

2019 Caregiver Custody Training Manual

6. Services and Resources Available in Domestic Relations Cases

- a. Home Studies and Evaluations in Custody Cases
 - i. Home Studies and Forensic Evaluations in Custody Cases
 - ii. Custody Assessor Unit Overview
 - iii. Sample Home Study
 - iv. American Psychological Association Guidelines for Child Custody Evaluations in Family Law Proceedings
- b. Co-Parenting Communication Tools
 - i. Information on Our Family Wizard
 - ii. Information on Talking Parents
- c. Mediation Materials
 - i. Multi-Door Dispute Resolution Family Mediation Program Brochure
 - ii. Program for Agreement and Cooperation in Contested Custody Cases (PAC) Information
 - iii. Program for Agreement and Cooperation in Contested Custody Cases (PAC) Administrative Order
- d. D.C. Superior Court Information
 - i. D.C. Superior Court Contact List
 - ii. D.C. Superior Court Tour Handout
 - iii. D.C. Superior Court Organizational Chart
- e. Investigation and Research Information
 - i. Researching Court Records
 - ii. Social Media as Evidence
 - iii. Authenticating Social Media



Home Studies and Forensic Evaluations in Custody Cases

Home studies and brief assessments

The court can order a “social services evaluation,” commonly known as a home study. SCR-Dom.Rel. 404. Home studies are performed upon court order, free of charge. In the past, home studies were conducted by the Court Social Services Division of D.C. Superior Court (Family Court/Juvenile Services Division). Beginning in December 2017, home studies are being conducted by the Custody Assessment Unit (CAU), a part of the Domestic Relations Clerk’s office.

The CAU has indicated that it will do two kinds of assessments: “home studies” and “brief focused assessments.” Home studies will take two to four weeks and brief focused assessments will take from four to six weeks. It appears that home studies will contain limited background information and information about the parties and homes, while a brief focused assessment may address certain discrete “assessment recommendations.” At this time, only two assessment recommendations can be requested out of those that the CAU indicates that it will do.

Judges may order home studies *sua sponte* or upon request of a party. Judges will often grant requests for home studies based on oral motions. Home studies are typically ordered for both the parties’ homes, if for no other reason than to ensure that the parties feel that the process is even-handed, but occasionally a home study of only one home will be ordered.

CAU is requesting that the judge ask the parties to wait outside courtroom JM-12, where the Custody Assessor Supervisor will meet with them for an initial intake, at which time the parties will complete a “Custody Assessment Unit Referral Form.” However, if a party is unavailable for the intake, the CAU will contact that party. If the supervisor determines that the case is not appropriate for a home study or brief focused assessment, the court will be notified by email.

At this time, CAU will not do home studies of homes located outside of D.C. This can pose a problem if a forensic evaluation is also sought (see below).

A report will be submitted to the court, but it will not be in the public court file. The CAU has indicated that the court order should direct to whom the report should be sent.

The staff of the GAU is Georggetta Howie, Custody Assessor Supervisor (Georggetta.Howie@dcsc.gov), Johari Curtis, Custody Assessor, and Brionna Williams, Custody Investigator.

Forensic evaluations (mental health evaluations)

The Assessment Center is a division of the D.C. Department of Behavioral Health. The Assessment Center performs court-ordered psychological and psychiatric evaluations of adults and children, free of charge, in Family Court cases, including custody, neglect and juvenile criminal cases. Judges may order evaluations *sua sponte* or upon motion. Judges will often grant requests for evaluations based on oral motions.

The Assessment Center requires a court order that the evaluation be performed. A home study by Court Social Services Division is also required before an evaluation will be scheduled. If a home study is not available for a party, the Assessment Center will usually accept a submission by the GAL containing background information. As with home studies, the court will typically order both parties to be evaluated.

The amount of time needed to complete the evaluation varies depending on staffing levels of the offices, the caseload, the responsiveness and availability of the parties, and the number of appointments needed for the particular case; the average time is four weeks.

The evaluation will be done by a psychologist or a psychiatrist. The court order can specify a psychological evaluation, a psychiatric evaluation, or both, or can leave that decision to the Assessment Center. Only the individuals specifically named in the order will be seen, so if you want the child evaluated, be sure that is stated in the order (or you can include a provision leaving that decision to the Assessment Center's discretion). In general, the Assessment Center's preference is to see both parties as well as the child (unless the child is extremely young).

Assessment Center evaluations typically consist of review of the home study and any other background materials that are provided (the Assessment Center will usually accept materials and information from the parties/counsel and the report will indicate what materials were reviewed), clinical interviews of each parent (and the child if the child is included in the order), psychological testing if a psychologist is doing the evaluation, and possibly some observation of the adult-child interaction (if an "interactive assessment" is requested in the order, observation will definitely be included). A custody evaluation, in theory, can encompass an assessment of the parent's overall mental and emotional status, judgment, and parenting ability, as well as the child's mental and emotional status, the nature and quality of the child's relationship with each party, and the child's emotional needs. Thus, an evaluation may be appropriate or helpful even when there is no allegation that a parent is suffering from a mental or emotional disorder. The court order can indicate any particular issues or questions the court would like the evaluator to explore, or the order can simply order that evaluation(s) be conducted (the evaluator will know that the evaluation is being done for a custody case).

After the Assessment Center receives the court order and the home study, it will contact the parties directly to schedule appointments.

The evaluator will submit a report of the evaluation and may make recommendations regarding custody arrangements, and may make recommendations regarding services for the parties or child. The report is usually sent directly to the court, but it is not in the public court file; if counsel cannot obtain a copy directly from the Assessment Center, it can be obtained by contacting the judge's chambers. The evaluator is available to testify but the Assessment Center requires a subpoena. It is advisable to address scheduling issues with the Assessment Center and the court well in advance if you are planning to call the evaluator as a witness (particularly because a number of the evaluators are part-time contractors and not employees). Judges may be somewhat flexible, within reasonable and practical limits, in connection with accommodating the evaluator's schedule.

The Assessment Center is located at 300 Indiana Avenue, N.W., Room 4023, Washington, D.C. 20001, 724-4377, 724-2383 (fax). Debbie Allen is the clinic coordinator. There are also staff social workers who coordinate the evaluations. Some of the evaluators may be on staff; others are contract providers and not full-time staff. It is usually possible to communicate directly with the evaluator either before or after the evaluation, and for purposes of trial preparation.

Related issues

- Parties can request the court to order home studies and forensic evaluations. Judges also may order them *sua sponte*.
- You can contact the CAU or the Assessment Center to get an up-to-date estimate of how long the home study or evaluation is likely to take.
- The status of these reports vis-à-vis the record an issue that has not been resolved. Are they automatically in evidence or must they be formally introduced into evidence? On the one hand, there appears to be no law explicitly providing that these reports automatically become a part of the record – become evidence – and if the evaluations are analogized to examinations ordered under the rules of discovery (SCR-Domestic Relations 35), then it could be argued that the reports should not automatically become a part of the evidentiary record. Similarly, a written report is hearsay, may contain additional hearsay, and there may be issues relating to the admissibility of opinions or other information contained in the report. On the other hand, there is an implication that because the court can order the reports, they become a part of the record and the court can consider them in making a decision.

It is difficult to predict how any given judge will handle this issue; a particular judge may not even be consistent from case to case. It is relatively clear that in practice, judges read the reports prior to trial, and also often rely on them, either explicitly or *sub silentio*, in making temporary custody decisions. For purposes of trial, some judges seem to assume that the reports are automatically part of the evidentiary record. Some judges indicate that they have read the reports but that they are not automatically part of the record at trial and thus will not be considered in making a decision unless formally admitted into evidence. Sometimes a judge may inquire of counsel/the parties whether they will stipulate to the reports being entered into evidence or whether they will require that the document be formally admitted by a party (e.g., the author be called as a witness or, if counsel is going to attempt to admit the report as a business record, a “records

custodian” be called as a witness). Some judges might assume that, if no one is raising an issue, the parties are in essence stipulating as to the admissibility of the report.

Counsel/parties are always free to raise the issue of the status of the reports.

Ziegler v. Ziegler, 304 A.2d 13 (D.C. 1973), held that it is reversible error for the court not to permit litigation of the contents of and cross-examination of the author of a home study.

February 2019

- 4-8 wks B7A

- 2-4 wks home
study

Custody Assessment Unit Overview

SUMMARY

The Domestic Relations Branch Custody Assessment Unit was created to assist the Court in gaining information and facts that support timely case resolution. Previously, this information was primarily provided through a home study. The Custody Assessment Unit will be introducing a new assessment tool: the child custody brief focused assessment. Although, the decision to order a home study will continue to be an option, the brief focused assessment will be used to capture facts regarding specific concerns. A brief focused assessment provides a descriptive investigation of facts, combined with addressing one to two specific questions, identified by the Court, as important to the resolution of family matters. A brief focused assessment may be initiated upon a filed motion, agreement of the parties, or on the Courts' order. Some of the advantages to a brief focused assessment are as follows:

- Addresses specific, narrowly defined referral questions
- Makes information available to the Court more quickly
- Less intrusive to families
- Identifies points of agreement/disagreement on complex issues

OVERVIEW

Who Can Request?

- Either Party
- Attorneys
- Judges

Things to consider prior to a brief focused assessment:

- Do both parties live in DC?

- Have parties attended mediation/PAC?
- Have parties met with an Attorney Negotiator?
- Is a GAL assigned?
- Is a psychological evaluation ordered? If so, for what?
- History or current DV?
- CPO?

When to Order?

Cases Involving Conflict

- The parties have limited or no ability to communicate or cooperate on parenting issues.
- The level of conflict between the parties is low to moderate.
- The current issues are low to moderate in complexity.
- Issues of mental health and/or substance abuse may be present.
- Allegations that a parent is unfit and the allegations are either: (1) acknowledged by all parties at the time of intake; (2) have been substantiated by a CFSA investigation; (3) unsubstantiated, not founded.

The following issues are NOT appropriate for a brief focused assessment: cases involving reunification of parent and child, high conflict cases, parent relocation and alienation allegations. Brief focused assessments are generally inappropriate when there is chronic domestic violence.

Pre-Settlement Conferences → Initial Hearing

Attorney Negotiators are provided a screening questionnaire. If cases are screened-in, the Custody Assessor Supervisor will be notified by email. The email will contain a copy of a completed CAU screening form. At the initial hearing, the Judge **decides whether or not to order a brief focused assessment OR a home study *only*.**

Status Hearing → Pre-Trial Hearing

If parties are unable to reach an agreement and the case has supporting evidence to believe the parties are unable to reach an agreement, the Judge or party of the case can request home study or brief focused assessment. Parties should have attempted mediation and attended PAC prior to an assessment being ordered.

Home Study Only

Questions to consider: are there legitimate concerns regarding the appropriateness and safety of either parent's home? Is this home study for the intent of having a psychological/psychiatric evaluation completed? Anticipated time frame to complete is 2-3 weeks (**written report** filed 1 week prior to next Court hearing or sooner).

Sources of information will include, but not limited to:

- Home visit to observe and document the condition and safety of the Mother's home
- Home visit to observe and document the condition and safety of the Father's home
- Observation of the surrounding community
- Review of educational, medical and legal records, if necessary

Brief Focused Assessment

All brief focused assessments include a home study. You may pick no more than two assessment recommendations. Anticipated time frame to complete is 4-6 weeks (**written report** filed 1 week prior to next Court hearing or sooner).

Sources of information will include, but not limited to:

- Interview with each parent (2-4 hours) with follow-up phone calls, as needed
- Interview of step-parent and/or significant other
- Home visit to observe and document the condition and safety of the Mother's home
- Home visit to observe and document the condition and safety of the Father's home
- School visit, when necessary

- Collateral interviews
- Collateral questionnaires completed by 3 individuals who can describe the parenting and parent-child relationships
- One on one interviews with child, as requested
- Background check screening
- Review of relevant records

Services currently provided by the Department of Behavioral Health (DBH) Assessment Center

- Psychological and Psychiatric Evaluations
- Parental capacity
- Quality of the relationship between parents/caregivers and children

How to Order a Brief Focused Assessment OR Home Study *only*

A brief focused assessment OR a home study *only* can be ordered. A *Custody Assessment Referral Form* must be completed with the Order. When ordering *only* a home study, the assessment will be limited to the safety concerns of either/both parent's home. All brief focused assessments include a home study.

- Create an order requesting Home Study *only* or Brief Focused Assessment.
- Complete the *Custody Assessment Unit Referral Form*. If ordering a BFA, no more than 2 assessment recommendations can be assessed.
- Instruct the parties to wait outside of courtroom JM-12. The Custody Assessor Supervisor will meet with them for initial intake (anteroom, JM-12A). Copies of the *Custody Assessment Unit Referral Form* should be provided to the parties.
- Clerk sends an email with an order to the Custody Assessor Supervisor, when available. The *Custody Assessment Unit Referral Form* should also be included.

- Scheduling for intake is Monday-Thursday 9:30 AM -12:30 PM.
- The Custody Assessor Supervisor will *screen cases*. If it is determined the case is not suitable for home study or brief focused assessment, the Court will be notified by email with a brief explanation. The Custody Assessor Supervisor will be available for phone conferencing, as necessary.

Elements of Court Order

The Court should complete the *Custody Assessment Referral Form*. The Court should indicate to whom the report should be provided, upon completion. The order should request that all parties sign the necessary releases. If observations of parent/child interactions are requested, parents should be informed that children should be in the home during the visit. All orders should include the date of the next hearing. Upon receiving a copy of the order, parties should be directed to the wait outside of the designated space, anteroom, JM-12A, until called.

Initial Intake / Screening

An initial intake is required for a brief focused assessment order and home study *only* orders. Intakes will be held Monday thru Thursday from 9:30 AM to 12:30 PM in anteroom, JM-12A. An initial intake will be completed to collect demographic information, capture what each party identifies as the problem, explain the assessment process, review policies and procedures, and identify their availability and scheduling. Parties will complete the necessary paperwork and sign releases. *If it is determined the case does not warrant a brief focused assessment, the Court will be notified.*

-Intake NOT MANDATORY → IF PARTY CAN'T GO FOR INTAKE THEN CALL PARTY.

Reports/Closing

A written report will be provided to the Court and to the parties, identified within the order, within 1 week of the Court hearing or sooner. If additional evaluations are needed, a written report will be provided to DBH within the designated deadline. Assessors/investigator will be available to appear in Court during the hearing, if necessary. It is recommended that the clerk notifies the assessor/investigator of the approximate time the case will be called.

Please note: The Court will be notified, in writing, when there have been three (3) failed attempts to meet with the parties. A brief report will be provided that highlights date of contact and notes regarding contacts. Failed attempts include phone calls, no-shows, and last minute cancellations without rescheduling.

KEY PERSONNEL

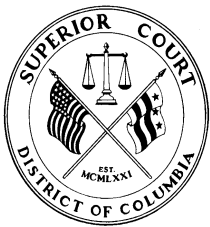
Custody Assessor Supervisor	Georggetta Howie, LICSW	LICSW; 4 years experience in assessing needs
Custody Assessor	Johari Curtis, LICSW	Minimal LGSW; 2 years experience in assessing needs
Custody Investigator	Brionna Williams	BA in Social Science or related experience and 2 years experience

Referral Notes by Scenarios

Assessment Recommendations

1. Child's Voice/Wishes:
 - a. Minor child(ren) wishes to spend more time with non-custodial parent
 - b. Parent(s) request that child is able to express wishes to a judicial officer
 - c. Minor child(ren) wishes to attend a school/extracurricular activities
 - d. Minor child(ren) wishes to live with non-custodial parent
 - e. Child reports of his/her adjustment to his or her home, school, and community
2. Overnights:
 - a. Does the home have appropriate accommodations to support overnight visits
 - b. Does any adult in the home have charges or an arrest history that could impact the safety of the minor child(ren)
3. Reconnection:
 - a. Parent has not had contact with child(ren) for an extended period of time; hopes to reconnect and have unsupervised visits
 - b. Minor child is born during one parent's incarceration and parent wishes to establish visitation
 - c. Prior involvement of each parent in the child's life
4. Parental Fitness:
 - a. Parent has history of substance abuse that has impacted parenting
 - b. Parent has untreated mental health issues
 - c. Parent mental health capacity is unknown
 - d. Parent way of discipline impacts the safety of the child
5. Special Needs Children:
 - a. Parent prevented from participating in minor child's medical treatment or education
 - b. Minor child(ren) sight, hearing, or speech is impaired and requires specialized therapy
 - c. Minor child(ren) sustained a physical injury and may be immobile for a period of time, how would this impact visitation schedule
 - d. Parents are unable to agree on medical/ therapeutic treatment of child(ren)
6. Unsubstantiated abuse allegations:
 - a. Mistreatment or inappropriate discipline
 - b. Minor child(ren) is injured during non-custodial parent's visitation
 - c. Minor child(ren) reports inappropriate touching by a family member or school-age peer
 - d. Is there reason to suspect that unsubstantiated abuse allegation could impact parenting
7. Other issues: (specifically stated):
 - a. Third-party requesting full custody after custodial parent dies
 - b. Either parent/third party having a disability that may impact their ability to parent (hearing impaired, blind, immobility, etc.)
 - c. Does religious practices impact their ability to parent
 - d. The interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest;
 - e. Capacity of the parents to communicate and reach shared decisions affecting the child's welfare

- f. The demands of parental employment
- g. The parent's ability to financially support a joint custody arrangement



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

WASHINGTON, DC 20001-2131

HOME STUDY

██████████ 2015

TO: The Honorable ██████████
Associate Judge
Family Court

FROM: Marsha Murray-Shillea, Probation Officer
LOTS Unit (202) 636-2768

RE: ██████████, Plaintiff

Vs.

██████████, Defendant

And

██████████, Intervenor

██████████, Intervenor

CASE NO: 2008 DRB ██████████

SUBJECT: Report of Court Ordered Home Study

INTRODUCTORY STATEMENT:

The Court Social Services Division (CSSD) received an order from the Honorable ██████████ to conduct home investigations for the above referenced parties. At issue is custody and visitation of the minor child, ██████████ (DOB: ██████████).

CURRENT STATUS AND STATEMENT OF PROBLEMS/GENERAL SOCIAL INFORMATION:

Ms. ██████████ is the plaintiff and biological mother of the minor child. She is seeking joint legal and joint physical custody of the minor child with the defendant, Mr. ██████████. Ms. ██████████ reported the minor child has

resided with the Intervenor since 2012, and the Intervenor was awarded temporary custody of the minor child in [REDACTED] 2015.

Ms. [REDACTED] reported the minor should be with her mother, and that she has never abused or harmed the minor child. Ms. [REDACTED] indicated she did not abandon the minor child. The plaintiff conveyed she loves the minor child, and wants the minor child to have involvement with her parents and other siblings. Ms. [REDACTED] indicated the Intervenor have made false accusations about her, and are not concerned about her other children.

Mr. [REDACTED] is the defendant and biological father of the minor child. Mr. [REDACTED] is seeking joint legal and joint physical custody of the minor child with the plaintiff, Ms. [REDACTED]. Mr. [REDACTED] reported Ms. [REDACTED] kept the minor child away from him for five years. The defendant reported he was unaware of any court documentation regarding custody of the minor child. Mr. [REDACTED] conveyed he wants to be a father and have involvement in the minor child's life.

The defendant reported he was asked by [REDACTED] and [REDACTED] to pay child support, but he is unable to have visitation. Mr. [REDACTED] reported the Intervenor have not allowed him visitation, which is against the visitation court order. Mr. [REDACTED] conveyed when he arrives to the minor child's school for pick-up there is always an excuse and he is unable to have visitation.

Mr. [REDACTED] is the Intervenor and maternal uncle of the minor child. Mr. [REDACTED] is seeking temporary full legal and full physical custody of the minor child.

Ms. [REDACTED] is the Intervenor and maternal aunt of the minor child. Ms. [REDACTED] is seeking temporary full legal and full physical custody of the minor child.

The Intervenor reported they have been the primary caregivers for the minor child since age six months. Mr. and Mrs. [REDACTED] reported they have provided a happy and healthy home for the minor child. The Intervenor reported they have also provided financially for the minor child.

Ms. [REDACTED] reported she has a good relationship with the minor child. She reported Ms. [REDACTED] did not have involvement with the minor child until there was court involvement. Ms. [REDACTED] indicated Ms. [REDACTED] only wants custody of the minor child for monetary gain. Ms. [REDACTED] reported the plaintiff was receiving social security benefits for the minor child, although the minor child was not residing in her home.

The Intervenor reported Mr. [REDACTED] wants custody of the minor child out of spite. Ms. [REDACTED] reported when the minor child has visitation with Mr. [REDACTED] he leaves the minor child home alone with his wife's children.

Ms. [REDACTED] reported the minor child does not want to visit with Mr. [REDACTED] at home. They conveyed the minor child has anxiety attacks when she visits Mr. [REDACTED]. Ms. [REDACTED] has documentation dated 1[REDACTED]/15, from [REDACTED] Medical Center providing information regarding the minor child's anxiety attacks.

The [REDACTED]'s are in favor for the minor child having visitation with Ms. [REDACTED]; however, they are not in favor of the minor child to have visitation at Mr. [REDACTED]' home.

Ms. [REDACTED] reported she pays \$283.00 for child support, and Mr. [REDACTED] pays \$50.00 for child support. The Intervenor reported there is a pending child support case for Mr. [REDACTED]. There is no child support order cited in Court View.

All parties reported mediation was attempted; however, there was no resolution.

The minor child has every other weekend visitation with Ms. [REDACTED] and Mr. [REDACTED].

PLAINTIFF: [REDACTED] (DOB: [REDACTED])

Ms. [REDACTED] is a native of the District of Columbia. She was raised by her parents. Ms. [REDACTED] is the youngest child of two children. The plaintiff described her childhood "blessed." She completed high school and later received certification for medical billing and coding. She also received certification in book keeping and accounting.

The plaintiff is currently employed as a Senior Sales Associate. She has worked in this capacity for ten years earning \$28,000.00 a year.

Ms. [REDACTED] reported she has Crohns disease and she is asthmatic. The plaintiff reported she is prescribed medication for her medical condition. Ms. [REDACTED] also reported she suffered with post-partum depression and was temporarily prescribed Zoloft. Ms. [REDACTED] denied any alcohol or drug abuse history.

A Court View civil record check and child support record check were conducted in the District of Columbia for Ms. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Court Social Services Division could not find any criminal records cited for Ms. [REDACTED].

Ms. [REDACTED] is married to Mr. [REDACTED] DOB: ([REDACTED]). The plaintiff met her husband in 2011, and they have been married since 2013. Ms. [REDACTED] reported there is no domestic violence in her marriage with [REDACTED].

Ms. [REDACTED] reported she met Mr. [REDACTED] in 2006. She indicated she dated Mr. [REDACTED] for a year, and the parties lived together for two years. Ms. [REDACTED] indicated there was no marriage with Mr. [REDACTED] and no domestic violence in their relationship.

Ms. [REDACTED] has a total of three children, including the minor child. The plaintiff's other two children are twin girls, [REDACTED] and [REDACTED] ages three. Ms. [REDACTED] has a step-son [REDACTED] age six.

HOME INSPECTION: Plaintiff

On [REDACTED]/15, a home visit was conducted with Ms. [REDACTED]. Ms. [REDACTED] reported the house is owned by her paternal grandparents, Mr. [REDACTED] and Ms. [REDACTED]. She has resided in the house since 2013, with her husband, [REDACTED] (DOB: [REDACTED]), three year-old twin daughters, and Mr. [REDACTED]'s son located at [REDACTED], Washington, D.C. [REDACTED].

Ms. [REDACTED] reported previously the mortgage was \$1,100.00; however, currently the mortgage is in reverse status. The utilities for the home are \$300.00 a month. The residence has a living/dining room combination, three bedrooms, two bathrooms, and a basement. The house was fully furnished. The kitchen contained ample food supplies and proper utensils.

The first bedroom is occupied by Ms. [REDACTED] and her husband. The second bedroom is occupied by the twin girls, and Mr. [REDACTED]'s son. The second bedroom has a bunk bed, twin day bed, dresser, end tables, television and toys. The third bedroom is reserved for Mr. [REDACTED]'s son and is currently used for storage. Mr. [REDACTED]'s five-year old son sleeps on the day bed. The basement has a family room and office area. The bathrooms were maintained. This Officer did not observe any major health or safety issues in the home.

A Court View civil record check and child support record check were conducted in the District of Columbia for Mr. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Listed below are criminal matters cited for Mr. [REDACTED] in JUSTIS:

Case No./Summary	Case File Date	Case Disposition/Sentence	Charge/Charge Disposition
[REDACTED] CDC [REDACTED] View Docket	[REDACTED] 2013	Guilty- Plea Judgment Guilty	Charge: Possession of BB Gun Disposition: Found Guilty - Plea [REDACTED] 2013
[REDACTED] DVM [REDACTED] View Docket	[REDACTED] 2005	Closed-No Papered	Charge: SIMPLE ASSAULT/DOMESTIC Disposition: Charge No Papered [REDACTED] 2005

DEFENDANT: [REDACTED] (DOB: [REDACTED])

Mr. [REDACTED] is a native of the District of Columbia. Mr. [REDACTED] reported he was raised by his maternal grandmother and maternal aunt. The defendant is the oldest child on both his parents' side of their families. Mr. [REDACTED] described his childhood as "stressful."

Mr. [REDACTED] reported he received a General Equivalency Diploma (GED), and later became employed with the Department of Public Works.

Currently, Mr. [REDACTED] is unemployed; however, is seeking employment. Mr. [REDACTED] receives weekly unemployment benefits in the amount of \$150.00.

Mr. [REDACTED] reported he has no medical or mental health conditions. He denies any alcohol or drug abuse history.

A Court View civil record check and child support record check were conducted in the District of Columbia for Mr. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Listed below is a criminal matter cited for Mr. [REDACTED] in JUSTIS:

Case No/Summary	Case File Date	Case Disposition/Sentence	Charge/Charge Disposition
[REDACTED] FEL View Docket	[REDACTED] 2005	Dismissed-Nolle-Prosequi	Charge: ADW/KNIFE - DOMESTIC Disposition: Nolle Prosequi [REDACTED] 2005 Charge: AGGRAVATED ASSAULT Disposition: Nolle Prosequi [REDACTED] 2005

Mr. [REDACTED] is married to Ms. [REDACTED]. The defendant has been married to Ms. [REDACTED] for a year. Ms. [REDACTED] has six children, [REDACTED] (DOB: [REDACTED]; [REDACTED] (age [REDACTED]); [REDACTED] (age [REDACTED]); [REDACTED] (age [REDACTED]); [REDACTED] (age [REDACTED]); and [REDACTED] (age [REDACTED]). Mr. [REDACTED] reported he has a six-year old daughter from a previous relationship.

HOME INSPECTION: Defendant

On [REDACTED]/15, a home visit was conducted with Mr. [REDACTED]. Mr. [REDACTED] has resided in this apartment located at [REDACTED], Washington, D.C. for two years, with his wife, Ms. [REDACTED] (DOB: [REDACTED] 80), and her six children.

The apartment is listed in Ms. [REDACTED]'s name and she is responsible for all the household expenses. The residence has a living room, dining room, four and a half bedrooms, and one bathroom. The apartment is furnished. The kitchen contained a small amount of food. Mr. [REDACTED] reported he planned to go to the grocery store.

The first bedroom is occupied by Mr. [REDACTED] and his wife. The second bedroom is occupied by Ms. [REDACTED]'s oldest daughter, [REDACTED]. The third bedroom is occupied by Ms. [REDACTED]'s two younger daughters. The fourth bedroom is occupied by Ms. [REDACTED]'s four boys. The half bedroom/den is reserved for the minor child, but currently is utilized for storage. When the minor child visits she sleeps in the bedroom with Ms. [REDACTED]'s daughters on an inflatable mattress. Mr. [REDACTED] reported he can purchased bedroom furniture for the den room. The bathroom was maintained. This Officer did not observe any health or safety issues in the home.

A Court View civil record check and child support record check were conducted in the District of Columbia for Ms. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Court Social Services Division could not find any criminal records cited for Ms. [REDACTED].

A Court View civil record check and child support record check were conducted in the District of Columbia for Ms. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Court Social Services Division could not find any criminal records cited for Ms. [REDACTED].

INTERVENOR: [REDACTED] (DOB: [REDACTED])

Mr. [REDACTED] was born in Lake City, Florida. He was raised by his mother. His father was not involved in his life. He is the youngest child of five children, in which one sibling is deceased. Mr. [REDACTED] reported his childhood was "normal."

Mr. [REDACTED] completed high school. He later received an Associate Degree from [REDACTED] in Criminal Justice. Mr. [REDACTED] is employed as a Driver/Operator and earns \$17.00 an hour. He has worked in this capacity for six years.

Mr. [REDACTED] reported he has no medical or mental health conditions. He denied having any drugs or alcohol abuse history.

A Court View civil record check and child support record check were conducted in the District of Columbia for Mr. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Court Social Services Division could not find any criminal records cited for Mr. [REDACTED].

Mr. [REDACTED] is married to Ms. [REDACTED]. The parties have been married for twenty-three years. Mr. [REDACTED] and Ms. [REDACTED] have no children in common. Both parties reported there is no domestic violence in their marriage.

INTERVENOR: [REDACTED] (DOB: [REDACTED])

Ms. [REDACTED] is a native of the District of Columbia. She was raised by her parents. Ms. [REDACTED] is a middle child of nine children, in which one sibling is deceased. Ms. [REDACTED] reported her childhood was "terrible."

Ms. [REDACTED] completed high school. She later received an Associate Degree from [REDACTED] for Criminal Justice. Currently, Ms. [REDACTED] is unemployed. She receives monthly social security benefits in the amount of \$546.00.

Ms. [REDACTED] reported she has vascular disease and high blood pressure. She indicated she is prescribed medication for both her medical conditions. She reported not having any drugs or alcohol abuse history.

A Court View civil record check and child support record check were conducted in the District of Columbia for Ms. [REDACTED]. In addition, a criminal background record check was conducted in JUSTIS. Listed below is one criminal matter cited for Ms. [REDACTED] in JUSTIS:

Case No./Summary	Case File Date	Case Disposition/Sentence	Charge/Charge Disposition
[REDACTED] CMD [REDACTED] View Docket	04/29/[REDACTED]	Guilty- Plea Judgment Guilty	Charge: Theft Second Degree Disposition: Found Guilty - Plea 05/29/[REDACTED]

Ms. [REDACTED] is married to Mr. [REDACTED]. The parties have been married for twenty-three years. Mr. [REDACTED] and Ms. [REDACTED] have no children in common. Both parties reported there is no domestic violence in their marriage.

HOME INSPECTION: Intervenors

On [REDACTED]/15, a home visit was conducted with Mr. [REDACTED] and Ms. [REDACTED]. The [REDACTED]'s have resided in their home located at [REDACTED] Washington, D.C. for one year and eight months. Ms. [REDACTED]'s daughter, [REDACTED] (DOB: [REDACTED]) also resides in the home.

The residence has a living/dining room combination, kitchen, three bedrooms, and two and a half bathrooms. The house was fully furnished. The kitchen contained ample food supplies and proper utensils. The [REDACTED]'s reported the monthly rent is \$1,600.00 and the utilities are \$300.00 a month.

The first bedroom is occupied by Mr. and Mrs. [REDACTED]. The second bedroom is occupied by the minor child. [REDACTED]'s bedroom has a queen size bed, chest, and television. The third bedroom is a play room for the minor child that has chalk board and toys. Ms. [REDACTED]'s daughter sleeps in the basement of the

home, which is also a play area for the minor child. The bathrooms of the home were maintained. This Officer did not observe any health or safety issues in the home.

A Court View civil record check and child support record check were conducted in the District of Columbia for Ms. [REDACTED] (DOB: [REDACTED]). In addition, a criminal background record check was conducted in JUSTIS. Court Social Services Division could not find any criminal records cited for Ms. [REDACTED].

MINOR CHILD: [REDACTED] (DOB: [REDACTED])

[REDACTED] is seven year-old female. The minor child has the medical condition costochondritis. Ms. [REDACTED] reported the minor child reached her developmental milestones within the appropriate timeframes. [REDACTED] is up-to-date with her immunizations. The minor child has DC Medicaid health insurance.

The minor child is a second grade student attending [REDACTED] Elementary School. On [REDACTED]/15, this Officer conducted a school visit. Listed below are the following grades and attendance for the minor child:

- Reading (1) – Below Basic
- Writing and Language (1) – Below Basic
- Speaking and Listening (2) - Basic
- Math (1) – Below Basic
- Social Studies – No grade
- Science (3) - Proficient
- Music (3) - Proficient
- Art (3) - Proficient
- Health and Physical Education (3) - Proficient
- World Language (3) - Proficient
- Work Habits, Personal and Social Skills – With Limited Prompting and Independently

[REDACTED] report card cites two unscheduled days and fourteen days absent.

While visiting the minor child at [REDACTED]'s and [REDACTED]'s home, [REDACTED] reported she likes Math, Art, and Science. The minor child also reported did not like visiting her father's home.

EVALUATIVE SUMMARY/RECOMMENDATION:

The issue before the Court is custody and visitation of the minor child, [REDACTED]. The plaintiff Ms. [REDACTED] is the minor child's biological mother. She is seeking joint legal and joint physical custody of the minor child with the defendant, Mr. [REDACTED]. Ms. [REDACTED] reported the minor child should have involvement with her parents.

The defendant, Mr. [REDACTED] is the minor child's biological father. He is seeking joint legal and joint physical custody of the minor child with the plaintiff, Ms. [REDACTED]. Mr. [REDACTED] indicated he wants involvement in the minor child's life and should have visitation.

The Intervenor, Mr. [REDACTED] and Ms. [REDACTED] are the maternal uncle and aunt of the minor child. They are seeking temporary full legal and full physical custody of the minor child. Mr. [REDACTED] and Ms. [REDACTED] reported they have provided stability, financially, and has always cared for the minor child. They report they can provide a happy and health home for the minor child. The [REDACTED]'s conveyed they are in favor of the minor child having visitation with Ms. [REDACTED]; however, they don't want visitation at Mr. [REDACTED]' home.

The Court has ordered mental health evaluations for all parties and a Guardian *ad Litem* is appointed.

Court Social Services Division (CSSD) defers to the Court regarding temporary and permanent custody of the minor child, [REDACTED].

Respectfully submitted,

Marsha Murray-Shillea, P.O.

Marsha Murray-Shillea, Probation Officer
(202) 636-2768 or (202) 498-6781

Approved by: LaJuan Woodland

Lawrence Weaver/LaJuan Woodland
Supervisory Probation Officers
118 Q Street, N.E., Washington, D.C. 20002
(202) 636-2761/(202) 636-2762

Guidelines for Child Custody Evaluations in Family Law Proceedings

American Psychological Association

Introduction

Family law proceedings encompass a broad range of issues, including custody, maintenance, support, valuation, visitation, relocation, and termination of parental rights. The following guidelines address what are commonly termed *child custody* evaluations, involving disputes over decision making, caretaking, and access in the wake of marital or other relationship dissolution. The goal of these guidelines is to promote proficiency in the conduct of these particular evaluations. This narrowed focus means that evaluations occurring in other contexts (e.g., child protection matters) are not covered by these guidelines. In addition, the guidelines acknowledge a clear distinction between the forensic evaluations described in this document and the advice and support that psychologists provide to families, children, and adults in the normal course of psychotherapy and counseling.

Although some states have begun to favor such terms as *parenting plan*, *parenting time*, or *parental rights and responsibilities* over the term *custody* (American Law Institute, 2000, pp. 131–132), the substantial majority of legal authorities and scientific treatises still refer to *custody* when addressing the resolution of decision-making, caretaking, and access disputes. In order to avoid confusion and to ensure that these guidelines are utilized as widely as possible, these guidelines apply the term *custody* to these issues generically, unless otherwise specified. It is no longer the default assumption that child custody proceedings will produce the classic paradigm of sole custodian versus visiting parent. Many states recognize some form of joint or shared custody that affirms the decision-making and caretaking status of more than one adult. The legal system also recognizes that the disputes in question are not exclusively marital and therefore may not involve divorce per se. Some parents may never have been married and perhaps may never even have lived together. In addition, child custody disputes may arise after years of successful co-parenting when one parent seeks to relocate for work-related or other reasons. These guidelines apply the term *parents* generically when referring to persons who seek legal recognition as sole or shared custodians.

Parents may have numerous resources at their disposal, including psychotherapy, counseling, consultation, mediation, and other forms of conflict resolution. When parents agree to a child custody arrangement on their own—as they do in the overwhelming majority (90%) of cases (Melton, Petrila, Poythress, & Slobogin, 2007)—

there may be no dispute for the court to decide. However, if parties are unable to reach such an agreement, the court must intervene in order to allocate decision making, caretaking, and access, typically applying a “best interests of the child” standard in determining this restructuring of rights and responsibilities (Artis, 2004; Elrod, 2006; Kelly, 1997).

Psychologists render a valuable service when they provide competent and impartial opinions with direct relevance to the “psychological best interests” of the child (Miller, 2002). The specific nature of psychologists’ involvement and the potential for misuse of their influence have been the subject of ongoing debate (Grisso, 1990, 2005; Krauss & Sales, 1999, 2000; Melton et al., 2007). The acceptance and thus the overall utility of psychologists’ child custody evaluations are augmented by demonstrably competent forensic practice and by consistent adherence to codified ethical standards.

These guidelines are informed by the American Psychological Association’s (APA’s) “Ethical Principles of Psychologists and Code of Conduct” (hereinafter referred to as the Ethics Code; APA, 2002). The term *guidelines* refers to statements that suggest or recommend specific professional behavior, endeavors, or conduct for psychol-

This revision of the 1994 “Guidelines for Child Custody Evaluations in Divorce Proceedings” (American Psychological Association, 1994) was completed by the Committee on Professional Practice and Standards (COPPS) and approved as APA policy by the APA Council of Representatives on February 21, 2009. Members of COPPS during the development of this document were Lisa Drago Piechowski (chair, 2009), Eric Y. Drogin (chair, 2007–2008), Mary A. Connell (chair, 2006), Nabil El-Ghoroury (Board of Professional Affairs [BPA] liaison, 2007–2008), Michele Galletta, Terry S. W. Gock, Larry C. James (BPA liaison, 2004–2006), Robert Kinscherff, Stephen J. Lally, Gary D. Lovejoy, Mary Ann McCabe, Bonnie J. Spring, and Carolyn M. West. COPPS is grateful for the support and guidance of the BPA and particularly to BPA Chairs Cynthia A. Sturm (2009), Jaquelyn Liss Resnick (2008), Jennifer F. Kelly (2007), and Kristin Hancock (2006). COPPS also acknowledges the consultation of APA Practice Directorate staff Shirley A. Higuchi and Alan Nessman. COPPS extends its appreciation to the APA Practice Directorate staff who facilitated both the work of COPPS and the revision efforts: Lynn F. Bufka, Mary G. Hardiman, Omar Rehman, Geoffrey M. Reed, Laura Kay-Roth, Ernestine Penniman, and Ayobodun Bello.

Expiration: These guidelines are scheduled to expire 10 years from February 21, 2009 (the date of their adoption by the APA Council of Representatives). After this date, users are encouraged to contact the APA Practice Directorate to determine whether this document remains in effect.

Correspondence concerning this article should be addressed to the Practice Directorate, American Psychological Association, 750 First Street, NE, Washington, DC 20002-4242.

ogists. Guidelines differ from *standards* in that standards are mandatory and may be accompanied by an enforcement mechanism. Guidelines are aspirational in intent. They are intended to facilitate the continued systematic development of the profession and to help facilitate a high level of practice by psychologists. Guidelines are not intended to be mandatory or exhaustive and may not be applicable to every professional situation. They are not definitive, and they are not intended to take precedence over the judgment of psychologists.

I. Orienting Guidelines: Purpose of the Child Custody Evaluation

1. The purpose of the evaluation is to assist in determining the psychological best interests of the child.

Rationale. The extensive clinical training of psychologists equips them to investigate a substantial array of conditions, statuses, and capacities. When conducting child custody evaluations, psychologists are expected to focus on factors that pertain specifically to the psychological best interests of the child, because the court will draw upon these considerations in order to reach its own conclusions and render a decision.

Application. Psychologists strive to identify the psychological best interests of the child. To this end, they are encouraged to weigh and incorporate such overlapping factors as family dynamics and interactions; cultural and environmental variables; relevant challenges and aptitudes for all examined parties; and the child's educational, physical, and psychological needs.

2. The child's welfare is paramount.

Rationale. Psychologists seek to maintain an appropriate degree of respect for and understanding of parents' practical and personal concerns; however, psychologists are mindful that such considerations are ultimately secondary to the welfare of the child.

Application. Parents and other parties are likely to advance their concerns in a forceful and contentious manner. A primary focus on the child's needs is enhanced by identifying and stating appropriate boundaries and priorities at the outset of the evaluation. Psychologists may wish to reflect upon their own attitudes and functioning at various points during the course of the evaluation to ensure that they are continuing to maintain an optimal focus on the child's welfare.

3. The evaluation focuses upon parenting attributes, the child's psychological needs, and the resulting fit.

Rationale. From the court's perspective, the most valuable contributions of psychologists are those that reflect a clinically astute and scientifically sound approach to legally relevant issues. Issues that are central to the court's ultimate decision-making obligations include parenting attributes, the child's psychological needs, and the

resulting fit. The training of psychologists provides them with unique skills and qualifications to address these issues.

Application. Psychologists attempt to provide the court with information specifically germane to its role in apportioning decision making, caretaking, and access. The most useful and influential evaluations focus upon skills, deficits, values, and tendencies relevant to parenting attributes and a child's psychological needs. Comparatively little weight is afforded to evaluations that offer a general personality assessment without attempting to place results in the appropriate context. Useful contextual considerations may include the availability and use of effective treatment, the augmentation of parenting attributes through the efforts of supplemental caregivers, and other factors that could affect the potential impact of a clinical condition upon parenting.

II. General Guidelines: Preparing for the Custody Evaluation

4. Psychologists strive to gain and maintain specialized competence.

Rationale. Laws change, existing methods are refined, and new techniques are identified. In child custody evaluations, general competence in the clinical assessment of children, adults, and families is necessary but is insufficient in and of itself. The court will expect psychologists to demonstrate a level of expertise that reflects contextual insight and forensic integration as well as testing and interview skills.

Application. Psychologists continuously strive to augment their existing skills and abilities, consistent with a career-long dedication to professional development. Although psychologists take care to acquire sufficient knowledge, skill, experience, training, and education prior to conducting a child custody evaluation, this acquisition is never complete. An evolving and up-to-date understanding of child and family development, child and family psychopathology, the impact of relationship dissolution on children, and the specialized child custody literature is critical to sustaining competent practice in this area. Psychologists also strive to remain familiar with applicable legal and regulatory standards, including laws governing child custody adjudication in the relevant state or other jurisdiction. Should complex issues arise that are outside psychologists' scope of expertise, they seek to obtain the consultation and supervision necessary to address such concerns.

5. Psychologists strive to function as impartial evaluators.

Rationale. Family law cases involve complex and emotionally charged disputes over highly personal matters, and the parties are often deeply invested in a specific outcome. The volatility of this situation is often exacerbated by a growing realization that there may be no resolution that will completely satisfy every person involved. In this contentious atmosphere, it is crucial that evaluators remain as free as possible of unwarranted bias or partiality.

Application. Psychologists are encouraged to monitor their own values, perceptions, and reactions actively and to seek peer consultation in the face of a potential loss of impartiality. Vigilant maintenance of professional boundaries and adherence to standard assessment procedures, throughout the evaluation process, will place psychologists in the best position to identify variations that may signal impaired neutrality.

6. Psychologists strive to engage in culturally informed, nondiscriminatory evaluation practices.

Rationale. Professional standards and guidelines articulate the need for psychologists to remain aware of their own biases, and those of others, regarding age, gender, sexual orientation, race, ethnicity, national origin, religion, disability, language, culture, and socioeconomic status. Biases and an attendant lack of culturally competent insight are likely to interfere with data collection and interpretation and thus with the development of valid opinions and recommendations.

Application. Psychologists strive to recognize their own biases and, if these cannot be overcome, will presumably conclude that they must withdraw from the evaluation. When an examinee possesses a cultural, racial, or other background with which psychologists are unfamiliar, psychologists prepare for and conduct the evaluation with the appropriate degree of informed peer consultation and focal literature review. If psychologists find their unfamiliarity to be insurmountable, the court will appreciate being informed of this fact sooner rather than later.

7. Psychologists strive to avoid conflicts of interest and multiple relationships in conducting evaluations.

Rationale. The inherent complexity, potential for harm, and adversarial context of child custody evaluations make the avoidance of conflicts of interest particularly important. The presence of such conflicts will undermine the court's confidence in psychologists' opinions and recommendations and in some jurisdictions may result in professional board discipline and legal liability.

Application. Psychologists refrain from taking on a professional role, such as that of a child custody evaluator, when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to result in (a) impaired impartiality, competence, or effectiveness or (b) exposure of the person or organization with whom the professional relationship exists to harm or exploitation (Ethics Code, Standard 3.06). Subject to the same analysis are multiple relationships, which occur when psychologists in a professional role with a person are simultaneously in another role with that person, when psychologists are in a relationship with another individual closely associated with or related to that person, or when psychologists promise to enter into another future relationship with that person or with another individual closely associated with or related to that person (Ethics

Code, Standard 3.05). Psychologists conducting a child custody evaluation with their current or prior psychotherapy clients and psychologists conducting psychotherapy with their current or prior child custody examinees are both examples of multiple relationships. Psychologists' ethical obligations regarding conflicts of interest and multiple relationships provide an explainable and understandable basis for declining court appointments and private referrals.

III. Procedural Guidelines: Conducting the Child Custody Evaluation

8. Psychologists strive to establish the scope of the evaluation in a timely fashion, consistent with the nature of the referral question.

Rationale. The scope of a child custody evaluation will vary according to the needs of a particular case and the specific issues psychologists are asked to address. Referral questions may vary in the degree to which they specify the desired parameters of the evaluation. Failure to ensure in a timely fashion that an evaluation is appropriately designed impairs the utility and acceptance of the resulting opinions and recommendations.

Application. Before agreeing to conduct a child custody evaluation, psychologists seek when necessary to clarify the referral question and to determine whether they are potentially able to provide opinions or recommendations. It may be helpful to have psychologists' understanding of the scope of the evaluation confirmed in a court order or by stipulation of all parties and their legal representatives.

9. Psychologists strive to obtain appropriately informed consent.

Rationale. Obtaining appropriately informed consent honors the legal rights and personal dignity of examinees and other individuals. This process allows persons to determine not only whether they will participate in a child custody evaluation but also whether they will make various disclosures during the course of an examination or other request for information.

Application. When performing child custody evaluations, psychologists attempt to obtain informed consent using language that is reasonably understandable to the examinee. If the examinee is legally incapable of providing informed consent, psychologists provide an appropriate explanation, seek the examinee's assent, consider the preferences and best interests of the examinee, and obtain appropriate permission from a legally authorized person (Ethics Code, Standards 3.10 and 9.03). Psychologists are encouraged to disclose the potential uses of the data obtained and to inform parties that consent enables disclosure of the evaluation's findings in the context of the forthcoming litigation and in any related proceedings deemed necessary by the court. Psychologists may find it helpful to extend a similar approach to persons who provide collateral information (e.g., relatives, teachers, friends, and employers) even when applicable laws do not require informed consent per se.

10. Psychologists strive to employ multiple methods of data gathering.

Rationale. Multiple methods of data gathering enhance the reliability and validity of psychologists' eventual conclusions, opinions, and recommendations. Unique as well as overlapping aspects of various measures contribute to a fuller picture of each examinee's abilities, challenges, and preferences.

Application. Psychologists strive to employ optimally diverse and accurate methods for addressing the questions raised in a specific child custody evaluation. Direct methods of data gathering typically include such components as psychological testing, clinical interview, and behavioral observation. Psychologists may also have access to documentation from a variety of sources (e.g., schools, health care providers, child care providers, agencies, and other institutions) and frequently make contact with members of the extended family, friends and acquaintances, and other collateral sources when the resulting information is likely to be relevant. Psychologists may seek corroboration of information gathered from third parties and are encouraged to document the bases of their eventual conclusions.

11. Psychologists strive to interpret assessment data in a manner consistent with the context of the evaluation.

Rationale. The context in which child custody evaluations occur may affect the perceptions and behavior of persons from whom data are collected, thus altering both psychological test responses and interview results. Unreliable data result in decreased validity, a circumstance that enhances the potential for erroneous conclusions, poorly founded opinions, and misleading recommendations.

Application. Psychologists are encouraged to consider and also to document the ways in which involvement in a child custody dispute may impact the behavior of persons from whom data are collected. For example, psychologists may choose to acknowledge, when reporting personality test results, how research on validity scale interpretation demonstrates that child custody litigants often display increased elevations on such scales.

12. Psychologists strive to complement the evaluation with the appropriate combination of examinations.

Rationale. Psychologists provide an opinion of an individual's psychological characteristics only after they have conducted an examination of the individual adequate to support their statements and conclusions (Ethics Code, Standard 9.01(b)). The only exception to this rule occurs in those particular instances of record review, consultation, or supervision (as opposed, in each case, to evaluations) in which an individual examination is not warranted or necessary for the psychologist's opinion (Ethics Code, Standard 9.01(c)). The court typically expects psychologists to examine both parents as well as the child.

Application. Psychologists may draw upon the court's resources to encourage relevant parties to participate in the child custody evaluation process. If a desired examination cannot be arranged, psychologists document their reasonable efforts and the result of those efforts and then clarify the probable impact of this limited information on the reliability and validity of their overall opinions, limiting their forensic conclusions and any recommendations appropriately (Ethics Code, Standard 9.01(c)). While the court eventually will have no choice but to make a decision regarding persons who are unable or unwilling to be examined, psychologists have no corresponding obligation. Psychologists do have an ethical requirement to base their opinions on information and techniques sufficient to substantiate their findings (Ethics Code, Standard 9.01(a)) and may wish to emphasize this point for the court's benefit if pressed to provide opinions or recommendations without having examined the individual in question. When psychologists are not conducting child custody evaluations per se, it may be acceptable to evaluate only one parent, or only the child, or only another professional's assessment methodology, as long as psychologists refrain from comparing the parents or offering opinions or recommendations about the apportionment of decision making, caretaking, or access. Nonexamining psychologists also may share with the court their general expertise on issues relevant to child custody (e.g., child development, family dynamics) as long as they refrain from relating their conclusions to specific parties in the case at hand.

13. Psychologists strive to base their recommendations, if any, upon the psychological best interests of the child.

Rationale. Not every child custody evaluation will result in recommendations. Psychologists may conclude that this is an inappropriate role for a forensic evaluator or that available data are insufficient for this purpose. If a recommendation is provided, the court will expect it to be supportable on the basis of the evaluations conducted.

Application. If psychologists choose to make child custody recommendations, these are derived from sound psychological data and address the psychological best interests of the child. When making recommendations, psychologists seek to avoid relying upon personal biases or unsupported beliefs. Recommendations are based upon articulated assumptions, interpretations, and inferences that are consistent with established professional and scientific standards. Although the profession has not reached consensus about whether psychologists should make recommendations to the court about the final child custody determination (i.e., "ultimate opinion" testimony), psychologists seek to remain aware of the arguments on both sides of this issue (Bala, 2005; Erard, 2006; Grisso, 2003; Heilbrun, 2001; Tippins & Wittman, 2005) and are able to articulate the logic of their positions on this issue.

14. Psychologists create and maintain professional records in accordance with ethical and legal obligations.

Rationale. Legal and ethical standards describe requirements for the appropriate development, maintenance, and disposal of professional records. The court expects psychologists providing child custody evaluations to preserve the data that inform their conclusions. This enables other professionals to analyze, understand, and provide appropriate support for (or challenges to) psychologists' forensic opinions.

Application. Psychologists maintain records obtained or developed in the course of child custody evaluations with appropriate sensitivity to applicable legal mandates, the "Record Keeping Guidelines" (APA, 2007), and other relevant sources of professional guidance. Test and interview data are documented with an eye toward their eventual review by other qualified professionals.

REFERENCES

- American Law Institute. (2000). *Principles of the law of family dissolution: Analysis and recommendations*. Newark, NJ: Mathew Bender.
- American Psychological Association. (1994). Guidelines for child custody evaluations in divorce proceedings. *American Psychologist*, 49, 677-680. doi:10.1037/0003-066X.49.7.677
- American Psychological Association. (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57, 1060-1073. doi:10.1037/0003-066X.57.12.1060
- American Psychological Association. (2007). Record keeping guidelines. *American Psychologist*, 62, 993-1004. doi:10.1037/0003-066X.62.9.993
- Artis, J. E. (2004). Judging the best interests of the child: Judges' accounts of the tender years doctrine. *Law and Society Review*, 38, 769-806. doi:10.1111/j.0023-9216.2004.00066.x
- Bala, N. (2005). Tippins and Wittman asked the wrong questions: Evaluators may not be "experts," but they can express best interests opinions. *Family Court Review*, 43, 554-562. doi:10.1111/j.1744-1617.2005.00054.x
- Elrod, L. D. (2006). A move in the right direction? Best interests of the child emerging as the standard for relocation cases. *Journal of Child Custody*, 3, 29-61. doi:10.1300/J190v03n03_03
- Erard, R. E. (2006). Tell it to the judge: A reply to Wittman & Tippins. *National Psychologist*, 15, p. 1.
- Grisso, T. (1990). Evolving guidelines for divorce/custody evaluations. *Family and Conciliation Courts Review*, 28, 35-41. doi:10.1111/j.174-1617.1990.tb01228.x
- Grisso, T. (2003). *Evaluating competencies: Forensic assessments and instruments* (2nd ed.). New York, NY: Kluwer Academic/Plenum.
- Grisso, T. (2005). Commentary on "Empirical and ethical problems with custody recommendations": What now? *Family Court Review*, 43, 223-228. doi:10.1111/j.1744-1617.2005.00020.x
- Heilbrun, K. (2001). *Principles of forensic mental health assessment*. New York, NY: Kluwer Academic/Plenum.
- Kelly, J. B. (1997). The best interests of the child: A concept in search of meaning. *Family and Conciliation Courts Review*, 35, 377-387. doi:10.1111/j.174-1617.1997.tb00480.x
- Krauss, D. A., & Sales, B. (1999). The problem of "helpfulness" in applying Daubert to expert testimony: Child custody determinations in family law as an exemplar. *Psychology, Public Policy, and Law*, 5, 78-99. doi:10.1037/1076-8971.5.1.78
- Krauss, D. A., & Sales, B. D. (2000). Legal standards, expertise, and experts in the resolution of contested child custody cases. *Psychology, Public Policy, and Law*, 6, 843-879. doi:10.1037/1076-8971.6.4.843
- Melton, G., Pettila, J., Poythress, N., & Slobogin, C. (2007). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers* (3rd ed.). New York, NY: Guilford Press.
- Miller, G. H. (2002). The psychological best interest of the child is not the legal best interest. *Journal of the American Academy of Psychiatry and Law*, 30, 196-200.
- Tippins, T. M., & Wittman, J. P. (2005). Empirical and ethical problems with custody recommendations: A call for clinical humility and judicial vigilance. *Family Court Review*, 43, 193-222. doi:10.1111/j.1744-1617.2005.00019.x

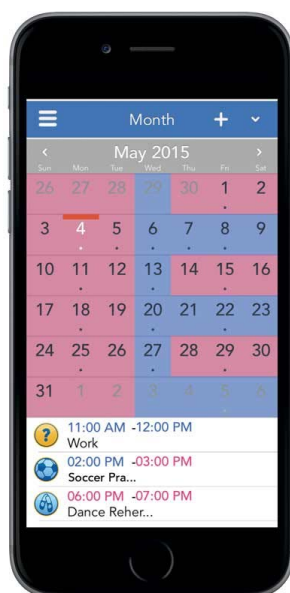


End the Custody Battle.

Create clear communication and end the "he said/she said".

[Sign Up](#)

as seen on:



The best co-parenting tools available

The OFW® website offers divorced or separated parents an array of tools to easily [schedule child custody and track parenting time](#), share important family information, [manage expenses](#) as well as create an accurate, clear log of divorce communication.

More than just an online custody calendar or visitation schedule

The OFW® website reduces divorce conflict between you and your co-parent by providing a central, secure location to document and share important information about your family. Schedule parenting time, share vital information and manage expenses like un-reimbursed medical all through OFW®.



Create your family's accounts.

Setup accounts for you and your other family members. Parent subscriptions start at just \$99 per year.



Connect to your family law professionals.

At no extra cost, you can work with your family law professionals directly through the website.



Move your family forward.

Use OFW's tools and apps to keep everyone in the loop while creating the documentation you need to avoid return trips to court.



OFW® won the 2012 Reader's Choice Award winner in About.com's "Best Online Communication Tool for Co-Parents" contest

Our Family Wizard was a very useful tool for us as we began to co-parent our child in two homes. It helped us to communicate in a way that was productive. Knowing that it could be viewed by a judge or mediator, it encouraged us to be responsible in our communication and held us accountable. In a high conflict situation, Our Family Wizard was a...

[Read more](#)

- Jeannette Green on 3/30/16

I love this site. Because not only it organizes everything for you. It also shows how the other parent acts with everything. I mean it was getting so painful with saving texts, emails etc etc. Now it shows how my ex is very controlling with situations for our daughter even she denies it. So I'm very thankful for this website.

[Read more](#)

- Stephen on 3/17/16

Nationwide	Alabama
Alaska	Arizona
Arkansas	California
Colorado	Connecticut
Delaware	Dist. of Columbia
Florida	Georgia
Hawaii	Idaho
Illinois	Indiana
Iowa	Kansas
Kentucky	Louisiana
Maine	Maryland
Massachusetts	Michigan
Minnesota	Mississippi
Missouri	Montana
Nebraska	Nevada
New Hampshire	New Jersey
New Mexico	New York
North Carolina	North Dakota
Ohio	Oklahoma
Oregon	Pennsylvania
Rhode Island	South Carolina
South Dakota	Tennessee
Texas	Utah
Vermont	Virginia
West Virginia	Wisconsin
Washington	Wyoming

Introducing a New Partner to Your Kids

3 days 23 hours ago

Dating is always complicated. From finding someone you connect with to simply gaining the courage to ask them out, there's a lot of steps involved and emotions at stake. While dating alone is complex enough on its own, it can become even more so when children are in the picture...

[Read more](#)

Sharing Kids and Parenting Responsibilities

5 days 23 hours ago

For parents, their kids are the most important part of their lives. When parents decide to divorce or separate, that doesn't change the feelings that they each have for their child. However, the break-up will affect the way that parents feel about each other. Divorce or...

[Read more](#)

Building Blocks of Effective Communication After Divorce

1 week 4 days ago

Let's face it: communicating with an ex-spouse or partner isn't always easy. Communicating effectively is often easier said than done. Feelings like anger, confusion, or nerves can make it difficult to actually say what you want or need to say. While you may have ended your...

[Read more](#)

Parents

Divorced, separated or never married? Shared child custody, parenting time and visitation schedules made easy. Communicate, organize and manage all of your family information, share messages, journals, expenses and more.

[Learn More](#)

Children

Children should be shielded from divorce communications and should not be used as messengers. Keep children out of the middle of conflict while keeping them in the loop with the right co-parenting tool.

[Learn More](#)

Courts

Empower families to help themselves, track parenting time, reduce divorce conflict and remove the "he said/she said" that keeps families returning to court over joint or shared custody and co-parenting issues. Court ordered in contested custody cases throughout the USA and Canada.

[Learn More](#)

Attorneys

Family law lawyers have to address difficult emotional and financial issues. Help your clients through their divorce by providing tools that work for managing child custody relationships and parenting time, making the divorce easier for everyone involved.

[Learn More](#)

Family Professionals

Empower your clients to move forward, protect the children from divorce conflict. Quickly setup shared custody calendars, visitation schedules or parenting plans. Information exchanged is automatically documented.

[Learn More](#)

Grandparents

The separation or divorce may have been between the parents, but the OurFamilyWizard third party account makes it easy for grandparents and others to stay in the custody loop.

[Learn More](#)

Joint or shared child custody schedule, low or high conflict divorce, can be improved by using the OFW® website.

Whether you are separated by long distance or are living in the same house, the OFW® website provides a central location for parents to document [custody calendars and visitation schedules](#), [communicate via messaging](#), [log family vital information](#), and [track expenses and reimbursement requests](#). Condensing divorce communication to OFW® will shield your children from divorce conflict and keep your family moving forward.

OFW® can help with difficult situations where there is restricted parental contact, as in the case with orders for protection, restraining orders and non-contact orders. Protect your privacy and keep the other parent informed about your child.

The best child custody app for your family, make shared parenting easy.

The Our Family Wizard website is the only custody solution to offer feature rich web access, as well as apps for Android® and iPhone®. The free OFW mobile apps give you unprecedented access to your family's information from your mobile device.

Keep children out of the middle of custody conflict by keeping them out of the middle of divorce communications.

Children should be shielded from divorce communications and should not be used as messengers. Keep children out of the middle of conflict while keeping them in the loop with the right co-parenting tool.

Avoid costly child custody calendar battles in court with documentation of divorce communications.

You can use the OFW® website to track divorce communications, child custody calendars, visitation schedules, parenting time, shared expenses and more. Every page is stamped with the last time both

®

parents viewed the page, and every entry is documented with who made it and when. The OFW website produces clear, compelling records for court. Our co-parenting tools are recommended by courts throughout the USA and Canada.

Increase the peace, end high conflict parenting in divorce and shield your children. |

[Follow us on Twitter](#) | [Follow us on FaceBook](#) | [Find us on YouTube](#) | [Find us on LinkedIn](#)

- For

Parents

Courts

Attorneys

Children
- Learn More

Features

Pricing

Solutions

Video

Help

The Our Family Wizard Website
1302 Second Street Northeast, Ste.
200
Minneapolis, MN 55413
Info@OurFamilyWizard.com
Copyright © 2000 - 2016
OurFamilyWizard.com®
Patented and Patents Pending

- Buzz

Blog

Testimonials

News

Newsletter

Share

- Technical

About Us

Contact Us

Affiliates


Partners

Resources
- Legal

Privacy

Subpoenas

Terms &
Conditions

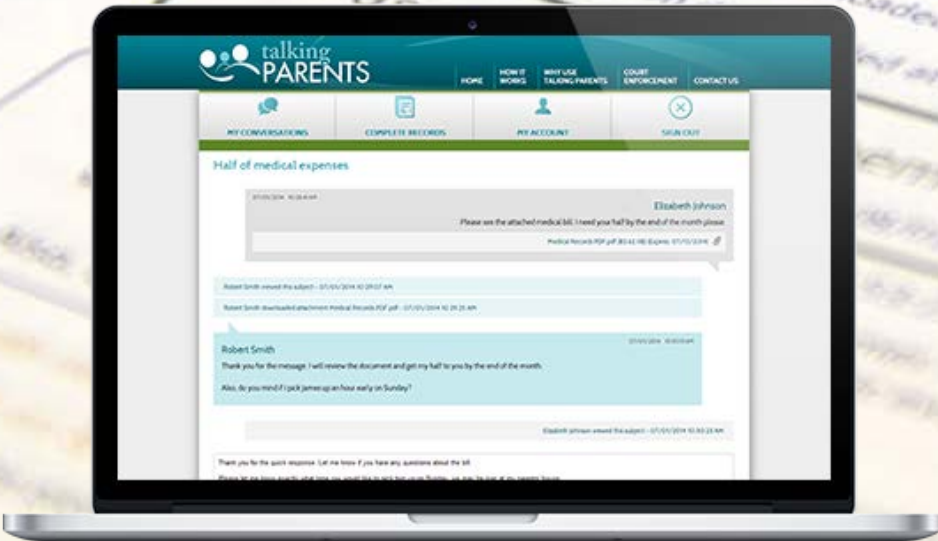



CREATE MY
FREE ACCOUNT

HOMEHOW IT WORKSWHY USE TALKING PARENTSCOURT ENFORCEMENTCONTACT US

SIGN IN

A **FREE** replacement for **email, text,** and all other **electronic messages** between **co-parents.**



- ✓ Anywhere
- ✓ Any device

- ✓ Anytime
- ✓ One complete record

We keep track of important conversations between parents that may become the subject of future litigation.

Our goal is to improve communication and help parents avoid disputes. Disputes that cannot be avoided should be easier to resolve with an accurate record.

At TalkingParents.com we keep a complete record of communications between parents. We maintain the record as an independent third party, making sure parents cannot delete or alter anything they have said. In addition to what is said, we also keep track of exactly when each communication is made, when each parent signs in or out, and even when each parent actually views a new communication.

Parents who are separated, divorced, or were never together in the first place must still communicate with each other regarding their children. Good communication is the key to a positive co-parenting environment. We bring formality and accountability to electronic communication by providing parents with a secure, accurate, and complete record of

all communications between them.

In high-conflict situations - especially those involving domestic violence - courts can order parents to communicate exclusively through our free service. Parents do not need each other's telephone numbers, email addresses, or any other actual contact information to communicate through TalkingParents.com.

In situations where parents get along well enough to discuss matters in person or over the phone, courts can simply require that any agreements reached elsewhere be clarified, verified, and documented through TalkingParents.com.

[example: Tampa, FL or 33602](#)

[Are you a lawyer? Learn more about our directory](#)

--	--	--



CREATE MY
FREE ACCOUNT

SIGN IN

HOME

HOW IT
WORKS

WHY USE
TALKING PARENTS

COURT
ENFORCEMENT

CONTACT US

Why Use Talking Parents?

Email, text messaging, and social networking sites are great, but when it comes to important communications regarding shared-parenting responsibilities and possible litigation, other forms of electronic communication are simply not up to the challenge.

Secure

Unlike other forms of electronic communication, users cannot tamper with their TalkingParents.com record. Parents cannot delete or edit anything they say. All any user can do is add to the record.

TalkingParents.com does not rely on the individual user's computer, tablet, or phone to save messages. We save and maintain a single independent record.

Reliable

TalkingParents.com is not affected by individual users' hardware or software issues. Users can't lose their information because they do not keep it themselves; we keep it secure for them. Parents communicating through our service are not compiling two separate records; they are compiling one single, comprehensive record of all communications between them.

Accurate

Because we keep the record, users are unable to alter the record. A parent communicating through TalkingParents.com cannot claim that the other parent has altered the record of communications. In addition to what is said, our records include exactly when each message is posted, every time a file is shared, and exactly when each message is first viewed, even if there is no reply.

Complete

Our records present a complete and coherent view of all communications between parents. Our records are divided into conversations and arranged chronologically. With TalkingParents.com there is no need for parents to keep up with emails, text messages, or social networking conversations. We keep all communications between parents in one place, forever.

Efficient

Lawyers walk into court every day with messy and confusing stacks of printed out emails, text messages, and screenshots from social networking sites. While these other services

Formal

No spam, no junk, no off-topic distractions. TalkingParents.com is about one thing: communication between parents regarding their children. Parents know their

Dependable

Email addresses, phone numbers, and social networking accounts come and go. People change service providers; create new accounts that eventually replace old

User Support

No other form of electronic communication is designed to do what we do and no other form of electronic communication offers the kind of specialized

may be convenient to use, none of them are designed to keep an accurate, complete, secure and readily-available record of all communications.

communications are being monitored and will be readily available to the court in the event of future proceedings. Our complete and unalterable records bring real accountability to electronic communication.

accounts; and are often forced to abandon an account because of a breach in security or an overwhelming amount of spam. All of this leads to lost messages, unreliable and incomplete records and a general lack of formality.

support we do. At TalkingParents.com we understand the needs of our users and we strive to provide a high-quality experience for the parents, lawyers, and courts who rely on our service every day.

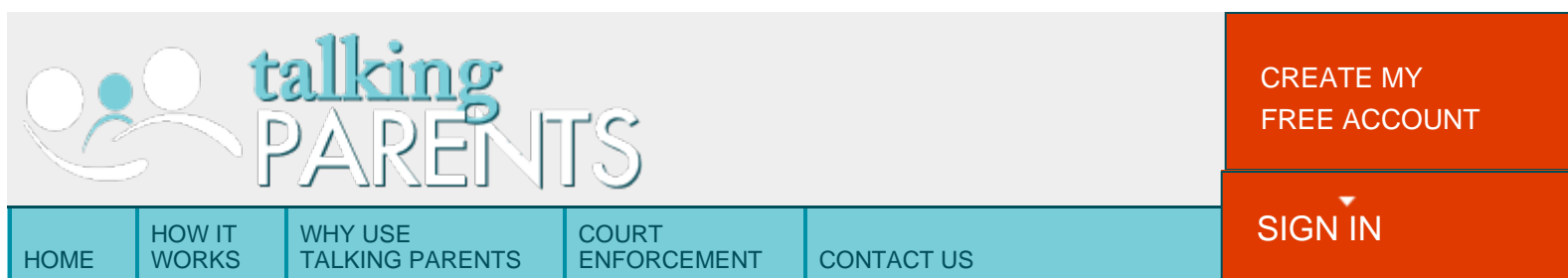
Create my Free Account

- Home
- How It Works
- Why use Talking Parents
- Court Enforcement
- Contact Us

Create my Free Account

TalkingParents.com Privacy Policy





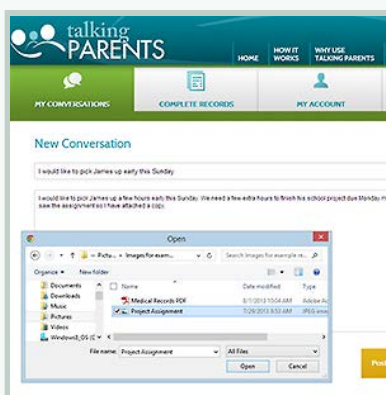
How It Works

In high-conflict situations - especially those involving domestic violence or vitriolic communication - courts can order parents to communicate exclusively through our free service. Parents do not need each other's telephone numbers, email addresses, or any other actual contact information to communicate through TalkingParents.com.

In situations where parents get along well enough to discuss matters in person or over the phone, courts can simply require that any agreements reached elsewhere be clarified, verified, and documented through TalkingParents.com.

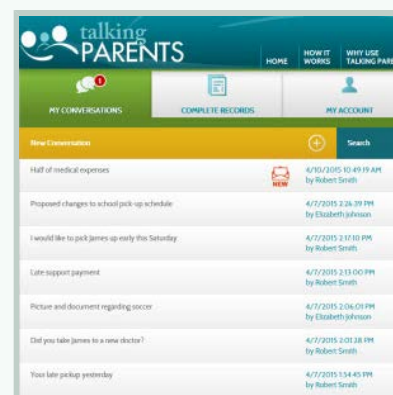
Sign up

It only takes about a minute to complete our simple sign-up form. And don't worry, we do not collect any sensitive information and we do not share your email address with the other parent. Once both parents sign up, our system matches them together and activates both accounts. Parents are notified via email when this happens. Parents can then sign in and begin communicating through our service. TalkingParents.com is designed to provide the same high-quality user experience on any phone,



Start a Conversation

Using TalkingParents.com is easy. Just sign in and start communicating. Create a new conversation for discussion at any time by clicking the New Conversation button. Parents can also attach up to five files to each message. While the files themselves do not become part of the record, the details of each upload and download are thoroughly documented. And remember, once a parent posts a message there is no way for them



View Your Messages

When a parent signs in they are taken directly to the My Conversations section. Parents can either create a new conversation or reply to a message from the other parent. Any time a parent posts a new message, the other parent will receive an email notifying them that they have a new message to view. Also, when a parent signs in, they will be notified at the top of the page when they have a new message to view.

tablet, or full-size computer.

to change or delete what they said. All any parent can do is add to the record.

Conversations containing a new message are at the top and marked with a red icon until they are viewed.



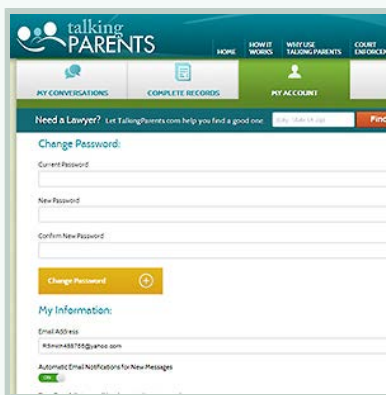
View Your Record

Parents can obtain a certified and complete record of communications in PDF format anytime for \$3.99. They can also upgrade to a Premium account which includes unlimited access to PDF records and many other features for \$4.99 per month. Parents can email electronic copies of their record directly from our site.

Parents can also order a printed, securely-bound, and personally-certified record from us for \$19 plus 19 cents per page. That price includes shipping via priority mail.

We also provide free electronic records to victims of domestic violence who need their record for an official purpose.

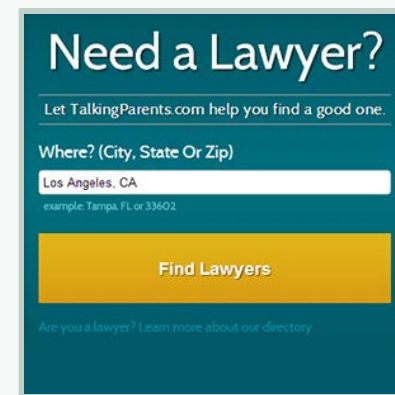
[Click here to view an example record](#)



Manage Your Account

Parents can easily change their email address, password, time zone, or contact information any time by navigating to the My Account section. They can also adjust the automatic email notifications we send when they have a new message to view at TalkingParents.com.


Parents can also upgrade to a Premium account for \$4.99 per month. Premium accounts include unlimited access to PDF records; a totally ad-free experience across all devices; a 10% discount on printed records; and access to our new iPhone and Android apps which include new message notifications right on their mobile device. Parents can cancel Premium status anytime and their account will simply revert back to a Standard account.



Find a Lawyer

We know a lot of our users are facing difficult legal situations. We cannot provide any sort of legal advice but we can help them find a lawyer in their area who supports TalkingParents.com.

Parents can search for lawyers based on location and then narrow the results by practice area or distance.

					CREATE MY FREE ACCOUNT
HOME	HOW IT WORKS	WHY USE TALKING PARENTS	COURT ENFORCEMENT	CONTACT US	

Court Enforcement

Parents, Lawyers and Courts are welcome to utilize of our service however they like to best fit the circumstances of each case or relationship.

Child Custody Actions

Parents may simply agree to use TalkingParents.com, or a court may order parents to communicate through TalkingParents.com. This may be done upon the motion of one party or upon the court's own motion. Such an order could include any of the following provisions:

- Both parties must communicate exclusively through TalkingParents.com for all non-emergency matters regarding their child(ren) and their shared-parenting responsibilities in a particular case.
- Except in an emergency, the discussion of any issue regarding the child(ren) outside of TalkingParents.com is contemptible.
- Any agreements reached outside of TalkingParents.com are void unless immediate verification is made through TalkingParents.com.

Agreements between parents to use TalkingParents.com may be filed separately as a Joint Stipulation or incorporated into any other agreement between the parties, such as a marital settlement or paternity agreement. Agreements may then be ratified or incorporated by an order of the court.

Domestic Violence

Our service has traditionally been a tool for use in divorce, paternity, and other child custody related actions but it can be an invaluable resource any time domestic violence involves parents.

TalkingParents.com is a great way to monitor communications between parents when one parent is accused or convicted of an act of domestic violence. Mandatory use of our service can be ordered pursuant to:

- A protective order, injunction, or restraining order resulting from domestic violence between parents.
- A bond or pre-trial release condition in criminal cases.
- A condition of probation.
- Any other situation or case involving domestic violence between parents.

Records

Parents can obtain a certified and complete record of communications in PDF format anytime for \$3.99. They can also upgrade to a Premium account which includes unlimited access to PDF records for \$4.99 per month. Parents can email electronic copies of their record directly from our site. Parents can also order a printed, securely-bound, and personally-certified record from us for \$19 plus 19 cents per page. That price includes shipping via priority mail.

We provide free electronic records to victims of domestic violence who need their record for an official purpose.

All records contain the following certification:

- This document is a record of regularly conducted business activity compiled, stored, and made available by TalkingParents.com. TalkingParents.com keeps this record in the course of regularly conducted business activity and it is the regular practice of TalkingParents.com to do so. Maintaining such records is indeed the primary function of TalkingParents.com.
- This record was made at the time of the occurrence of the matters set forth by it. In other words, this record is automatically compiled in real time as users access and use TalkingParents.com.
- This record was kept, and continues to be kept, in the course of the regularly-conducted business activity of TalkingParents.com.
- This record was made as a regular practice by TalkingParents.com in the course of the aforementioned regularly-conducted activity.

[Click here to view an example record](#)

Example Orders

There is no right or wrong way for a court to use TalkingParents.com. The language below is purely for example purposes. You are welcome to use it verbatim or copy and paste, but feel free to create your own unique orders to suit your specific needs.

Mandatory and exclusive use of TalkingParents.com may be necessary for cases involving parents who keep coming back to court because they simply cannot communicate effectively. Such use could be incorporated into just about any order of the court regarding a divorce, paternity, or other child-custody related action. For example:

The Court, finding that both parties have adequate access to the internet for said purposes, orders the following:

Due to ineffective, vitriolic, or otherwise poor communication between the parties, the Court orders both parties to go to www.TalkingParents.com and create an account within ____ days of this order.

Communication between the parties will be limited to matters regarding their child(ren) and will be made only through the TalkingParents.com service. Any communication or attempted communication by either party, or by a third party at either party's request, outside of TalkingParents.com will be contemptible and may result in sanctions including but not limited to incarceration.

The only exception to this condition would be in the event of a medical emergency regarding the child(ren) in which case either party may contact the other via other means to notify them of such an emergency. Any agreements reached regarding the child(ren) as a result of such emergency-related communication must be

clarified, verified, and documented through TalkingParents.com in a timely manner.

If the parties are already using the TalkingParents.com service then they will continue to do so pursuant to the terms above.

The Court may also want to limit what evidence will be admissible in future proceedings. For example:

In all future court proceedings related to the shared-parenting agreement, the only admissible evidence regarding communication between the parties will be limited to the record maintained by TalkingParents.com.

The only situation where other evidence of communication between the parties will be admissible is when the evidence relates directly to a medical emergency and the communications regarding that emergency.

When parents get along well enough to discuss matters on their own, or even when parents get along great, it is still a good idea for them to keep a permanent log of all important decisions and disputes regarding their child(ren). TalkingParents.com can be utilized from the very beginning to hopefully keep parents from coming back to court as often and to make whatever litigation does occur a little more efficient. In these situations courts can simply recommend TalkingParents.com, or the Court can require parents to use it on a limited basis, for example:

The Court, finding that both parties have adequate access to the internet for said purposes, orders the following:

In the interest of promoting effective and efficient communication between the parties, and in the interest of maintaining a good record of all decisions regarding the parties' child(ren), the Court orders both parents to go to www.TalkingParents.com and create an account within ____ days of this order.

While the Court places no restrictions on how, when, or where the parties may communicate with each other, the Court does require both parties to clarify, verify, and document all important decisions regarding their child(ren) through the TalkingParents.com service.

To make such an order more meaningful, the Court may consider adding a provision such as this:

In the event of a disagreement between the parties related to a decision regarding their child(ren), the burden will be on the moving or petitioning party to show that the decision in question was documented through the TalkingParents.com service in a timely manner after it was discussed by the parties. If the matter was not documented through the TalkingParents.com service in a timely manner, then, absent exigent or extraordinary circumstances, the moving or petitioning party will be barred from making any claim or seeking any relief related to the undocumented issue.

For example: If Party A and Party B agree on their own that Child will learn to play the guitar and that the parties will split the cost of the instrument and lessons equally, then it will be incumbent on both parties to document said decision through TalkingParents.com.

If Party A then purchases the instrument and lessons, and provides notice to Party B for reimbursement for half of the expenses, but Party B refuses to pay and claims that they did not have an agreement, then Party A will only be able to seek relief in court if the details of the agreement were documented through TalkingParents.com in a timely manner after the agreement was reached, thus giving Party B an opportunity to clarify their position.

The purpose of this provision is to encourage effective communication between the parties and to avoid future litigation. A further purpose is to make any litigation that does occur more efficient.

If the parties are already using the TalkingParents.com service then they will continue to do so pursuant to the terms above.



MEDIATION DATE:

MEDIATION TIME:

Jeannie M. Adams, Division Director



What is Mediation?

Mediation is a voluntary process that offers parties an opportunity and setting to discuss issues of communication, separation, divorce, child custody, visitation and support, alimony, debt, division of property and other family matters. Parties will be able to share their views and have an opportunity to address important issues in a cooperative and constructive way. Our aim is to provide a collaborative environment in which parties can creatively address their needs and those of their children, and to assist in drafting and negotiating and drafting agreements to guide future relations.

Is mediation confidential?

Yes! All matters discussed and disclosed in mediation are protected by Multi-Door's policy of confidentiality and the DC Uniform Mediation Act. With the exception of the actual written agreement, nothing said or disclosed in mediation is allowed in court, and mediators may not testify. The only other exceptions are threats made by a party or alleged child abuse or neglect.

Who participates in mediation?

- ◆ Parents and/or custodial adults
- ◆ Attorneys with both parties consenting
- ◆ Mediator(s)

Who are the mediators?

Our mediators are trained professionals who help you identify issues, clarify needs, and consider options that help you to come to an agreement. Mediators are neutral and do not give advice or render decisions. Instead, they facilitate a positive discussion and provide an atmosphere that encourages consideration both of parties' realistic needs and the interests of their children.

How can mediation help?

Mediation is a unique opportunity to speak with professionals about the family, to express concerns, and to resolve your case without the emotional and financial cost of going to trial. Mediation removes the unpredictability of trial, and it allows parties more time for trying to creatively solve problems. In this manner, mediation helps families heal and rebuild their lives, and it encourages future collaboration.

What to expect at mediation:

The mediator leads a structured conversation about the issues in the case. The mediators will speak with the parties jointly and separately and will ask each party to document all issues involving financial terms. Sessions are usually two hours long and a case generally takes 3-4 sessions to reach conclusion.



What to expect after mediation:

If an agreement is reached, the mediator will draft the agreement. The Family Mediation Program Branch Chief then reviews the agreement before it is submitted to parties for review. Clients are encouraged to request that their attorney review it as well. Once the parties approve the final draft, the agreement may be signed and submitted to the judge if it is a court case. Mediation agreements may also be merged into court orders. If an agreement is not reached, court-referred parties will return to the court process for trial.

Where is the mediation held?

Multi-Door Dispute Resolution Division
Court Building C
410 E Street, NW, Room 1700
202-879-1549

Tips for attending mediation:

Parties should allow 2 hours for a mediation session.

Please do not bring children to mediation. The DC Court day care center in the main courthouse is available from 9:00am – 4:30pm if your child is at least two years of age and able to use the restroom without assistance. The phone number is 202-879-1759.

How to Prepare for Mediation

You can prepare for mediation by doing the following:

- ◆ Complete an intake process with a Dispute Resolution Specialist.
- ◆ Consider the concerns and issues that need to be discussed.
- ◆ Arrive at least 15 minutes before your mediation session is scheduled to begin.
- ◆ CALL if you will be late or must cancel. Unannounced cancellations can lead to termination of the mediation.
- ◆ Be prepared to locate and bring in necessary documentation, including W2's, pay stubs, court orders, etc.

Does mediation work?

Yes! In 2010, 95% of the parties were satisfied with the **Mediation Process**, 89% were satisfied with the **Outcome** and 96% were satisfied with the **Performance** of the Mediators.





D.C. Family Court PAC Program

The Program for Agreement and Cooperation in Contested Custody Cases (PAC) was initiated as a pilot program in 2006 pursuant to D.C. Superior Court Administrative Order 07-06, <https://www.dccourts.gov/sites/default/files/2017-03/07-06.pdf> . As of mid-2009, the court in practice expanded the program to all non-consent domestic relations cases in which custody is an issue. In 2016, the court issued Administrative Order 16-03, <https://www.dccourts.gov/sites/default/files/2017-06/16-03-Establishing-PAC-Supersedes-07-06-March-14-2016.pdf> , which updates the PAC protocol.

The program consists of a parent education seminar and mediation. “PAC dates” – the parent education seminar and mediation intakes for the parties – are typically scheduled at the initial court hearing. The program is free.

The parent education seminar is a group session, not an individual one, which is held in the courthouse. The court will typically schedule the parties for different dates (or can be requested to do so). A session for children ages 6 to 15 is conducted at the same time in a different part of the courthouse. The purpose of the sessions, as set forth in the Administrative Order, is to educate parents about the impact of custody disputes on the children, the importance of insulating children from the process, help parties develop conflict-free ways of communicating, help the children cope with the emotional stress and practical consequences of a separated family, and foster healthy co-parenting relationships.

Mediation is conducted through the court’s Multi-Door Dispute Resolution Division. Mediation is confidential. Attorneys can be present if all parties consent. Multi-door will usually schedule up to five sessions without further directive from the court. Parties are free to stop mediating at any time.

If there are domestic violence issues that you believe should have an impact on the structure of mediation or on whether mediation should be undertaken at all, that can be brought to the attention of the program and/or the judge.

The Multi-Door Dispute Resolution Division can be contacted at 202-879-1851 or 879-1549.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ORDER 07-06

(Parent Education Pilot Program)

WHEREAS, in 2005 the Family Court of the Superior Court of the District of Columbia received 1305 complaints for custody, as well as 1692 complaints for contested divorce and legal separation, many of which involved contested custody issues; and approximately 70% of cases involving contested custody issues proceeded without the assistance of counsel;

WHEREAS, a national model for educating parents on the impact on children of high conflict custody proceedings has been developed which provides parents and other caretakers involved in contested custody litigation with education, skills, and mediation services to: (1) understand the harm their conflict causes children, (2) understand the importance of insulating children from the conflict, (3) help the parties develop conflict-free ways to communicate with each other, (4) generally help the children cope with the emotional stress and practical consequences of a separated family and (5) foster healthy co-parenting relationships; and

WHEREAS, the Domestic Relations, Paternity and Support Subcommittee of the Family Court Implementation Committee has created a pilot project known as the Program for Agreement and Cooperation in Contested Custody Cases (PAC) that includes educational seminars for parents and other caregivers and, at an age appropriate level, for children based on the national model:

NOW, THEREFORE, it is, by the Court,

ORDERED, that a pilot program known as the Program for Agreement and Cooperation in Contested Custody Cases (PAC) is hereby established in the manner set forth below:

- The PAC program will be instituted as a pilot program on one of the six Domestic Relations Calendars that handle divorce, custody, and legal separation cases in the Family Court;
- The PAC program will apply to all litigants involved in cases that have custody or visitation as a contested issue on that calendar. In cases involving domestic violence, parents and other caretakers will be screened to determine the manner of participation in the PAC program;
- Whenever litigation is commenced that includes an issue of contested child custody, the case will be assigned to the PAC program docket and a Notice of Hearing and Order to Appear ("NOHOTA") will be issued that includes a scheduled date for a parenting education seminar and a scheduled appointment for mediation at the Multi-Door Dispute Resolution Division;

- the NOHOTA shall be served with the summons and complaint or within 20 days of issuance whenever it is issued at the behest of any party other than the plaintiff;

- Parties in PAC program cases will be required to attend a parenting education seminar, at the same time their children attend a separate, age appropriate children's seminar;

- Participation in the PAC program will be without prejudice to any party's ability to seek and obtain child support or emergency relief prior to completion of the education and mediation process.

- Apart from procedures necessary to accommodate the education seminars and mediation sessions, cases in the PAC program will be subject to all of the provisions of law and rules of procedure otherwise applicable.

It is further,

ORDERED, this order shall remain in effect until February 1, 2008.

SO ORDERED.

BY THE COURT

Date: March 23, 2007

/s/
Rufus G. King, III, Chief Judge

Copies to:

Judges
Presiding Judge, Family Court
Senior Judges
Magistrate Judges
Executive Officer
Clerk of the Court
Director, Family Court
Director, Multi-Door Dispute Resolution Division
Program Director, PAC
Library

DC SUPERIOR COURT INFORMATION

Moultrie Courthouse (main courthouse)
500 Indiana Avenue, NW, Washington, DC 20001
Court Main Information Number: (202) 879-1010

Judge contact information and daily courtroom assignment list:
<https://www.dccourts.gov/superior-court/judges>

DOMESTIC RELATIONS JUDGES AND CLERKS

<u>Judge</u>	<u>Chambers</u>	<u>Clerk</u>	<u>Clerk Email</u>	<u>Clerk Phone</u>	<u>Court Room</u>
Deputy Presiding Judge Krauthamer, Peter	1630	Jesse Goinis	Jesse.Goinis@dcsc.gov	879-1264 Chambers: 879-1264	JM-9
Deputy Presiding Judge Di Toro Jennifer	1510	Naomi Iser	JudgeDiToroChambers@dcsc.gov	879-1695	JM-12
Becker, Julie	5520	Greg Carter Saeeda Joseph-Charles	JudgeBeckerChambers@dcsc.gov Gregory.Carter@dcsc.gov Saeeda.Joseph-Charles@dcsc.gov	879-3396 879-3395 Chambers: 879-3397	104
Christian, Erik	3520	Matthew Orchant Elizabeth Johnson	JudgeEChristianchambers@dcsc.gov Matthew.Orchant@dcsc.gov Elizabeth.Johnson@dscs.gov	Chambers: 879-1760	JM-13
Leibovitz, Lynne	2510	Caroline Fear	Caroline.Fear@dcsc.gov	Chambers: 879-0441	102
Nooter, William	5520	Taylor Halcromb	JudgeNooterChambers@dcsc.gov	879-1934 Chambers: 879-1780	JM-5
Wellner, Steven	3440	Julia Maloney Iris Micklavzina	JudgeWellnerChambers@dcsc.gov Julia.Maloney@dcsc.gov	879-3392 Chambers: 879-3390	101
Wingo, Elizabeth	3440	Geoffrey Witherspoon	JudgeWingoChambers@dcsc.gov	879-3282	518
Soltys, Darlene	5520	Grace Lee Theresa Socash	Grace.lee@dcsc.gov Theresa.socash@dcsc.gov	879-2080	JM-14

<u>Judge</u>	<u>Chambers</u>	<u>Clerk</u>	<u>Clerk Email</u>	<u>Clerk Phone</u>	<u>Court Room</u>
Magistrate Judge Julie Breslow	4450	Isabel Gomez	magistratejudgebreslowchambers@dcsc.gov	879-1488 Chambers: 879-4740	99
Magistrate Judge Tyrona DeWitt	4450	Elizabeth Gresk	magistratejudgedewittchambers@dcsc.gov	879-1581 Chambers: 879-1169	JM-8
Magistrate Judge Tara Fentress	4450	Brittney Martin	magistratejudgefentresschambers@dcsc.gov	879-4870 Chambers: 879-9968	106
Magistrate Judge Lloyd Nolan	4450	Brittney Martin	magistratejudgenolanchambers@dcsc.gov	879-4870 Chambers: 879-8343	108
Magistrate Judge Noel Johnson	4450	CadeAnn Smith	magistratejudgejohnsonchambers@dcsc.gov	879-4807 Chambers: 879-0431	JM-11
Magistrate Judge Tanya Jones Bosier	4450	David Han	magistratejudgejonesbosierchambers@dcsc.gov	Chambers: 879-1463	JM-16
Magistrate Judge Shelley Mulkey	4450	Michael Chandeck	magistratejudgemulkeychambers@dcsc.gov	879-4626 Chambers: 879-4349	JM-17
Magistrate Judge Shana Matini	4450	Daniel McCormick	Magistratejudgematinichambers@dcsc.gov	879-9962	JM-17
Magistrate Judge Jorge Vila	4450	Betty Gentry	magistratejudgevilachambers@dcsc.gov	879-9968	JM-16

SUPERIOR COURT OFFICES

Moultrie Courthouse (main courthouse):
500 Indiana Avenue NW
Washington, DC 20001

Court Building B:
510 4th Street NW
Washington, DC 20001

Court Building A:
515 5th Street NW
Washington, DC 20001

Court Building C:
410 E Street NW
Washington, DC 20001

<u>Office</u>	<u>Main Phone</u>	<u>Room</u>	<u>Division Contact</u>
Assessment Center (a division of the DC Department of Behavioral Health)	724-4377 Fax: 202-724-2383	300 Indiana Ave. NW Room 4023	Debbie Allen Debbiel.allen@dc.gov LaShanq Johnson Lashanq.johnson@dc.gov
Crime Victims Compensation Program	879-4216	Court Building A Room 109	Darrell Hale, Acting Director
Domestic Relations Branch Clerk	879-1660	Moultrie Courthouse Room JM 300	Thomas Whitaker Corey Thompson
	879-1411		Anitra Chastine, Section Supervisor
	879-1261		

<u>Domestic Violence Unit</u>	879-0157	Moultrie Courthouse Room 4400	Betty Fraizer
<u>Family Court Central Intake Center</u>	879-8743	Moultrie Courthouse Room JM 540	Roderick Norris
Family Court Operations	879-1633 879-1633	Moultrie Courthouse Room 4240	Avrom Sickel, Esq., Director Toni F. Gore, Deputy Director
<u>Family Court Self-Help Center</u>	879-0096		John King
Custody Assessor Unit	879-0130	Moultrie Courthouse Room 4201	Custody Assessor: Johari Curtis LICSW
			Investigator: Brionna Williams
			Supervisor: Georggetta Howie LICSW
			georggetta.howie@dcsc.gov
<u>Multi-Door Dispute Resolution Division and Program for Agreement and Cooperation in Contested Custody Cases</u>	879-1549	Court Building C Room 2900	Jeannie M. Adams, Director
	879-0670		Suzanne Rose, Family Mediation Program Officer
	879-0676		Janice Buie, Family Branch Chief
	879-3180		Main Number
		Mediation intake available in Moultrie Courthouse Room JM 5 Anteroom, Monday – Thursday 9:00 am to 12:00 pm	
<u>Supervised Visitation Center</u>	879-0482 879-4253	Court Building A Room 112	Gale Aycox

Pro Bono Attorney DC Superior Court Tour – July 26, 2018

1st Floor

1) Information Desk

- The Information Desk has a notary. The cost is \$5 per signature.
- You can also call court information (202-879-1010) or check the court's website for important updates (e.g. weather closings or other emergency closures).

2) After-Hours Filings

- Clerk's offices are generally open 8:30 a.m. to 5:00 p.m. However, if you need to file a document outside office hours, it is possible to do so in the after-hours filing area (a non-issue if you are e-filing in a case).
- On the first floor, to the left side of the Information Desk, there is an after-hours filing area. Date stamp the filing and place it in an envelope in the appropriate slot (most often the "Family Court" slot). It is best to email a courtesy copy to the judge's chambers as well.
- After-hours filing is not relevant to many of your cases as e-filing is mandatory for litigants in neglect and most domestic relations matters (except for *pro se* parties and legal services attorneys).

3) Domestic Relations Courtrooms

- Judge Wellner – 101
- Judge Leibovitz – 102
- Judge O'Keefe – 103
- Judge Becker – 104

4) Neglect and Abuse Courtrooms

- Judge Breslow – 99
- Judge Fentress – 106
- Judge Nolan – 108

5) Paternity and Child Support Courtrooms

- Judge Vila – 109
- Judge Brenneman – 110

6) Domestic Violence Courtrooms:

- Judge Raffinan – 113
- Judge Ryan – 114

7) Associate Judges' Chambers (mainly 1st and 2nd floors)

- You can ask the Information Desk where the particular judge's chambers are.
- Chambers are located on the outer rim of the floors. In order to access them, you will need to use the call box located by the doorways on either side of each floor as you step off the escalator. Indicate your name, where you are from, and what chambers you would like to visit. The security guard will call chambers to see if anyone is in. If they are, the security guard will buzz you in.
- The most likely reason you'd visit chambers is to drop off a courtesy copy of a filing if you have not already done so via e-mail. When doing so, locate the room and leave the copy with the chambers' staff. If you are not permitted access, there are mail slots near the information desk that can be used. Typically, you will e-mail instead.

JM Level

8) JM Level Courtrooms

Domestic Relations Courtrooms

- Judge Anderson – JM-14
- Judge Nooter – JM-5
- Judge Christian – JM-13

Neglect and Abuse Courtrooms

- Judge DeWitt- JM-8
- Judge Albert – JM-10
- Judge Johnson – JM-11
- Judge Jones Bosier – JM-16
- Judge Mulkey – JM-17

9) Juvenile/Neglect/Domestic Relations Clerks' Office (Room JM-300)

- There are separate windows for the different types of case matters
- If you need specific documents from your case, a clerk will print them for you, provided they are scanned into the court database. Most cases from 2012 and after are available, with the exception of documents that have been filed in the past few days.
- Neglect clerk:
 - To copy a court file from the neglect office, you will need to fill out a green or red card to have the file mailed. This card requires the docket number, the social file number and the child's name. Use a green card when sending the copied file to a domestic address in the U.S. Use a red card when sending the copied file to an international address. If you simply wish to take a copy of the file with you, you do not need to fill out a green or red card. You will need to indicate your name and the reason for pulling the file (simply stating "copy" is sufficient).
 - Please note that the lawyers only have the right to access the neglect file if their client is a party to the case. Not all foster parents are parties so representing a foster parent in a

- neglect case does not automatically entitle one to party status. This is one of the initial questions you should ask your client/other parties.
- Paralegal/investigator needs to have a letter indicating he/she works for attorney of record.
 - The copier is free, but you must provide ID in exchange for copy card.
 - You cannot remove documents from this clerk's office.
 - Domestic Relations clerk:
 - This office processes case filings for divorce, annulment, legal separation, custody, visitation, standby guardianship, foreign judgments, foreign subpoenas, adoption, and termination of parental rights (TPR).
 - If you are seeking a certified copy of a Domestic Relations order, there is a fee of \$3.50. (They are the only office that has a fee for this.) The dockets for these files are free of charge, but there is sometimes a charge for printing specific documents. Those fees are customarily waived if you are serving as the guardian *ad litem* (GAL) in a custody matter.

10) Paternity and Child Support Branch (Room JM-300)

- These cases can be helpful background material for custody cases.
- You may also access child support printouts in this office.
- There are two types of cases – SUP and PCS. PCS cases (where paternity is an issue) cannot be accessed. If you would like access to a PCS case, you may be able to file an application to inspect depending on your role on the case.

11) DNA Testing Lab (JM-175)

- Testing is available at no cost in neglect matters; available for a fee and upon request in domestic relations matters (usually requesting party pays).
- Testing is done on site through a lab that contracts with the court.
- Results are available to parties within a few weeks.

12) Mayor's Liaison's Office (JM-185)

- The Mayor's Liaison's Office is another resource that can be used to obtain drug test results in juvenile and neglect matters. They have their own form. You can find additional resources here as well, including a representative from District of Columbia Housing Authority (DCHA).

13) Marriage Bureau (JM-690)

- DC Superior Court issues marriage licenses to couples who intend to be married within the District of Columbia, regardless of where they reside.
- The DC Code requires a three-day waiting period from the date an application is received before the Marriage Bureau may issue a license.
- Couples may elect to have a proxy apply on their behalf.
- The cost is \$35 for the license, plus \$10 for the certificate.

14) Mediation Intakes (JM-5 Anteroom)

- Parties can go for mediation intake.
- Intakes are held Monday-Thursday from 9:00 a.m. to 12:00 p.m.
- Walk-ins are welcome.

15) Central Intake Center (CIC)

- E-filing is now mandatory in most family court cases, except for *pro se* parties who have *in forma pauperis* (IFP) status and legal services organizations. Even if you are required to e-file, initial complaints must still be filed at CIC.
- E-filing fees are waived for GALs in custody cases (use the code “dccourtapprovedgal”), and for any party who has IFP status, use the code “dccourtapprovedifp.”
- There is no e-filing in adoption cases (either private or related to a neglect matter).
- You generally need to have three copies of everything (the original for the court file, one courtesy copy for the judge, and one copy for your files). The clerk will keep the original. Make sure to date stamp the copy for the judge and yourself.
- If you are asked to file something in a neglect case with more than one child or case number, the court will keep a copy for each child. In other words, the court keeps the original for the first child, and another copy for each subsequent child. Remember to bring the appropriate number of copies.
- All filing fees are paid at CIC, and if not IFP status, range from \$20 (motion) to \$80 (complaint).

16) Family Court Self-Help Center (Room JM-570)

- The Self-Help Center is a free walk-in service that provides unrepresented people with general legal information in a variety of family law matters (i.e., divorce, custody, visitation, child support). NOTE: The Self-Help Center will not assist parties with discovery.

C Level

17) Pretrial Services Agency (C-220)

- Pretrial Services Agency offices are located on this level in room C-220, including an in-house laboratory for drug testing. For Domestic Relations cases, you should ask chambers for results.

18) Child Care Center (C-185)

- The court’s Child Care Center is located in room C-185 and is open from 8:30 a.m. to 5:00 p.m. Children ages 2-12 are allowed, provided they are toilet-trained and not in diapers or pull-ups. Medical documentation is not required for the first visit, but immunization records are required for subsequent visits. The Child Care Center does not provide lunch and is closed from 1:00-2:00 p.m.

19) Firehook Bakery

- Firehook Bakery runs the court cafeteria, which is located on the C level.

4th Floor

20) Criminal Records Division (Room 4001)

- This office contains records for closed criminal cases (i.e., misdemeanors, traffic violations, felonies, and bench warrants) from D.C.
- You only need the individual's name (try multiple derivations), but it is best to have the date of birth as well. Make sure the name is in all capitals when you enter it into the appropriate fields. The search will not work if it is in lowercase.
- Recent court documents (from the past 5-10 years) have been scanned into the computers, but you will occasionally need to pull the criminal jacket. To do so, sign in at the desk, then fill out a green card that indicates the case number (you can obtain this number by conducting a criminal background check).
 - Criminal files are public documents. In order to see the file, you will need to leave a photo ID with the clerk. You can remove the jacket and go to any copier in the courthouse. Printing documents from criminal matters can be done at no cost, but you must bring your own paper.
 - There is a time limit of 15 or 20 minutes, BUT it is not always observed.
- If the case is too old, you will need to complete an archives request to view the file. These generally take two weeks to be returned; however, they can take much longer. It is helpful to keep a copy of the archives request form that you fill out so that you can call later and check on the status of the file. The criminal records office will call you when the file is ready to be picked up, but you should mark your calendar to follow up with them 2-3 weeks later.
- You may obtain certified copies of Judgment and Commitment Orders and probation orders here. You will need to make a copy from the criminal file or print it from a computer (if it has been scanned). Provide the clerk with the copy to be certified. Criminal documents are certified for free.

21) Criminal Finance Office (Room 4000)

- This is the office to post bond, pay restitution, and receive witness vouchers. The phone number is (202) 879-1840.

22) Judge-in-Chambers (Room 4220)

- This is where you bring *in forma pauperis* (IFP) requests.
- If you are requesting IFP status when filing the initial complaint, you must attach the complaint to the IFP request. Once it is approved, you must file proof of IFP and the complaint at Central Intake Center.

23) Domestic Violence (DV) Unit (Room 4510)

- Hears cases in which parties request protection orders against persons related by blood, legal custody, marriage, having a child in common, sharing of the same residence (currently or in the past), having a romantic dating relationship (currently or in the past), parties with a partner in common (currently or in the past), or parties who claim they have been stalked.
- Judges in the DV Unit also hear cases alleging violations of protection orders and all misdemeanor criminal cases involving an intra-family offense. When appropriate, judges in the DV Unit also adjudicate related divorce, custody, visitation, paternity and support cases involving the same parties, as well as certain related civil actions.
- Petitions, service of process, motions, etc. filed in the DV Unit are free of charge.

- The Metropolitan Police Department serves protection order petitions and motions at no charge when the receiving party resides or works in the District of Columbia and a valid home or work address is provided by the party seeking the protection order. In addition, the Unit has an agreement with the sheriff's departments of Maryland and Virginia counties to accomplish service free of charge.
- Courtview (the court's database) is available at the computers in this office. You can log on (password at desk) and print off case documents. Make sure to bring your own paper for the printer.
- To access files that have not been scanned into Courtview, speak with the clerk at the desk.

24) Domestic Violence Intake Center (DVIC) (Room 4550)

- Representatives from DC Office of the Attorney General, DC Survivors and Advocates for Empowerment, DC Metropolitan Police Department, DC Coalition Against Domestic Violence, and US Attorney's Office are located here. Advocates are available in the DVIC to assist survivors of intimate partner violence with petition writing, emergency housing, and other crisis intervention services.

25) Counsel for Child Abuse and Neglect (CCAN) Office (Room 4415)

- CCAN is responsible for the assignment of attorneys in child abuse and neglect cases.
- The office consists of an attorney (Kimberley Cruz, Branch Chief), social worker, and 3 deputy clerks.

26) Magistrate Judges' Chambers (Room 4450)

- You may visit the magistrate judges' chambers to obtain the assigned judge's signature for an adoption subpoena and/or deliver courtesy copies. Place the courtesy copy of any pleadings in an envelope, indicate the judge it is to be delivered to, and leave the envelope with the receptionist.

5th Floor

27) Civil Actions Branch Clerk's Office (Room 5000)

- Note – each part of the Civil Division has its own location, including clerk.
- See below for information about the Landlord-Tenant and Small Claims and Conciliation Branch.
- The Civil Actions Branch Clerk's Office is at the Moultrie Building, and includes actions filed under the Housing Conditions calendar.
- E-Filing is also used for the Civil Actions Branch.

28) Court Reporting and Recording Division (Room 5400)

- This is where you can obtain transcripts from court proceedings. Instructions for making requests as well as the necessary request forms can be located online at:
<http://www.dccourts.gov/internet/system/recording/main.jsf>.
- The transcript per page cost varies depending upon the amount of time allowed to fill the request (i.e., \$3.65/page for 30 calendar days, \$5.15/page for 3 business days). The page number is estimated hourly.
- A deposit of one half of the estimated cost is required at the time the order is placed. This payment can be made in the form of cash, money order, or check made out to the Clerk of the Court. Personal checks are not permitted, only checks from a law firm or other such organization. All checks must also include the requesting attorney's bar number.

- An estimate of the page number can be obtained by calling (202) 879-1009.
- To obtain a court recording, e-mail centralrecording@dcsc.gov. The recordings are burned onto a CD and then picked up in the Central Recording Office (Rm. 2300).

Other Court Information

29) Supervised Visitation Center

The Supervised Visitation Center is usually used in custody cases (1) for supervised visitation between a parent and child or (2) as a location for parents to exchange custody of the child(ren) without having contact with each other.

Court Building A
515 5th Street, N.W., Room 104
Washington, D.C. 20001

Wednesdays, Thursdays, Fridays: 3:00 p.m.-8:00 p.m.

Saturdays: 9:00 a.m.-4:00 p.m.

Sundays: 10:00 a.m.-5:00 p.m.

Prior to the first visit, an intake interview is required. To schedule an intake interview, call weekdays between the hours of 8:30 a.m. and 5:00 p.m.

Supervisor: Gale Aycox

Phone: (202) 879-0482 or (202) 879-4253 during the Center's hours of operation

30) Multi-Door Dispute Resolution Division

Mediation in family court cases may be ordered, but Multi-Door treats mediation as a voluntary process. It is helpful to participate in mediation with your adult clients. If you have a child client (i.e., serving as the custody guardian *ad litem*), you should reach out to Multi-Door to inform them of your role on the case. You can also request to participate in mediation, but Multi-Door will ask the parties (i.e., parents) to see if they agree.

Court Building C
Room 1700
410 E Street N.W.
Washington, D.C. 20001

Mondays-Fridays: 8:30 a.m.-5:00 p.m. (office hours)

Mondays-Fridays: 9:00 a.m.-3:30 p.m. (mediation hours)

Additional family mediation evening hours: Tuesday-Thursday: 6:00 p.m.; Saturday: 11:00 a.m. or 1:00 p.m.

Main Phone: (202) 879-3180

Director Jeannie Adams: (202) 879-1549

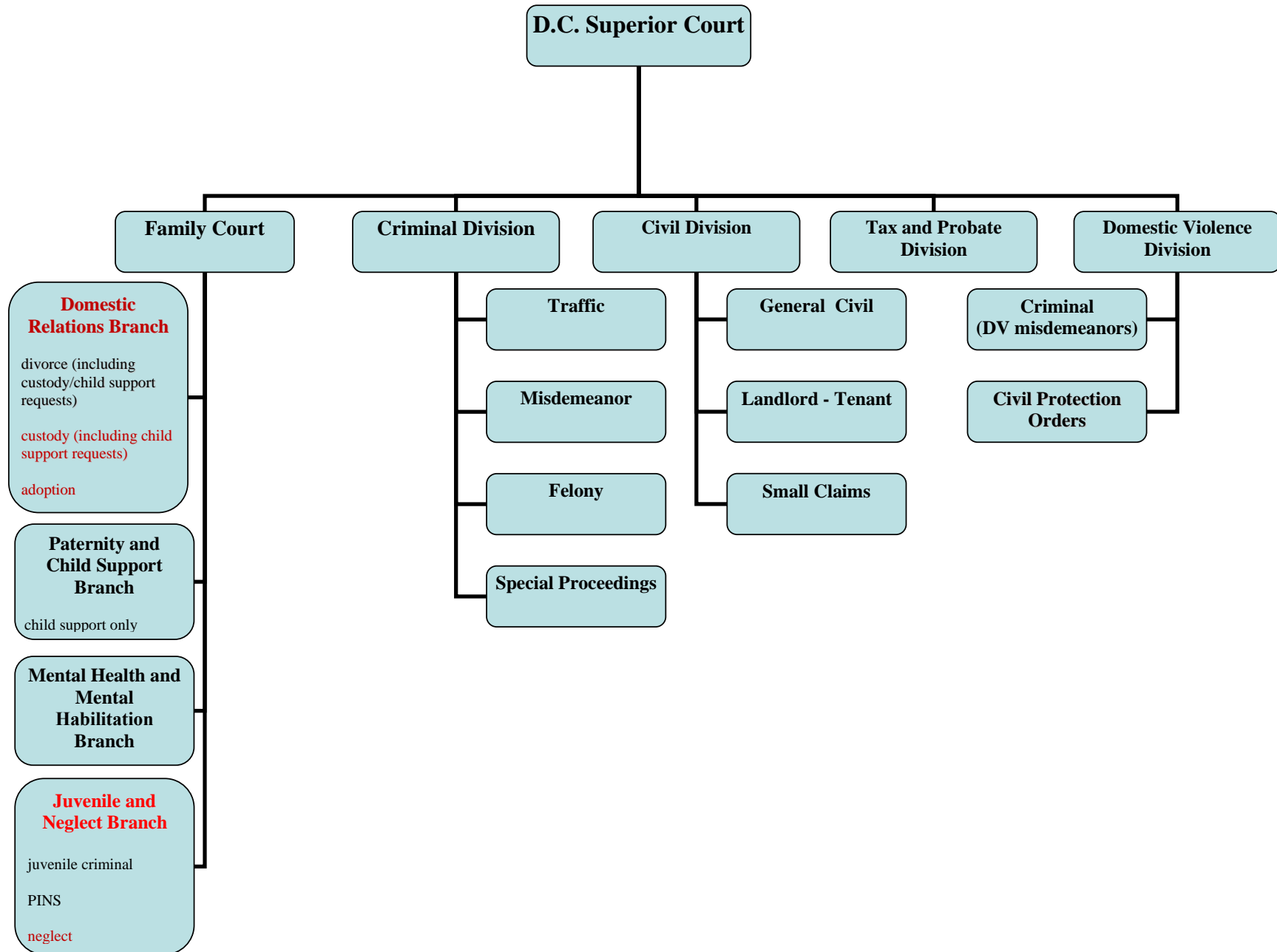
31) Housing Conditions, Landlord-Tenant, & Small Claims and Conciliation Branches of the Civil Division

Court Building B
510 4th Street N.W.
Washington, D.C. 20001

32) DC Court of Appeals

Historic Courthouse
430 E Street N.W.
Washington, D.C. 20001

D.C. Superior Court Organizational Chart



Researching Court Records

D.C. Court Records

In D.C. Superior Court, the court files for criminal, civil, civil protection order, custody, divorce, and child support cases that do not have paternity at issue are open to the public and available for inspection and copying. Adoption, child neglect/abuse, and juvenile criminal case files are not open to the public.

The court has an electronic database called CourtView. In all cases, pleadings and orders are scanned into CourtView and the appropriate clerk's office can print out the case docket and documents. The court is moving towards paperless court files but hard-copy files may still exist for some cases.

For civil, landlord-tenant, small claims, criminal, criminal traffic, foreign estate, and some probate cases, the public can view docket information on-line on the court's website at <https://www.dccourts.gov/services/probate-matters/request-for-probate-searches-and-copies/court-cases-online>. Family Court cases and civil protection order cases are not available on-line. The court may continue to add on-line availability for other case types over time. Cases can be searched by party name or by case number. In addition to docket information, the on-line system can display electronic versions of most documents in the file (including pleadings and orders). This on-line image access was added in fall 2017; however, even though there is an image icon next to the docket entry, the image may not appear when the icon is clicked because images are not yet available on-line in all cases.

When a type of case or certain document images are not available on-line, it is advisable to do a search or to review a case file at the clerk's office. The docket entries online may be unclear or incomplete and the orders, pleadings and other documents in the court file may also provide useful information.

D.C. Superior Court is moving toward being paperless. If you are researching court records at court, this means that you may do a search (by party name or case number) at a computer terminal in the clerk's office for that division of the court, rather than requesting to see a hard-copy file. You can print out the docket, and also click on an image icon and print out that document. You will have to inquire to see what types of cases you can access on the computer in a particular division's clerk's office.

1. D.C. Criminal Cases

D.C. criminal case dockets are available online (and some images after fall 2017). There is a name and case number search function. Note: a case may appear multiple times; this

appears to be due to the fact that the individual may have multiple name variations (different spelling, middle name, middle initial).

Court files can be reviewed in the Criminal Division Clerk's office at Superior Court (4th floor west). There are public computers on which you can do a name or case number search to pull up a list of cases associated with the person.

Practice pointer: Find out the person's PDID (Police Department Identification) number, which is a master identification number for that person in the D.C. criminal justice system. That number will help confirm the person's identity across multiple court cases. The PDID number is usually listed at the top of many documents in the criminal case file.

Practice pointer: You may need to use your own paper to print out criminal case information, so remember to bring a ream!

Both open and closed cases are available. There are no hard-copy files available for cases from 2006 to present – all documents have been scanned into the computer system. Some older hard-copy files may be in microfiche or in storage and can be ordered from the clerk.

Practice pointer: It is important to review the documents themselves in addition to the dockets. The information in the computer docket is often very limited so the only way to get a clear picture of the charges, convictions and sentences is to look at the file. There is often additional helpful information in the file as well, such as specific facts that are the basis for the charge, references to other cases, substance abuse and mental health history, failures of the defendant to appear, probation violations and revocation, previous addresses.

Practice pointer: If you need to do so, the easiest way to establish a criminal conviction is with a proof of the conviction from the case file. In D.C., that document is the sentencing document, called a **judgment and commitment** or **judgment and probation** order. Some of these may be available through the online system. Certified copies can be obtained from the clerk in the clerk's office. It should also be possible to have the judge in your case take judicial notice of a D.C. Superior Court criminal conviction.

2. D.C. Civil Cases (including landlord-tenant cases)

D.C. civil case dockets from 2000 to present on are online.

Court files can be reviewed in the Civil Division Clerk's office file room, Room 5000. The Small Claims Branch and Landlord-Tenant Branch of the Civil Division have their own file rooms located at 510 4th Street, N.W. In the Civil Division Clerk's Office, there are public

computers on which you can do a name search. Civil case files can be checked out and reviewed and copies can be ordered.

3. D.C. Domestic Relations Cases (custody, divorce)

No information is available online. To get dockets, orders, pleadings and other case information, go to the Family Court Clerk's office (Room JM-300) and ask the clerk at the counter to do a name or case number search for you. You will be charged \$.50 per page for copies unless you are counsel for a party with in forma pauperis status or you represent the child (in which case your appointment order should waive these fees).

4. D.C. Civil Protection Order Cases

Civil Protection Order (CPO)¹ dockets and cases are not available online. However, criminal cases involving domestic violence can be searched online. (Misdemeanor cases involving domestic violence often have DVM case numbers.) For CPO and DVM files, you can go to the Domestic Violence Unit clerk's office (Room 4510) and use the public computers to access CourtView and obtain copies of the case files. Some older hard-copy files may be in storage and can be ordered from the clerk.

Practice pointer: CPO petitions are typically filed along with an information sheet, which contains information like birth dates and current addresses. For most cases initiated after 2013, the information sheets are filed under seal and are not publicly accessible.

Maryland Court Records

Docket information (including criminal, civil and non-confidential family/domestic relations) is available online at <http://casesearch.courts.state.md.us/inquiry/inquiry-index.jsp>. The online information tends to be incomplete or very abbreviated and cryptic.

¹ In CPO cases, a petitioner can get a restraining order against a respondent with whom s/he has an "intra-family relationship" as defined by the statute e.g., if they are related by blood, marriage, having a child in common, having a sexual or dating relationship, etc. if the respondent committed or threatened to commit a crime upon the petitioner.

Virginia Court Records

Docket information is available online for some kinds of cases at <http://www.courts.state.va.us/caseinfo/home.html>. You can search by city/county but not statewide.

Federal Court Records

Dockets and most pleadings and orders are available online through the PACER system, www.pacer.gov.

Other States

Many other states have some docket information online. You can search on that state court's website to see whether and what information is available online and/or how to order records.

General Practice Pointers:

- It is advisable to review the entire court file. There is often additional useful information in the documents in the court file (pleadings, orders, reports, etc.) that is not included in the limited information available from an online or computer database search.
- When doing a name search, in addition to searching the full name, search the name with as few letters as possible, because names often are misspelled. In addition, the idiosyncrasies of a particular system will sometimes yield no results if the full name is typed in, but results will come up if fewer letters are included. For example, to search for Frederick Whittington, try entering "Fre Whittington" or "Fre Whitting."
- It is helpful to have the person's date of birth and middle name to confirm identity. Be aware, however, that there can be mistakes in court records (e.g., names, spelling, and birthdates).

February 2019

Social Media as Evidence:

Navigating the Limits of Privacy

BY SIMON R. GOODFELLOW

Much has been written in the last few years about the rules governing the growing use of social media evidence in litigation. After all, social media is a relatively new phenomenon. Facebook was founded in 2004 and, in just ten years, has 1.3 billion monthly active users. If Facebook were a country, it would soon be—or might already be—the most populous country on the planet.

When you look at the rules for social media evidence, you quickly realize that the rules are not new. Only the context is new. Indeed, in 2010, a U.S. District Court in Indiana noted that using social media evidence simply “requires the application of basic discovery principles in a novel context.” Thus, rather than needing to learn new rules to keep up with ever-changing technology, once we realize the parallels that can be drawn between the real world and the online world, the rules we already know should work just fine.

Parallel worlds

Imagine a plaintiff in a personal-injury action who claims he hurt his back. The defense attorney suspects that he is not as badly injured as he claims. Long ago, before the Internet and social media, one of the tricks a defense attorney’s private investigator might use (or so I hear) was to scatter cash over the claimant’s front lawn, knock on the door, hide, and then videotape the claimant running around and bending down to pick up the money. But what if the plaintiff claims the video violates his right to privacy because he was in his own front yard? The answer is he likely would be out of luck.

We all have a constitutional right to privacy. For example, the Fourth Amendment to the United States Constitution protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures....”

Likewise, the California Constitution provides:

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

In California, the right to privacy includes “precluding the dissemination or misuse of sensitive and confidential information.” To prove a violation of this right to “informational privacy,” a plaintiff must prove: (1) a legally protected privacy interest; (2) a reasonable expectation of privacy under the circumstances; and (3) a serious invasion of the privacy interest.

In the physical world, the law holds that there is no reasonable expectation of privacy as to events: (a) in plain view; (b) from a public place; (c) where the observer has a right to be. Thus, in the example above, if the plaintiff’s conduct was visible from a public place—for example, if the investigator videotaped the plaintiff from behind a tree on the public parkway in front of the plaintiff’s house—the plaintiff



Published in *Family Advocate*, Vol. 37, No. 4, (Spring 2015) p. 32-34. © 2015 by the American Bar Association. Reproduced with permission. All rights reserved. This information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association.

could not argue that he had a reasonable expectation of privacy as he ran around picking up cash on his front lawn.

Nowadays, from the comfort of her desk, an attorney handling a personal injury, divorce, or other kind of case can with a few mouse clicks find all kinds of information about the opposing party or witnesses. But are there privacy limits to the use of online evidence?

Expectation of privacy

When answering this question, it helps to think of the plaintiff and the investigator described above. Whether the plaintiff was picking up money on his front lawn or doing Zumba in his living room with the drapes open, the key question is the expectation of privacy and whether the conduct was in plain view from a public place where the observing investigator had a right to be.

As an example, a California court denied an invasion-of-privacy claim by a judge who while leaving his home was filmed by a camera crew parked across the street. The court reasoned that the judge was in public view and the news crew did not enter his home, physically contact him, endanger his safety or that of his family, or disclose where he lived.

In 2013, a judge in New York dismissed a lawsuit against a photographer who had exhibited in a gallery photos he had taken through his neighbors' windows using a telephoto lens. In contrast, a California court held that a woman's privacy had been invaded when a film crew riding along with paramedics entered her home without permission, filmed the paramedics failing to resuscitate her husband, and then aired the footage on TV, also without permission.

The same law and logic extend to the Internet, such that if the attorney is on a webpage that is publicly available without having to, for example, hack it or steal the password, privacy rights do not bar use of the evidence in litigation. In the last few years, the Sixth Circuit, the Maryland Supreme Court, a Minnesota court of appeal, and an Ohio court of appeal, among others, have all ruled that information posted online, with no restrictions as to who could see it, is public information for which the poster could claim no reasonable expectation of privacy.

Indeed, recent cases abound in which publicly available online information was used against a party or a witness in litigation. For example, in a 2010 New York case, a plaintiff claimed that injuries confined her to bed, but the court admitted evidence from the plaintiff's Facebook and MySpace pages showing her leading an active life. Similarly, in a 2007 Ohio case, the appellate court affirmed a lower court's award of child custody to the father, when the mother's MySpace page included her statements that she practiced sadomasochism and used illegal drugs.

Thus, just as the private investigator mentioned above could videotape the plaintiff because he was in plain view from a public parkway, a family law attorney may search the Internet for publicly available information and photos concerning the opposing party. However, just as the investigator could not have broken into the claimant's house and stolen his diary—without violating the plaintiff's reasonable expectation of privacy—the attorney may not use hacking, stolen passwords, or other covert means to access the opposing party's online information. For example, both the Philadelphia and New York Bar associations have stated that a lawyer may not ethically have a third party send a "friend" request to a witness on Facebook, without revealing the affiliation, in order to access incriminating or otherwise useful information.

To prevent the investigator from accessing damaging evidence in his home, the plaintiff in the example above simply had to close his door and drapes so that the investigator could not see inside from a public place. Similarly, to prevent an attorney

In the last few years, the Sixth Circuit, the Maryland Supreme Court, a Minnesota court of appeal, and an Ohio court of appeal, among others, have all ruled that information posted online, with no restrictions as to who could see it, is public information

from being able to use online evidence against him, the plaintiff simply could adjust his online privacy controls to block public access. For example, when posting on Facebook, one can choose who can see one's posts—the whole world, just "friends," just family, or solely people one specifically chooses. However, many social media users are not knowledgeable about what is public and what isn't.

In 2012, Consumer Reports estimated that 13 million U.S. Facebook users chose not to change—or were not even aware of—their Facebook default privacy settings. Of Facebook's 1.3 billion monthly active users, about 864 million log on daily. Every minute, they "post" 246,000 times, and they "like" something 1.8 million times. Twitter has 284 million monthly active users who send 500 million tweets every day. YouTube users watch more than six billion hours of video every month, and they upload 100 hours of video every minute.

Until restricting access to information online becomes as easy as closing your front door and drapes, lawyers will continue to have access to a treasure trove of information through which they may search for a case's smoking gun or silver bullet. Indeed, a survey in 2010 by the American Academy of Matrimonial Lawyers found that 81 percent of its responding members reported searching for and using social media evidence.

The partially opened door

But what if the opposing party has limited access to his or her social media information? Again, think of the plaintiff described above. Obviously, just because certain evidence is inside the plaintiff's house does not mean that the defense attorney cannot obtain it. The attorney simply must use formal discovery. During the plaintiff's deposition, defense counsel can ask questions about the plaintiff's physical activities, hobbies, etc. She can propound requests for all documents concerning the plaintiff's injuries. Assuming the documents can lead to admissible evidence, the plaintiff cannot object to producing existing, relevant documents purely on privacy grounds because the documents are inside his home. Similarly, a party who has used social media, but has privacy-protected the information from public view, cannot refuse to give up posted information on the grounds of privacy.

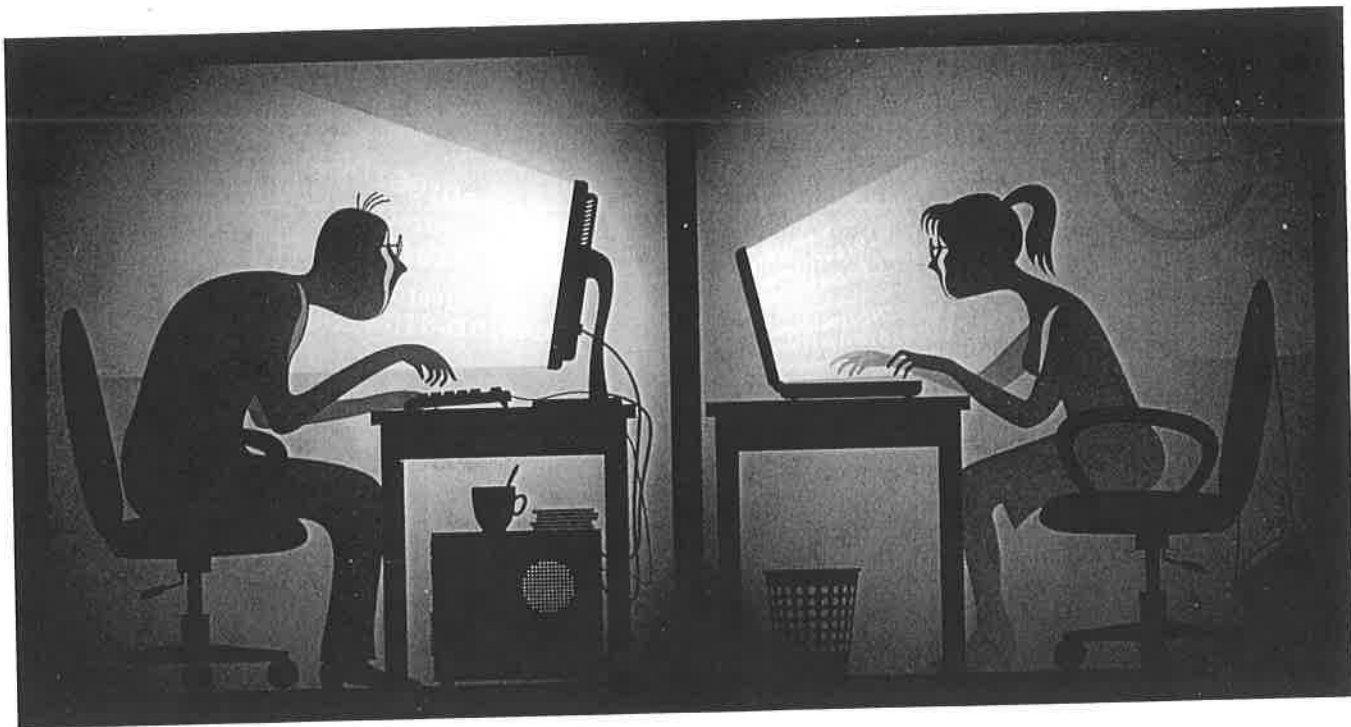
For example, in the 2010 New York case mentioned above, the court granted a motion to compel access to the private portions of the plaintiff's Facebook and MySpace pages. The court held that since the public portions included images of her smiling happily outside her home, despite her claim that injuries confined her to bed, there was a reasonable likelihood that the private portions of her social media pages would contain similar information that would be "both material and necessary to the defense of th[e] action and/or could lead to admissible evidence." The court further held that the defendant's "need for access to the information outweigh[ed] any privacy concerns that may be voiced by [the plaintiff]."

The attorney whose investigator obtained the video of the plaintiff picking up cash on his front lawn would still have to deal with issues such as authentication in order to render the information admissible as evidence at trial. The same goes for social media evidence. The fact that it came from the Internet does not alter the requirements of authentication and relevance. For example, in a 2009 Missouri criminal case involving charges of rape, the court excluded evidence of the victim's Facebook entries concerning prior drinking, partying, dancing, sexual relations, and memory loss as irrelevant to the events on the night in question.

Authentication might include (1) testimony from the person who printed the webpage that it is a true and correct copy, and (2) direct or circumstantial evidence that the party or witness it is being used against posted the statement on the webpage.

Thus, the attorney who safely navigates the uncharted waters of social media evidence is the attorney who does not get distracted by the new context, but simply understands the parallels between the physical world and the online world. In both worlds, the rules of discovery and evidence still apply. **FA**

Simon R. Goodfellow is an associate in the business litigation group of Bartko Zankel Bunzel & Miller in San Francisco.



AUTHENTICATING Facebook Posts, Photos, and Other EVIDENCE

By MELANIE K. REICHERT

Your client's estranged spouse files for disability maintenance. She claims she can't work. Her long-term struggles with ruptured disks, sciatic nerve pain, and back spasms (all likely the results of her three grueling and difficult pregnancies, years of carrying those children everywhere, and even more years of tirelessly cooking and cleaning) require surgery and months of physical therapy. She may never return to 100 percent of her previous "normal." Discovery yielded two boxes of medical records showing steroid injections, chiropractic visits, and prescriptions galore.

You know she's embellishing. You beg your client to hire an expert to refute her claims. One look at the expert's retainer agreement, however, and your client balks. "My wife has played tennis twice a week and has maintained a gym membership throughout the marriage. Surely that's enough to refute her disability claims," your client says.

Your hands are tied, and you're so frustrated with your client that you can't see straight. Trial is in two weeks.

Then, your client's third cousin calls. She's still "friends" with her soon-to-be ex-cousin-in-law on Facebook. The wife unfriended your client, his parents, his siblings and their spouses, his dear friends, and co-workers, but she completely overlooked the cousin.

The wife just updated her cover photo—a gorgeous picture of her current vacation in the Bahamas, looking fit and toned in a swimsuit, with her hair blowing in the breeze—riding bareback as her huge horse gallops in the surf.

Now what? How do you use this glorious information at trial?

During the past 20 years, social media and electronic communication have revolutionized the manner in which

people form and maintain relationships—especially their intimate and familial relationships. Thus, it is no surprise that those who litigate or negotiate the transitions of family relationships must account for ever-changing technology. Despite the permeation of social media and electronic communications and numerous published cases and articles regarding admissibility, some domestic relations judges, arbitrators, mediators, and attorneys still develop a “deer in the headlights” look when presented with electronic evidence. They allow words such as “spoliation” and “hacking” to diminish the reliability and importance of electronic evidence.

Start with the law

When facing a legal dilemma, start with the rule of law. Here, we begin with Federal Rule of Evidence 901. While state rules and statutes typically govern domestic relations cases, numerous states apply authentication rules that mirror the language of the federal rule. The portions of FRE 901 relevant to electronic information state:

Rule 901. Authenticating or Identifying Evidence

- (a) In General. To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.
- (b) Examples. The following are examples only—not a complete list—of evidence that satisfies the requirement:
 - (1) *Testimony of a Witness with Knowledge.* Testimony that an item is what it is claimed to be.
 - (3) *Comparison by an Expert Witness or the Trier of Fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.
 - (4) *Distinctive Characteristics and the Like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.
 - (9) *Evidence About a Process or System.* Evidence describing a process or system and showing that it produces an accurate result.

Authentication is that simple—providing evidence that supports a finding that the item is what you purport it is. Attorneys who err in admitting electronic evidence tend to overthink authentication and assume that some sort of ironclad proof is required.

A witness with knowledge

The most common evidence that supports a finding that an item is what it is purported to be is testimony of a witness with knowledge. In the example of the horseback-riding invalid, that testimony would be from your client's third cousin. As soon as you learn of the new profile picture, ask the witness to take and print several screen shots of

the wife's Facebook account—especially her newsfeed, her profile page, and the album showing prior profile pictures. If the new profile picture is part of an album of other vacation photos, a screen shot of that album would be helpful as well.

At trial, ask the cousin questions to establish the Facebook relationship she has had with Wife. How long have they been Facebook friends? Is she familiar with Wife's activity on Facebook? Does the profile information from the printout match what the cousin personally knows about Wife? With the printouts, ask the cousin questions similar to those you would ask when authenticating photographs. What steps did the cousin take to produce the printouts? Do the printouts accurately reflect what the cousin viewed on Wife's Facebook page on the date in question?

In this example, the testimony cannot come from your client if he did not have the ability to view the relevant portions of Wife's Facebook page at the time she changed her profile picture. The fact that Wife “unfriended” him would not, in and of itself, necessarily preclude him from viewing her page, her profile, and her photos. However, assuming her security settings are sufficient, your client

How to Produce the Facebook Activity Log



1. Access the Facebook account from a computer or Web browser (rather than a tablet or smartphone app).
2. Click on the downward-facing carrot in the upper-right corner of the user's Facebook page and scroll down to “Activity Log.” The log will populate recent activity, which can be printed from the Web browser.

If a log of activity prior to the time that is automatically populated must be produced, use the timeline located on the right side of the activity log to access and print earlier activity.

—M.K.R.

would not be a “witness with knowledge” unless he accessed the account and produced the screen shots.

With sufficient time prior to trial or hearing, the authentication hurdles can be leapt in discovery. The opposing party then serves as your “witness with knowledge.” For example, use interrogatories to ask for all e-mail accounts opened or utilized by a party, the e-mail address to which communications are primarily sent and received, the contact information that appears on the screen of the mobile device used when calling or texting, and the user names for any and all social media accounts. A string of tweets from a Twitter handle matching that identified in responses to interrogatories should be deemed sufficiently authenticated.

Requests for admissions are invaluable tools when authenticating electronic evidence. Requests can include admissions that a printout of a Facebook page accurately reflects the party's newsfeed or profile on a certain date, that a string of text messages is complete and accurate, or that the party sent a particular e-mail. With the admissions,

include interrogatories and requests for production that ask the responding party to state reasons for any denials or to produce what he or she purports to be true and accurate copies of the communications.

To further authenticate Facebook information, include in your requests for production a request for a complete activity log with instructions to the answering party on how to produce the same. (See "How to Produce the Facebook Activity Log" on page 29.) Obtaining the activity log helps to rebut any allegations that an account has been hacked. In our case study, Wife may claim that someone else changed her profile picture using a photo of someone who looks like her from a distance. However, Wife's credibility is damaged

Case Studies

Identifying distinctive characteristics

United States v. Grant (A.F. Ct. Crim. App. 2011). The defendant's name accompanied each Facebook message, and each message contained his photo. Thus "the appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with the circumstances may be sufficient to [authenticate pieces of evidence]."

Campbell v. Texas (Tex. Ct. App. 2012). Facebook messages authenticated and admitted as (1) the messages contained Defendant's unique speech patter (the defendant spoke in a Jamaica dialect); (2) the communications referenced the underlying nature of Defendant's charge known to only a few people; (3) Campbell indisputably used the Facebook account; (4) only he and one other person had access to the account; and (5) the messages at issue contained Campbell's electronic signature.

California v. Archuleta (Cal. Ct. App. Apr. 9, 2013). The court held that the fact that Facebook sites are password protected would allow a reasonable jury to conclude that the person whose page it is authored the posts.

Tienda v. Texas (Tex. Crim. App. 2012). A combination of different factors sufficiently authenticated the MySpace page. These factors included: (1) the numerous pictures of Tienda on the page that displayed his unique tattoos; (2) the reference to the victim's death and details about the victim's funeral; (3) a connection between the MySpace page and an e-mail address resembling Tienda's name; and (4) witness testimony speaking to the MySpace subscriber reports.

Illinois v. Mateo (Ill. App. Ct. 2011). The court held that the extensive corroborating circumstances surrounding the identity of the victim and Defendant as authors of messages on MySpace properly authenticated the correspondence.

Burgess v. State (Ga. Apr. 29, 2013). The court held that MySpace content was properly authenticated because the State confirmed Defendant's use of a nickname used repeatedly on the page, the defendant's sister confirmed that Defendant used the name, and an officer compared known pictures of the defendant to pictures on MySpace and determined the person to be the same.

California v. Zamora (Cal. Ct. App. Jan. 31, 2013). A defendant, confessing to his probation officer that he used and operated the MySpace page, properly authenticated the content of the page for trial purposes.

—M.K.R.

if the log activity immediately before and after the profile picture change shows common practices for Wife or acts not likely to be those of a hacker ("liking" a picture of her sister's dog, a status update that she just scheduled parent/teacher conferences, etc.).

Of course, depositions should be dedicated to authenticating any electronic evidence you may offer at trial or to lay the foundation to later impeach the party with the electronic evidence. Ask the deponent to log into his or her social media account from a computer during deposition and review any activity with him or her.

Comparison by an expert or trier of fact

Using comparison to authenticate is most commonly associated with handwriting. Experts and lay witnesses can look at two handwriting samples and testify as to whether they believe both samples were written by the same person. The same principles apply to electronic evidence.

Comparing an e-mail, text, or post in question to those the witness admits are hers can authenticate the offered evidence. For example, if one denies sending a scathing e-mail to her spouse, yet that e-mail mirrors the same tone, grammar, or spelling errors as innocuous e-mails she admits to sending, the trier of fact should find the e-mail sufficiently authenticated. Similarly, screen shots of text messages can be compared to the actual phone while a witness testifies.

With a copy of the Facebook activity log or copies of a series of tweets, the pattern of social media behavior can be compared to the evidence to ascertain whether the witness, or someone else, likely authored the post or tweet.

If you plan to authenticate using comparison, knowing your trier of fact is essential. Not all judges are sufficiently "tech savvy" to confidently authenticate by comparison. In those jurisdictions, retaining an expert to testify regarding the comparison method and her opinions based on methodology may be prudent.

Distinctive characteristics

Like using comparison, identifying distinctive characteristics of the electronic evidence can rebut claims by a witness that the evidence is not authentic. The admission of electronic evidence has been affirmed in numerous states and jurisdictions when the communications, viewed in light of all the circumstances, featured characteristics that rebutted the witness's claim that information was forged. Michigan State law student, Scott Milligan, provides criminal case summaries in a 2013 blog post. (See "Case Studies" box at left.) Evaluating these cases provides a list of distinctive characteristics (such as profile pictures, unique writing patterns or spellings, or facts only known by the poster) that can be offered to courts in authenticating social media posts and other electronic evidence.

Evidence about a process or system

As a means of authenticating electronic evidence, family law attorneys likely will not turn first to replicating the process

or system. However, authenticating electronic evidence in this manner is especially powerful if the evidence remains online and readily accessible.

Blog posts tend to be especially susceptible to this form of authentication. When entering litigation, parties remember to edit their Facebook pages and to delete disparaging tweets. However, they tend to forget that late night blog post on www.MothersOfAbusedChildren.com, the antisocial rant on www.MilitiasUnite.org, or late-night musings regarding the beneficial effects of giving Vicodin to a colicky three-month-old on www.BabiesSuck.net.

Offer a printout of the blog or post. As authentication, hand the witness a laptop computer or tablet and ask him to type in the URL of the blog post lurking in cyberspace. When the blog appears with the full name or e-mail address (or photo) of the poster, the post is authenticated.

Public or business records available online also can be authenticated with evidence of process or system. For example, replicate a search of the county recorder's database to authenticate an assessment and tax information for the marital residence. Authenticate related matters pending in other states by providing the court with the URLs for chronological case summaries. If the electronic evidence has not been deleted, witnesses can be asked to log into their Facebook or e-mail accounts to confirm authenticity.

Refuting authenticity

What if you represent the horseback-riding invalid who claims her Facebook account was hijacked? Many of the discovery and authentication tips noted above also can help prove fraud or forgeries.

Make sure that the proffered evidence can actually be authenticated pursuant to FRE 901 and object when it cannot. Is the sponsoring witness someone with knowledge? Based on the security settings of the Facebook user, only certain individuals may have actual knowledge of the content on a given day. If the sponsoring witness could not have accessed the electronic content, that person cannot offer testimony with knowledge.

The comparison method also helps to dis-authenticate certain electronic evidence. When seeking to prove that electronic evidence is not what it purports to be, again, think of the methods used with other more traditional forms of evidence. For example, if a client alleges that a medical record has been doctored, test the allegation by reviewing the records for inconsistencies. The same is true of electronic evidence.

If Facebook evidence is being offered to suggest that a client "liked" pornographic material related to children, review the complete Facebook activity log and obtain a forensic examination of the client's computer hard drive. If that "like" is the only indication that the client has accessed inappropriate (or illegal) electronic porn, an argument can be made that the activity cannot be sufficiently authenticated when compared to other aspects of that client's digital footprint.

A parent in a paternity case might create a false Facebook profile for the other parent, posting inappropriate things. Again, the activity log provides insight into the legitimate nature of the page. Has there been any activity since page creation? Is there any personal information or "distinctive characteristic" on the page or in the profile? Are the language patterns consistent between the page and known writings of the parent?

When your client denies the post, e-mail, or text, ask for her computer and mobile devices. Then retain an expert to examine those devices for evidence of hacking or spyware. Proof of hacking has been sufficient grounds to exclude electronic evidence. A Google search for "social media forensic experts" yields numerous advertisements and links to professional websites. Law enforcement (both local and federal) utilize experts in criminal matters and also can be good starting points to locate qualified experts who have already testified in your jurisdiction.

As the old saying goes, however, an ounce of prevention is worth a pound of cure. Include in your engagement letter a recommendation that your client disable or deactivate (but not delete) all social media accounts while the case is pending. At the very least, security settings should be such that only "friends" or those specifically authorized, can view social media information. Request that, absent an absolute emergency, all communication with the other party be via one e-mail address. Ask that either you or a neutral (CASA, GAL, parenting coordinator) be copied on those e-mail communications. Having a second recipient virtually eliminates the likelihood that altered versions of the communications will be offered as evidence.

As with all evidence decisions, the admission or exclusion of electronic evidence is at the broad discretion of your local judges. Initiate dialogues in your legal community so that the bench and bar can share their perspectives on proper authentication of electronic evidence.

Authentication is but one of the evidentiary landmines you must navigate when offering evidence—electronic or otherwise. Be aware of hearsay and relevance objections. Lastly, please remember that being able to admit electronic evidence doesn't mean you should. No trier of fact wants to see 156 Instagram selfies in an evidence binder. **FA**



MELANIE K. REICHERT has focused her practice on family law since joining the Indiana Bar in 1998. She is an experienced litigator who frequently tries complicated custody matters, jurisdictional issues, child and spousal support, allegations of child abuse or neglect, allegations of domestic

violence, and property distribution cases. Melanie served as a part-time judicial officer in Marion County Circuit Court Paternity Division from 2001 to 2004.