the special representative advised an unsupervised visitation for the child with the father.<sup>25</sup> In another case involving domestic violence and threats from the father to the mother and her family, the special representative advised an investigation by the Child Care and Protection Board.<sup>26</sup>

#### ***6.4 Forensic mental health assessment***

Parents and/or children may also be subject to a forensic mental health assessment, by referral of the judge, the Child Care and Protection Board or the certified institution. The examiner may be a (forensic) psychologist, psychiatrist or pedagogue. It can also be referred to by a different name, such as 'psychological investigation' or sometimes 'personality test', when this is what specifically is chosen.

The NIFP (Netherlands Institute for Forensic Psychiatry and Psychology) can mediate if necessary. The NIFP does not carry out the assessment itself. The NIFP searches for an investigator for the assignment and provides feedback on the draft report of the investigator who is responsible for the report.<sup>27</sup> The aim is for the researcher to have completed a postmaster training approved by the Dutch government that certifies him to refer to himself as a 'healthcare psychologist', as well as a training course at the NIFP.<sup>28</sup> According to the American Psychological Association, it is insufficient that a person who advises on matters of authority and conduct is a psychologist, and that this requires specific professional behaviors and efforts,

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<sup>25</sup> Dutch case-law: [ECLI:NL:RBALK:2012:BY1663](#)

<sup>26</sup> Dutch case-law: [ECLI:NL:RBALK:2010:BO6078](#)

<sup>27</sup> In Dutch see: <https://tinyurl.com/yynzko6l>

<sup>28</sup> In Dutch see: <https://tinyurl.com/y4cwx3q4>

such as keeping track of knowledge and skills, not discriminating, and closely monitoring one's own values perceptions and reactions ([American Psychological Association, 2009](#)). It is expected that in 2019 there will be a revision of the directive published in 2009. It is unclear to what extent the (Dutch) forensic assessors meet the standards and whether the suggestions in the guideline are sufficient to guarantee the quality and validity of the investigations. It is warned that a psychological test can seldom provide useful information in matters of custody and visitation ([Dalton, Drozd, & Wong, 2006](#)).

Professionals in the Netherlands find advising in family law difficult ([Troost, 2018](#)). Investigators (whether or not they perform their diagnostics with a forensic task or purpose) do not always agree (on, for example, diagnoses or the right approach), mistakes are made in the manner in which investigations are carried out, and responses are provided as well as in the care with which data are handled (reporting and sharing information) ([Van Dijk, 2011](#)). A professional who is insufficiently aware of domestic violence and/or trauma (in children) may be mistaken in the diagnosis. ([Valerio, & Beck, 2017](#); [Van Pol, 2016](#)). More generally, there are virtually no possibilities for research by behavioural experts in the context of divorces and suspicions of domestic violence to provide useful information ([Dalton, et al., 2006](#)). For example, there is no test that provides certainty about a parent's pedagogical skills ([Dalton, et al., 2006](#); [Garber, & Simon, 2017](#); [Valerio, & Beck, 2017](#)). The fact that a forensic assessment is not intended to diagnose for treatment, but instead for informed decision making, is a complicating factor ([Valerio, & Beck, 2017](#)). After all, the tests that are used are usually not designed for decision diagnostics ([Dalton, et al., 2006](#); [Garber, & Simon, 2017](#); [Valerio, & Beck, 2017](#)). Parents and children can react differently to the tests when they are used for this purpose: for example, they experience a lot of stress because a great deal depends on it and/or try to present themselves in a certain way in order to achieve a specific test result ([Valerio, & Beck, 2017](#)).

However, case-law shows that a great deal of value is attached to the results of forensic mental health assessments that have been carried out (usually on behalf of the judge or the Child Care and Protection Board) and that parents have virtually no chance of defending



themselves if they disagree with the conclusions and/or the consequences of the report.<sup>29</sup> On occasions however, assessors make firm statements about parents that go well beyond an interpretation of their research findings.<sup>30</sup> In a case where there are suspicions of abuse or maltreatment by the father, it may even happen that the forensic assessor blames the mother with great certainty for the contact problems on invalid grounds, namely on the basis of a personality survey of the parents.<sup>31</sup>

## ***6.5 Child Protection Services***

### ***6.5.1 Child Care and Protection Board (Raad voor de Kinderbescherming)***

The Child Care and Protection Board, hereinafter also referred to as "the Board", is responsible for conducting independent research into a child's upbringing.<sup>32</sup> The Child Care and Protection Board is a government body. If the Board deems a protective measure necessary, the court will decide on this. The Child Care and Protection Board can advise the court on divorce and rights of access issues and has a supervisory role in some decisions of the certified institution. In principle, the Board is present at every initial session on custody and access and is involved in complex divorces.<sup>33</sup> The Board obtains information from the parents, children, possibly the social network, and the professionals involved (usually school and social workers with whom the family is familiar) ([Raad voor de Kinderbescherming, 2016](#)). Although it is not one of their legal tasks, in some cases the Board tries to mediate between parents.<sup>34</sup> The Board itself indicates that it also intervenes by confronting parents with their behaviour and providing psychoeducation ([Klankbordgroep bijzondere curator, 2016](#)).

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<sup>29</sup> Dutch case-law: [ECLI:NL:GHAMS:2015:902](#)

<sup>30</sup> Dutch case-law: [ECLI:NL:RBAMS:2013:7841](#)

<sup>31</sup> Dutch case-law: [ECLI:NL:GHARL:2017:3234](#)

<sup>32</sup> <https://www.nji.nl/nl/Kennis/Dossier/Jeugdbescherming/Jeugdbescherming-Wie-doet-wat> (in Dutch)

<sup>33</sup> Balance Sheet Implementation Plan to Improve the situation of children in high conflict divorce (2017): <https://tinyurl.com/yxevcdq9> (in Dutch)

<sup>34</sup> Balance Sheet Implementation Plan to Improve the situation of children in high conflict divorce (2017): <https://tinyurl.com/yxevcdq9> (in Dutch)

### ***6.5.2 The national child abuse center (Veilig Thuis)***

In the Netherlands, the national child abuse center is responsible for receiving reports on domestic violence and child abuse and for providing advice to professionals and non-professionals ([Veilig Thuis, 2019](#)). The national child abuse center has the task and authority to investigate child abuse. This investigation may be the starting point for voluntary or, if necessary, compulsory aid and child protection, via a Board investigation. ([Bouma, López, Knorth, & Grietens, 2017](#); [Veilig Thuis, 2019](#)). The tasks of the the national child abuse center and the Child Care and Protection Board overlap to a certain extent because both can investigate the safety (or lack thereof) of the child with the parents. The judge is usually advised by the Child Care and Protection Board and the national child abuse center can refer to the Child Care and Protection Board. ([Bouma, et al., 2017](#)).

### ***6.5.3 Certified institution (Gecertificeerde instelling)***

In the Netherlands, a youth protection measure (placement under supervision, out of home placement, and/or a termination of parental authority) is carried out by the certified institutions of the municipalities ([Van den Bosch, Carati, Van Eck, Lems, Loupatty, Schutte, & Wiegand, \(2014\)](#)). The involvement of the certified institution can also be voluntary, for example if the concerns are greater than can be accommodated with the regular offer for families of the municipality and if parents are willing to work with the certified institution without obligation ([Van den Bosch, et al., 2014](#)). Since the expectation in this case is that, in the event of parents' refusal, forced supervision will be ordered after all, this is also referred to as 'coercion' (after all, the parents will feel an urge to cooperate).<sup>35</sup> The certified institutions develop a plan with the family to deal with the questions and problems that exist within the family. In principle, parents have the right to make their own family plan.<sup>36</sup> There is an exception to this if there are concrete threats to the child's development, or if the child's interests are otherwise harmed ([Jeugdwet art. 4.1.2](#)). The social worker of the certified institution has the authority to give instructions to parents about the care and upbringing of their children if there is a child protection measure. The certified institutions are not supposed to offer interventions, but to determine which

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<sup>35</sup> In Dutch see: <https://tinyurl.com/y4f9egrk>

<sup>36</sup> In Dutch see: <https://tinyurl.com/y2dcuxlr>

interventions should be used. The youth and parenting aid organisations should provide the interventions.<sup>37</sup>

#### ***6.5.4 Problems with child protection***

As described in detail in the previous chapter, the theoretical basis on which child protection works in complex divorce cases is insufficient and even harmful to victims of domestic violence. Judges can also rely on wrong theories and suffer from prejudices, which is why they can wrongly and/or on the basis of false arguments decide to order a child protection measure ([Saunders, et al., 2011](#)). Child protectors have difficulty making an assessment of safety (even if they use a risk assessment instrument) ([Bartelink, De Kwaadsteniet, Ingrid, & Witteman, 2017](#)). The literature shows that professionals who work with protective parents and their children often rely on their own theories and prejudices ([De Ruiter, & Van Pol, 2017](#); [Jenney, et al., 2014](#)). This can lead to 'micro-aggression': a form of interpersonal aggression that arises because one person has negative prejudices about another and in his communication has an attitude of discrimination and considers the other to be inferior ([Liegghio, & Caragata, 2016](#)). Child protection workers can work in a paternalistic way: they set their own standards and are focused on identifying errors and problems with the parent ([Jenney, et al., 2014](#)). There can be a lot of coercion, use of power, frightening of the other and derogatory remarks ([Liegghio, & Caragata, 2016](#)). The result is that these parents feel insufficiently understood and not taken seriously. They can follow advice under the pressure that they feel and/or present reality differently, for example out of fear that their children will be taken away. This can increase the risks, for example because the professional makes a wrong assessment, because he gives wrong advice, and because the stress in the protective parent increases ([Jenney, et al., 2014](#)).

Social workers often experience a lack of clarity in action, do not know how to operate and refer to incorrect theories and ineffective interventions in complex divorces. ([Saini, et al., 2012](#); [Solleveld, 2014](#)). On occasions, social workers of the Child Care and Protection Board also take on the role of counsellor themselves during their involvement with a family, even though this is not their job. An example of this is that family guardians can work with a method in Dutch called

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<sup>37</sup> In Dutch see: <https://www.jeugdzorgnederland.nl/onze-leden/>

“[Kind uit de strijd](#)”, which roughly translates to getting the kid out of the battle<sup>38</sup> This method is intended for supervised children and their parents in a complex divorce context. The family's social worker tries to help the child cope with the situation and to stop the struggle between the parents through conversations and psycho-education ([Miseré, 2015](#)). The qualification committee of the Dutch Youth Institute (Nederlands Jeugdinstituut) has not officially recognised this method.<sup>39</sup> The Committee states that it is not desirable that the person who has to assess the effects of an intervention (i.e. the family's social worker) should also be the practitioner. The Committee also found that with “[Kind uit de strijd](#)”, too much responsibility is placed on the child, while it should be on the parents' shoulders. Important questions, such as whether both parents can have custody, could therefore wrongfully no longer be dealt with. These problems are not unique to “[Kind uit de strijd](#)”. Another method used by child protection is “[Signs of Safety](#)”. This method is no better than a regular approach in the case of child abuse. ([Reekers, Dijkstra, Stams, Asscher, & Creemers, 2018](#)). In some Signs of Safety safety plans, the working group has also come across a considerable responsibility on the part of the child about its own safety.<sup>40</sup> In case-law, we found that the intended deployment of Signs of Safety can also be a reason for not (yet) answering custody issue.<sup>41</sup>

Women who have been subjected to violence by their partner, often have negative experiences with the authorities when attempting to protect their children ([Pels, Van Rooij, & Distelbrink, 2015](#); [Van Dokkum, 2017](#)). For women who have experienced domestic violence, the Board's method of talking to the parents together can cause a lot of stress and a feeling of a lack of safety (see: qualitative research among women who were known to Stichting Zijweg (a Dutch foundation for victims of domestic violence); [Van Dokkum, 2017](#)). These women have the experience that their ex-partner's behaviour had little or no effect on the Council's report that goes to court, even when he showed unacceptable behaviour during the sessions ([Van Dokkum, 2017](#)). Women victims of domestic violence have experiences with the certified institutions that are comparable to their experiences with the Child Care and Protection Board

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<sup>38</sup> In Dutch see: <https://tinyurl.com/y37pwn5a>

<sup>39</sup> In Dutch see: <https://tinyurl.com/y3lbc9l>

<sup>40</sup> Examples of the effects of the parts of Signs of Safety: <https://knowledgebank.signsofsafety.net/>

<sup>41</sup> Dutch case-law: <ECLI:NL:RBNHO:2016:3871>

(i.e. lack of safety and little response to the behaviour of the ex-partner) ([Van Dokkum, 2017](#)). Female victims of domestic violence refer to the fact that, despite or thanks to the involvement of child protection, they and their children are forced to remain in contact with a violent father ([Pels, et al., 2015](#)). They indicate that on the one hand they are advised to keep a violent ex out of their lives and on the other hand they are forced to facilitate contact ([Pels, et al., 2015](#)).

## ***6.6 Programmes by the youth and parenting aid organisations***

### ***6.6.1 Programs for children***

There are various programmes in the Netherlands in which children in groups are offered divorce education and exercises that are intended to help them deal with their parents' divorce ([De Graaf, & De Bruijn, 2014](#); [Klein Velderman, Pannebakker, & Reijneveld, 2015](#); [Klein Velderman, Pannebakker, Van Vliet, & Reijneveld, 2018](#); [Van der Valk, Van den Broek, Van Doorn, Dekovic, & Meeus, 2013](#)). For younger children, these programs are often more playful, using creativity and hand puppets ([Klein Velderman, et al., 2015](#); [2018](#)). These groups require the involvement of the parents. To date, only limited research has been carried out into these interventions, in small samples, where a control group was not always present, or where there was no complete random allocation to the groups ([Ince, Van Rooijen, & Verheijden, 2018](#)). Researchers identify the difficult recruitment of participants and the limited involvement and commitment of fathers in the intervention and the associated research ([De Graaf, & De Bruijn, 2014](#); [Van der Valk, et al., 2013](#)). None of the programmes is considered to be effective according to strong, good or even initial indications.<sup>42</sup> This is despite the fact that many of these interventions have existed for many years.

In the available publications on the effect of these interventions, a positive effect is found on only a limited number of outcome measures ([De Graaf, & De Bruijn, 2014](#); [Klein Velderman, et al., 2015](#); [Van der Valk, et al., 2013](#)). It is mainly found that, after participation, children put themselves through less self-blame ([De Graaf, & De Bruijn, 2014](#); [Van der Valk, et al., 2013](#)). It is also sometimes found that children show fewer behavioural problems (especially if this is

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<sup>42</sup> In Dutch see: <https://www.nji.nl/nl/Kennis/Dossier/Scheiding>

reported by teachers and not, for example, by the children themselves) ([De Graaf, & De Bruijn, 2014](#); [Klein Velderman, et al., 2015](#); [2018](#); [Van der Valk, et al., 2013](#)). Improvements are not always found on long-term remeasurements ([De Graaf, & De Bruijn, 2014](#)). There is no effect on many other measures (such as school performance and self-image) ([De Graaf, & De Bruijn, 2014](#); [Van der Valk, et al., 2013](#)). Improvements in the relationship and contact with fathers are intended, but not achieved; rather, a deterioration is visible ([De Graaf, & De Bruijn, 2014](#); [Van der Valk, et al., 2013](#)). The authors suspect that children may dare to better indicate how they feel and what they like ([De Graaf, & De Bruijn, 2014](#)).

All interventions are intended to be preventive, although the authors mention that in spite of this, parents and children appear to have participated in cases in which there were clinical problems and/or a high degree of conflict between the parents ([De Graaf, & De Bruijn, 2014](#); [Van der Valk, et al., 2013](#)). They, therefore, do not offer a solution for situations in which domestic violence plays a role.

### ***6.6.2 Intervention programs for parents (and children)***

There are also publications on interventions that use parent groups and work with the children in parallel ("Recht doen aan je kind" [Doing justice to your child]: [Geurts, & Gutterswijk, 2018](#); "Kinderen uit de knel" [Children out of trouble]: [Van Lawick & Visser, 2014](#)). These interventions make use of divorce education and various assignments and formats with the aim of getting parents to cooperate ([Geurts, & Gutterswijk, 2018](#); [Van Lawick & Visser, 2014](#)). For the children there is contact with peers and with the help of creativity they work on presenting their experience to the parents ([Geurts, & Gutterswijk, 2018](#); [Van Lawick & Visser, 2014](#)). Again, the recruitment of participants is mentioned as a problem ([Geurts, & Gutterswijk, 2018](#)). The effects of these programs are limited to even harmful ([De Ruiter, 2015](#); [Geurts, & Gutterswijk, 2018](#); [Schoemaker, Visser, Van Lawick, & Finkenauer, 2017](#)).

Although current violence is considered to be a criterion for exclusion from "Kinderen uit de Knel" program, past domestic violence is not a criterion of exclusion and only a very limited inventory of domestic violence is made ([De Ruiter, 2015](#); [Schoemaker, et al., 2017](#)). The effects of the intervention in the case of domestic violence have not been investigated. Because of the program's emphasis on co-parenting and the stereotypical assumption that accusations of child

abuse in a divorce context are always false, [De Ruiter \(2015\)](#) pointed out that this program might be counterproductive for some parents and children. In the publications on “Recht doen aan je kind”, domestic violence is not directly mentioned ([Geurts, 2017](#); [Geurts, & Gutterswijk, 2018](#)). However, it is described that the practitioners pay attention to and work on the 'safety of the child' and it is stated that in the course of aftercare there was insufficient safety for some of the children ([Geurts, 2017](#); [Geurts, & Gutterswijk, 2018](#)).

### ***6.6.3 No evidence based programs***

It can be concluded that none of the divorce programs have proven to be effective for parents and children of complex divorces, with or without the presence of domestic violence, even though these parents and children do sometimes participate in the programs. It is possible that the limited theoretical basis that is often used in the Netherlands is a reason why there are no effective interventions for complex divorces. The information published by the Dutch Youth Institute on the theme of divorce contains a document that describes what is known about the interventions that are used in practice. ([Ince, et al., 2018](#)). This document provides virtually no theoretical support. The theory of parental alienation is explained, stating that it is controversial, but then describing in detail how parental alienation should be combated, despite the fact that there is no valid empirical basis for this ([Ince, et al., 2018](#)).

## ***6.7 Supervised visitation***

### ***6.7.1 Purpose of supervised contact***

A judge can refer to a supervised visitation arrangement in order to support and/or establish contact between the child and the non residential parent ([De Kinderombudsman, 2017](#)). Parents can also take the initiative themselves or be referred by professionals, such as child protectors ([De Kinderombudsman, 2017](#)). The presence or suspicion of domestic violence may be a reason for supervised contact, but there are also other reasons (such as a parent's addiction problems, a parent's psychiatric problems, a mental disability or when there is no relationship between a parent and a child yet) ([Brandt, 2007](#)).<sup>43</sup> Domestic violence is mentioned both as a

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<sup>43</sup> In Dutch see: <https://www.jarabee.nl/specialistische-hulp-bij-omgang>

reason for using supervised contact and as a reason for exclusion ([Van der Ploeg, Scholte, & Seger, 2016](#); [Zielman, 2012](#)). It remains unclear how this is dealt with and how it is determined whether domestic violence is (too great) a danger to work on supervised contact. Supervised contact is offered in various places, such as in contact centers, contact houses and various youth support organizations of the municipalities, for example through the program “Ouderschap blijft” [Parenthood is permanent] ([De Kinderombudsman, 2017](#)).<sup>44</sup>

Although supervision of contact between parents and children can consist of only surveillance of contact between parents and children, the contact houses and youth care organisations in particular also work with parent conversations and counselling ([De Kinderombudsman, 2017](#)).<sup>45</sup> Supervised visits are intended as a temporary intervention.<sup>46</sup> Judges often see it as a way of giving the non resident parent the opportunity to prove himself, which should be reassuring for the anxious parent who objects to a visiting arrangement. ([Perry, & Rainey, 2007](#)). As soon as supervised contacts seem to go well, there is a switch to unaccompanied contact ([Clement, Pravda, Jaarsma, & den Bandt, 2008](#)), even when the mother objects.<sup>47</sup> The court may also make use of a report written by the supervisors in their considerations in order to arrive at a decision ([De Kinderombudsman, 2017](#)).

### ***6.7.2 Effects of supervised contact***

The research results from the international literature are pessimistic about the effectiveness of supervised social intercourse. After completion of a supervised visitation process, there are still fathers who are arrested for a violent crime (although the percentage of arrests is lower than at the start of the process) ([Oehme, & O'Rourke, 2011](#)). In the end, parents more often (compulsorily) adhere to an arrangement than before the process, but are often dissatisfied with the contact arrangements that result from a supervised process of contact ([Perry, & Rainey, 2007](#)). In the long term, supervised contact often does not result in an effective

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<sup>44</sup> In Dutch see: [www.ouderschapblijft.nl/locaties](http://www.ouderschapblijft.nl/locaties)

<sup>45</sup> In Dutch see: <https://www.ouderschapblijft.nl/ouders-en-kinderen/wat-is-ouderschap-blijft>

<sup>46</sup> In Dutch see: [www.stichtingbegeleideomgang.nl](http://www.stichtingbegeleideomgang.nl) & <https://www.humanitas.nl/programmas/bor/waarom-bor/> & <https://www.spirit.nl/hulpoverzicht/begeleide-omgang/>

<sup>47</sup> For example, see Dutch case-law: [ECLI:NL:GHSHE:2015:1524](https://ecli.europa.eu/CLI:NL:GHSHE:2015:1524)



arrangement for children to have contact with their father ([Ekblom, & Landberg, 2007](#); [Murphy, & Holt, 2013](#); [Perry, & Rainey, 2007](#)). The goal of supervised access in order to help the child and the non resident parent establish a good relationship is not achieved, certainly not when there is a (previous) presence of domestic violence ([Ekblom, & Landberg, 2007](#); [Perry, & Rainey, 2007](#)). It seems that, at most, children learn to deal with a parent who fails in many ways ([Ekblom, & Landberg, 2007](#)). The Dutch figures confirm this picture. From the outset, it became clear that those who offer the projects of supervision of contact themselves think that it has a positive effect, but that in many cases they did not in fact achieve any success ([Chin-A-Fat, 1998](#)). More recent figures show that there is a relatively large group of parents who, despite referral, never start a supervised visitation program at all and that only a minority of the parents achieve an independently managed visitation arrangement within six months ([Humanitas, 2016](#); [Stichting Omgangshuis Houten, 2017](#); [Van der Ploeg, et al., 2016](#)).

### ***6.7.3 Risks of supervised contact***

It also turns out that the presence of supervision during contact does not mean that the emotional and physical safety of the mother and the child is guaranteed ([Sheehan, et al., 2005](#)). As early as 1998, a report was published which showed that children did not feel safe during supervised visits and that the visitation supervisors did not realize this when these were older children and did not pick up on the anxious behavior of the younger children in order to stop the visitation ([Szirom, Jaffe, McIntosh, & Holmes, 1998](#)). From the later studies that were carried out, it appears that emotional and in some cases even physical violence takes place despite the presence of contact supervision ([Aris, Harrison, & Humphreys, 2002](#); [Sheehan, et al., 2005](#)). It happens that a father, for whom the address of the mother and his child is unknown, tries to find out about this through the contact appointment.<sup>48</sup> Although some children may have a pleasant contact with the non resident parent, there are also children who feel a lot of resistance and express themselves (e.g. kicking, screaming, crying) ([Aris, et al., 2002](#); [Forsberg, & Pösö, 2008](#); [Sheehan, et al., 2005](#)). In particular babies and very young children show strong negative reactions ([Aris, et al., 2002](#)), as well as children whose father has committed domestic violence ([Sheehan, et al., 2005](#)). Referrers, therefore, have the impression

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<sup>48</sup> <https://www.nytimes.com/1998/12/25/us/in-suicide-letter-regrets-for-killing-daughter.html>

that contact can be (re)traumatic for some children ([Sheehan, et al., 2005](#)). Involved professionals indicate that enforcing contact in this case can also be a message to the child that the violence is legitimized and that the child's feelings are not respected, which can lead to a loss of trust ([Aris, et al., 2002](#); [Sheehan, et al., 2005](#)).

In some cases, supervised contact is ordered for cases in which there is extreme domestic violence and in which the child's potential interest in dealing with the father is no longer apparent ([Brandt, 2007](#)). These are cases which, outside a divorce context, would have no basis for working on restoring contact with the parents ([Brandt, 2007](#)). On this basis, Brandt argues that judges unjustly order supervised contact because they find the far-reaching decision not to have any contact too difficult and/or, in a divorce context, by definition assume that contact must be established. Moreover, the temporary nature of the supervised contact is treacherous ([Aris, et al., 2002](#)). Judges often use information about the course of the supervised visitations to make a decision ([De Kinderombudsman, 2017](#)). A problem is that violent fathers can behave positively only during the supervised contact because they hope for a positive report that will be presented in court ([Parker, et al., 2008](#)). Another problem is that the people who accompany the contact have no choice (it is their job), which may cause them to feel they are going against their own conscience ([Bergman, & Eriksson, 2018](#)). Because the idea that you are causing stress or even trauma to a child and his parent can be awful, it is assumed that contact counselors do not acknowledge, minimize or deny the violence as a way of dealing with this situation ([Bergman, & Eriksson, 2018](#)).

### ***6.8 Intervention programs for perpetrators of domestic violence***

The programs for perpetrators of domestic violence do not have a defined position in family law and will usually only be followed on a voluntary basis or within a criminal law framework.<sup>49</sup> Most of the programs have one or more of the following elements: motivation for participation and change, stopping the violence, taking responsibility for the violence committed and a reduction in the use of authoritarian parenting behavior ([Labarre, Bourassa, Holden, Turcotte, & Letourneau, 2016](#)). Mandel ([2002](#)) points out that the interests of the child should be more

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<sup>49</sup> In Dutch see: <https://www.justitieinterventies.nl/>

central to programs for violent fathers. This may include aspects such as: not using family law as a way of exercising control, paying attention to the damage caused by the violence to one's own parenting and the possibilities for good parenting of the other parent, letting go of the relationship with the victim, accepting a new father figure in the child's life, and contributing to the recognition of the child's innocence by placing the blame on oneself ([Mandel, 2002](#)).

The programs for perpetrators of domestic violence have a low level of effectiveness ([Babcock, Green, & Robie, 2004](#)). The professionals attribute this to both the unwillingness as well as the inability of fathers to actually change their behavior ([Lünnemann, Hermens, Roeleveld, Dijkstra, & Yerden, 2012](#)). Interviews show that fathers who commit violence generally do not acknowledge their violence and its consequences and are usually not motivated to accept help ([Lünneman, De Boer, & Drost, 2008](#)). Although they often want to fulfill their father role (well), there are many factors that complicate success in this respect, including: frustrations, lack of positive role models, anger towards their ex and inability to reflect ([Lünneman, et al., 2008](#)). In particular, men for whom the element of control plays a major role appear to claim their father's role, but they show few changes in their behavior ([Lünneman, et al., 2008](#)). They are a very difficult group to treat, and because of their manipulative and controlling behavior there is an additional risk that they falsely come across as co-operative and no longer violent ([Day, & Bowen, 2015](#); [Holt, 2015](#); [Labarre, et al., 2016](#)). Therefore, where fathers have followed a programme aimed at stopping domestic violence and increasing paternity capacities, it is recommended that the effects be carefully monitored, particularly by third parties (e.g. mothers and children), and that, in addition to the behavior immediately following the intervention, a longer-term look be taken at the behavior of fathers because of possible reoffending ([Labarre, et al., 2016](#)).

### ***6.9 Treatment of domestic violence victims***

Effective therapies exist for possible psychological consequences of domestic violence, such as trauma and anxiety ([Powell, & Morrison, 2017](#)). Both children and protective parents may need therapy ([Powell, & Morrison, 2017](#)). When domestic violence has ceased, most mothers recover and show good parenting ([Pels, et al., 2015](#)). There are also mothers who mention problems in parenting, for example because they themselves experience negative psychological consequences of the abuses that affect parenting and/or because their children have problems

that make parenting more difficult ([Pels, et al., 2015](#)). In particular, cognitive behavioural therapy (and the specific trauma-focused cognitive behavioural therapy) has proven to produce good results ([Lucio, & Nelson, 2016](#); [Powell, & Morrison, 2017](#)).

If the perpetrator has legal custody of the child, this can be a problem for access to diagnostics and treatment of the child. It is possible that this parent does not give permission for diagnostics and treatment, for example out of fear of being (further) accused.<sup>50</sup> A violent parent can try to stop diagnosis and treatment by reasoning: there is no evidence, so it has not happened ([Hövels, 2010](#)). In some cases, treatment can still be given despite a parent's refusal, for example because the court gives its replacement consent. This requires recognition of the professionals involved that this is in the best interests of the child and great carefulness in the process.<sup>51</sup>

In case of (supervised) contact and/or insufficient safety measures, this can endanger the necessary safe therapeutic conditions. An important prerequisite for a successful therapy is that the child feels safe and only a safe parent is involved in the therapy ([Lucio, & Nelson, 2016](#); [Powell, & Morrison, 2017](#)). In order for therapy to have a good chance of success, the domestic violence must have stopped and sufficient physical and emotional security of the victims must have been achieved with regard to the perpetrator ([Powell, & Morrison, 2017](#)). This applies to the child, the protective parent and the practitioner ([Powell, & Morrison, 2017](#)). The practitioner should have sufficient expertise, experience and possibilities to be able to cope with the emotions that arise for himself (such as supervision by an experienced colleague) ([Powell, & Morrison, 2017](#)).

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<sup>50</sup> In Dutch see: <https://tinyurl.com/y57fbnyb>

<sup>51</sup> Dutch case-law: [ECLI:NL:TGZREIN:2018:91](#)

## *7. The consequences for protective parents and children*

### *7.1 The mother or father as protective parent*

This chapter will deal with the consequences of domestic violence for the victims within the context of complex divorces. Most of the literature relates to mothers and children. Although domestic violence can also be committed by mothers and is seen as harmful to children, this is not considered to be a situation that will typically occur in the context of complex divorces ([Humphreys, et al., 2018](#); [MacDonald, 2013](#); [Meier, 2002](#); [Oehme, & O'Rourke, 2011](#); [Saunders, & Oglesby, 2016](#); [Zorza, 2009](#)). The reason for this is the combination of the findings described before. The prevalence of domestic violence committed by mothers is lower than that committed by fathers, usually has a different character and dynamics, mothers who commit domestic violence are generally more open about this than fathers, and (suspected) domestic violence committed by mothers is usually received with much disapproval and measures (such as the termination of contact) by authorities based on the common notion that mothers are responsible for the safety of their children ([Crawford, & Bradley, 2016](#); [Dobash, et al., 1992](#); [Dragiewicz, 2010](#); [Humphreys, et al., 2018](#); [MacDonald, 2013](#); [Meier, & Dickson, 2017](#); [Moloney, Smyth, Weston, Richardson, Qu, & Gray, 2007](#); [Silverman, Mesh, Cuthbert, Slote, & Bancroft, 2004](#); [Supreme Judicial Court of Massachusetts, 1990](#); [Tierolf, et al., 2014](#); [Tjaden, & Thoennes, 2000](#)).<sup>52</sup> This does not alter the fact that, after a divorce, a father may also try to protect his child and could run into some of the same problems that are described in this document. An example of a case known in the Netherlands is that of Sharleyne.<sup>53</sup> This girl died despite the fact that her father had repeatedly expressed concerns about her safety with her mother. The signs of insecurity had been insufficiently addressed because it was assumed that they were (partly) due to the mudslinging of the parents ([Inspectie Jeugdzorg, 2016](#)).

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<sup>52</sup> Dutch case-law: [ECLI:NL:GHDHA:2016:3288](#) & [ECLI:NL:GHAMS:2014:6056](#)

<sup>53</sup> In Dutch see: <https://www.nrc.nl/dossier/de-zaak-sharleyne/>

## ***7.2 Legal consequences for protective parents and children***

### ***7.2.1 The obligation to protect***

The consequence of the described problematic theoretical frameworks, child protection processes and support, is that parents and especially mothers who are victims of domestic violence and/or want to protect their child against domestic violence committed by the other parent may find themselves in an impossible situation, as we will explain ([Lindauer, 2012](#); [Saunders, & Ouglesby, 2016](#)). On the one hand, they are expected to protect their children and themselves and to keep the perpetrator of domestic violence out of their lives ([Cross, 2018](#); [Hughes, & Chau, 2012](#); [Saunders, & Ouglesby, 2016](#)). A mother who does not succeed in protecting her children against violence from her (former) partner and father of the children, can be convicted for this ([Lindauer, 2012](#)).<sup>54</sup> She also runs the risk of her children being placed out of the home ([DeVoe, & Smith, 2003](#)).<sup>55</sup> The reason why this particularly applies to mothers is that there are gender-specific expectations: mothers are expected to take more responsibility for raising and protecting their children to a greater extent than fathers ([Brown, et al., 2009](#); [Douglas, & Walsh, 2010](#); [Witt, & Diaz, 2018](#)).

### ***7.2.2 Custody and contact***

Nevertheless, in civil law and child protection, a parent will usually be told that it has an obligation to encourage bonding between the children and the other parent and to cooperate in visitation arrangements ([Barnett, 2014](#); [Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005](#); [Lindauer, 2012](#); [Løkkegaard, Hansen, Wolf, & Elklit, 2019](#); [Tierolf, et al., 2014](#)). As explained, invalid theories are often followed and domestic violence is not taken seriously or is considered irrelevant and the mother, in particular, can be accused of making false allegations and/or of alienating her children from the father ([Barnett, 2014](#); [Saunders, & Ouglesby, 2016](#)). Although both fathers and mothers can accuse the other parent of parental alienation, fathers achieve more with this than mothers ([Meier, & Dickson, 2017](#)). If the theory of parental alienation plays a role in the assessment of a case with suspicions or certainty about domestic violence by the

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<sup>54</sup> Dutch case law see: [ECLI:NL:RBMNE:2018:5709](#)

<sup>55</sup> Dutch case law see: [ECLI:NL:GHDHA:2013:BZ7826](#)

father, the outcome is more often to the father's advantage ([Meier, & Dickson, 2017](#)). More generally, when mothers mention domestic violence, and in particular when they indicate that their child has been sexually abused by the father, the legal consequences for her and the child are more often *negative* than when they do not mention domestic violence ([Faller & DeVoe, 1996](#); [Saccuzzo, & Johnson, 2004](#)). In almost all cases, when there is a legal battle over authority and contact, the result is a form of contact between the violent father and the children ([Holt, 2015](#); [Moloney, et al., 2007](#); [Morrison, 2015](#); [Smit, et al., 2017](#)). This is particularly true for fathers with higher socio-economic status and for fathers who are good at negotiating ([Forsell, 2016](#)). Because the professionals involved know that there will be contact in almost all cases, this can become a 'self-fulfilling prophecy' in that one will work towards contact, regardless of whether this is in the best interest of the child ([Trinder, et al., 2006](#)). Denial of access allows the legal battle to continue as violent fathers initiate new court cases.<sup>56</sup> The (lengthy) process of legal affairs can cause stress to the mother and the children, cost money and it can be difficult for mothers who are solely in charge of caring for the children to find time to prepare a case ([Parker, et al., 2008](#)).<sup>57</sup> As far as authority is concerned, it is common for these fathers to be given one-headed or shared custody, even though they have abused their ex-partner and/or children ([Perrin, 2017](#)). Conversely, there is a much greater tendency to intervene and take protective measures when a mother has abused her children ([Crawford, & Bradley, 2016](#)).

The fact that one reacts differently when the father commits domestic violence seems to be mainly due to the prejudices and incorrect theories explained in the previous chapters. People blame the mothers for holding on to their suspicions and assume that the negative image that a child holds of a father is caused by the mother.<sup>58</sup> A child can be fully entrusted to the father even if it is known that there has been serious domestic violence in the past.<sup>59</sup> In some cases, judges ignore domestic violence when it concerns partner violence towards the mother and not directly towards the child ([Coy, et al., 2015](#)). When there is a conviction, there are exceptions

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<sup>56</sup> Dutch case law see: [ECLI:NL:RBNNE:2019:1097](#)

<sup>57</sup> Dutch case law see: [ECLI:NL:GHDHA:2018:1877](#)

<sup>58</sup> Dutch case law see: [ECLI:NL:GHSHE:2006:AZ0602](#)

<sup>59</sup> Dutch case law see: [ECLI:NL:GHSHE:2019:997](#)

and it is not always assumed that contact is in the best interests of the child.<sup>60</sup> However, even when there are strong indications of serious child abuse by the father (such as sexual abuse), there is usually a lot of pressure on the mother to cooperate in contact between the father and the child, under the assumption that the child will otherwise be alienated from him.<sup>61</sup> If the mother indicates and provides evidence that she has been exposed to domestic violence and has concerns about the effect of visits to the father on the child, it may just as well be decided that she should facilitate a comprehensive visiting arrangement (and shared custody) ([Coy, et al., 2015](#)).<sup>62</sup>

### ***7.2.3 Refusal by the protective parent***

Failure by a mother to participate in a defined visiting arrangement usually leads to a prolonged continuation of the involvement of the family support system and ultimately to far-reaching measures such as fines, out of home placement or changing the custody and/or residence of the children to the father.<sup>63</sup> The supporters of the theory of parental alienation consider it an appropriate measure to compulsorily entrust the child to the 'disowned' parent, against his will, and to (temporarily) disallow contact with the 'preferred parent'. This is discussed by [Dallam en Silberg \(2016\)](#) who point out that these measures can lead to feelings of helplessness and powerlessness, and further traumatization of the child. A so-called 'paradoxical allocation' is seen in Dutch family law as an extreme measure. Usually, the mother is put under pressure for a long period of time to participate in a visiting arrangement.<sup>64</sup> A difficulty is that the theory of parental alienation contains a tautology: when the child indicates that it has not been brainwashed by the mother and when the mother seeks help from professionals and tries to get diagnostics and treatment for the child, these are seen as signs of parental alienation [Dallam, &](#)

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<sup>60</sup> Dutch case law see: [ECLI:NL:GHSHE:2015:1524](#) & [ECLI:NL:RBLIM:2018:5709](#); [ECLI:NL:GHARL:2018:10001](#) & [ECLI:NL:GHSHE:2012:BW8796](#)

<sup>61</sup> Dutch case law see: [ECLI:NL:GHARL:2013:8648](#)

<sup>62</sup> Dutch case law see: [ECLI:NL:GHAMS:2017:4343](#)

<sup>63</sup> Dutch case law see: [ECLI:NL:GHSHE:2006:AZ0602](#) & [ECLI:NL:GHSGR:2009:BK1714](#)

<sup>64</sup> Dutch case law see: [ECLI:NL:RBSHE:2012:BY1959](#)



[Silberg, 2016](#)). In case-law, the mother may therefore be blamed when the children themselves indicate that they do not want to see their father.<sup>65</sup>

There are parents (mostly mothers; [Alanen, 2008](#)) who choose to live far away (abroad) and/or in a place unknown to the other parent so that their children and they themselves will be safe from violence from the other parent ([Cross, 2018](#); [Weiner, 2000](#)). The case of Holly Collins has become known worldwide. Holly Collins achieved safety for her children and herself by applying for asylum in the Netherlands. In America, where they fled from, her children were assigned to their violent father.<sup>66</sup> Although originally intended to protect against the power and control of a non-resident parent (without authority), the regulations on child abduction turn against victims because they make too little distinction in the underlying motives ([Weiner, 2000](#)). Protective parents can be convicted of an abduction case and the children can be removed from their homes or even entrusted to the violent parent ([Cross, 2018](#)). There are also international cases in which the country where a mother and her child(ren) have moved to decides that they can stay, because it is not in the child's interest to return to the country where they came from.<sup>67</sup> There are variations in the way in which countries deal with a request for return and the extent to which the presence of domestic violence influences this ([Yamaguchi. & Lindhorst, 2016](#)).

It can be concluded that protective parents and especially mothers often feel obliged and/or actually become obliged to cooperate with interventions suggested by the Child Care and Protection Board, the certified institution and/or the judge, and with a contact arrangement with the parent who has committed violence. As a result, perpetrators of domestic violence have a legal route to continue to exercise coercion, control and manipulation ([Laing, 2017](#); [Løkkegaard, et al., 2019](#)).

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<sup>65</sup> Dutch case-law: [ECLI:NL:GHSHE:2012:BW8796](#)

<sup>66</sup> Waller and Nolan made a documentary about this case with the title “No way out but one” , see: [https://youtu.be/VUay\\_OS1YZ0](https://youtu.be/VUay_OS1YZ0)

<sup>67</sup> International case-law: [Achakzad v. Zemaryalai, 2010 ONCJ 318](#); [Danaipour v. McLarey, 2003 HC/E/USf 531](#)

## *7.3 The consequences for physical and emotional safety*

### *7.3.1 Continuation of violence*

In Dutch and international literature, various publications can be found on the consequences of contact between children and violent fathers. These studies looked at the consequences for mothers and children who were known to institutions because of domestic violence committed by the fathers of the children or for mothers and children who responded to a call for research participation via social media ([Coy, et al., 2015](#); [Clement, et al., 2008](#); [Morrison, 2015](#); [Thiara, & Humphreys, 2015](#); [Toews, & Burmea, 2015](#)). It appears that the violence after a divorce often continues, especially in emotional/verbal forms and in some cases also in physical form, for both the mothers and the children ([Clement, et al., 2008](#); [Hayes, 2012](#); [Morrison, 2015](#); [Thiara, & Humphreys, 2015](#); [Shepard, & Hagemeister, 2013](#); [Toews, & Burmea, 2015](#)). These continuations of violence mainly (but not only) take place around and during the moments of contact ([Hayes, 2012](#); [Morrison, 2015](#); [Shepard, & Hagemeister, 2013](#)). Some children in these studies reported being physically abused by their father during visitation and the majority reported emotional abuses during visitation ([Morrison, 2015](#); [Thiara, & Humphreys, 2015](#)). Children experienced the contact with their fathers as stressful and controlling and had not found reciprocity, warmth, interest and care in the contact ([Holt, 2015](#)). The use of the presence of an informal third party (such as family or friends) usually does not help and is often perceived by them (the third party) as burdensome ([Morrison, 2015](#)).<sup>68</sup>

If an official contact center is involved, mothers may be afraid because of the temporary nature of this measure, as there is a possibility that the father will be able to show his old behavior again after a certain period of time ([Eriksson, & Näsman, 2008](#); [Morrison, 2015](#)). This also plays a role for children: some children indicate that the supervision present at these contact sessions does indeed ensure good behavior by their father, but at the same time fear that the supervisors do not realize that their presence is the reason for this behavior ([Eriksson, & Näsman, 2008](#)). The contact with their father makes them feel vulnerable, anxious, frustrated and/or disappointed ([Ekblom, & Landberg, 2007](#)). In practice, it also turns out that violent

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<sup>68</sup> Dutch case-law: [ECLI:NL:GHSGR:2007:BC0162](#)

fathers who participate in supervised contact can continue with manipulative and controlling behavior towards their children and/or via the children towards their mother ([Parker, et al., 2008](#)). This often happens in subtle ways, which require alertness and insight on the part of the supervisor in order to understand what is happening (for concrete examples see [Parker, et al., 2008](#)). An example is that a father took a special type of coffee to a supervised session with his three-year-old son. The son had to take this to his mother. During the relationship, the mother and the son were not allowed to drink coffee, chocolate or sugar by the father. An exception to this was that the mother was allowed to drink this special type of coffee when she behaved in an acceptable way in the eyes of the father. By giving the coffee to his son, the father could let the mother know that he could still control her ([Parker, et al., 2008](#)).

### ***7.3.2 Secondary victimization***

Mothers who try to protect their children from violent fathers indicate that they experience both emotional (such as anxiety, stress, feelings of injustice and panic) and more psychological-physical problems (such as eating problems, insomnia and health problems) as a result of the process ([Coy, et al., 2015](#); [Humphreys, & Thiara, 2003](#)). The court meetings, being confronted with disbelief, having to face the ex-partner, the uncertainty about the result, being confronted with a bad result are examples of great stressors ([Coy, et al., 2015](#)). Mothers who are protected under criminal law against their ex-partner may experience that this is not the case in civil law ([Coy, et al., 2015](#); [Dragiewicz, 2014](#)).

Even when it is recognized that their ex-partner has committed violence, their behavior and parenthood are critically examined ([Sweet, 2018](#)). Prejudice, related to, for example, victim blaming and the way victims are portrayed, can wrongly lead one to assume that they are not good mothers ([Humphreys, & Thiara, 2003](#); [Sweet, 2018](#)). This may result in protective mothers being confronted with unjustified measures and interventions and/or with a burden of proof that they are a good parent, which in turn places an additional burden on them ([Sweet, 2018](#)).

For children who have been abused, it is extremely important that their mother believes them ([Alnock, & Miller, 2013](#); [Capella, et al., 2016](#); [Collin-Vézina, et al., 2015](#)). It also appears that the mental well-being of the mother predicts better outcomes for the functioning of the

children after domestic violence ([Martinez-Torteya, Anne Bogat, Von Eye, & Levendosky, 2009](#)). It turns out that mothers can draw strength from their mother role and apply different strategies to protect their children and help them cope with what they have been through ([Nixon, Tutty, Radtke, Ateah, & Ursel, 2016](#); [Semaan, Jasinski, & Bubriski-McKenzie, 2013](#)). When domestic violence stops and safety is achieved, mothers often show positive and loving parenthood, similar to that of mothers who have not experienced domestic violence ([Ateah, Radtke, Tutty, Nixon, & Ursel, 2016](#); [Pels, et al., 2015](#)).

When domestic violence is not or not sufficiently taken seriously, these protective factors are eliminated by failing to achieve safety, further damaging the well-being of mothers, and failing to provide mothers and children with any help they may need for distress and psychological problems ([Humphreys, Mullender, Thiara, & Skamballis, 2006](#); [Kleinman, & Kaplan, 2016](#)). As explained in detail earlier, children often have difficulty talking about maltreatments and abuse, partly because it is confusing for them, they are anxious, feel guilty and are threatened with negative consequences if they do so ([Goodman-Brown, Edelstein, Goodman, Jones, & Gordon, 2003](#)). The moment they are not believed after a disclosure, their feelings of confusion, fear and guilt may increase ([Kleinman, & Kaplan, 2016](#)). In addition, mothers are often pressured not to talk to the child about abuse, and children may lose the only person from whom they received support and recognition for their experiences ([Kleinman, & Kaplan, 2016](#); [Silberg, et al., 2013](#)). When they are exposed to (especially unsupervised) contact, not only can the abuse continue, but they may face further threats from the father that will make it more difficult for them to share their experiences with others and further reduce the likelihood of them receiving appropriate help and treatment ([Kleinman, & Kaplan, 2016](#)).

### ***7.3.3 Unsafety of the victims***

Investigations have been carried out into cases where the child was initially assigned to a father who abused them, but that decision was later reversed ([Silberg, et al., 2013](#)). The decision was usually reversed because there was more evidence from various sources, such as a therapist reporting on the child's further decline, medical evidence of sexual abuse, and an arrest of the perpetrator ([Silberg, et al., 2013](#)). Some older children achieved it themselves, for example by running away or by continuing to refuse to see their father ([Silberg, et al., 2013](#)). The appointment of a family social worker, intended to protect the child, often only contributed to

the fact that the child was not believed ([Silberg, et al., 2013](#)). The family worker usually supported the father ([Silberg, et al., 2013](#)).

This study by Silberg and colleagues ([2013](#)) shows the disastrous effects when a child is not protected by a decision of family law. Many children experienced not being believed as a great betrayal ([Silberg, et al., 2013](#)). It turns out that the abuses in the period until the decision was reversed, often increased ([Silberg, et al., 2013](#)). In addition, the study found that fathers often did not seek medical assistance for injuries suffered by their children as a result of abuse ([Silberg, et al., 2013](#)). It also turned out that they were trying to refuse treatment for the psychological stress that their children experienced ([Silberg, et al., 2013](#)). The children showed an increase in feelings of depression, suicidal tendency and self-harm ([Silberg, et al., 2013](#)).

Entrusting children to violent fathers, fully or partially (through visitations), and insufficiently protecting these children and their mothers, can have very serious consequences. International examples of this are children who are killed by their father or who commit suicide because they were assigned to their father on the basis of the theory of parental alienation ([Bruch, 2001](#); [Hoult, 2006](#); [McInnes, 2003](#)).<sup>69</sup> The stories of the children themselves show their pain, powerlessness and the negative influence on their mental and physical health.<sup>70</sup> In Dutch criminal case-law there are cases with a complex divorce context in which there is an attempted murder of the mother<sup>71</sup>, of severe child abuse of the children<sup>72</sup> or where the father killed his child.<sup>73</sup> The presence of a complex divorce context means that, in criminal law, the acts convicted are sometimes seen as more serious<sup>74</sup>, but sometimes they also result in a lower penalty.<sup>75</sup> In Spain, there has been a case of Angela González Carreño, whose daughter was murdered by her violent ex-husband, and he himself committed suicide. The mother had tried in

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<sup>69</sup> <https://www.bbc.com/news/uk-41440829>

<sup>70</sup> <http://www.courageouskids.net/>

<sup>71</sup> Dutch case-law: [ECLI:NL:RBGEL:2016:6313](#)

<sup>72</sup> Dutch case-law: [ECLI:NL:RBDHA:2016:2749](#)

<sup>73</sup> Dutch case-law: [ECLI:NL:RBROT:2016:7166](#)

<sup>74</sup> Dutch case-law: [ECLI:NL:RBDHA:2016:2749](#)

<sup>75</sup> Dutch case-law: [ECLI:NL:RBNNE:2015:924](#) & [ECLI:NL:RBGEL:2016:6313](#)

vain to protect her daughter and had to cooperate with a visitation arrangement.<sup>76</sup> The Supreme Court in Spain has ruled that Spain has thereby violated human rights.<sup>77</sup>

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<sup>76</sup> <https://tinyurl.com/y2j47r8e>

<sup>77</sup> <https://tinyurl.com/y32v248v>

## ***8. Conclusions and recommendations***

### ***8.1 Conclusions***

In the Netherlands there are many children who experience their parents' divorce. In most cases, their parents come to an agreement themselves, but sometimes there is a complex divorce. The cause of this is often the presence of domestic violence. Due to prejudices, wrong theories and the emotional impact of the subject, however, the presence of domestic violence is often unjustly denied or ignored. The perception and interests of the child are insufficiently recognized. There are effective treatments for the consequences of domestic violence. However, many protective parents (especially mothers) and children are faced with referrals, investigations and interventions that are ineffective and/or even harmful. Often the family judge decides that there should be contact between the child and the violent parent and that the parents should share custody. However, this can damage the emotional safety of the child and his or her protective parent.

In this last chapter we will give recommendations for safer decisions to be taken in complex divorces involving (a suspicion of) domestic violence. Although there will be costs involved in following the recommendations, ineffective measures will also involve costs and incorrect intervention in the event of child abuse will cost society a great deal of money in the long term ([Thielen, et al., 2016](#)). Moreover, the study group is of the opinion that an investment in child abuse is justified as it is a right of the child to be protected against abuse ([UNCRC 1989](#), [Convention of Istanbul 2011](#), [Convention of Lanzarote 2007](#), [UN resolution 61/143 2006](#)).

### ***8.2 Legislation***

Legislation is a way of influencing decisions about custody and contact ([Morrill, Dai, Dunn, Sung, & Smith, 2005](#)). The law could specifically state that the emotional and physical safety of the child and the protective parent should be a priority in decisions about custody and access, and that access to a parent who has committed domestic violence can only take place when it is in the child's best interest and safe ([Morrill, et al., 2005](#)).<sup>78</sup> Internationally, the extent to which

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<sup>78</sup> [https://www.justice.gov.uk/courts/procedure-rules/family/practice\\_directions/pd\\_part\\_12j](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j)

legislation contains such explicit rules about custody and contact after domestic violence varies ([Jaffe, & Crooks, 2004](#)). In Dutch law, domestic violence is not explicitly mentioned as a possible reason not to assign custody to a parent, to terminate the custody of a parent and/or not to order contact between a child and a parent, nor as a factor in these considerations.<sup>79</sup> Explicit legislation on divorces involving domestic violence seems to help make safer decisions ([Morrill, et al., 2005](#); [Speed, & Richardson, 2019](#)).

Nevertheless, despite differences in legislation, in all countries decisions are taken on custody and access that are harmful to the child ([Jaffe, & Crooks, 2004](#); [Morrill, et al. 2005](#); [Speed, & Richardson, 2019](#)). This is probably because, even when the legislation is explicit, there are three uncertain factors that require an assessment, namely: whether there is domestic violence, whether contact is in the best interests of the child and whether contact can take place safely ([Morrill, et al., 2015](#)). A careful assessment of these factors requires the right expertise and the absence of prejudices and invalid theories.

### ***8.3 Expertise***

#### ***8.3.1 Making an estimate***

These uncertainties require the family judge to make a courageous, emotionally and morally charged judgement in order to make a decision ([Davies, Mattews, & Read, 2014](#); [Saunders, Faller, & Tolman, 2011](#); [Valor-Segura, Expósito, & Moya, 2011](#); [Knowlton, 2015](#)). Unlike any other civil law 'guilt and damage' issue, he is asked to take a decision in a case between two parents that serves in particular the interests of a third, often absent party, namely the child ([Knowlton, 2015](#)). The judge's decision can have lifelong consequences for the child and his parents ([Knowlton, 2015](#)). The tendency to postpone and refer decisions for a long time will have to be stopped as it leads to problems with abusive power, errors and wrong decisions (Chapter 6). The judge will, therefore, need sufficient information, which can come from different people (parents, witnesses, professionals, etc.) and disciplines, such as a medical report, information from a shelter, and psychological treatment reports ([Dalton, et al., 2006](#);

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<sup>79</sup> In Dutch: <https://tinyurl.com/y3eha67g> and <https://tinyurl.com/y5um7fdd>



[Knowlton, 2015](#)). It is, therefore, important that it is clear which question can be answered by whom and that the right expertise is actually available within the various specialisms ([Dalton, et al., 2006](#)). As described, the decision making process within family law can go wrong when inappropriate investigations are used, incorrect or ineffective interventions are utilized and/or when professionals make statements without the right qualification or expertise (Chapters 5 and 6).

The family judge should thus have expertise on trauma, child development, family dynamics, domestic violence, substance use, mental health and culture ([Epstein, & Goodman, 2019](#); [Jaffe, et al., 2018](#); [Knowlton, 2015](#)). The judge should be well informed about the relevant research results and should be aware of his own prejudices ([Jaffe, et al., 2018](#); [Knowlton, 2015](#)). This requires that family judges are trained in a way that is appropriate to their profession, their wishes and needs ([Jaffe, 2010](#); [Jaffe, et al., 2018](#)). More specifically, this means, for example, that training opportunities in these areas should be available to them, where they are taught in an interactive way with other judges (including through case studies) by the right people in a way that is appropriate to their tasks (such as taking a timely and informed decision) ([Humphreys, Healey, & Mandel, 2018](#); [Jaffe, et al., 2018](#)).

Support is needed for professionals dealing with domestic violence (including judges, lawyers, practitioners, psychologists and pedagogues involved in detecting abuse) so that they are able to deal with the emotions that the stories of domestic violence evoke, and with the possible fear of making mistakes ([Albaek, et al., 2018](#); [O'Malley, Kelly, & Cheng, 2013](#); [Sigad, Beker, Lev-Wiesel, & Eisikovits, 2019](#); [Turoy-Smith, Powell, & Brubacher, 2018](#)).

### ***8.3.2 Distribution of tasks among the right specialists***

Some cases will be sufficiently clear for a decision to be made, or it will be clear what information is missing and parents or their lawyers can subsequently provide this information ([Van Horn, & Groves, 2006](#)). In other cases, it will not be immediately clear what relevant information is available and/or can be obtained ([Dalton, et al., 2006](#); [Van Horn, & Groves, 2006](#)). An expert inventory will then be needed; an assignment that in the Netherlands usually ends up with the Child Care and Protection Board ([Raad voor de Kinderbescherming, 2016](#)).

However, this poses many problems. Different tasks are expected of the investigator (with his team) in complex cases in which domestic violence can play a role, such as: a risk assessment, a document analysis, mediation or conversations with parents, conversations with the child, observations, drawing conclusions about the reliability of all parties, summarizing in one's own words the findings of the school, doctors, psychologists and other parties involved, et cetera ([Raad voor de Kinderbescherming, 2016](#)). Moreover, it may happen that the judge requires the Board investigator to answer the present custody or access issue ([Raad voor de Kinderbescherming, 2016](#)). This can evoke feelings of fear and power, which can lead to: procrastination, the tendency to want to transfer the file, subjectivity, prejudices, tunnel vision, partiality and the use of micro-aggression ([De Ruiter, & Van Pol, 2017](#); [Jenney, et al., 2014](#); [Kinderombudsman, 2013](#); [Knowlton, 2015](#); [Liegghio, & Caragata, 2016](#); [Taylor, et al., 2008](#)). The investigation by the Board calls on knowledge and skills for which the council investigator is insufficiently equipped.<sup>80</sup>

A solution could be to distribute the tasks better, so that the different professionals can each contribute to solving the case from their own specialism. The judge's specialism is to make motivated decisions and to take decisions, and this responsibility lies with him.<sup>81</sup> He will have to ask the right questions to the right people and professionals, even if he possibly uses the Child Care and Protection Board to obtain this information and/or to get a better idea of the available information ([Giard, 2013](#)). The Child Care and Protection Board would then have a more clearly defined task when necessary and be involved in fewer cases, because specialists are more often approached directly. Even if the Child Care and Protection Board is involved, the right specialists should take care of providing the information and its interpretation (Chapters 5 and 6). For example, the judge could receive a report, record or letter from the specialist, which was obtained because an investigator of the Board requested it ([Kinderombudsman, 2013](#)). It is important that the specialists who are used are actually specialists and can be relied on for their reports and conclusions. Caution should be exercised on the subject of domestic violence and divorce. In Chapter 6, for example, problems with forensic assessments of mental health were

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<sup>80</sup> In Dutch see: <https://tinyurl.com/y35d8xmm>

<sup>81</sup> In Dutch see: <https://tinyurl.com/y6eytube>

discussed ([Dalton, et al., 2006](#); [Garber, & Simon, 2017](#); [Valerio, & Beck, 2017](#)). Programs and courses intended for people who wish to specialize are sometimes based on false assumptions and are sometimes given by teachers who are themselves insufficiently skilled.<sup>82</sup>

In resolving the case, the interests of children must be paramount ([United Nations, 1989](#)). The parents' lawyers have the task of defending the interests of each of them to the best of their ability.<sup>83</sup> However, it is the children who often do not have such a representative. This can lead to the perception and interests of children being insufficiently recognized (Chapter 5) or to people feeling compelled to perform this task without having the appropriate knowledge and skills.<sup>84</sup>

Interviewing children, especially those who have experienced domestic violence, is a very important specialism in complex divorces, which until now has been insufficiently present within complex divorces, with serious consequences (Chapter 5). After all, the interests of children must be central, and this means that children must be heard ([Alnock, & Miller, 2013](#); [Buckley, et al., 2007](#); [Callaghan, Fellin, Mavrou, Alexander, & Sixsmith, 2017](#); [Lansdown, 2011](#); [Van Zanten, & Brenninkmeijer, 2011](#)). At the same time, it is not easy for children to express themselves and for professionals to talk to children and understand them, especially when it comes to domestic violence and/or trauma ([Albaek, et al., 2018](#); [O'Malley, Kelly, & Cheng, 2013](#); [Alnock, & Miller, 2013](#); [Augeo Jongeren Taskforce, 2018](#); [Everson, 1997](#); [Hövels, 2010](#); [Jernbro, Otterman, Lucas, Tindberg, & Janson, 2017](#); [Miller, 2008a](#); [Sayfan, et al., 2008](#); [Schellingerhout, & Ramakers, 2017](#); [Turoy-Smith, Powell, & Brubacher, 2018](#); [Wessel, Eilertsen, Langnes, Magnussen, & Melinder, 2016](#); [Wood, & Garven, 2000](#)).

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<sup>82</sup> Courses for judges in the Netherlands (see in Dutch: <https://ssr.nl/>) and for professionals involved in divorce cases (see in Dutch: <https://www.medling.academy>) include, for example, lecturers who actively promote the parental alienation theory on the Internet; the Dutch Youth Quality Register (SKJ) accredits training courses in complex divorce methodologies that are based on a very limited theoretical framework and are not based on scientific evidence: For examples see in Dutch: <https://www.medling.academy/aanbod/40/234/1252/de-methodiek-dees> & <https://www.schipaanpak.nl/schip-training/>

<sup>83</sup> In Dutch see: <https://www.advocatenorde.nl/over-de-nova/kernwaarden>

<sup>84</sup> <http://kindbehartiger.nl/eng/>

Research on a Canadian project has shown that it can be helpful for children in complex divorce cases to have their own specialized children's lawyer, as well as a therapist with expertise in domestic violence and children's traumas, so that both of them, informed by each other, can ensure that the child's interests and wishes become clear to the judge and the child receives the necessary support ([Fotheringham, Dunbar, & Hensley, 2013](#); [Hensley, 2018](#)). It is possible that the existing possibility of a special representative (bijzonder curator) in the Netherlands offers legal scope for such representation of the interests of the child, although this has not yet been used in this way (a specialized children's lawyer in combination with a specialized therapist who both focus entirely on what is important for the child). ([Klankbordgroep bijzondere curator, 2016](#); [Valenkamp, et al., 2017](#)).

#### ***8.4 Room for correct reasoning and considerations***

To be able to make good decisions (from case level to policy level), one needs to be aware of the correct, relevant facts and empirically supported theories ([Dalton, et al., 2006](#)). The government observes that domestic violence, including child abuse, still occurs on a large scale.<sup>85</sup> However, a very important key to stopping domestic violence is currently being overlooked, which is to help a possible protective parent achieve tranquility and safety ([Brown, et al., 2009](#); [Hester, 2011](#); [Jenney, Mishna, Alaggia, & Scott, 2014](#); [Mandel, 2010](#); [Risley-Curtiss, & Heffernan, 2003](#); [Tierolf, et al., 2014](#)).

In the field of complex divorces, there is a proliferation of visions, guidelines and interventions of the different professions involved ([Taskforce Kindermishandeling, 2016, p.11](#)).<sup>86</sup> Complex divorce has come to be seen in itself as a form of child abuse instead of paying attention to domestic violence as an underlying factor ([Taskforce Kindermishandeling, 2016](#)). The fact that incorrect theories and assumptions are used in complex divorces means that there will have to be changes in the thinking of the parties involved, as has become clear in this book.

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<sup>85</sup> In Dutch see: <https://tinyurl.com/yyy6eu4h> & <https://tinyurl.com/y5pnsqcz>

<sup>86</sup> In Dutch see: <https://tinyurl.com/y5cde85g>

There are reasons to expect that this will cause resistance. As discussed, there is a strong father lobby that usually reacts sharply to information that is contrary to their ideals (Introduction and Chapter 4). There is also a lobby that focuses on propagating the theory of parental alienation.<sup>87</sup> In addition, there are people who make money and/or derive status or pride from programs, courses, services and the like that are based on incorrect reasoning.<sup>88</sup> There are professionals who have made harmful decisions based on the wrong reasoning and considerations ([Bruch, 2001](#); [Hoult, 2006](#); [McInnes, 2003](#); [Silberg, et al., 2013](#)).

For victims, four responses are needed in case of mistakes:

1. recognition of the mistake
2. apologies to the victims
3. help and compensation
4. measures to avoid repetition of the error in other cases ([Wears, & Wu, 2002](#)).

Although these four actions can also have a healing effect on the person who made the mistake, it is known that people do not often manage to do so ([Wears, & Wu, 2002](#)). Acknowledgement of mistakes can lead to feelings of guilt, regret, shame, anxiety, depression and hopelessness ([Reamer, 2008](#); [Strom-Gottfried, 2000](#); [Sicora, 2018](#); [Wears, & Wu, 2002](#)). Following the four steps is, therefore, described as a heroic act ([Wears, & Wu, 2002](#)). Providing empathy, support and insight that big mistakes often arise from a sequence of multiple mistakes instead of blaming one party or person entirely, are ways to help people ([Sicora, 2018](#); [Wears, & Wu, 2002](#)).

The existence of the prejudices and interests of the parties involved makes it clear that information and decisions will have to be handled with great care. Politicians, too, appear to be sensitive to the prejudices and invalid theories expressed by lobbyists. In 2018, Bergkamp and van der Staij (two Dutch parliamentarians) advised, for example, to involve the Dutch "Vader Kennis Centrum" [Father Knowledge Center] in an exploration of the standards used by Child

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<sup>87</sup> In Dutch see: <https://www.herkenouderverstoting.com> & <https://www.herverbinden.nl>

<sup>88</sup> In Dutch see: <https://tinyurl.com/y2gjo9ap>

Protection Services for fact-finding in response to assignments by the court.<sup>89</sup> As this book shows, the government and government bodies will have to set high demands on the information that is used to make/change policy on the theme of complex divorces and domestic violence. Reports such as those of the platform “scheiden zonder schade” [divorce without damage: a platform developed by former politician Rouvoet on behalf of the Ministry of Legal Protection and the Ministry of Health, Welfare and Sport] do not meet this requirement, since Rouvoet has decided to (translation of his quote): refrain from research, scientific analyses, extensive literature references and (a weighting of) analyses, points of view and visions ... The same applies to figures and statistics ([Rouvoet, 2018, p. 2](#)).

### ***8.5 Combating prejudices***

We know from the literature on prejudice that it is very difficult to counter prejudice. This is all the more true because prejudices influence us in a largely unconscious way, without us wanting it ([Forscher, Mitamura, Dix, Cox, & Devine, 2018](#); [Toews, Cummings, & Zagrodney, 2016](#)). Confidence in one's own objectivity contributes to prejudiced thoughts and decisions ([Hansen, Gerbasi, Todorov, Kruse, & Pronin, 2014](#); [Uhlmann, & Cohen, 2007](#)). Only giving people correct information, as in this book, usually does not remove prejudices and related behavior. An example of this is the reaction of the Child Care and Protection Board to the information that Gardner's theory is not scientifically recognized. Instead of rejecting the theory, it has been decided to assume that the theory is correct anyway, and to refer to it with other terms ([Raad voor de Kinderbescherming, 2018](#)). The motivation for this is that, according to the Board, anyone who deals with these matters ex officio will recognize the manifestations of parental alienation ([Raad voor de Kinderbescherming, 2018, p. 1](#)). Another example is that of someone who writes a publication in which many statements refer to literature on domestic violence, but also makes erroneous, biased statements that are not based on literature (example: “Nu ook vaders bij hulp worden betrokken, blijken zij soms de beste of meest stabiele opvoeder te zijn - ondanks het geweld jegens hun vrouw.” [Now fathers are also included when help is provided, they sometimes turn out to be the best or most stable parent - despite the violence against their wives]), [Dijkstra, 2007, p. 12](#)).

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<sup>89</sup> In Dutch see: <https://zoek.officielebekendmakingen.nl/kst-33836-38.pdf>

Therefore, additional ways of combating prejudice and false assumptions are needed. People who are motivated to do so can be actively trained in becoming aware of stereotypes and how they arise ([Forscher, et al., 2018](#)). The next step is to replace stereotyped thoughts with non-stereotyped thoughts ([Forscher, et al., 2018](#)). One way that appears to help is to allow people to take the perspective of a potential victim of prejudice. Instead of imagining how you *yourself* would think and react in that situation, you focus on the *other* person. ([Bal, & van den Bos, 2015](#)). By actively imagining what the other person (with his or her characteristics and possibilities) would think and feel, your perception of existing discrimination improves and your empathy increases ([Ensari, Christian, Kuriyama, & Miller, 2012](#); [Simon, Magaldi, & O'Brien, 2019](#)). Other strategies that result in people seeing individuals rather than group members can also help to overcome stereotypes ([Ensari, et al., 2012](#); [Forscher, et al., 2018](#)). Examples of personalizing strategies are: being exposed to one's unique, personal characteristics, disclosures of personal experiences by the other and a comparison of differences and similarities with yourself ([Ensari, et al., 2012](#)). It should be avoided that the other person can be seen as an exception ([Dovidio, Love, Schellhaas, & Hewstone, 2017](#)). The effects are best generalized when both the commonalities and the group status of the other (about whom the prejudices existed) are salient and the other is seen as a 'typical' group member ([Dovidio, et al., 2017](#)). For example, if you hear a story of a woman who is divorced because of domestic violence and this woman has a different cultural, religious background than you do, you may not see her story as exemplary for women who are divorcing because of domestic violence ([Buijs, Geesink, & Holla, 2013](#); [Römkens, 2015](#)). You are more likely to do so when it is clear that the woman has similarities with you ([Ensari, et al., 2012](#)).

These strategies can also be partially achieved in an indirect way and particularly in the case of face-to-face contact appear to reduce prejudices ([Dovidio, et al., 2017](#)). Training can use a combination of all strategies ([Carnes, et al., 2015](#)). Government campaigns and media that want to influence image formation can also make use of the strategies. For example, some government campaigns use ambassadors to promote personalizing strategies ([Hansson, Stjernswärd, & Svensson, 2016](#)). Theater and film productions can also use the personalizing strategies. An example of this is the theater production in the United Kingdom in 2012-2013, in

which spectators walked around in a house and were confronted with the actual stories of victims of domestic violence, performed by actors.<sup>90</sup>

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<sup>90</sup> <http://commonwealththeatre.co.uk/shows/our-glass-house/>



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## ***Appendix I: Explanation of science***

For the reader who is not ( as ) familiar with science and in particular with scientific publications, we give a short explanation in this appendix.

People who carry out scientific research (e.g. at a university or research institute) usually write down their findings in papers. They usually send these articles to national or international journals (also known as 'scientific journals'). It is customary for the editor of a professional journal to consider whether the paper is suitable for the professional journal and whether it is of sufficient quality, before publishing the paper if decided. To this end, the editor usually sends the paper to two or three 'reviewers': people who he assumes can give a good opinion about the value of the paper and its quality. These reviewers are, for example, researchers working within the same theme. The paper can be rejected or published on the basis of such a review process. Often the paper is only published after the authors have first made a number of adjustments to their piece based on the comments that the reviewers have written. Sometimes, but not always, the review process is anonymous (and the authors and reviewers may of course have suspicions, for example because a reviewer alerts the author to his own work or because the authors in their paper are referring to previous publications).

This process is intended to guarantee the quality of publications as much as possible. It is also referred to as a 'peer review' process. It is not an absolute guarantee. After all, it depends on how well the editor does his job. He makes an initial assessment of whether he immediately rejects the work, or considers it worthwhile sending it out to reviewers. The editor also chooses the reviewers. Then the editor weighs up what he does with the comments and opinions of the reviewers. The process also depends on the quality of the reviewers. Moreover, a certain quality and integrity of the researchers is assumed: that they have actually collected the data, that they report the statistical analyses correctly, and so on. The science fraud by Stapel that came to light in 2011 makes it clear that, despite the review procedures of professional journals, it is possible that scientific publications do not provide us with correct information (see [https://en.wikipedia.org/wiki/Diederik\\_Stapel](https://en.wikipedia.org/wiki/Diederik_Stapel)). There are also journals that do not have a peer review process. Some search engines for scientists only give results from selected journals that have a peer review process and are supposed to publish good articles. This assumption is based, for example, on the fact that the journal's papers are often referred to.



In some cases, research results are shared in a different way than in a scientific journal. Sometimes this is prior to or following one or more publications in a scientific journal. Scientists also present their findings at conferences, sometimes in a (edited) book, sometimes on a website (for example to report on a funded project), or in a report to a party that commissioned the research. Students who carry out research as part of their study program write down their findings in a thesis, which is nowadays usually also published online on a website of the university or college. A researcher who carries out research within a PhD trajectory, writes down the findings in a PhD thesis. These are just examples of ways in which research results can be shared, there are other forms. In these forms of publication, it is possible that a peer review has taken place, but this is not necessary. In such publications and presentations, the researchers often provide extensive information about the way in which they have carried out their research and about the data they have collected. In all cases, and certainly in the case of publications that are not peer-reviewed, the reader or listener can (also) assess the value of a publication or presentation themselves. In scientific studies this is taught to students and practiced with them.

There are many ways in which people try to ensure that scientific research is used in practice. Scientists can, for example, write a press release following a publication. Journalists can approach researchers when they make a report on a particular subject. Sometimes, when a funding is granted, it is explicitly stated that research results must become freely available. By means of a database, the Dutch Youth Institute ensures that information can be found about the effectiveness of existing programs and interventions for young people. The government has advisory councils to whom it can ask questions, and/or from whom it can receive unsolicited advice, such as the national statistical office (Centraal Bureau voor de Statistiek) and the national health council (Gezondheidsraad). These advisory councils use, among other things, scientific publications. They often use other sources as well. Of course, scientific publications are not the only sources of information on a topic.

## ***Appendix II: Quotes from Gardner's work***

"There is a bit of pedophilia in every one of us." - Gardner, R.A. (1991). *Sex Abuse Hysteria: Salem Witch Trials Revisited*. Cresskill, NJ: Creative Therapeutics. (p. 118)

"It is because our society overreacts to it [pedophilia] that children suffer." - Gardner, R.A. (1992b). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (pp. 594-5)

Some children experience " high sexual urges in early infancy. " "There is good reason to believe that most, if not all, children have the capacity to reach orgasm at the time they are born." - Gardner, R.A. (1992b). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (p. 15)

Children are naturally sexual and may initiate sexual encounters by "seducing" the adult . - Gardner, R.A. (1986). *Child Custody Litigation: A Guide for Parents and Mental Health Professionals*. Cresskill, NJ: Creative Therapeutics (p. 93).

If the sexual relationship is discovered, " the child is likely to fabricate so that the adult will be blamed for the initiation ." - Gardner, R.A. (1986). *Child Custody Litigation: A Guide for Parents and Mental Health Professionals*. Cresskill, NJ: Creative Therapeutics (p. 93).

Older children may be helped to appreciate that sexual encounters between an adult and a child are not universally considered to be reprehensible acts. The child might be told about other societies in which such behavior was and is considered normal. The child might be helped to appreciate the wisdom of Shakespeare's Hamlet, who said, "Nothing's either good or bad, but thinking makes it so." Gardner, R.A. (1992b). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics.(p. 549)

"If the mother has reacted to the abuse in a hysterical fashion, or used it as an excuse for a campaign of denigration of the father, then the therapist does well to try and "sober her up".... Her hysterics ... will contribute to the child's feeling that a heinous crime has been committed and will thereby lessen the likelihood of any kind of rapprochement with the father. One has to do everything possible to help her put the "crime" in proper perspective. She has to be helped to appreciate that in most societies in the history of the world, such behavior was ubiquitous [i.e., everywhere], and this is still the case." - Gardner, R.A. (1992b). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (pp. 576-7)

"Her own diminished guilt over masturbation will make it easier for her to encourage the practice in her daughter, if this is warranted. And her increased sexuality may lessen the need for her husband to return to their daughter for sexual gratification." - Gardner, R.A. (1992b). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (p. 585)