



# Ensuring the Voice of the Child is Heard, and Child's Best Interests are Considered in Domestic Abuse Cases

Safe & Together  
and the Rights of Children

By David Mandel, CEO and Founder of the Safe & Together Institute<sup>1</sup>

**Are children domestic violence victims in their own right?**

**Are they co-victims with the adult survivor?**

**What is the relationship between the child and the adult survivors' experiences?**

**How do we hold domestic violence perpetrators accountable in their role as parents?**

**How do we consider the child's relationship to the perpetrator in decisions related to them?**

**How do we make sure both adult and child survivors receive the support they need and deserve?**

**How do we consider the best interests of child survivors as we craft our policy and practice response to domestic violence?**

**How do we ensure that child survivors' voices are heard in matters that are relevant to them?**

These are some of the critical questions being asked around the globe as governments, through their courts, legislatures and agencies, work to ensure the safety and well-being of children impacted by domestic violence perpetrators' behaviors. They are not just academic questions as they are central to decisions made daily by governmental bodies like child protection and family court.

For governments and non-governmental organizations (NGOs), a primary touchstone for these questions is the United Nations Convention on the Rights of the Child (UNCRC), the most widely accepted human rights document in history. As Kelly and Mullender (2000) point out, multiple articles in the UNCRC have implications for children impacted by domestic violence perpetrators.<sup>2</sup> While touching on a range of articles in the UNCRC, in this paper, I will primarily consider two specific articles (3 & 12) of that Convention and how the Safe & Together Model supports their implementation, from policy to day-to-day practice. I will detail how, since its inception, the Safe & Together Model has helped practitioners and policymakers better align themselves with the lived experience of children through its "whole of family" approach that addresses children, adult survivors, and perpetrators.

## **The UN Convention: Articles 3 & 12**

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When it comes to children and domestic violence, Articles 3 & 12 are two of the most talked about provisions of the UNCRC. Article 12 stands out for many practitioners as it outlines how children have the right to express their opinions in matters that relate to them. It says the government should ensure that the "views of the child (are) being given due weight in accordance with the age and maturity of the child... the child shall, in particular, be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body..."<sup>3</sup> While its formal impact is on the government, it has broad implications for practitioners in the third sector who often offer

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<sup>2</sup> Kelly, Liz & Mullender, Audrey. (2000). Complexities and Contradictions: Living with domestic violence and the UN Convention on Children's Rights. *The International Journal of Children's Rights*. 8. 229-241. 10.1163/15718180020494631.

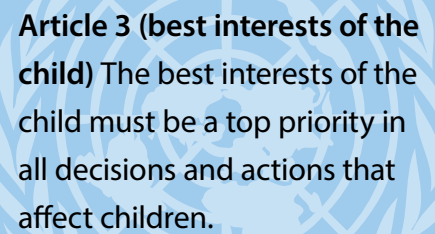
<sup>3</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

key inputs through mandated and non-mandated service delivery, legal representation, court testimony and other interactions with government.

Article 12 has particular relevance to cases involving domestic violence in child protection and family law courts. These decisions can have serious, far-reaching, and long-term implications for child safety and well-being and their relationship with their parents, siblings, and kin. The common shorthand for this right is the phrase the “voice of the child.” This phrase is understood to mean that professionals are giving meaningful weight to children’s experiences, hopes, fears, and wishes in decisions pertaining to them.

Article 12 sits alongside Article 3 of the same convention, which speaks to the importance of government and NGOs considering children’s best interests when making decisions that pertain to them. Article 3 says, “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”<sup>4</sup> UNICEF puts this in language that is easier for children to understand: “When adults make decisions, they should think about how their decisions will affect children. All adults should do what is best for children. Governments should ensure children are protected and looked after by their parents or other people when needed. Governments should ensure that people and places responsible for looking after children are doing a good job.”<sup>5</sup>

While part of the same document, in practice, these two articles can be in conflict. For example, sometimes the expressed interests of a child, e.g., a child whom a perpetrator has manipulated, may express interest in contact with that parent. At the same time, a court may determine that contact is not in the child’s best interest because the perpetrator remains a danger to the child. The Safe & Together Model’s domestic violence-informed approach is useful in the three scenarios that professionals and systems will face in implementing these Articles - informed and engaged listening to the “voice of the child,” best interest decision making, and resolving potential conflicts when the two are not in obvious alignment.



**Article 3 (best interests of the child)** The best interests of the child must be a top priority in all decisions and actions that affect children.

**Article 12 (respect for the views of the child)** Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child’s day-to-day home life.

Source: [https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC\\_summary-1\\_1.pdf](https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC_summary-1_1.pdf)

<sup>4</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>


<sup>5</sup> <https://www.unicef.org/child-rights-convention/convention-text-childrens-version>

## Safe & Together and Literal Interpretation of Article 12

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The most common interpretation of Article 12 is that the government can fulfill its responsibility to consider the child's views by interviewing children and directly learning their hopes, fears, experiences, and preferences. What does this look like in practice? It means that children's lawyers should interview the child, not just the adults, in court matters that impact the child. In the NGO sector, it means professionals working with children are given the opportunity to share the child's experiences, hopes and fears with those making decisions related to custody, parenting time, and child protection matters. They become the conduit for the child's voice using activities like the "Three Houses" ("House of Worries," "House of Good Things," and "House of Dreams") to capture the child's perspective on their family situation, passing along that information to government social workers or the court.<sup>6</sup> In other instances, hearing the children's perspective may involve children's direct testimony in matters that pertain to them. In all these examples, the emphasis is heavily on soliciting, through verbal or written communication, the wishes and desires of the child or the "voice of the child."

However, this literal interpretation of the "voice of the child" has significant limitations. For example, some children are too young to be interviewed. Other children are non-verbal or have disabilities that limit their ability to express their preferences. In other instances, fear of consequences may limit a child's honest sharing, e.g., 'If I talk, my dad will punish me, my mum or my siblings. Or my dad will go to jail, and I'll never see him again.' Children from communities with historical reasons for distrusting government and mainstream structures may not feel culturally or otherwise safe enough to speak freely to practitioners or government representatives.




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Another concern related to the literal interpretation of the "voice of the child" is how domestic violence perpetrators may shape and influence a child's perception. If a domestic violence perpetrator has attacked his partner's character and parenting capacities, the child may have absorbed those attitudes and beliefs. Similarly, a perpetrator may manipulate a child to see them as the better parent. This may result in a child voicing the perpetrator's perspective, e.g., "My mother is mental" or "My dad is the only one who can take care of me." In the case of male perpetrators and female victims, these family dynamics may be reinforced by low expectations of men as parents and much higher expectations of women as parents, which can contribute to a child developing an unfair, biased narrative toward a female domestic violence survivor.

Children's own safety planning, resilience, care for siblings, and the survivor parent provide an important context for listening to children's hopes and desires. We know that the range of protective and safety strategies used by adult survivors includes withholding information, lying, or otherwise not speaking openly and honestly to the perpetrator or others about their hopes and fears. To avoid violence or other consequences, adult survivors may feign affection or even express the opposite of their true desire, e.g.,

<sup>6</sup> <https://www.signsofsafety.net/what-is-sofs/>




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"I love you and want to stay with you," when the reality is exactly the opposite. Children facing coercive control and the threat of violence against themselves and loved ones may similarly attempt to appease the perpetrator. For example, a child may accept or even encourage contact with the perpetrator to prevent further violence to themselves or others. They may even go as far as to fake excitement at contact to convince the perpetrator that they want to visit because anything less will lead to violence or abusive consequences. These safety strategies may influence

how children present to professionals, including expressing their hopes and desires. Without a domestic violence-informed approach, professionals may misinterpret these expressions of desire, leading to flawed decision-making.

Children's understanding of the harm caused by the perpetrator often does not extend to behaviors committed outside the child's view. This may include the perpetrator's sabotage of the survivor's employment or education, their attacks on their relationship to family and friends or manipulation of systems, e.g., false police or child protection reports. Similarly, children may have difficulty understanding and articulating the complexity associated with the intersection of domestic violence, substance abuse, and mental health. For example, a perpetrator's use of their partner's substance abuse as a justification for their violence may be unquestionably accepted and then repeated by a child. These behaviors, which can have profound negative ramifications for a child's health and well-being, often happen outside their direct view, and can be too complex for them to understand fully. This dynamic is particularly relevant in a post-separation environment as many of the perpetrator's acts of coercive control occur outside the child's direct view. The "voice of the child" will not, and often cannot, accurately reflect these aspects of the perpetrator's pattern of behavior and its relevance to their rights.

A consequence of a literal interpretation of the "voice of the child" may be poor decision-making by professionals and institutions. In child safety, decisions to accept or reject a case or further investigation may hinge on whether a child speaks to their direct witnessing of an event. Without the child as a witness, child protection may reject a referral or close a domestic violence case without a sufficient response to the child's safety and well-being. In this way, the "child witness to violence" framework is closely correlated with the "voice of the child" approach. When cases are wrongly rejected or prematurely closed due to the literal interpretation of "the voice of the child," it often means perpetrators remain invisible, and the protective parents' efforts are ignored or misunderstood. Therefore, if we want to truly listen to the "voice of the child," we cannot limit our understanding to a literal understanding of listening.



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<sup>7</sup> <https://safeandtogetherinstitute.com/how-domestic-violenceperpetrators-manipulate-systems/>

Similarly, in the family court context, a literal interpretation of the “voice of the child” can lead to poor judicial decisions related to parenting time and custody. The court deserves and needs to hear the child’s voice in the context of a wider domestic violence-informed understanding of the multiple pathways to harm created by the domestic violence perpetrator. The Safe & Together Model’s perpetrator pattern-based approach, which emphasizes the importance of understanding how the perpetrator’s behaviors impact child, partner and family functioning, is necessary for best-interest decision-making focused on the safety of the child.

## The Safe & Together Model and the “Voice of the Child”

Children will benefit when we seek to understand the full range of their experiences, hopes and fears. This requires us to have a methodology that attempts to overcome some of the issues outlined above. From its inception, the Safe & Together Model has employed a robust child-centered framework to keep the focus on children’s experiences, needs, and wishes in the context of domestic violence cases. Compared to other domestic violence assessment and practice frameworks, which often treat children as an afterthought to the safety and well-being of the adult survivor, the Safe & Together Model has always focused on addressing the children’s distinct lived experiences. It differs dramatically from other approaches, which assume that you don’t need to focus separately on the child’s experience but only need to keep the children safe by keeping the adult survivor safe — in essence, making invisible the unique and individual experience of the child.

Starting with its underlying Practice Principles, the Safe & Together Model offers a consistent child-centered framework that supports children’s needs being heard and considered at every point in the decision-making related to children. The following is a breakdown of the child-centered approach embedded in the Model’s Practice Principles and their relationship to the UN’s children’s rights framework.

### The Safe & Together Principles

- 1 Keeping child safe and together with non-offending parent**  
Safety    Healing from trauma    Stability and nurturance
- 2 Partnering with non-offending parent as default position**  
Efficient    Effective    Child-centered
- 3 Intervening with perpetrator to reduce risk and harm to child**  
Engagement    Accountability    Courts

The Model's Principles center the children's experience and needs in a way consistent with the UNCRC.

**1. The first principle, "Keep the child safe and together with the non-offending parent,"** is consistent with Article 9, which speaks to a child's right to remain in contact with a parent except where otherwise contraindicated due to abuse and neglect. The Model explicitly recognizes that in domestic violence situations, there is often, but not always, a person who causes harm and a protective parent. The Model further articulates the value of "keeping (a) child safe and together with the non-offending (or protective) parent" by using a wider definition of child well-being and rights than physical safety. The Model is inclusive of physical and emotional safety but adds a focus on healing from the trauma created by the domestic violence perpetrator and the necessity of an environment that is stable and nurturing. All this is consistent with the UNCRC framework, which is also based on a broad understanding of children's needs.

#### Article 9

Children should not be separated from their parents unless they are not being properly looked after – for example, if a parent hurts or does not take care of a child. Children whose parents don't live together should stay in contact with both parents unless this might harm the child. From UNICEF Children's Version of the UNCRC


One only needs to consider a small sample of the UNCRC articles to see the alignment with the Model's broad approach to children and domestic violence: Articles 8 (right to their own identity), 15 (right to association including cultural associations), 19 (safety from violence), 24 (the right to healthcare), and 27 (the right to live in an environment that allows them to achieve their full development potential). The Model recognizes that the protective parent often plays a critical and positive role in helping children remain safe, heal from traumas related to the abuse, achieve stability, and live in a nurturing environment. The Model even recognizes that in some instances, a parent who may be the domestic violence survivor may be engaging in abuse or neglect themselves. In these circumstances, it may not be safe and healthy for the child to be with either parent. While not every protective parent is the same in their capacities, a full alignment with the experience of children requires recognizing the differing roles perpetrators and the protective parents play in supporting the rights of children.

**2. The second principle of the Model directs state and non-state actors to partner with non-offending, protective parents in domestic violence cases.** Partnering requires certain behaviors on the part of professionals. For example, it starts with the assumption that the survivor or victim parent has already been safety planning for themselves and their children prior to outside involvement of the authorities and professionals. This means that one of the first tasks of a domestic violence-informed practitioner is to be curious about these efforts and not arrogantly assume they know what safety planning looks like in particular circumstances. It also dictates that professionals do not blame the survivor parent for the behaviors of the perpetrating parent. This principle identifies partnering with adult survivors as being "child-centered," meaning that it is an essential step for achieving child safety and

well-being. In domestic violence cases, when professionals automatically treat the victim partner as part of the problem instead of part of the solution, it makes it more likely children will suffer poorer outcomes, including unnecessary removal from their family and/or less protection from a violent parent. Both these outcomes would contradict UNCRC articles like Article 19 and Article 9 (separation from family).

While the language of partnering is easily applicable in human services, even the child protection sector, it needs a slight translation for the family law setting. The Model offers an objective, neutral, behavioral starting point for any assessment of the impact of domestic violence perpetration on children. This means that no one is prejudged based on any characteristic like race, gender, sexual orientation, religion, etc. Professionals using the Model's comprehensive behavioral lens can help identify when one parent has a pattern of causing harm to the children, and the other parent has a pattern of protection. In these instances, it makes perfect sense that the court, with its focus on child safety, would make decisions in alignment with the protective parent, especially when the person causing harm shows no insight into the harm they have caused the child, failed to support their children's need for healing, nor demonstrated the ability to support the child's relationship with the other parent. While courts cannot "partner" with any party, they can use the Model to help them make decisions in the child's best interest. For example, in cases involving coercive control, it can be decided that it's in the child's best interest that the protective parent have sole legal custody or parental responsibility to remove the perpetrator's parental decision-making as a vector of continued control. A comprehensive assessment of the perpetrator's harm to the child may lead to full physical custody with the protective parent and supervised, limited or no contact with the perpetrating parent. While consistent with the concept of partnering, it fulfills the court's legal obligation to prioritize children's best interests, including their safety and decision-making.

- 3. The third principle is also child-centered.** As opposed to generic discussions of perpetrator accountability, it specifically articulates the importance of interventions with perpetrators that reduce risk and harm to children. Taken as a whole with the other two principles and other aspects of the Model, it reflects a "whole of family" approach that places children's safety and well-being into the context of their relationships with the perpetrator and the protective parent.



*The Model offers an objective, neutral, behavioral starting point for any assessment of the impact of domestic violence perpetration on children.*

The third principle promotes a more comprehensive range of interventions than the mainstream definition of accountability, which is heavily invested in carceral approaches and often ignores the perpetrator as parent. The Model broadens the idea of interventions with perpetrators from the criminal court and stay-away orders to include courts that consider other matters that have serious implications for children, including handling custody, parenting time, property division, and child protection. The Model's inclusion of engagement strategies with perpetrators, whether in a public health prevention context or individual situations, reflects an understanding that some perpetrators, often in the context of wanting to be a better parent, may be willing and able to make meaningful, sustained changes to their



behavior patterns. Children almost always want a parent who has caused harm to change their behavior. The Model recognizes that a child can have complex views and connections with family members who have perpetrated violence. The Model leaves the door open to contact with a person who has caused harm when that contact is safe and meaningful for the child. This is only possible when there is a clear foundation for accountability that starts with the language we use to define how perpetrators harm children. This language needs to be inclusive of how the perpetrator has harmed the other parent and the family's overall functioning.

## Safe & Together: Child-Centered Practices & Tools

The child-centered focus, expressed in the Practice Principles, is operationalized in various ways. Practice tools, like the Perpetrator Pattern Mapping Tool, guide practitioners through the specifics of their cases according to the Model's Principles. The Model's Multiple Pathways to Harm assessment framework is designed as a comprehensive approach to understanding how domestic violence perpetrators harm children (which in turn offers a similarly comprehensive map for improving outcomes for children). This helps bring Article 12 alive in practice. Using an innovative approach that connects coercive control and actions taken to harm the children helps practitioners and policymakers pay attention to a wider range of experiences than just the "child witness to violence" approach that undergirds more traditional domestic violence models. In fact, it is necessary when working with some of the most vulnerable child survivors — those who are too young to speak about their harm or those who are otherwise limited in their abilities to communicate.

### The Safe & Together Multiple Pathways to Harm

#### *Perpetrator's Pattern*

- Coercive control towards adult survivor
- Actions taken to harm children

#### *Children's Trauma & Safety*

- Victim of physical abuse
- Seeing, hearing or learning about the violence

#### *Effect on Partner's Parenting*

- Depression, PTSD, anxiety, substance abuse
- Loss of authority
- Energy goes to addressing perpetrator instead of children
- Interference with day-to-day routine and basic care

#### *Effects on Family Ecology*

- Loss of income
- Housing instability
- Loss of contact with extended family
- Educational and social disruptions

#### *Harm to Child*

- Behavioral, Emotional, Social, Educational
- Developmental
- Physical Injury

The more we know about the conditions created for the child by the domestic violence perpetrator, the more we can turn attention to the full range of the child's experience. This can inform and guide our ability to ask thoughtful, targeted questions and listen deeply to what the child says. For example, how can we most accurately gather information about how a child's life has changed when a parent's violence has forced them into an unfamiliar environment like a domestic violence refuge? How can we learn about how the perpetrator's actions changed their most basic daily experiences of where they sleep, what they eat, and who they interact with? How can we explore the perpetrator's impact on a child's cultural self-identity, the practice of their culture and connections to community and kin? The Model's perpetrator pattern-based approach allows us to have a dialog with a child about all these experiences, not just what they saw or heard of the violence. It also allows professionals to remain clear about who caused the child's new circumstances. Even when it was the protective parent who made the actual choice to leave, it was the perpetrator's behaviors that compelled this choice. Their behaviors are the source of the disruption in the child's life.




*The Model's perpetrator pattern-based approach allows us to have a dialog with a child about all these experiences, not just what they saw or heard of the violence. It also allows professionals to remain clear about who caused the child's new circumstances.*

Without the Safe & Together Model, we might simply ask a child to talk about their experience living in a domestic violence refuge. Guided by the Safe & Together Model approach, an interviewer can be more specific about exploring how a child feels about being forced out of their home by their father's violence and how they are feeling about their father now that they are living in a refuge away from him. This focus is more likely to allow a child to express the range and complexity of their feelings. It can help professionals better capture different nuances of children's experiences, from the anger of the teenager who blames their father for disrupting their ability to see their friends to the fear and sadness of the young child who worries about their father being alone.

Working in this manner can create opportunities for more child-centered accountability for the perpetrator. The more specific a professional's knowledge of the child's experience, the more specific they can be in encouraging reparations from the perpetrator. Imagine being able to say to a perpetrator: "This is the specific harm you caused your child, e.g., they are not living in their own home. As a parent, what will you do to fix it and prevent it from happening again?" This deep listening to the voice and experience of the child can be an important part of their healing and a springboard to increased safety and change.

Greater focus on the perpetrator as a parent can inoculate survivors from the victim blaming that arises in the context of domestic violence and children. Without the focus on perpetrators as the source of the harm to children, any time we talk about children being impacted by domestic violence (as opposed to saying "the harm to children from the domestic violence perpetrator's actions"), we risk blowback and blame against survivors. In general, listening to the "voice of the child" needs to be paired with partnering with survivors. While the experiences of the adult and child survivors are separate, they are also connected in numerous ways. One way is how the survivor does or doesn't engage in protective efforts related to the children and the

perpetrator's behaviors. Failure to accurately assess protective efforts may lead to poorer outcomes for children. The Model's consideration of a wider range of protective factors, beyond calling the police or leaving the relationship, makes it more likely children will be able to stay with their protective parent—often a key factor in healing, stability, and nurturance. The Model's broad understanding of protective efforts often improves the ability of practitioners to partner with survivors from marginalized communities, as they are often wary of engaging the mainstream service system.



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The Model also helps gather information about the child's experience from key informants like teachers, therapists, or others. This aids judicial or other decision-making through direct reports, testimony, or children's representatives. When the Model informs a practitioner, their documentation practices will be different. A practitioner can improve their practice by reflecting on questions like these:

- When soliciting information from collateral sources who have direct contact with the child and the family, am I asking generic questions about attendance and attainment? Or am I asking more domestic violence-informed questions that explore the link between the perpetrator's pattern and the child's functioning?
- When sharing specific information about a child's situation in a report or with a collateral contact, am I being specific about what I know about the perpetrator's pattern and how it has impacted the survivor parent, the child, and the functioning of the family? Am I using specific language like:
  - "The dad is withholding money for the child's needs and instead spending it on alcohol."
  - "The perpetrator uses his mother to monitor the survivor and her activities with the children."
  - "Is the perpetrator telling the children not to speak to professionals?"
- When I receive information from the school or other collateral contacts, am I assessing for links between that information and the perpetrator's pattern of behavior? For example, am I connecting the dots between a child who is falling asleep in school and whose grades are slipping with the perpetrator's escalating coercive control and violence in the home?
- Am I asking a collateral contact to be clearer about their language? For example, if the school reports the "father is not involved in the child's school life," what does this mean? Have they made efforts to reach out to him? What efforts have they made to understand his influence over the child's school performance and behavior? What does the child say about the father's involvement? On the flip side, if a collateral report indicates that they've had contact with the father and that he was "aggressive with staff," do I ask clarifying questions to understand the exact nature of those behaviors? Am I asking about documentation of that behavior and what remedies were taken to address the situation? Am I also asking about the child's experience of this "aggressive" behavior by her father?

- Am I asking questions specifically about strengths and protective factors? Am I actively engaging the school to see what they might be missing if they initially do not identify any strengths about the child/protective parent/family?

The Model's focus on the perpetrator as parent can help guide any direct engagement with a child in domestic violence cases. A professional soliciting a child's perspective on their situation can ask targeted questions to gather information about their needs, hopes and fears related to the perpetrating parent. For example:

- What is one thing you want your father to stop doing that will make you feel safer and loved by both parents?
- What is one thing you want your father to start doing or do more of that will make them feel safer and loved by both parents?

Domestic violence-informed questions to children can really help bring forward the "voice of the child" and contribute to best-interest decision-making.

## Conclusion

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Consistent with the common understanding of the "voice of the child," the Safe & Together Model teaches professionals how to interview children impacted by domestic violence perpetrators' behaviors sensitively. Perhaps its biggest contribution to the work with families is that it offers a powerful, more nuanced, and comprehensive way to engage children about their experience of domestic violence. Through its "whole of family" approach and multiple pathways to harm perspective, it offers a broader context for understanding the child's experience beyond the interview. Being an ally to a child isn't as simple as listening to whatever they say and doing it--it's the ability to deeply pay attention to the child's experience, through multiple means, not just what they share but what the professional can learn about their experience. The Model's "whole of family" approach offers a way to understand the child's voice and experience in the context of their relationship with each parent. It also offers a common language and framework that allows professionals to use a consistent framework when communicating with one another and making critical and far-reaching decisions for children and families.



*Through its "whole of family" approach and multiple pathways to harm perspective, it offers a broader context for understanding the child's experience beyond the interview.*

## Related Safe & Together Model Resources\*

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[Multiple Pathways to Harm](#)

[CORE Training](#)

[Perpetrator Pattern Mapping Tool](#)

[How Domestic Violence Perpetrators Manipulate Systems](#)

[Domestic Violence Survivors' Parenting Strengths](#)

\* All resources are located on the Safe & Together website.

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