


## Safety Issues 101: Responsibilities and Best Practices

Protecting Parties



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### Key Factors to be Aware of in Domestic Violence Cases

- Protect the victim from retaliation when soliciting or using safety and risk information.
- A victim's attempt to terminate the relationship is a major change that poses increased risk.
- Victims' perceptions of high danger are typically accurate, their perceptions of low danger are often not.

Source: The Blueprint for Safety: Practitioner's Guide to Risk and Danger in Domestic Violence Cases. Prepared by Praxis International. [www.praxisinternational.org](http://www.praxisinternational.org)

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### Risk is Higher when the Violence is Accompanied by:

- The victim attempting a permanent break
- Estrangements, separations, and reunions
- A victim seeking outside help in the past year
- An abuser's financial difficulty; unstable housing



Source: The Blueprint for Safety: Practitioner's Guide to Risk and Danger in Domestic Violence Cases. Prepared by Praxis International. [www.praxisinternational.org](http://www.praxisinternational.org)

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# Power and Control Wheel

Source: Domestic Abuse Intervention Project [www.theduluthmodel.org](http://www.theduluthmodel.org)




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# Post Separation Power and Control Wheel




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# Authority Requiring Protection



- Establishment Proceedings: § 256.87, Subd. 8  
...Subd. 8. Disclosure prohibited.

Notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released to the other party by the public authority if:

- (1) the public authority has knowledge that a protective order with respect to the other party has been entered; or
- (2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

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## Authority Requiring Protection



- **Dissolution/custody proceeding § 518.005, Subd. 5**  
 ...Subd. 5.Prohibited disclosure.  
 In all proceedings under this chapter and chapter 518A in which public assistance is assigned under section [256.741](#) or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:
  - (1) the public authority has knowledge that a protective order with respect to the other party has been entered; or
  - (2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

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## Authority Requiring Protection

- **Paternity Proceedings § 257.70(b)**  
 ... (b) In all actions under this chapter in which public assistance is assigned under section [256.741](#) or the public authority provides services to a party or parties to the action, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:
  - (1) the public authority has knowledge that a protective order with respect to the other party has been entered; or
  - (2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

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## Requirement to Provide Address Info to Court

- **Rule 13.01 Duty to Provide Notice**  
 In all actions, it is the responsibility of the parties, or their counsel of record, to provide notice to all other parties and to the court administrator of their current address for delivery of notices, orders, and other documents in the case. Where a party or a party's attorney has provided an e-mail address for the purpose of allowing service or filing, this rule also requires that the party advise the court and all parties of any change in that e-mail address. Failure to provide this notice constitutes waiver of the right to notice until a current address is provided




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## The "Easy" Part

A Protective order with respect to the other party has been entered.

- Client informs agency directly of order. If verbal, request a copy.
- Agency receives a copy of the order from another source such as court administration.
- MNCIS check: Look for Orders for Protection (OFP); Harassment Restraining Orders (HRO). Obtain copy.
- Domestic Assault case with Domestic Abuse No Contact Order (DANCO) – often does not have victim identified in MNCIS. Temporary in nature.

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## The Hard Part

What constitutes

"Reason to believe that the release of the information may result in physical or emotional harm to the other party?"



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## Scenarios / Talking Points

- Paternity case where the relationship was short term and parties barely know each other



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## Paternity Special Considerations

- In paternity cases, we are required to address the issues of custody and parenting time pursuant to M.S. § 257.66 Subd. 3:

The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, the social security number of the mother, father, and child, if known at the time of adjudication, parenting time with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child....




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## Paternity Special Considerations

- M.S. § 518.179 outlines how the court determines whether or to what degree a parent should have custody or parenting time when convicted of identified crimes.



- Shifts burden to person requesting parenting time to prove that custody or parenting time is in the best interests of the child.



- If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence.



- A guardian ad litem must be appointed in any case where this section applies.




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## Paternity Special Considerations

- M.S. § 518.1705 PARENTING PLANS.

**Subd. 6. Restrictions on preparation of parenting plan.**

(a) Dispute resolution processes other than the judicial process may not be required in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a parent or child who is a party to, or subject of, the matter before the court. In these cases, the court shall consider the appointment of a guardian ad litem and a parenting plan evaluator.

(b) The court may not require a parenting plan that provides for joint legal custody or use of dispute resolution processes, other than the judicial process, if the court finds that section 518.179 applies or the court finds that either parent has engaged in the following toward a parent or child who is a party to, or subject of, the matter before the court:

- (1) acts of domestic abuse, including physical harm, bodily injury, and infliction of fear of physical harm, assault, terroristic threats, or criminal sexual conduct;
- (2) physical, sexual, or a pattern of emotional abuse of a child; or
- (3) willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.

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## Paternity / Custody

- M.S. § 257.026 NOTIFICATION OF RESIDENCE WITH CERTAIN CONVICTED PERSONS.

A person who is granted or exercises custody of a child or parenting time with a child under this chapter or chapter 518 must notify the child's other parent, if any, the county social services agency, and the court that granted custody or parenting time, if the person knowingly marries or lives in the same residence with a person who has been convicted of a crime listed in section 518.179, subdivision 2.

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## Scenarios / Talking Points

- Participant has a known history of violent crime, violence against others, predatory crimes, sex crimes, crimes against children, termination of rights as to other children



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## Scenarios / Talking Points

- Incarcerated obligor released, sending out pleadings for review



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## Sample Phone Script

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## Safety Issues

**What is a Safety Issue**

- Prior domestic violence
- Threats of violence
- Current OPF/HRO/DANCO/ Non-Disclosure Order
- Safe at Home participant

**What is not a Safety Issue**

- Does not want other party involved with child
- Does not like other party's new partner
- Child is "theirs" alone

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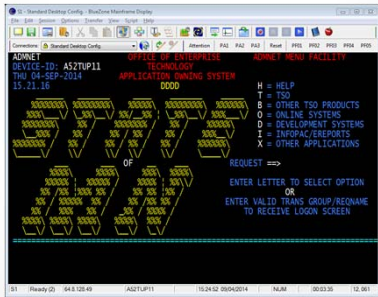
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## PRISM Considerations




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# PRISM Considerations

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VAFPRM01          PRISM          09/25/14          11:18 AM
09/25/14          Good Cause Safety Concerns
*Action (A,B,C,D,M,N):  a
Case: 0000000000 00
Case:
CP Name:          Worker:          Stat:      Func:
                  Prog:          File Loc:

Effective Date:
Good Cause Code:
Safety Concerns   Current Protection Status
CP (Y/N): y       Source:
NCP (Y/N): _     Source:

IV-D Cooperation Code: _
Good Cause Source:
Comments:
cp has safety concerns see 9/23/14 caad.
Direct Command:
F1=Help,F2=Quit,F3=Retrn,F4=Prev,F13=TRBL,F18=Main,F19=Glob,F20=Audit (GCSC)

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# PRISM Considerations

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VAFPRC001          PRISM          09/25/14          11:17 AM
09/25/14          County Case Data
*Action (A,B,C,D,M,N,P):  a
County: 003 Type: safety Case: 0000000000 00
Case:
CP Name:          Worker:          Stat:      Func:
                  Prog:          File Loc:

1 of
Ln  Description                               Value
1  cp has safety concerns                      cp does not want her addr, employer or
2  _____                                daycare released.
3  _____
4  _____
5  _____
6  _____
7  _____
8  _____
9  _____
10 _____
Direct Command:
F1=Help,F2=Quit,F3=Retrn,F4=Prev,F7=Up,F8=Down,F13=TRBL,F18=Main,F19=Glob
F20=Audit (COCD)

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# PRISM Considerations

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VAFPRAS01          PRISM          09/25/14          11:17 AM
09/25/14          Case Status
*Action (A,C,D,M,N,P):  d
Case: 0000000000 00
Case:
CP Name:          Worker:          Stat:      Func:
                  Prog:          File Loc:

NCP MCI:
CP Reinsp to Child:
App/Refil Revd Date:
CP Is Applicant:
Intake Completed:
File Location: SAFETY
1 of 0
Ln  MCI          Child Name          of Ncp Basis  Reinsp Pat Inactive Child Legal
2  _____  _____          _____  _____  _____  _____  _____
3  _____  _____          _____  _____  _____  _____  _____
Direct Command:
F1=Help,F2=Quit,F3=Retrn,F4=Prev,F6=Back,F7=Up,F8=Down,F10=Left,F11=Right (CAST)

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## Procedural Considerations

- Redacting documents
  - Financial Statements
  - Income Tax Returns and schedules
  - Employment Verifications
  - ROP – consider using ROPD screen instead
  - DEED / NCQW / CPQW
  - Child Care verifications
  - Health Care verifications
  - Faxes
- Flag file
  - Physical File / Electronic File
- Preparing affidavits of service
  - Waiver of Personal Service



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## Court Considerations

- Option to appear by phone if matter is in expedited process
- Alert bailiff of situation before hearing
- Seat parties separately in waiting area or have one party seated in the courtroom and the other outside of courtroom
- Do not have settlement negotiations with both parties together
- Take care of yourself – seat yourself near door of conference room, meet party with other staff, meet in hallway, or if the situation warrants – go directly in for hearing
- Manage calendar to have matter heard sooner rather than later – avoid parties percolating in hallway
- Option for party to have bailiff escort after hearing



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## Interstate Cases



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 **Authority Requiring Protection**

- Interstate cases 518C.312
- NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

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 **Authority Requiring Protection**

- Pending change to 518C.312:

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

- **EFFECTIVE DATE.**  
This act becomes effective on the date that the United States deposits the instrument of ratification for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance with the Hague Conference on Private International Law.  
Presented to the governor April 30, 2014  
Signed by the governor May 1, 2014, 9:36 a.m.

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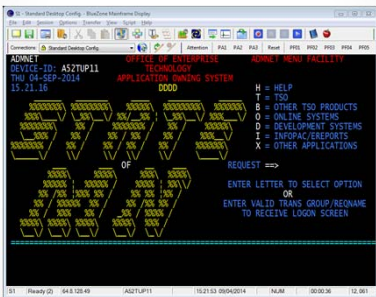
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**PRISM Considerations**




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## Order Granting Service

- 518A.47 PROVISION OF LEGAL SERVICES BY THE PUBLIC AUTHORITY
- ...Subd. 2. Access to address for service of process.
  - (a) If there is an IV-D case as defined in section 518A.26, a party may obtain an ex parte order under this subdivision. The party may obtain an ex parte order requiring the public authority to serve legal documents on the other party by mail if the party submits a sworn affidavit to the court stating that:
    - (1) the party needs to serve legal process in a support proceeding and does not have access to the address of the other party;
    - (2) the party has made reasonable efforts to locate the other party; and
    - (3) the other party is not represented by counsel.
  - (b) The public authority shall serve legal documents provided by the moving party at the last known address of the other party upon receipt of a court order under paragraph (a). The public authority shall provide for appropriate service and shall certify to all parties the date of service by mail. The public authority's proof of service must not include the place or address of service.
  - (c) The state court administrator shall prepare and make available forms for use in seeking access to an address under this subdivision.



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## Order Granting Service

Duties of public authority:      What is not required:

Serve legal documents upon other party at last known address.      Non-disclosure per se.

Proof of service must not include the place or address of service.

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## Order Granting Service

- Treat as any other case.
- Follow procedures for assessing safety concerns.

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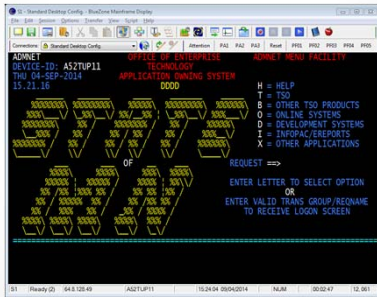
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# PRISM considerations




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# Good Cause

- M.S. 256.741, Subd. 9. **Good cause exemption from cooperating with support requirements.**  
The IV-A or IV-D agency must notify the caregiver that the caregiver may claim a good cause exemption from cooperating with the requirements in subdivision 5. Good cause may be claimed and exemptions determined according to subdivisions 10 to 13.

- M.S. 256.741, Subd. 10. **Good cause exemption.**  
(a) Cooperation with the child support agency under subdivision 5 is not necessary if the individual asserts, and both the child support agency and the public assistance agency find, good cause exists under this subdivision for failing to cooperate. An individual may request a good cause exemption by filing a written claim with the public assistance agency on a form provided by the commissioner of human services. Upon notification of a claim for good cause exemption, the child support agency shall cease all child support enforcement efforts until the claim for good cause exemption is reviewed and the validity of the claim is determined. Designated representatives from public assistance agencies and at least one representative from the child support enforcement agency shall review each claim for a good cause exemption and determine its validity.

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# Good Cause

M.S. 256.741, subd. 10(b)  
Good cause exists when an individual documents that pursuit of child support enforcement services could reasonably result in:

- (1) physical or emotional harm to the child for whom support is sought;
- (2) physical harm to the parent or caregiver with whom the child is living that would reduce the ability to adequately care for the child; or
- (3) emotional harm to the parent or caregiver with whom the child is living, of such nature or degree that it would reduce the person's ability to adequately care for the child.

Physical and emotional harm under this paragraph must be of a serious nature in order to justify a finding of good cause exemption. A finding of good cause exemption based on emotional harm may only be based upon a demonstration of emotional impairment that substantially affects the individual's ability to function.

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## Good Cause

**M.S. 256.741, Subd.10(c)**

Good cause also exists when the designated representatives in this subdivision believe that pursuing child support enforcement would be detrimental to the child for whom support is sought and the individual applicant or recipient documents any of the following:

- (1) the child for whom child support enforcement is sought was conceived as a result of incest or rape;
- (2) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or
- (3) the parent or caregiver of the child is currently being assisted by a public or licensed private social service agency to resolve the issues of whether to keep the child or place the child for adoption. The parent or caregiver's right to claim a good cause exemption based solely on this paragraph expires if the assistance lasts more than 90 days.

(d) The public authority shall consider the best interests of the child in determining good cause.

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## Good Cause

- **M.S. 256.741, Subd. 11** outlines the proof required to support a good cause claim. The child support agency and the public assistance agency **shall** assist an individual in obtaining the evidence upon request of the individual.
- **M.S. 256.741, Subd. 12. Decision.** A good cause exemption must be granted if the individual's claim and the investigation of the supporting evidence satisfy the investigating agencies that the individual has good cause for refusing to cooperate.
- **M.S. 256.741, Subd. 13. Duration.** May not continue for more than one year without redetermination. Child Support agency and designated representatives may redetermine before the one year expiration.

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## Good Cause

- Notify applicant / recipient in writing of right to claim good cause



- Written Good Cause claim:  
Cease all enforcement efforts



- Assist to obtain evidence upon request




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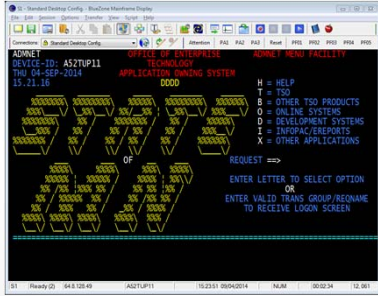
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# PRISM Considerations




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## Safe at Home – Basics

- [WWW.SOS.STATE.MN.US](http://WWW.SOS.STATE.MN.US)
- M. S. Chapter 5B Data Protection for Victims of Violence
- M.S. 13.045 Safe at Home Participant Data
- Minnesota Rules Chapter 8290
- Address confidentiality program.
- Minnesota is first state in the nation to allow participants to use an alternative address for all purposes, including private business interactions.
- Length of Enrollment – Four years. Participants may renew enrollment at end of four years.
- A participant may voluntarily withdraw at any time.




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## Safe at Home - Service

- Rule 8290.0500 Service of Process.
- Subpart 1. **Secretary of state as agent.** The secretary of state shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served. The secretary of state shall not charge a fee for accepting service.
- Subp. 2. **Service by mail.** Service on the secretary of state of any such summons, writ, notice, demand, or process must be made by mailing the summons, writ, notice, demand, or process to the designated address. If an envelope enclosing the summons, writ, notice, demand, or process is clearly labeled as service of process on the outside of the envelope and is served by first class or certified mail on the secretary of state, the secretary of state shall forward the service to the program participant no later than the next business day. As the secretary of state is the agent for service of process, the signed receipt of certified mail by the secretary of state constitutes proof of service on the program participant and commences the time in which responsive pleadings must be filed.
- Subp. 3. **Service in person.** In the event that personal service of any document is required by law, that document may be served by delivering the document to any public counter of the Office of the Secretary of State. The secretary of state must forward the service to the program participant no later than the next business day. As the secretary of state is the agent for service of process, an affidavit of service on the secretary of state constitutes proof of service on the program participant and commences the time in which responsive pleadings must be filed.
- Subp. 4. **Record.** The secretary of state shall maintain, in the program participant's file, a record of services served upon the secretary of state for that participant. The secretary of state shall include in the file the action taken on that service, including the name of the program participant to whom the service is directed, the date of receipt, the date of mailing, a unique-identifying service number for the mailing, and whether the mailing was returned to the secretary of state as undeliverable.

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## Safe at Home - Service



- **For Mail Service:** Be sure to clearly label envelope as "Service of Process" and mail by first class or certified mail.
- **For Personal Service:** Clearly mark the envelope as "Service of Process". The document must be served by delivering the document to any public counter of the Office of the Minnesota Secretary of State between the hours of 8:00 a.m and 4:00 p.m in care of the Office of the Minnesota Secretary of State at the following address:  
State Office Building, Room 180  
100 Dr. Rev. Martin Luther King Jr. Blvd  
St. Paul, MN 55155




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## Safe at Home Withdrawal from Program

- **Rule 8290.1000 Withdrawal of Program Certification**
- Must be submitted in writing along with any Safe at Home cards or a signed statement that the card has been misplaced.
- Include a statement that the participant wants to withdraw from Safe at Home and understands it is their responsibility to notify all persons of a new mailing address
- List the names of minor children who are being withdrawn from the program.
- The Secretary of State must compare the signature of the program participant on the withdrawal request with the signature on the original application and conclude that the signatures are the same.

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## Safe at Home Withdrawal from Program

- Verify Safe at Home program status:

Contact the Secretary of State with full name and lot number of a potential program participant.  
Phone: 651-201-1399 / 1-866-723-3035  
Email: [Safe.athome@state.mn.us](mailto:Safe.athome@state.mn.us)




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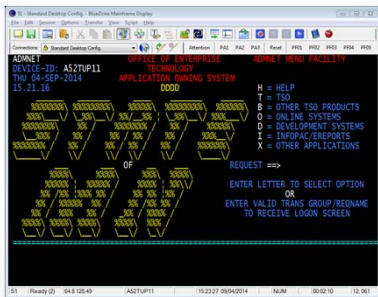
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# PRISM Considerations




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# Federal Authority

- 45 CFR 303.11 – CASE CLOSURE CRITERIA.  
 ... (9) There has been a finding by the responsible State agency of good cause or other exceptions to cooperation with the IV-D agency and the State or local IV-A, IV-D, IV-E, Medicaid or food stamp agency has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative...




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# Resources

- Day One Minnesota Domestic Violence Crisis Line: 1-866-223-1111 / [www.dayoneservices.org](http://www.dayoneservices.org)



- Cornerstone: [www.cornerstonemn.org](http://www.cornerstonemn.org)



- Minnesota Coalition for Battered Women: <http://www.mcbw.org/#>




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