

2020 Custody Guardian *ad Litem* Training Manual

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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.

Initially, CAU did not do homes studies on homes outside of D.C. but will now decide on a case-by-case basis whether to do so.

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. Otherwise, counsel should obtain the report from the judge’s chambers.

The staff of the CAU is Georggetta Howie, Custody Assessor Supervisor (Georggetta.Howie@dcsc.gov), Johari Curtis, Custody Assessor, and Brionna Williams, Custody Investigator, and the phone number is 879-0130.

Custody evaluations (mental health evaluations)

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. The Assessment Center is a division of the D.C. Department of Behavioral Health, although its sole mission is to conduct court-ordered evaluations in custody, child abuse and neglect cases, and juvenile criminal cases. Judges may order evaluations *sua sponte* or upon motion. Judges will often grant requests for evaluations based on oral motions.

A home study by Court Social Services Division is required before an evaluation will be scheduled. If a home study cannot be conducted 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 and can also order that the child be evaluated.

The amount of time needed to complete the evaluation varies depending on staffing levels, 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), a clinical interview, 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. There may or may not be recommendations regarding custody arrangements, and there may or may not be 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 copies of the report(s) cannot be obtained directly from the Assessment Center, they can be obtained from the judge's chambers.

The evaluator is available to testify but the Assessment Center requires a subpoena. Even if the evaluator is under subpoena, it is usually advisable to address scheduling issues with the Assessment Center and the evaluator well in advance (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, particularly if you raise the issue in advance of trial.

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 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.

Practice Pointers and Related issues

- Parties can request the court to order home studies and forensic evaluations. Judges also may order them *sua sponte*.
- Court-ordered home studies and evaluations could be done by private individuals as well as by the CAU and the Assessment Center, but that would be contingent on the ability of the parties to pay for the services. If the parties don't agree on the private evaluator, the judge would decide (typically by asking the parties to agree on who is to perform the evaluation or each to submit a name or names for consideration).
- 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.
- Typically, the CAU and the Assessment Center will not release their reports directly to the parties/counsel unless the court order specifies to whom the report(s) can be released. (The GAL may want to request that.) It is common practice to contact chambers to request a copy of the report.
- 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 (or admission stipulated to by the parties)? 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, and may contain additional hearsay (if those facts are being introduced for the truth as opposed to being the basis for the expert's opinion). 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, and some judges appear to take that approach.

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.

January 2020

- 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 CAU WILL 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	Georgetta 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

HOME ASSESSMENT

DATE: [REDACTED]
TO: The Honorable Erik Christian
Associate Judge
Family Court
FROM: [REDACTED] Custody Investigator
RE: [REDACTED] Plaintiff vs. [REDACTED] Defendant
CASE NO: [REDACTED]
SUBJECT: Report of Court Ordered Home Study

Notice of Disclosure/ Confidentiality: This writer advised the Party that the information gathered during this assessment would be used to aid the Court in determining custody and visitation of the minor child. The Party indicated understanding of this and has agreed to participate in the assessment process.

Introductory Statement

The Custody Assessment Unit received an order from the Honorable Judge Erik Christian to conduct a home investigation for the above-referenced parties. The parties are before the Court on the Defendant's Motion to Modify Custody filed [REDACTED]. The Plaintiff filed an Opposition to the Defendant's motion on [REDACTED]. The home study report will reflect the condition of the home and social information regarding the plaintiff, [REDACTED].

Plaintiff: [REDACTED]
Age: [REDACTED] years old
Address: [REDACTED]
Telephone #: [REDACTED]

Current Status

██████████ is the defendant and biological mother of the minor child, ██████████. ██████████ reported the parties share joint physical and legal custody of ██████████. Per ██████████, ██████████ resides with ██████████ from Monday evening after school through Friday morning before school. ██████████ resides with ██████████ from Friday evening after school through Monday morning before school.

Plaintiff's Wishes

██████████ is requesting to maintain joint physical and legal custody of ██████████. ██████████ expressed concerns about ██████████'s anger, temper and substance abuse. ██████████ reported she has witnessed ██████████ scream and yell often, scaring the minor child. ██████████ reported that ██████████ does not co-parent with her, and does not respond to her attempts to communicate by email regarding ██████████.

██████████ reported that she filed a Motion to Modify Custody because the Defendant, ██████████, refused to comply with the terms of their consent custody agreement to share equal time with the minor child beginning in ██████████. Per ██████████, ██████████ controlled the amount of time she could visit ██████████, gradually reducing the amount of visitation days until she was no longer permitted to visit with ██████████.

Social History

██████████ is not currently employed, and says she is unable to work at this time because of her health condition. ██████████ expressed her health has deteriorated since an intra-family offense with the Plaintiff in ██████████. The parties currently have a Civil Protection Order ██████████ that expires ██████████.

██████████ reported that she sees a psychotherapist for ██████████. ██████████ also reported she sees several other specialists to treat her diagnosis of ██████████. She expressed that she has learned "you can only do a few things well." ██████████ reported the few things she is focused on at this moment is "getting better, reducing [her] physical pain, and building a better life and future for [her] and ██████████."

██████████ reported she does not own a vehicle and relies on Lyft or Uber for transportation. ██████████ reported her health insurance assists with the costs incurred using Lyft or Uber to medical appointments and physical therapy. ██████████ reported she has a car seat that she brings with her when she travels with the minor child.

██████████ denies any charges or convictions for child abuse and neglect. ██████████ denied any criminal convictions or substance abuse. ██████████ denied possessing any registered or unregistered weapons, firearms, or ammunition.

Minor Children

██████ described ██████ as "strong-willed" but "lovable," "vivacious," "delightful," and "free-spirited." ██████ reported that ██████ enjoys outdoor play, coloring, painting, and trying new things. ██████ reported ██████ attends ██████ located directly across the street from ██████ residence. ██████ reported ██████ loves school and has a positive adjustment. ██████ reported that a few days a week, she picks ██████ up early from school, or ██████ may not attend the aftercare program so that the two can spend quality time together.

Home and Community Environment

██████ and the minor child reside in a 1-bedroom, 1-bathroom apartment in the ██████ quadrant of Washington, DC. ██████ reported she has resided in the apartment since ██████. All utilities were observed to be functioning properly.

Upon the entrance to the home is the living room and dining room area. The living room is furnished with a sofa, a loveseat, a coffee table and two end tables. A table lamp rests on one end table and the television rests on the other end table. To the left of the seating area in the living room, is another coffee table, a desk, desk lamp, printer, sofa chair and bookcase. ██████ identified that area as her "home office". The area was cluttered with bags, papers, clothing and books.

This writer observed various home decor items on the floor leading to the dining room. There is a dining table, two dining chairs, one office chair, and a box for furniture not yet assembled in the dining room. The dining table was layered in papers, books and boxes.

To the right of the dining room is the kitchen. In the kitchen, this writer observed an ample amount of food in the refrigerator and cupboards that would feed ██████. The kitchen faucet and the gas stove were both operational. The kitchen sink was filled with dishes, a few groceries to cook were on the kitchen countertops.

Beyond the dining room and kitchen is a large walk-in closet. Adult clothing and shoes were in the closet, along with a bookshelf containing books, papers, beauty products, and cleaning supplies. Additionally, the minor child's bike, dollhouse, books, and papers were on scattered in the closet. ██████ identified this closet as her own, and reported that the minor child does not use this closet.

Across from the closet is the bathroom. There is a smoke detector above the bathroom entrance. There is only a walk-in shower in the bathroom. This writer observed the toilet, sink, faucet and showerhead to be operational.

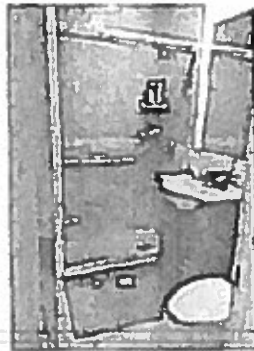
The bedroom contained one queen bed, one twin bed, bookshelf, two dressers, and a closet. ■■■■■ reported that she sleeps in the queen bed and ■■■■■ sleeps in the twin bed. There is a pillow, a stuffed dog and a blanket on the minor child's bed. There are two pillows, two blankets, folded towels and wash cloths on ■■■■■'s bed.

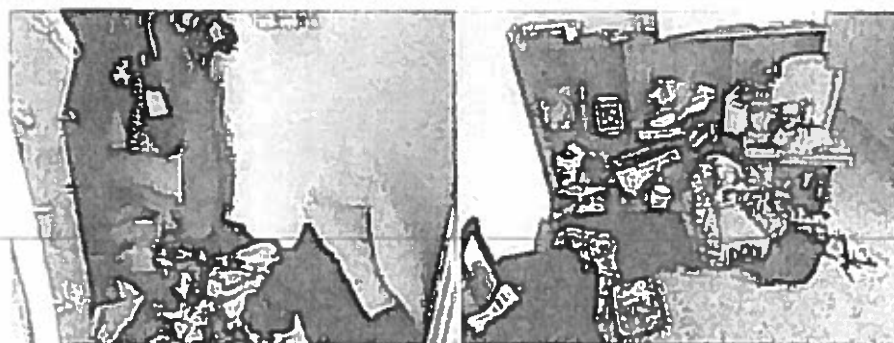
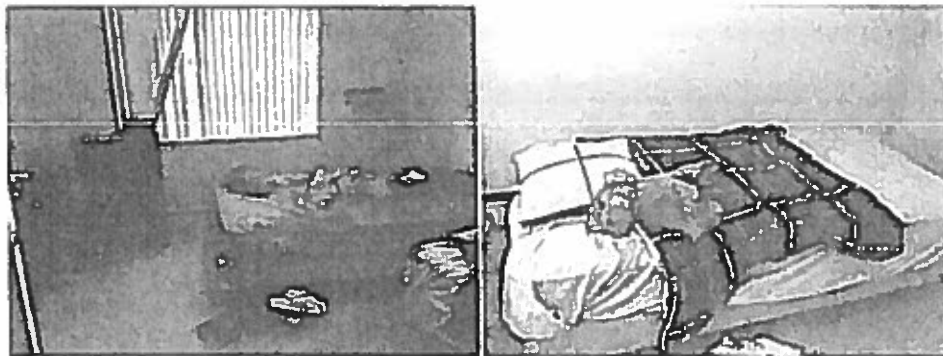
■■■■■ identified the bedroom closet as ■■■■■s. There was age-appropriate children's clothing hung in the closet and a large amount of children's clothing and pillows on the floor. The corner next to the closet is set aside as a play area for the minor child; it contained a bookcase with books, dolls, blocks, Legos, an instrument, stuffed animals, puzzles, Dora chair, Doc McStuffin dollhouse, and a Frozen book bag and lunch bag.

Areas of Concern

■■■■■'s apartment was observed to be cluttered with furniture and other personal items not in use, as well as unassembled furniture. The apartment was untidy. The primary area of concern is the potential safety risk the unassembled and unused furniture poses for an active three-year old child. This writer observed ■■■■■'s toys scattered amongst ■■■■■ personal items. There is a potential risk of injury if the minor child attempted to retrieve her toys from the clutter of ■■■■■ personal items. Additionally, this writer observed ■■■■■ limited mobility, muscle pain, and weakness during the home visit. Given ■■■■■ physical limitations and the condition of the home, ■■■■■ may face challenges in preventing or responding to an emergency in a timely fashion.







Type of Dwelling

<input type="checkbox"/> Single Family	<input type="checkbox"/> Townhouse	<input type="checkbox"/> Duplex	<input checked="" type="checkbox"/> Apartment
<input type="checkbox"/> Transitional shelter	<input type="checkbox"/> Homeless shelter	<input type="checkbox"/> Rents a room	<input type="checkbox"/> Other

☒ Rent ☐ Own

Length of time in the residence? [REDACTED]

Name on the lease/mortgage? [REDACTED]

Are there plans to move in the near future? If so, where and when? None

Additional Household Members

Name	DOB	Age	Relationship
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Household Income/Expenses

A. Current Employer: N/A

B. Current Income: (weekly/biweekly/monthly/annual): N/A

C. Benefits: (TANF/ SNAP/ SS/SSDI): TANF Award is [REDACTED] monthly, SNAP Award is [REDACTED] monthly. [REDACTED] reports she is in the process of filing for disability benefits.

Monthly Expense	Amount	Monthly Expense	Amount
Rent/Mortgage	[REDACTED]	Car Insurance	
Electricity	[REDACTED]	Health Insurance (medical and dental)	
Gas		Food	
Water		Daycare/ Aftercare/ Private School	
Telephone (home and/or cell)		Cable	
Internet	[REDACTED]	Child Support	
Public Transportation		Other	

Respectfully submitted,

[REDACTED]

[REDACTED]

Custody Investigator

[REDACTED]

Approved by:

[REDACTED]

[REDACTED] W

Custody Assessor Supervisor

[REDACTED]

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.

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**Guidelines for
Parenting Coordination**

**Developed by
The AFCC Task Force on Parenting Coordination
May 2005**

Foreword

The *Guidelines for Parenting Coordination* ("Guidelines") are the product of the interdisciplinary AFCC Task Force on Parenting Coordination ("Task Force"). First appointed in 2001 by Denise McColley, AFCC President 2001-02, the Task Force originally discussed creating model standards of practice. At that time, however, the Task Force agreed that the role was too new for a comprehensive set of standards. The Task Force instead investigated the issues inherent in the new role and described the manner in which jurisdictions in the United States that have used parenting coordination resolved those issues. The report of the Task Force's (2001-2003) two-year study was published in April of 2003 as "Parenting Coordination: Implementation Issues."¹

The Task Force was reconstituted in 2003 by Hon. George Czutrin, AFCC President 2003-04. President Czutrin charged the Task Force with developing model standards of practice for parenting coordination for North America and named two Canadian members to the twelve-member task force. The Task Force continued investigating the use of the role in the United States and in Canada and drafted *Model Standards for Parenting Coordination* after much study, discussion and review of best practices in both the United States and Canada.

AFCC posted the *Model Standards* on its website, afccnet.org, and the Task Force members also widely distributed them for comments. The Task Force received many thoughtful and articulate comments which were carefully considered in making substantive and editorial changes based upon the feedback that was received. Even the name of this document was changed to "Guidelines for Parenting Coordination" to indicate the newness of the field of parenting coordination and the difficulty of coming to consensus in the United States and Canada on "standards" at this stage in the use of parenting coordination. The AFCC Board of Directors approved the Guidelines on May 21, 2005.

The members of the AFCC Task Force on Parenting Coordination (2003 – 2005) were: Christine A. Coates, M.Ed., J.D., *Chairperson and Reporter*; Linda Fieldstone, M.Ed., *Secretary*; Barbara Ann Bartlett, J.D., Robin M. Deutsch, Ph.D., Billie Lee Dunford-Jackson, J.D., Philip M. Epstein, Q.C. LSM, Barbara Fidler, Ph.D., C.Psych, Acc.FM. Jonathan Gould, Ph.D., Hon. William G. Jones, Joan Kelly, Ph.D., Matthew J. Sullivan, Ph.D., Robert N. Wistner, J.D.

¹ See AFCC Task Force on Parenting Coordination, *Parenting Coordination: Implementation Issues*, 41 Fam. Ct. Re. 533 (2003).

GUIDELINES FOR PARENTING COORDINATION

Overview and Definitions

Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract.

The overall objective of parenting coordination is to assist high conflict parents to implement their parenting plan, to monitor compliance with the details of the plan, to resolve conflicts regarding their children and the parenting plan in a timely manner, and to protect and sustain safe, healthy and meaningful parent-child relationships. Parenting coordination is a quasi-legal, mental health, alternative dispute resolution (ADR) process that combines assessment, education, case management, conflict management and sometimes decision-making functions.

The Parenting Coordinator (hereinafter referred to as "PC") role is most frequently reserved for those high conflict parents who have demonstrated their longer-term inability or unwillingness to make parenting decisions on their own, to comply with parenting agreements and orders, to reduce their child-related conflicts, and to protect their children from the impact of that conflict. Because the PC makes recommendations and/or decisions for the parties and possibly reports to the court, the PC should be appointed by and be responsible to the court. This delegation of judicial authority is a serious issue and courts should only appoint qualified professionals. The power and authority inherent in the role of the PC are substantial whether stipulated by the parties or assigned by the court. Therefore, it is important that any jurisdiction implementing a parenting coordination program adopt and adhere to guidelines for PC practice and programs.

As the parenting coordination model has been implemented in various jurisdictions, there has been variation in the manner in which the PC practices, the authority of the PC, the stage of the legal process when the PC is appointed and functions, the various roles of the PC, the qualifications and training of the PC, and the best practices for the role.

The alternative dispute resolution process described above as central to the parenting coordinator's role may be inappropriate and potentially exploited by

perpetrators of domestic violence who have exhibited patterns of violence, threat, intimidation and coercive control over their co-parent. In those cases of domestic violence where one parent seeks to obtain and maintain power and control over the other, the role of the PC changes to an almost purely enforcement function. Here, the PC is likely to be dealing with a court order, the more detailed the better, rather than a mutually agreed upon parenting plan; the role is to ensure compliance with the details of the order and to test each request for variance from its terms with an eye to protecting the custodial parent's autonomy to make decisions based on the children's best interests and guarding against manipulation by the abusing parent. ADR techniques in such cases may have the effect of maintaining or increasing the imbalance of power and the victim's risk of harm. Accordingly, each jurisdiction should have in place a process to screen out and/or develop specialized PC protocols and procedures in this type of DV case. Likewise, PCs should routinely screen prospective cases for DV and decline to accept such cases if they do not have specialized expertise and procedures to effectively manage DV cases involving an imbalance of power, control and coercion.

The purpose of these *Guidelines for Parenting Coordination* ("*Guidelines*") is to provide:

1. detailed guidelines of practice for PCs;
2. guidelines for PCs regarding their ethical obligations and conduct;
3. qualifications for PCs, including relevant education, training and experience;
4. assistance to jurisdictions that are implementing parenting coordination programs by providing guidelines of practice that they can adopt; and
5. assistance to jurisdictions, professional organizations, educational institutions and professionals in the development and implementation of parenting coordination programs.

These *Guidelines* are aspirational in nature and offer guidance in best practices, qualifications, training and ethical obligations for PCs. Although they are not intended to create legal rules or standards of liability, they do provide very specific and detailed recommendations for training and best practices because of the expressed need for guidelines for program development and training. It is understood that each jurisdiction may vary in its practices; however, for parenting coordination to be accepted as a credible professional role, certain minimum guidelines of conduct and best practices must be articulated and followed.

The *Guidelines for Parenting Coordination* include different levels of guidance:

- Use of the term “may” in a *Guideline* is the lowest strength of guidance and indicates a practice that the PC should consider adopting, but, from which the PC can deviate in the exercise of good professional judgment.
- Most of the *Guidelines* use the term “should” which indicates that the practice described in the *Guideline* is highly desirable and should be departed from only with very strong reason.
- The rarer use of the term “shall” in a *Guideline* is a higher level of guidance to the PC, indicating that the PC should not have discretion to depart from the practice described.

Guideline I

A PC shall be qualified by education and training to undertake parenting coordination and shall continue to develop professionally in the role.

- A. The PC shall be required to have training and experience in family mediation. The PC should become a certified/qualified mediator under the rules or laws of the jurisdiction in which he or she practices, if such certification is available.
- B. The PC shall be a licensed mental health or legal professional in an area relating to families, or a certified family mediator under the rules or laws of the jurisdiction with a master’s degree in a mental health field.
- C. The PC should have extensive practical experience in the profession with high conflict or litigating parents.
- D. The PC shall have training in the parenting coordination process, family dynamics in separation and divorce, parenting coordination techniques, domestic violence and child maltreatment, and court specific parenting coordination procedures. A model training curriculum incorporating four modules is included in these *Guidelines* as Appendix A.
- E. A PC shall acquire and maintain professional competence in the parenting coordination process. A PC shall regularly participate in educational activities promoting professional growth. It is recommended that a PC participate in peer consultation or mentoring to receive feedback and support on cases. PC orders and/or private agreements should specify that such professional consultation is permitted.

F. A PC shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC's skill or expertise.

G. A jurisdiction should consider "grandfathering" existing professionals with appropriate experience.

Guideline II

A PC shall maintain impartiality in the process of parenting coordination, although a PC is not neutral regarding the outcome of particular decisions. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

A. A PC shall withdraw if the PC determines he or she cannot act in an impartial or objective manner.

B. A PC shall neither give nor accept a gift, favor, loan or other item of value from any party having an interest in the parenting coordination process. During the parenting coordination process, a PC shall not solicit or otherwise attempt to procure future professional services or positions from which the PC may profit.

C. A PC shall not coerce or improperly influence any party to make a decision.

D. A PC shall not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting coordination process.

E. A PC shall not accept any engagement, provide any service or perform any act outside the role of PC that would compromise the PC's integrity or impartiality in the parenting coordination process.

Guideline III

A PC shall not serve in a matter that presents a clear conflict of interest.

A. A conflict of interest arises when any relationship between the PC and the participants or the subject matter of the dispute compromises or appears to compromise a PC's impartiality.

B. A PC shall disclose potential conflicts of interest as soon as practical after a PC becomes aware of the interest or relationship giving rise to the potential conflict.

- C. After appropriate disclosure, the PC may serve with the written agreement of all parties. However, if a conflict of interest clearly impairs a PC's impartiality, the PC shall withdraw regardless of the express agreement of the parties.
- D. During the parenting coordination process, a PC shall not create a conflict of interest by providing any services to interested parties that are not directly related to the parenting coordination process.
- E. A PC may make referrals to other professionals to work with the family, but shall avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration shall be given or received by a PC for parenting coordination or other professional referrals.

Guideline IV

A PC shall not serve in dual sequential roles.

- A. A PC shall not serve in multiple roles in a case that create a professional conflict.
 - 1. A child's attorney or child advocate shall not become a PC in the same case.
 - 2. A mediator or custody evaluator shall be cautious about becoming a PC in the same case, even with the consent of the parties, because of the differences in the role and potential impact of the role change.
 - 3. A PC shall not become a custody evaluator either during or after the term of a PC's involvement with the family.
 - 4. A PC shall not be appointed after serving as a therapist, consultant, or coach, or serve in another mental health role to any family member.
 - 5. A PC shall not become a therapist, consultant, or coach, or serve in any other mental health role to any family member, either during or after the term of the PC's involvement.
 - 6. A PC shall not become one client's lawyer, either during or after the term of the PC's involvement, nor shall one client's lawyer become the PC in that client's case.
- B. A PC should attempt to facilitate resolution of issues by agreement of the parties; however, the PC is not acting in a formal mediation role. An effort towards resolving an

issue (which may include therapeutic, mediation, educational, and negotiation skills) does not disqualify a PC from deciding an issue that remains unresolved after efforts of facilitation.

Guideline V

A PC shall inform the parties of the limitations on confidentiality in the parenting coordination process. Information shall not be shared outside of the parenting coordination process except for legitimate and allowed professional purposes. A PC shall maintain confidentiality regarding the sharing of information outside of the scope of the parenting coordination process, which is obtained during the parenting coordination process, except as provided by court order or by written agreement of the parties.

A. Parenting coordination is not a confidential process, either for communications between the parties and their children and the PC, or for communications between the PC and other relevant parties to the parenting coordination process, or for communications with the court.²

B. A PC shall inform the parties of the following limitations of confidentiality:

1. The PC shall report suspected child abuse or neglect to child protective services whether or not a mandatory or voluntary reporter under state, provincial or federal law; and

² Parenting coordination is an unusual type of intervention that does not fit within the existing framework of rules and laws dealing with the subjects of "statutory privileges," "rules of evidence," and "professional codes of ethics" related to the subject of "confidentiality" and statements made by parents or people involved in any disputed parenting case. In cases not involving a PC, the statements of parties may be protected from use as evidence in the dispute resolution process, for any of those reasons. However, the essence of the PC concept is that all such confidentiality protections need to be stripped away, so the PC is free to make quick decisions based upon all knowledge the PC has obtained from the parties and other sources. Consequently, in order for the PC to be empowered to operate freely and effectively in the role of expeditious dispute resolver, appropriate provisions need to be included in the written agreement and/or court order of appointment for the effective waiver of all privileges and rules of evidence or professional conduct regarding confidentiality which may be waived. In addition, a clear statement should be included to provide that the PC will not provide either party with legal advice or representation or psychotherapy, and the parents are advised to seek any such advice from independent providers of their own choice. The parents are entitled to a very clear and unambiguous description of the privileges and rules they are being asked to waive in order to empower the PC to perform the rather unique services contemplated in the parenting coordination process. Likewise, the PC has a significant concern with establishing a barrier from complaints of unprofessional conduct from disgruntled parents who are not happy about PC decisions.

2. The PC shall report to law enforcement or other authorities if the PC has reason to believe that any family member appears to be at serious risk to harm himself or herself, another family member or a third party.

Guideline VI

A PC shall assist the parties in reducing harmful conflict and in promoting the best interests of the children consistent with the roles and functions of a PC.

A. A PC serves an assessment function. The PC should review the custody evaluation, other relevant records, interim or final court orders, information from interviews with parents and children and other collateral sources, domestic violence protection orders, and any other applicable cases involving criminal assault, domestic violence or child abuse, educational records, and analyze the impasses and issues as brought forth by the parties.

B. A PC serves an educational function. The PC should educate the parties about child development, divorce research, the impact of their behavior on the children, parenting skills, and communication and conflict resolution skills. The PC may coach the parties about these issues.

C. A PC serves a coordination/case management function. The PC should work with the professionals and systems involved with the family (e.g. mental health, health care, social services, education, legal) as well as with extended family, stepparents, and significant others.

D. A PC serves a conflict management function. The PC's primary role is to assist the parties to work out disagreements regarding the children to minimize conflict. The PC may utilize dispute resolution skills from principles and practices of negotiation, mediation, and arbitration. To assist the parents in reducing conflict, the PC may monitor the faxed, emailed, or written exchanges of parent communications and suggest more productive forms of communication that limit conflict between the parents. In order to protect the parties and children in domestic violence cases involving power, control and coercion, a PC should tailor the techniques used so as to avoid offering the opportunity for further coercion.

E. A PC serves a decision-making function. When parents are not able to decide or resolve disputes on their own, the PC shall be empowered to make decisions to the extent described in the court order, or to make reports or recommendations to the

court for further consideration. PCs should communicate their decisions in a timely manner in person or by fax, e-mail or telephone. In the event decisions are provided orally, a written version shall follow in a timely manner.

F. A PC shall not offer legal advice.

Guideline VII

A PC shall serve by parent stipulation and/or formal order of the court, which shall clearly and specifically define the PC's scope of authority and responsibilities.

A. A court order is necessary to provide the PC authority to work with the parents outside of the adversarial process, to obtain information, and to make recommendations and decisions as specified in the order.³

B. In addition to the court order for the PC, a written agreement between the parties and the PC may be used to detail specific issues not contained in the court order, such as fee payments, billing practices and retainers.

C. The court order or consent order should specify a term of service for the PC, including starting and ending dates.⁴ Parents can request that a PC continue for additional terms of service following the expiration of each term or can decline to renew the PC's services. Similarly the PC can give notice prior to the end of the term of service that the PC will not continue to serve as PC.

D. A PC should not initiate providing services until the PC has received the fully executed and filed court order appointing the PC, or the parents, their counsel (if any) and the PC have signed a consent agreement, if any.

³ In some jurisdictions, a stipulation or consent decree is required for the appointment of a PC. A few jurisdictions allow the court to appoint the PC on its own authority. In Canada, the authority of the PC to make decisions is derived from arbitration statutes and a PC may function with the parents' consent only.

⁴ Many experienced PC's have found a period of 18 months to 2 years to be optimal in terms of becoming familiar with the family and developing a working relationship with the parents.

Guideline VIII

A PC shall facilitate the participants' understanding of the parenting coordination process so that they can give informed consent to the process.

A. The position of the PC is one of considerable authority and power. It is important that parents fully understand the extent of the parental rights and power they are assigning to the PC in the form of decision-making, the limited nature of the confidentiality of the process, the professional persons with whom the PC will be authorized to consult or obtain information, and what the parents' rights are in seeking redress with the court.

B. In the first session, a PC should carefully review the nature of the PC's role with the parents, to ensure that they understand what the parenting coordination process involves.

Guideline IX

A PC shall fully disclose and explain the basis of any fees and charges to the participants.

A. All charges for parenting coordination services shall be based upon the actual time expended by the PC or as directed by the local jurisdiction's parenting coordination program. All fees and costs shall be appropriately divided between the parties as directed by the court order of appointment or as agreed upon in the PC's written fee agreement with the parties with the approval of the court.⁵

B. Prior to beginning the parenting coordination process, and in writing, a PC shall explain to the parties and counsel the basis of fees and costs and the method of payment and any fees associated with postponement, cancellation and/or nonappearance, as well as any other items and the parties' *pro rata* share of the fees and costs as determined by the court order or agreed to by the parties with approval of the court. In cases of domestic violence involving power, control and coercion, the PC shall hold individual sessions with the parties to convey this information.

⁵ Typically the fees are split equally between the parties, although if their assets and income differ substantially, fees may be apportioned accordingly. In states that have the Income Shares child support guidelines, courts sometimes apportion responsibility for PC costs in the same percentages as child support is apportioned. The court, rather than the PC, should make a determination of the appropriate ratio of payment based on the available financial data. The order may also include a provision for the parent coordinator to alter the usual ratio of payment if one parent abuses the process. In the event that a party requests judicial review of a parenting coordinator decision and does not prevail, the court may order full payment of fees by that party.

C. Activities for which a PC may charge typically include time spent interviewing parents, children and collateral sources of information; preparation of agreements; correspondence, decisions and reports; review of records and correspondence; telephone and electronic conversation; travel; court preparation; and appearances at hearings, depositions and meetings.

D. The PC should comply with any local statute, constitutional rulings, or practice rules regarding fees. A PC may request a retainer or advance deposit prior to starting a case.⁶ The parties should be billed on a regular basis and notified when the retainer or advance deposit, if any, is to be replenished.

E. A PC shall maintain records necessary to support charges for services and expenses and should make a detailed accounting of those charges to the parties, their counsel or the court on a regular basis, if requested to do so.

Guideline X

A PC will communicate with all parties, counsel, children, and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of the parents and children. The PC will have access to persons involved with family members and to documentary information necessary to fulfill the responsibilities of the PC.

A. Because parenting coordination is a non-adversarial process designed to reduce acrimony and settle disputes efficiently, a PC may engage in *ex parte* (individual) communications with each of the parties and/or their attorneys, if specified in writing in the order of appointment, PC agreement or stipulation. The PC may initiate or receive *ex parte* oral or written communications with the parties and their attorneys, legal representatives of the children, and other parties relevant to understanding the issues. The PC should do so in an objective, balanced manner that takes into consideration the possibility or perception of bias. The PC should communicate agreements, recommendations, or decisions to all parties and counsel at the same time.

B. If reports are written, the PC should follow the court's rules or instructions regarding whether the court should receive a copy. The PC shall not communicate *ex parte* with the judge.

C. The PC typically should have access to any persons involved with family members including, but not limited to, the custody evaluator, lawyers, school officials, and

⁶ In some jurisdictions, the PC also requires a refundable deposit from each party for any fees and expenses incurred but not paid prior to ending the case.

physical and mental health care providers. The PC shall have the authority to meet with the children, any stepparent or person acting in that role, or anyone else the PC determines to have a significant role in contributing to or resolving the conflict. The PC should notify any such collateral sources that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations to or testifying in court.

D. The PC should have access to all orders and pleadings filed in the case, as well as the custody evaluation report, school and medical records of the children, and reports of psychological testings that were generated prior to, during or after the pendency of the case. The court order should require that the parties execute releases and consents to permit access to such data and other relevant information.

E. The PC should have initial individual and/or joint interviews with the parties, and may want to interview the children if the PC has the appropriate training and skills. PCs may interview any individuals who provide services to the children as needed to assess the children's needs and wishes. The communication between the parties may be in joint face-to-face meetings, telephone conference calls, individual face-to-face or telephone meetings, e-mail, or fax. The PC should determine whether separate or joint sessions are most appropriate at any particular time. In cases of domestic violence involving power, control and coercion, the PC shall conduct interviews and sessions with the parties individually.

F. The PC shall be alert to the reasonable suspicion of any acts of domestic violence directed at the other parent, a current partner, or the children. The PC should adhere to any protection orders, and take whatever measures may be necessary to ensure the safety of the parties, their children and the PC.

G. The PC should be alert to the reasonable suspicion of any substance abuse by either parent or child, as well as any psychological or psychiatric impairment of any parent or child.

H. The PC should keep notes regarding all communications with the parties, the children and other persons with whom the PC speaks about the case.

I. A PC shall document in writing all resolutions agreed upon by the parties or determined by arbitration, noting the process by which the agreement or decision was made.

J. The PC shall maintain records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support decisions and recommendations by the PC.

Guideline XI

A PC should attempt to facilitate agreement between the parties in a timely manner on all disputes regarding their children as they arise. When parents are unable to reach agreement, and if it has been ordered by the court, or authorized by consent, the PC shall decide the disputed issues.

A. A PC may be granted the authority to make decisions for the parties when they cannot agree, or the PC may be allowed only to make recommendations to the parties or the court. The scope of the PC's decision-making authority may be limited in some jurisdictions by constitutional law or statute. A PC should be knowledgeable about governing law and procedure in the PC's jurisdiction regarding decision-making or arbitration by the PC.

B. A PC shall have only the authority that is delegated in the court order or the consent provided by the parties. If so written in the order or consent agreement, a PC may have authority to resolve the following type of issues:

1. Minor changes or clarification of parenting time/access schedules or conditions including vacation, holidays, and temporary variation from the existing parenting plan;
2. Transitions/exchanges of the children including date, time, place, means of transportation and transporter;
3. Health care management including medical, dental, orthodontic, and vision care;
4. Child-rearing issues;
5. Psychotherapy or other mental health care including substance abuse assessment or counseling for the children;
6. Psychological testing or other assessment of the children and parents;
7. Education or daycare including school choice, tutoring, summer school, participation in special education testing and programs or other major educational decisions;
8. Enrichment and extracurricular activities including camps and jobs;
9. Religious observances and education;

10. Children's travel and passport arrangements;
11. Clothing, equipment, and personal possessions of the children;
12. Communication between the parents about the children including telephone, fax, e-mail, notes in backpacks, etc.;
13. Communication by a parent with the children including telephone, cell phone, pager, fax, and e-mail when they are not in that parent's care;
14. Alteration of appearance of the children including haircuts, tattoos, ear and body piercing;
15. Role of and contact with significant others and extended families;
16. Substance abuse assessment or testing for either or both parents or a child, including access to results; and
17. Parenting classes for either or both parents.

C. The PC should use or gather written or verbal statements of the dispute from each party, as well as other relevant sources of information. The methodology used by the PC shall be fair to both parties, and be transparent to both the court and the parties. Each party shall be given an opportunity to be heard in the process. Notice shall be given as to what is expected from the participation of the parties and the consequences of nonparticipation. If one party refuses to cooperate after notice, then the PC may continue to resolve the dispute.⁷

D. The PC shall issue a written resolution of the dispute or a verbal decision in time sensitive matters to be followed by a written decision.⁸

⁷ In some jurisdictions, the PC must notify the parties of the intent to proceed to an arbitration phase if the parties do not reach agreement on their own or with the assistance of the PC.

⁸ There is variation in the destination of the PC's recommendations and decisions. In most but not all jurisdictions in which PCs are appointed by court order, the PC is expected to send all recommendations, reports, and decisions to the court, as well as to each parent and their attorneys. Where the PC has not been appointed by the court, PCs should prepare recommendations, reports and decisions in such a manner that the court can access the information if requested. In most jurisdictions, that determination becomes an order and is considered binding. Standards for appeal and judicial review vary from jurisdiction to jurisdiction.

E. A PC shall refrain from making decisions that would change legal custody and physical custody from one parent to the other or substantially change the parenting plan. Such major decisions are more properly within the scope of judicial authority. PCs may need to make temporary changes in the parenting plan if a parent is impaired in his or her functioning and incapable of fulfilling his or her court-ordered parenting functions until further information and assessment is obtained and the court has assumed decision-making responsibility.

Guideline XII

A PC shall not engage in marketing practices that contain false or misleading information. A PC shall ensure that any advertisements regarding qualifications, services to be rendered, or the parenting coordination process are accurate and honest. A PC shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.

APPENDIX A:

RECOMMENDATIONS FOR COMPREHENSIVE TRAINING OF PARENTING COORDINATORS

A Parenting Coordinator ("PC") should have training in each of the following subject areas as reflected in the modules below. It is anticipated that mental health and legal professionals will have acquired some of the knowledge and experience in the competency areas listed, particularly in Section II, and in mediation training. Training programs may want to accommodate different levels of prior training and experience by offering training in these four modules and developing a process for exempting certain professionals from any of the modules where competency is established. Individual jurisdictions should set guidelines, approve trainings, and assign trainers to ensure that candidates can demonstrate minimum competencies in order to begin practice, and should require the completion of scheduled follow up trainings to achieve mastery within a reasonable amount of time. Individual jurisdictions and provinces might consider developing mentoring programs to provide consultation and support for beginning "PCs" to reinforce and develop the skills that are covered in the recommended subject areas.

Module 1: The Parenting Coordination Process

- A. The various functions of the PC
- B. Limitations of the parenting coordination process, including the difference between parenting coordination and parent education, therapy, custody evaluation and dispute resolution processes
- C. Professional guidelines of practice for PCs
 - 1. The interplay between other professional guidelines and professional practice guidelines and local/state guidelines for court-appointed PCs
 - 2. The potential for conflict of interest of the PC and the people to whom parenting coordination services are offered
- D. Issues that are appropriate and not appropriate for parenting coordination
- E. Characteristics of individuals who are appropriate and not appropriate to participate in the parenting coordination process
 - 1. Appropriate courses of action when confronted with substance abuse during the parenting coordination process
 - 2. Screening for domestic violence and appropriate courses of action when confronted with domestic violence during the parenting coordination process

3. The effect of domestic violence on parents involved in the parenting coordination process
 4. Situations in which the PC should suggest that the parties contact the supervising judicial officer, independent legal counsel, postpone or cancel the parenting coordination session, suspend the parenting coordination process, or refer the parties to other resources
- F. When to refer parties to services for child protection or elder abuse, and the issue of confidentiality as it applies to each
- G. Special needs of the *pro se* or *pro per* party

Module 2: Family Dynamics in Separation and Divorce

- A. Psychological Issues in Separation and Divorce and Family Dynamics
1. The impact divorce has on individuals and on family dynamics and the implications for the parenting coordination process
 2. Useful psychological research and theories applicable to the intervention for high conflict families
 3. How emotions impact on divorce issues and on a party's ability to participate effectively in the parenting coordination process.
 4. Sources of divorce/separation impasses, including parental behaviors associated with personality disorders, and the related implications
 5. How to promote awareness by the parties of the interests of persons affected by actual or potential agreements, who are not represented during the parenting coordination process
 - a. The impact of grandparents, step-parents and significant others on family systems and the parenting coordination process
 - b. Situations in which participation of non-parties (e.g., grandparents, children, new spouses) may be necessary in the parenting coordination process
- B. Issues concerning the needs of children in the context of divorce
1. The needs and adjustment of children and the effect of divorce on their relationships with their mother, father, step-families, siblings and others in the family relationship
 2. Child(ren)'s developmental stages and how they relate to divorce and parenting arrangements

3. The impact the parenting coordination process can have on the children's well-being and behavior
 4. When and how to involve children in the parenting coordination process
 5. Indicators of child abuse and/or neglect and the process and duty to report allegations of child abuse and/or neglect
- C. Dealing with high conflict parents
1. The impact of parental conflict and appropriate parenting on children's well-being
 2. The dynamics of child alignments, estrangements and alienation
 3. Various parenting arrangements that consider the needs of the child(ren) and each parent's capacity to parent, including modifications for high conflict situations
- D. Dealing with domestic violence issues
1. The different research-based types of domestic violence, including conflict-instigated violence, violence involving power, control, and coercion (often referred to as male battering), female violence, and separation-engendered violence
 2. The unique problems and inherent dangers presented by domestic violence of all types in terms of parental contacts, and the need for safe PC procedures and child exchanges
 3. The importance of monitoring compliance with the parenting plan and reporting to a judicial officer any infractions of the court order, including the parenting plan
 4. The psychological impact of domestic violence on child and adolescent development
- E. The different co-parenting relationships of cooperative, parallel, and conflicted parenting

Module 3: Parenting Coordination Techniques and Issues

- A. Structuring the parenting coordination process
1. The initial session and preparing the parties for the process
 2. Scheduling the time and location, and establishing the format of each conference and focusing discussion
 3. Structuring and managing the discussion, maintaining control of the sessions, and utilizing appropriate case management skills

4. Managing separate sessions, telephonic and e-mail communication
5. Maintaining appropriate records and documentation as a PC
- B. The PC's informed consent, including limits on confidentiality
- C. The PC's service contract and fee allocation
- D. The role of the parenting plan in the parenting coordination process, including how to develop, monitor and modify a parenting plan
- E. The characteristics that enhance or undermine the effectiveness of the PC including, but not limited to: demonstrating empathy, building rapport, establishing trust, setting a cooperative tone, sympathetic listening and questioning, empowering the parties, remaining non-judgmental, language use, and non-verbal communication skills
- F. Awareness of personal biases, prejudices and styles that are the product of one's background and personal experiences that may affect the parenting coordination process
- G. Socio-economic, cultural, racial, ethnic, language, age, gender, religious, sexual orientation and disability issues, which may arise and/or affect the parties' negotiation styles, ability or willingness to engage in the parenting coordination process
- H. Building on partial agreements including when and how to switch between dispute resolution processes
- I. Arbitration procedures, appropriate arbitration decisions, and writing and filing arbitration decisions/awards
- J. Appropriate techniques for handling difficult situations
- K. Appropriate boundaries of a PC
 1. Safety procedures for those participating in the parenting coordination process
 2. Office safety policies and working with clients having current restraining and protective orders
 3. Establishing appropriate limits for client demands
- L. When and how to use outside experts effectively
 1. How to assist the parties in deciding on appropriate community resources
 2. Developing a list of social service resources, including those for domestic violence situations
- M. The impact of high conflict client behavior on the parenting coordination process and the PC and avoiding professional burn-out
- N. Reasons for a PC to decline an appointment, withdraw or request

- appropriate assistance including, but not limited to, when the facts and circumstances of the case are beyond the PC's skill or experience
- O. The Americans with Disabilities Act (ADA) requirements and strategies for handling situations when faced with disability issues or special needs

Module 4: Court Specific Parenting Coordination Procedures

- A. The PC's responsibility to the court
- B. Knowledge of and adherence to jurisdiction-specific qualifications for a PC
- C. Mentorship and certification requirements, if applicable
- D. Local/state/province family law as it may pertain to the parenting coordination process
 - 1. The state statute and/or rule governing family parenting coordination
 - 2. The difference between neutrality and impartiality as it applies to parenting coordination and the ability to demonstrate each appropriately
 - 3. Legal concepts as they relate to the parenting coordination process including, but not limited to: geographic relocation, equitable distribution, child support, law of modification, parenting time adjustment, law of relocation, law of due process law of *ex parte* communication and law of privilege
 - 4. The statutory constraints of parenting coordination where domestic violence exists and/or protective orders are in place
- E. How and when the PC should interface with the court system
 - 1. The appointment and discharge processes of the PC
 - 2. The importance of a court designation to the parenting coordination process
 - 3. The ethical constraints on confidentiality and both in relation to the entire parenting coordination process and separate sessions within the process
- F. Forms utilized in local courts pertaining to parenting coordination and local court procedures
- G. How to work with legal, mental health and other professional disciplines, and promote cooperation among those dealing with the family H. When and how to utilize a qualified expert and/or a team approach to best serve the parties in the parenting coordination process

- H. The grievance procedure contained in the local/state rules for PCs, if any
- I. Possible ethical dilemmas that may confront a PC and how to avoid them

Domestic Violence Training: *The need for additional and/or separate training on domestic violence should continue be considered in setting up a PC training program.*

APPENDIX B:

BEST JUDICIAL AND PROGRAM PRACTICES

A parenting coordination program operates most efficiently and effectively when judges understand, support and are involved in the formation of the program. Judicial monitoring of the program, the PCs and their work is essential to protect parents, children and PCs. The process is most effective at weaning the parties from litigation when judges encourage them to rely on the PC to resolve their disagreements and discourage ongoing court proceedings. To these ends, the following best practices for the judiciary and for program development are recommended.

1. Scope of Authority:

In some jurisdictions, the role or scope of authority of the PC may be limited by the provisions of state constitutions, statutes, court rules or case law on public policy considerations regarding the delegation of a court's authority to protect the best interests of children in contested custody and parenting time cases. Some jurisdictions permit those disputes to be resolved in private arbitration, while other jurisdictions prohibit arbitration as against public policy (*parens patriae* doctrine). Consequently, local law should be researched carefully before a new parenting coordination program is designed.

2. Qualifications of PCs:

In jurisdictions establishing or revising a parenting coordination program, it is recommended that judges appoint qualified professionals to undertake this difficult work as the best means for achieving the goals of the court. Judges in each jurisdiction are encouraged to establish a means for confirming the qualifications and training of mental health and legal professionals seeking to be appointed as PCs. This information should be available for review by parents and lawyers considering a PC.

3. Standard Order:

It is recommended that each jurisdiction initiate an interdisciplinary effort, appointed by the judiciary, to develop and adopt a standard order describing the legal authority, duties, and responsibilities of the PC, issues to be decided, fees, grievance process, and term of service. This will minimize confusing variations in practice for professionals and parents. The order should be signed by the lawyers, parents, and a judge prior to the PC's beginning service.

4. Submission and Objection to PC Recommendations and Reports to Court:

There is variation in the destination of the PC's recommendations and decisions. In most, but not all jurisdictions, where PCs are appointed by court order, the PC is expected to send all recommendations, reports, and orders of decision to the court, as well as to each parent and any attorney. Where there is no court-appointed authority, PCs should prepare recommendations, reports, and decisions in such a manner that the court can access the information if requested.

5. Parent Grievances Regarding the PC and Objections to Recommendations and Decisions:

When PCs are appointed by the court or by consent agreement, it is important that the order contain clear language and procedures to handle parent grievances regarding the PC and to handle parent objections to the PC's recommendations and decisions, including wishes that the PC be removed. Some orders include language that indicates that the PC can be removed or disqualified on any of the grounds applicable to the removal of a judge, referee or arbitrator. It has been found to be helpful to articulate a series of steps for managing such grievances, which may stem from PC's acting in an unprofessional manner or may arise from anger about the PC's recommendations or decisions which were not favorable to the complaining party. These procedures have been developed to protect PCs from unfounded complaints to the professionals' licensing boards and also to provide parents with sanctioned avenues for seeking redress.

One grievance model requires that the complaining parent first set up and attend an appointment with the PC to discuss the grievance, prior to initiating any court proceedings for removal or complaining to the licensing board, in an attempt to resolve the grievance. If no resolution is reached, both parents and the PC then attend a judicially supervised settlement conference prior to any action being taken. The court reserves jurisdiction to determine if the PC's time and expenses should be reimbursed in part or totally, including any attorney's fees incurred by the PC. If either the complaining party or the PC believes that the complaint cannot be resolved, either party can file a motion to the court to terminate the PC's services. The judge is the final gatekeeper on the grievance process unless there is a PC certification body.

As an arm of the court with judicially delegated authority, PCs should be afforded quasi-judicial authority and immunity to protect them from lawsuits.

6. Standard Procedures and Literature:

Parenting coordination programs may consider developing and adopting a standard parenting coordination information pamphlet that describes in clear and simple

language what the parenting coordination model is, what the objectives of the parenting coordination process are, how the PC functions, the limitations on confidentiality, and what type of decisions the PC is typically authorized to make in the event of unresolved disputes. This educational sheet can routinely be made available to parents and lawyers who are considering the appointment of a PC.

Jurisdictions should consider establishing an appointment conference with the judge soon after the decision to use a PC. At the conference which the parties, their attorneys, any children's advocates and the proposed PC must attend; the order or consent agreement is signed and distributed, the PC's role and authority are explained, fees are determined, initial appointments are scheduled, releases and contracts are signed, and responsibility for providing documents and other information is assigned, all with the goal of commencing the pc process without delay.

Each local jurisdiction should consider creating a committee to facilitate the establishment of local rules (if any), standardized procedures and orders, and needed training, and to provide PCs with peer feedback.

APPENDIX C:
PARENTING COORDINATORS AND THE CANADIAN EXPERIENCE

It is to be noted that the Canadian experience with respect to PCs may differ substantially from the process as utilized in the United States.

First and foremost, the Canadian constitutional framework does not permit judges to delegate to third parties any judicial or quasi-judicial functions. In essence, this means that it is not possible for a judge to order the parties to attend and work with a PC under any circumstances and, accordingly, it is also not possible for a judge to order parties to attend with a PC who has arbitral powers or any decision-making powers. That would be considered an improper delegation.

Nevertheless, there is a significant increase in the number of families that are utilizing the services of a PC in order to help them resolve parenting issues. This process in Canada is always on consent. In Canada, the parties, if desirous of using a PC, enter into a Parenting Coordinator Agreement. This Agreement usually gives the PC both mediation and decision-making powers, and the limitation of the PC's powers is set out in the Agreement. Usually this means that the PC can attempt to mediate any parenting issues that do not fundamentally change the structure of the Parenting Agreement and, failing mediation, the PC can arbitrate and, thereby, resolve the parenting dispute.

It is common for the parties to incorporate the Parenting Coordinator Agreement into a court order. This does not constitute improper delegation by a court but is a recognition that the parties are thereby agreeing to arbitrate their parenting issues and this forms a submission to arbitration under the various provincial arbitration Acts that exist in each province. That is, the courts are no longer supervising the parenting issues that are covered in the Parenting Coordinator Agreement and the parties are bound by the Parenting Coordinator Agreement to arbitrate the issues for the terms set out in the Parenting Coordinator Agreement.

In Canada, therefore, it is very common that PCs are both mediators and arbitrators in the same case. That also means that the PC, when arbitrating, may utilize information learned in the mediation process to inform the PC as to how the decision on the disputed issue will be resolved.

There are virtually no PCs in Canada that would confine their role to just arbitration, and most lawyers have found that to confine a PC's role to strictly mediation is not effective. Accordingly, a hybrid model has developed in Canada that allows the PC to both mediate and arbitrate.

APPENDIX D:

Members of the AFCC PC Taskforce 2003-2005

Chairperson and reporter: Christine A. Coates, M.Ed., J.D. is an experienced Colorado family law attorney who now emphasizes alternative dispute resolution (ADR) in domestic relations and has been an innovator in interventions for high conflict parents. She also is an adjunct professor at the University of Colorado School of Law and the author of articles on parenting coordination, high conflict families and ADR. A former president of AFCC and the chair of the first AFCC Parenting Coordination Task Force, she is the President of the Institute for Advanced Dispute Resolution and is a popular national speaker and trainer in conflict resolution, parenting coordination and family law. She co-authored *Working with High Conflict Families of Divorce* (Jason Aronson, 2001) and *Learning From Divorce* (Jossey-Bass, 2003).

Secretary: Linda Fieldstone, M.Ed. is supervisor of Family Court Services of the 11th Judicial Circuit of Florida, a parenting coordinator and trainer, and Certified Family Mediator, assisting the circuit in the development of its current PC program, policies and procedures. She is on the Board of Directors of AFCC, currently the President of the Florida Chapter of AFCC, and serving as Coordinator for the FLAFCC PC Interest Group and FLAFCC PC Taskforce. Ms. Fieldstone was appointed to the Florida Supreme Court Parenting Coordination Workgroup which has developed a PC Administrative Order/Order of Referral/Training Program which could be utilized uniformly statewide.

Barbara Ann Bartlett, J.D. has been an attorney for 20 years in Tulsa, Oklahoma and has been on the ground floor of the family law court reforms for Tulsa since they began in the early nineties. She was a co-author of the first Parenting Coordinator legislation in the nation that passed the Oklahoma legislature in 2001 and wrote the *amicus curiae* brief in support of it in the first constitutional challenge of a PC statute. She is on the Bar Register of Preeminent Lawyers.

Robin M. Deutsch, Ph.D. is a psychologist at the Massachusetts General Hospital where she is the Co-Director of the Children and the Law Program of the Law and Psychiatry Service. She is an Assistant Clinical Professor of Psychology at Harvard Medical School. Her work has focused on the application of child development research to children's adjustment to divorce, the evaluation of families involved in family change, parenting issues, and management of high conflict divorce. She is the co-author of 7 Things Your Teenager Can't Tell You (and How to Talk About Them Anyway) (Ballantine, 2005). Dr. Deutsch is a member of the Board of Directors of the AFCC and the Massachusetts chapter of AFCC (of which she is a former president). She is frequently invited to provide educational and scientific presentations to judges, lawyers, and mental health professionals

Billie Lee Dunford-Jackson, J.D. is the Co-Director of the Family Violence Department of the National Council of Juvenile and Family Court Judges. She works on law and policy issues pertaining to child custody and child protection in the context of domestic violence and provides training and technical assistance to practitioners seeking new approaches to working with families where both mothers and children are abused. She was instrumental in developing and launching the National Judicial Institute on Domestic Violence and continues to play an active role in the Department's expanding educational programs for judges and court personnel handling domestic violence caseloads. Ms. Dunford-Jackson received her Masters and Juris Doctor degrees from the University of Virginia and practiced law for sixteen years, much of her caseload devoted to representing victims of domestic violence, before joining the Department in 1997.

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Hon. William G. Jones is a retired Chief District Court Judge from Charlotte, North Carolina. He was instrumental in establishing a parenting coordination program there and in implementing other initiatives to facilitate the resolution of child custody disputes. He is also active in the National Council of Juvenile and Family Court Judges.

Joan Kelly, Ph.D. is a psychologist, researcher, and mediator, who was Director of the Northern California Mediation Center for 20 years. Her research, clinical, and teaching career of three decades has focused on child and family adjustment to divorce, custody and access issues, child development, divorce and custody mediation, and parenting coordination. She has published 75 articles and chapters in these areas of interest, and is co-author of Surviving the Breakup: How Children and Parents Cope with Divorce. Dr. Kelly has been honored for her work with many awards, including the Distinguished Mediator Award from the Academy of Family Mediators, Fellow of the American Psychological Association, and the Stanley Cohen Distinguished Research and Meyer Elkin Awards from AFCC. Joan presents seminars and keynote addresses throughout the

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Guidelines for the Practice of Parenting Coordination

American Psychological Association

These guidelines are designed to address the developing area of practice known as *parenting coordination*. In response to the recognition by family courts and substantial evidence in the empirical and clinical literature that divorce does not end patterns of high parental conflict for some families (Garrity & Baris, 1994; Hetherington, 1999; Johnston, 1994; Maccoby & Mnookin, 1992; Wallerstein & Kelly, 1980), parenting coordination interventions began to be developed more than two decades ago. In the past decade, parenting coordination work has expanded across states and jurisdictions (Kirkland, 2008; Kirkland & Sullivan, 2008).

The course of the divorce process is commonly one of heightened anger and conflict, anxiety, diminished communication, and sadness or depression for one or both partners. These negative emotions are often accelerated by the separation and the adversarial nature of the divorce process. Although the majority of parents significantly diminish their anger and conflict in the first two to three years following divorce, between 8% and 15% continue to engage in conflict in the years following divorce, with little reduction in intensity of their feelings (Deutsch & Pruett, 2009; Hetherington, 1999; Hetherington & Kelly, 2002; Johnston, Roseby, & Kuehnle, 2009; Kelly, 2000, 2003; Maccoby & Mnookin, 1992; Wallerstein & Kelly, 1980).

Generally, this relatively small group of parents is not able to settle their child-related disputes in custody mediation, through lawyer-assisted negotiations, or on their own. They turn to litigation in the years following separation and divorce to settle these disputes and utilize disproportionate resources and time of the courts. They are more likely to have significant psychological problems, which may interfere with their parenting, and they more often expose their children to intense conflict and intimate partner violence, also commonly referred to as *domestic violence* (Johnston et al., 2009). As the negative impacts of continued high conflict on children became well established in the empirical and clinical literature (Clarke-Stewart & Brentano, 2006; Deutsch & Pruett, 2009; Emery, 1999; Grych, 2005; Hetherington, 1999; Johnston et al., 2009), family court judges, divorce intervention researchers, and psychologists practicing in the divorce and family area explored alternative interventions that would diminish the use of the adversarial process to resolve child-related disputes and deal effectively with these parents to reduce the conflict to which children were exposed (e.g., Cookston, Braver, Griffin, deLusé, & Miles, 2007; Cowan, Cowan, Pruett, & Pruett, 2007; Emery, Kitzman, & Waldron, 1999; Henry, Fieldstone, & Bohac, 2009; Johnston, 2000; Kelly, 2002, 2004; Pruett & Barker, 2009; Pruett & Johnston, 2004; San-

dlar, Miles, Cookston, & Braver, 2008; Wolchik, Sandler, Winslow, & Smith-Daniels, 2005).

Parenting coordination began gaining recognition in the 1990s as a result of presentations and trainings first offered at conferences, such as those of the Association of Family and Conciliation Courts (AFCC), and by experienced parenting coordinators (PCs). Initially, there were variations in role, source and degree of authority, and practice in different jurisdictions, and different titles were used to describe this innovative intervention model, including *special masters*, *coparenting facilitators*, or *mediator/arbitrators*. In 2003, AFCC appointed an interdisciplinary task force to develop guidelines for parenting coordination to guide mental health professionals, mediators, and lawyers with respect to training, practice, and ethics (AFCC Task Force on Parenting Coordination, 2006).

The complex and hybrid parenting coordination model continues to be refined in professional deliberations about the role, emerging statutes and case law, and court and local rules and regulations governing parenting coordination practice at the local jurisdictional level. These American Psychological Association (APA) "Guidelines for the Practice of Parenting Coordination" are intended to provide a specific framework and direction for psychologists for professional conduct and decision making in the practice of parenting coordination. Although designed for psychologists, many aspects of these guidelines may be relevant to other professionals as well.

The literature reviewed in drafting these guidelines was selected by the members of the APA Task Force for the Development of Parenting Coordination Guidelines

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to include the most seminal, relevant, and recent publications.

Definition of Parenting Coordination

Parenting coordination is a nonadversarial dispute resolution process that is court ordered or agreed on by divorced and separated parents who have an ongoing pattern of high conflict and/or litigation about their children (Coates, Deutsch, Starnes, Sullivan, & Sydlik, 2004; Deutsch, Coates, & Fieldstone, 2008; Kelly, 2002, 2008). The underlying principle of the parenting coordination intervention is a continuous focus on children's best interests by the PC in working with high-conflict parents and in decision making. Parenting coordination is designed to help parents implement and comply with court orders or parenting plans, to make timely decisions in a manner consistent with children's developmental and psychological needs, to reduce the amount of damaging conflict between caretaking adults to which children are exposed, and to diminish the pattern of unnecessary relitigation about child-related issues. Parenting coordination is appropriate pre- or postdecree, though it is most widely used as a postdecree model of intervention for parents who have demonstrated an inability to resolve their disputes through other dispute resolution and adversarial processes, such as mediation, initial settlement conferences, and custody evaluations. Arbitration is a central component of the practice of parenting coordination, where permitted under state law, local rule, or by court order. Recent research provides some preliminary evidence of the benefits of parenting coordination for high-conflict families and for the courts (Henry et al., 2009; Lally & Higuchi, 2008; Scott et al., 2010).

Parenting coordination is generally not a confidential process. The PCs may be authorized to speak with other professionals involved with the family, and the court may require documentation regarding parenting coordination interventions and outcomes. PCs do not disclose clients' records or information except as relevant to the parenting coordination process, in emergencies, or as authorized by court order or written agreement of the parties.

In these guidelines, the term *parents* is used generically when referring to any adults who have legal standing and/or have a caretaking role with the children in dispute, for example, grandparents, guardians, other relatives, or nonbiological parents.

Purpose of Guidelines

The role of the PC differs in significant ways from the usual roles of psychologists and requires specialized knowledge and training, including mediation and arbitration skills, familiarity with relevant legal contexts, and experience in assisting parents with high conflict (AFCC Task Force on Parenting Coordination, 2006; Coates et al., 2004; Kelly, 2008). These guidelines describe best practices for ethical and competent functioning in this unique role. State laws

and court and local rules may govern the practice of parenting coordination. In addition, psychologists who provide parenting coordination services are familiar with relevant APA standards and guidelines, including the "Ethical Principles of Psychologists and Code of Conduct" (APA, 2002), hereinafter referred to as the ethics code; "Specialty Guidelines for Forensic Psychologists" (APA, 1991); "Record Keeping Guidelines" (APA, 2007); "Guidelines for Psychological Evaluations in Child Protection Matters" (APA Committee on Professional Practice and Standards, 1999); *Guidelines for Child Custody Evaluations in Family Law Proceedings* (APA, 2009); and "Guidelines on Multicultural Education, Training, Research, Practice, and Organizational Change for Psychologists" (APA, 2003).

The term *guidelines* as used here refers to statements that suggest or recommend specific professional behaviors, endeavors, or conduct for psychologists. Guidelines differ from *standards* in that standards are mandatory and may be accompanied by an enforcement mechanism. The following guidelines are aspirational and intended to facilitate the continued systematic development of the profession and a high level of practice by psychologists. They are not inclusive of all considerations and are not intended to take precedence over psychologists' judgment.

Undertaking the Parenting Coordinator Role

Guideline 1. Psychologists endeavor to understand the complexity of the parenting coordinator role and to distinguish it from other professional roles.

Rationale. Psychologists who provide parenting coordination services endeavor to understand the PC role, including sources of authority and appropriate activities, in order to maintain professional boundaries and to avoid incorporating clinical, forensic, or legal practices that are beyond the scope of the PC role.

Application. The PC's role is to reduce conflict between parents by providing parent education, guidance, and coaching; facilitating discussion about children's needs and parenting priorities; obtaining information for mediating disputes as they arise; arbitrating decisions as necessary; encouraging compliance with court orders; and developing methods to improve the communication between parents and facilitate constructive parenting, as appropriate.

The PC role can be initiated in one of three ways: The parents and PC sign a formal private consent agreement; the parties agree to the use of the PC, which then may become a court order; or the court orders the use of the PC in certain high-conflict cases. The PC's professional relationship is with the parents and is defined by a written agreement, regardless of the way in which the role is initiated. PCs strive to ensure that both parties are fully informed about the parenting coordination process and role and freely consent to participate. If a court orders parenting coordination over the objection of one party, the PC may decline the appointment or later withdraw from the case if the parenting coordination services are not effective. PCs

may meet with parents together or individually and privately, when indicated. For example, PCs may meet with parents individually when there are concerns regarding potential abuse or significant power imbalances or to avoid high-conflict interactions between family members. PCs with appropriate training and experience may find it helpful to interview children when their views and opinions would help parents achieve resolution of a particular dispute in a manner that meets the psychological, social, or academic needs of the child. PCs may also meet with other involved caretakers or professionals when their input would be relevant to decision making.

The number and timing of sessions with the parents will vary on the basis of the frequency and complexity of disputed issues and the amount of information needed to mediate or arbitrate the conflict. In new cases, PCs typically have several sessions with the parents to become acquainted with the family and the parents' major concerns but may then decide that further sessions are not necessary until notified by a parent that a dispute needs to be addressed by the PC. Phone contacts of varying lengths and e-mail communications are typical in parenting coordination cases. PCs engage in the use of e-mail and other types of electronic communication cautiously to protect sensitive information and comply with relevant legal and ethical requirements.

Parenting coordination services are distinct from other types of professional services that may be utilized by separating or divorcing parents, such as legal services, custody mediation, custody evaluation, divorce coaching, marriage and family counseling, or couples therapy. The role of a PC differs from the clinical role of a psychologist in various ways. In the PC role, the psychologist does not provide formal psychological evaluations or testing, offer any psychological diagnoses, or render individual, family, or marital therapy or counseling services to the parents or children. Such clinical assessment or psychotherapy intervention services are referred to other providers as deemed necessary or helpful. If the PC is concerned about the children's or any family member's safety because of parental mental illness, family violence, substance use, or other conditions or behaviors, the PC considers appropriate actions, such as making a referral in a timely fashion, reporting concerns to the court, or contacting law enforcement or child protection authorities.

PCs may provide assistance to the court within the scope of their role; however, they may not provide legal advice. The functions of a PC do not include forensic assessments of the parents or children with whom the PC is working. Forensic training and expertise as a child custody evaluator, mediator, or child abuse evaluator may be valuable in preparing for the PC role, but these experiences taken individually or together are not ordinarily sufficient for undertaking parenting coordination practice without further specialized training. Moreover, although clinical experience will be useful in negotiating the complex practice of parenting coordination, clinical training is not sufficient preparation for the PC role.

Gaining and Maintaining Specialized Psychological and Legal Knowledge

Guideline 2a. Psychologists strive to gain and maintain specialized knowledge and training in psychological domains that are relevant to the parenting coordination role.

Rationale. The practice of parenting coordination requires the acquisition and application of specialized psychological knowledge relevant to effective implementation of the PC role. PC psychologists strive to acquire more specialized knowledge through activities such as formal continuing education and case-specific consultation.

Application. Psychologists strive to augment professional knowledge by means of formal professional development prior to serving as a PC. Specialized PC training addresses important substantive areas that include but are not limited to the following: objectives of the PC role and function; types of parental disputes that arise and require resolution; differences between the work of the PC and other professional roles of psychologists; combinations of dispute resolution techniques (e.g., mediation techniques, arbitration, and parent education) used to assist parents in resolving their parenting disputes; provisions of the court order or stipulated agreement governing the PC's work; protocols for initiating parenting coordination cases and maintaining working alliances with parents and children over time; case and conflict management techniques; analyzing disputes and drafting of decisions; and management of specific ethical dilemmas related to the PC role (Kelly, 2008). Such knowledge generally requires participation in basic and advanced PC trainings offered by highly qualified and experienced professionals. To gain understanding of these important aspects of the PC's role and function, relevant trainings would ordinarily be comprehensive of the substantive areas just listed and of sufficient duration and intensity to enable psychologists to function competently in the PC role and to meet statutory requirements.

Relevant and important psychological knowledge for PCs includes understanding of empirical and clinical research on the impact of relationship and marital dissolution on parents and children. Of particular value is research focused on risk and protective factors predicting child and adolescent outcomes and ways of fostering resilience in children or families affected by separation and divorce. The knowledge base regarding children includes the dynamics of complex postseparation situations, such as refusal to visit a parent, parental undermining of the child's relationships with the other parent, relocation of a parent, and the inappropriate involvement of the child in parental disputes. Knowledge pertinent to parents involved in the parenting coordination process includes the dynamics of parents with continuing high levels of conflict, including how personality disorders, mental illness, and substance use contribute to disputes; the impact of high parental conflict on the quality of parenting; and effective interventions that reduce acrimony and restructure the parenting relationships. Un-

derstanding the ways in which high-conflict divorces and intimate partner violence overlap and interact is crucial for determining whether, when, and how parenting coordination interventions can be undertaken and proceed safely and constructively (Johnston, 2006). Additionally, the knowledge base of intimate partner violence, child abuse, and trauma includes understanding the dynamics, warning signs, long-term effects, and appropriate interventions for family members. Other relevant areas of psychological knowledge include the following: family dynamics; communication patterns; family life cycle development; normative infant and child development and mental health; developmentally appropriate methods of interviewing children; the impact of a child's or parent's disability on family functioning; diversity issues; and cultural context (see also Guidelines 4 and 5b).

Review of these topics may not reflect a sufficient and exhaustive understanding of the content relevant to all parenting coordination cases. The PC may need to gain additional specialized knowledge or training.

Guideline 2b. Psychologists strive to understand legal authorities, terminology, and procedures that affect parenting coordination practice.

Rationale. PCs function in a specialized area in which their actions are generally governed by legal authority applicable to PCs (e.g., statutes, regulations, case law, and state and local court rules) as well as by legal authority used in the particular case or by the particular PC (e.g., court orders or private consent agreements). Thus, the PC needs to have adequate familiarity with the relevant legal terminology and authorities. Qualifications for practice as a PC may be specified by state and local laws, rules, or regulations (e.g., education and training requirements).

Application. Psychologists strive to acquire specialized knowledge of legal concepts and procedures specifically relevant to PC functioning prior to undertaking the PC role. Relevant legal knowledge ordinarily includes the following issues: the role and authority of the PC, including the PC's decision-making authority and procedures (e.g., disputed issues that can be addressed and/or decided by the PC); the distinction between the PC role and other clinical and forensic psychological roles and the practice of law; state and federal arbitration statutes; immunity from civil damages for any acts or omissions in the role of PC, if applicable; custody statutes; domestic violence statutes; statutory requirements and reporting obligations arising from cases of intimate partner violence or child maltreatment; and ex parte communications.

Court orders or private consent agreements for specific cases ordinarily cover the issues listed in the prior paragraph as well as the following: legal source(s) of the PC's authority; the PC's reporting to the court; limits to confidentiality and privilege; authority and procedures pertaining to interviewing the children, parents, and involved professionals; grievance processes; and fees.

Competencies Necessary for the Parenting Coordinator Role

Guideline 3. Psychologists acknowledge the importance of providing services consistent with the highest standards of their profession and strive to undertake the parenting coordinator role only if they have the necessary specialized competencies.

Rationale. Specific professional competencies (e.g., relevant professional knowledge domains), personal competencies (e.g., ability to work effectively with persons in high conflict and potentially volatile situations), and cultural competencies as well as relevant experience are advisable for the practice of parenting coordination. State and local laws, rules, or regulations may specify particular requirements for practice as a PC (e.g., professional degree in law or mental health, training on domestic violence, mediation training). Given the unique and complex role of the PC, competencies for standard psychological practice are generally insufficient for competent functioning as a PC.

Application. Consistent with competencies for psychological practice in other areas, critical competencies for PCs include the following: using research- and practice-based knowledge; writing clear and detailed recommendations, agreements, decisions, and reports to the court documenting the resolution of parental disputes; practicing in a culturally competent manner by recognizing personal biases and values (see Guideline 5b); and understanding the ethical and legal responsibility to maintain competency (AFCC Task Force on Parenting Coordination, 2006; APA, 2002, Standard 2.03).

Professional and personal competencies of the PC help high-conflict parents settle their disputes and comply with court orders in ways that are in the best interests of their children, while recognizing and maintaining sensitivity to the fact that there may be situations in which the children's interests seem to vary from those of one or both parents. These competencies include the following: the ability to engage in a careful, fair, and disciplined consideration of relevant data and evidence; understanding alternative views; relationship skills, such as empathy, respect, and self-awareness; engaging in professional problem solving in a systematic manner; collaborating with the parents to identify outcome-oriented goals for both parents and children; understanding interpersonal processes and how to establish, maintain, and conclude a professional relationship with high-conflict parents; and establishing interpersonal boundaries and guidelines for effective communication. These competencies may enhance the resolution of parental disputes, may reduce the demands of parents or their legal representatives arising from anxiety, anger, miscommunication, or ambiguity; and may mitigate the harmful impact of the parents' conflict on the children.

Awareness of one's own personal and professional biases, values, and opinions enables the PC to avoid undue

influence over parents' agreements or parenting plans. Knowledge of the polarizing effects of high conflict or a history of abuse between parents helps the PC to avoid making unwarranted alignments with one parent. The PC endeavors to base professional guidance of parents and decision making on empirical social science research regarding children's psychological and developmental needs, cultural context, diversity, and best interests.

Problem-solving competencies may be strengthened by participation in case supervision, professional and peer consultation, and continuing education. To resolve problems effectively in the parenting coordination process, these professional supports are often helpful to PCs in assessing whether they are setting appropriate limits with parents, remaining impartial, and making appropriate efforts to settle parental disputes. Such supports may also be helpful in learning to work collaboratively with legal, medical, and mental health professionals as well as lay persons and other professionals who have regular contact with the families.

Family Violence

Guideline 4. Psychologists aspire to facilitate healthy environments for children and appropriate parent-child relationships while ensuring the safety of all family members in the parenting coordination process.

Rationale. Parents who have a history of prior or current domestic violence, also commonly referred to as *intimate partner violence* (Johnston et al., 2009), may present substantial safety risks or power imbalances and may not be appropriate for parenting coordination. In determining whether to accept such cases, the PC seeks to rely on the extensive empirical and clinical research involving violence between partners, including research differentiating among patterns of domestic violence (Dalton, Carbon, & Olesen, 2003; Ellis, Stuckless, & Wight, 2006; Jaffe, Johnston, Crooks, & Bala, 2008; Johnson & Ferraro, 2000; Johnston, 2006; Johnston et al., 2009; Kelly & Johnson, 2008). PCs are aware of their professional and ethical responsibilities and take great care to avoid any harm that their professional interventions may have on others with whom they work (APA, 2002, Standard 3.04; APA Committee on Professional Practice and Standards, 1999).

Application. The terms *high conflict* and *domestic violence* are often used interchangeably; however, they do not describe the same types of interactions. Of greatest concern is the pattern of violence characterized by coercion and control, psychological abuse, intimidation and threats of harm, economic control, and often severe physical and sexual violence. Victims of such violence are at very high risk following separation and in contested custody cases and may be best served before and after divorce by court intervention. In other families, violence may have occurred as a result of conflicts escalating out of control with one or both partners being violent toward the other. In such cases, the dynamics of power and control are less likely to be

present, injuries are infrequent, and victims are less likely to be afraid of the other.

PCs carefully determine whether a specific case involving past or present intimate partner violence or child maltreatment is appropriate for the PC process, with a particular focus on safety concerns and substantial power imbalances. PCs understand that when intimate partner violence and/or child maltreatment is present or alleged in a custody case or ongoing litigation, parent-child contact may create opportunities for renewed intimidation, violence, or trauma and pose risks of abuse and exposure to the children. PCs use their professional judgment in carefully reviewing any evidence, allegations, or findings regarding family violence, harassment, intimidation, and current power imbalances when deciding whether use of a PC is safe or appropriate. The PC also carefully considers the safety risks posed by the ordered parenting plan. When PCs determine that a case is appropriate for parenting coordination, PCs take great care throughout the process to protect family members from being abused, exploited, or intimidated directly by another family member or indirectly through a family member's attempts to manipulate the parenting coordination process.

The scope of parenting coordination interventions may need to be significantly limited or modified in some cases, with an emphasis on monitoring parties' adherence to court orders and facilitating safe implementation of the court orders and parenting plans. The PCs strive to take into account power imbalances when providing mediation and arbitration to the parties. The appropriateness and implementation of parenting arrangements, either ordered or stipulated, are carefully considered in view of the emotional and physical safety of any children or parents who may have experienced, may be exposed to, or may be the target of threatened or actual abuse. The PC may utilize various methods (e.g., parallel parenting) to minimize safety risks in the parenting plan. The PC understands the duty to inform the appropriate authorities of suspected incidents of child abuse or neglect and/or risk to self or another that meet mandatory reporting standards for their jurisdiction.

Ethical Considerations

Guideline 5a. Psychologists strive to be familiar with sources of ethical and professional guidance that may be relevant to the provision of parenting coordination services, including the APA "Ethical Principles of Psychologists and Code of Conduct."

Rationale. PCs use knowledge of ethical principles to maintain structure, compliance, and professional integrity in a role that may be challenged or questioned by the clients, lawyers, and/or courts.

Application. Knowledge of sources of ethical guidance will assist the PC's efforts to avoid dual or sequential roles that may result in perceived or real compromises of professional impartiality or effectiveness.

When serving in the role of PC, the PC refrains from providing formal evaluations or psychotherapeutic or counseling services to any of the parties or family members, including parent, guardian, child, stepparent, grandparent, or other family member (APA, 2002, Standard 3.05a). Following termination of the PC role, the PC generally does not enter into a sequential role of mediator, custody evaluator, psychotherapist, or counselor with any member of the family (AFCC Task Force on Parenting Coordination, 2006). If the PC has served as a custody evaluator or mediator for the family, any decision about undertaking the PC role is done with caution and careful consideration of the changed requirements pertaining to issues such as limits to confidentiality, the orders of the court, informed consent, and the agreement or contract with the court and/or clients. The PC endeavors to be aware of the ethical risks in doing so and considers consultation with other professionals to help the PC avoid potential conflicts or adverse outcomes as a result of changing roles.

The PC strives to ensure that parties are adequately informed about all aspects of the PC role per court order or private consent agreement, as specified in Guideline 2b, including the limits of confidentiality (APA, 2002, Standard 4.02). The PC also strives to ensure that all parties adequately understand that when parents are not able to make essential joint decisions about their children, they may effectively delegate the decision making to the PC (APA, 2002, Standard 3.10; see also Guideline 5b next).

As in all psychological services, prior to providing services, PCs ordinarily explain to parents that in cases of suspected child abuse or neglect, by requirement of law, psychologists must report their concerns to the appropriate authorities as governed by state law. Likewise, the obligation to report endangerment to one's self or others is explained.

Psychologists aspire to be aware of and conduct research in this new area of practice following APA's ethics code (APA, 2002, Standard 8). In addition to usual ethical concerns in conducting and disseminating research, psychologists are aware of the litigious nature of high-conflict divorce and the limits to confidentiality of the PC process.

Guideline 5b. Psychologists strive to recognize and respond to relevant sources of professional guidance about multicultural and diversity issues in the provision of parenting coordination services.

Rationale. Consistent with the APA's "Guidelines on Multicultural Education, Training, Research, Practice, and Organizational Change for Psychologists" (APA, 2003), PCs endeavor to engage in culturally informed and competent practices. Lack of awareness and understanding of these issues may influence the PC's professional judgment and decision making.

Application. PCs strive to develop and maintain their awareness of, respect for, and responsiveness to the diversity of families' cultural contexts. Specifically, PCs consider how factors and personal biases pertaining to age, gender, gender identity, sexual orientation, race, ethnicity,

culture, religion, disability, language, and socioeconomic status influence the parties' and the PCs' values and expectations regarding family dynamics and parenting. PCs endeavor to understand expectations and behaviors regarding parenting practices that are based in frameworks different from their own and to integrate this knowledge into their interventions. They are aware of the legal frameworks pertaining to marriage, custody, and adoption that may present unique challenges for lesbian, gay, bisexual, transgender, or queer parents. Additionally, consideration of the impact of stigmatizing familial and societal dynamics is critical when parents and/or children have a disability. PCs strive to be knowledgeable about sources of information and guidance relevant to culturally specific issues presented by each parent and child. PCs seek appropriate professional consultation and/or other sources of information as they work with parties with differing experiences and identities.

Record Keeping

Guideline 6. Psychologists aspire to create and maintain professional records that are appropriate for the specialized role of parenting coordinator while conforming to the "Ethical Principles of Psychologists and Code of Conduct" and the procedural requirements of the law.

Rationale. Psychologists have an ethical and professional responsibility to develop and maintain records in accordance with APA's ethics code (APA, 2002, Standard 6.01) and APA's "Record Keeping Guidelines" (APA, 2007). PCs strive to create and maintain adequate records that provide a sufficient foundation for any decisions, changes in the parenting plan, or other parenting coordination interventions regarding the parents' functioning and that satisfy requirements of the legal process.

Application. Parenting coordination records form the basis for guiding high-conflict parents toward settlement of disputes and, when permitted by court order or private agreement, for arbitrating or making decisions to settle such disputes. All records are generated with the understanding that the records may be accessed through court order, subpoena, or other means and reviewed by lawyers, the court, and/or the clients. The level of detail included in the records is sufficient to enable other professionals and the court to analyze and understand the PC's decisions. Sufficiently detailed records promote higher quality professional work and enhance the psychologist's credibility and accountability if records are accessed by court order or subpoena. The psychologist strives to protect the security of paper and electronic documents as described in APA's "Record Keeping Guidelines" (APA, 2007) and to be aware of applicable laws and regulations regarding the security and retention of records.

When the term of service of the PC ends, some parents may continue to need the services of a PC and may select a new PC to fulfill the role. The prior PC strives to ensure continuity of service by transferring appropriate records and documents to the newly appointed or engaged PC, if

authorized by the initial court order or private consent agreement or by parents' written consent following termination of parenting coordination services.

Confidentiality of records in the provision of psychological services is mandated for psychologists by law, regulation, and/or ethical standards (APA, 2002, Standard 6.02). Parenting coordination is ordinarily intended to be a model of service in which traditional rules and expectations of confidentiality are modified such that the PC, with the backing of a court order, signed acknowledgement or stipulation, or releases by parents, can speak with all family members and potentially to anyone who is familiar with the family and may have relevant information to assist in dispute resolution. PCs nevertheless maintain the responsibility to safeguard, store, and dispose of records in a manner consistent with APA's "Record Keeping Guidelines" (APA, 2007), APA's ethics code (APA, 2002, Standards 6.01 and 6.02), and relevant laws and regulations.

Psychologists have an ethical responsibility to provide parents and/or their legal representatives with reasonable access to records reflecting the activities of the PC. PCs, however, may consider limiting the access of parents to notes from or regarding children or the other parent or to collateral interviews or other materials when there is substantial risk that such access may cause potential harm to the child or the persons involved. If necessary, the PC may seek court guidance regarding access to records.

Case Management

Guideline 7. Psychologists strive to engage in responsible parenting coordination case management and billing practices.

Rationale. PCs take reasonable steps to assure their ability to give each case the time and attention it requires. Timeliness is particularly important in parenting coordination work given the high level of conflict between parents and the significant issues affecting children's adjustment. To promote effective case management, PCs' policies regarding payment are typically outlined in advance in their written agreement.

Application. PCs seek to manage their workloads so that services can be provided in a comprehensive, competent, and timely manner. When allowed by court order or stipulated agreement to make decisions, the PC seeks to respond expeditiously and to notify the parents of the timeline and process for decision making or arbitration. The PC strives to gather all necessary information to make carefully considered decisions.

The court or the legal representatives for the parents, rather than the PC, ordinarily makes the determination of the appropriate division regarding payment for parenting coordination services. The PC endeavors to clearly explain to the parents and their legal representatives the basis of fees and costs, including any fees associated with cancellations or postponements. Fees are set and work conducted with awareness of and sensitivity to issues surrounding limited financial means when parents have been court ordered to receive services.

Because parenting coordination services are distinct from clinical assessment and treatment, there may be differences in billing procedures. Psychologists acting as PCs are not providing health care and do not bill insurance for any services provided in the PC role. When billing, PCs accurately represent the nature of their services (APA, 2002, Standards 6.04a, b, c, d, and 6.06). Thus, all charges for parenting coordination services reflect the actual time expended in direct face-to-face services, in other activity directly related to the case, or as directed by law, regulation, or rule governing the PC role in that jurisdiction. PCs maintain awareness of the potential financial impact on each parent of parenting coordination services.

PCs may notify parents in advance of their unavailability for extended periods of time. PCs ordinarily contract their services for a specified period of time in stipulated agreement with the parties or are appointed by the court for a defined time period. If, prior to the end of the contracted term or court appointment, the PC is no longer able to work with the parties in a productive and/or unbiased manner or must discontinue services for personal reasons, the PC provides written notice giving a reasonable time period or specifying the period before termination as determined by state law or local rules. If appointed by the court, the PC requests the court to vacate the order of appointment. The PC ordinarily makes reasonable efforts to explain to parents the mechanism for vacating the PC appointment. Prior to terminating services, the PC suggests alternative service providers as appropriate. If termination of services is initiated because of financial limitations or disagreements, PCs discuss this issue with the parties as early as possible and consider referrals to community services that may help meet the immediate needs for parenting plan support of the parents, children, and/or court (APA, 2002, Standard 6.04d).

The stipulation, agreement, or order ordinarily includes a clearly stated grievance process to be followed in the event of a disagreement between the PC and either or both parties about services, fees, termination, or other substantive aspects of the case. The PC endeavors to make this grievance process clear to parents at the start of the case.

Collaborative Relationships

Guideline 8. Psychologists strive to develop and maintain professional and collaborative relationships with all other professionals involved in the case.

Rationale. Parenting coordination work is interdisciplinary in nature and typically involves collateral contacts with other professionals who have knowledge of or provide services to family members. To facilitate this aspect of their work, PCs strive to develop and maintain collaborative relationships with other professionals, including those in the legal, medical, mental health, and educational communities that serve the parents and children.

Application. The PC ordinarily has access to many professionals involved with family members, includ-

ing custody evaluators, lawyers, school officials, day care providers, clergy, and providers of mental health, medical, and dental care. The PC strives to establish and maintain productive collaboration with other professionals, whether coordinating professional services or developing consensus on how to meet the needs of the family.

In making requests for information that might involve the confidentiality or privilege rules of other professionals, the PC considers the constraints under which these professionals may be operating in their roles and, especially, the safety and protection of all parties. When properly released information is received from other professionals, the PC assumes responsibility for its use, maintaining confidentiality especially of information that does not bear directly on coparenting or is not otherwise needed for acting effectively as a PC.

Conclusion

Parenting coordination is a nonadversarial dispute resolution role that is court ordered or privately agreed on by high-conflict divorced or separated parents. Its purpose is to promote the best interests of the children while reducing levels of parental conflict and litigation and the resulting negative impact on children. Parenting coordination is designed to help parents implement and comply with their parenting plans, make timely decisions in a manner consistent with children's developmental and psychological needs, and reduce the amount of damaging conflict between caretaking adults to which children are exposed. The role of the PC differs in significant ways from the usual roles of psychologists and requires specialized psychological and legal knowledge, mediation and arbitration skills, familiarity with the relevant legal contexts, skilled attunement to professional boundaries germane to the PC role, and experience in assisting high-conflict parents. Although both clinical experience and forensic experience provide useful skills for the practice of parenting coordination, additional specialized training is needed to function competently in the PC role.

These guidelines describe best practices for ethical and competent functioning as a PC. They are not inclusive of all considerations and are not intended to take precedence over psychologists' judgment in any particular case. Although designed for psychologists, many aspects of these guidelines may be relevant to other professionals as well. These guidelines are aspirational and are intended to promote the continued systematic development of this area of practice and to facilitate a high level of practice by psychologists.

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Addressing Clauses in a Parenting Plan: Some Brief Notes from Lisa and Kate

Legal Custody

In Collaborative Practice we don't actually use this term a lot, since it invokes traditional negotiation. Still, attorneys will need to see this addressed. We spend a few moments explaining that legal custody refers to the question of who will make important decisions regarding the child/ren, primarily around issues of education, mental/medical health, and religion. Most of our clients opt for "Joint Custody," in which these decisions must be made jointly by both parents. Lawyers will need to see this language here, or they will add it in themselves.

Shared Narrative

This is the "story" that we help parents to develop to explain to their child/ren (and perhaps family and friends) about their divorce. We encourage parents to develop a consistent message that they can both support, though their narratives may begin to diverge as time passes and their children get older.

Access plan

Typical 50/50 plans:

1) week-on-week off:

Pros: Continuous time with both parents, few transitions, leaves time for business travel. Best for older children and two working parents. No parent-to-parent transfers

Cons: Long periods of time without seeing either parent (often dealt with by giving non-custodial parent a dinner or overnight in the off week)

M	T	W	Th	F	Sa	Su
M	M	M	M	M	M	M
F	F	F	F	F	F	F
M	M	M	M	M	M	M
F	F	F	F	F	F	F

2) 2-2-5-5

Pros: No breaks longer than 5 days, parents and children can plan consistently, good balance of continuity and transitions, long enough periods with one parent that children can "settle in." No parent-to-parent transfers.

Cons: More transitions than some other plans, separations may be too long for parents of very young children.

M	T	W	Th	F	Sa	Su
F	F	M	M	M	M	M
F	F	M	M	F	F	F
F	F	M	M	F	F	F
F	F	M	M	M	M	M

3) 2-2-3

Pros: No break longer than 3 days.

Cons: Since days "flip-flop," it's harder to plan schedules in advance.

M	T	W	Th	F	Sa	Su
F	F	M	M	F	F	F
M	M	F	F	D	D	D
F	F	M	M	F	F	F
M	M	F	F	M	M	M

Examples of other time divisions:

3) *Traditional for Dads (though could substitute Mom for Dad here): 6 out of 28 nights*

Pros: Dad has time every week. Can work for fathers with limited interest or availability.

Cons: Very little time for Dad, who ends up being a "satellite in child/ren's life. Can be modified by adding an additional weeknight (or dinner) in the weeks leading into Mom's weekend. Parent-to-parent transfers every other weekend.

M	T	W	Th	F	Sa	Su
M	M	M	M	F	F	M
M	M	F	M	M	M	M
M	M	M	M	F	F	M
M	M	F	M	M	M	M

3) Better for Dads (though could substitute Mom for Dad here): 10 out of 28

Pros: Dad has 2 or 3 nights every week. Can work for father's with limited interest or availability. Can be augmented with an overnight or dinner in week leading up to Dad's weekend. Also, can stretch his weekend by adding Thursday and/or Sunday evening/s. Dad's house becomes a "base rather than a "satellite." No parent-to-parent transfers.
Cons: No consistency across weeks. Dad still has substantially less time.

M	T	W	Th	F	Sa	Su
M	M	M	M	F	F	F
M	M	F	F	M	M	M
M	M	M	M	F	F	F
M	M	F	F	M	M	M

Transfers of Child/ren:

Decide who will be transferring children if transfer does not occur at school or daycare. Discuss psychological and logistical pros and cons of children being delivered vs. dropped off. What will be the time of transfers?

Transfers of Child's/ren's belongings:

Do parents want provision for accounting for children's clothing, toys, sports equipment, etc. Discuss psychological pros and cons for children and parents.

Decision Making:

General Discussion

At some point it's a good idea to discuss general concepts of "advising" vs. "consulting" each other on decisions, and under what conditions either is appropriate.

Education

In joint custody cases parents must agree to make joint decisions regarding children's education. This includes educational testing and remedial services.

Good to include language on Parent/Teacher conferences and dissemination of school info, mailings, etc.

Extra-Curricular Activities

We generally recommend that parents may make any decisions regarding their own time, but any decisions that affect time with both parents must be mutually agreed upon.

Parents need to agree on language about what events (including sports events/practices, school plays, etc. each may attend).

Medical/Mental Health

In joint custody parents must make mutual decisions related to medical/dental/orthodontic/ and mental health. We include language indicating that either parent may take steps in a medical emergency, but will advise the other as soon as possible.

Good to include language about who will/may schedule regular medical appts., who/will may attend, and access to medical records.

Either parent may make emergency medical decisions but must apprise the other asap.

Religion

Parents can discuss their vision for the future in terms of religious observance, and attendance at religious school, ceremonies. If parents had shared understanding when married but one client wants to now change upon divorce, this can be difficult issue. One issue is whether both parents will support the children being raised within a given religion in terms of education and family teachings, the other issue is whether both parents will commit to bringing children to religious events on their own time. If children attend Sunday school and parents alternate weekends, will both parents commit to bringing the kids on Sundays? If not - how to handle this?

Some options:

- a) Parent who is religious spends the important religious holidays with the children each year.

- b) If both parents share the religion, parents alternate the holidays, each having some of the most important holidays each year.
- c) Parent who celebrates the holiday has option of having the children for dinner and evening observance of holiday but regular schedule prevails in terms of overnights.
- d) Parents begin parallel parenting in terms of religion, each one doing what he or she feels is important during his or her own parenting time, but having no control over what the other parent does in his or her time.

Dispute Resolution

Our typical language states something like the following (this is not legally binding - it is philosophical and aspirational):

Parents agree if they have a dispute about an important parenting issue, they will reconvene all or part of their Collaborative team and formally discuss their perspectives, brainstorm options and attempt to reach resolution on their own. If they are unable to reach a resolution without help, both parents agree to meet with a mediator, facilitator or expert in the field of the dispute in order to obtain help with the issue.

If parents have been highly contentious during the Collaborative process, some parenting plans can include language that parents will agree to being working with a parenting coordinator - named or unnamed - in advance (with or without tie-break authority).

Communication Protocols:

Typical language will include agreements to follow any of the following procedures:

- a) parents agree to send an information "log" email about the children each time the children transition to the other parent. The Log will consist of bullets regarding School, Social Activities, Health, Upcoming Appts or Events, Extracurricular Activities.
- b) parents agree to allow access for phone calls between the kids and the absent parent - either on flexible basis or at a predetermined time or schedule
- c) parents agree to communicate with each other FIRST before telling the children any important information about vacations, changes in schedule, or emotional life events
- d) parents agree not to use the children as messengers or to put the children in the middle in any way about any topic
- e) Agreed-upon preferred mode of parent-to-parent communication and time frames for response

Holidays/Vacations

Federal Holidays

One Day Holidays

There are seven of them: Labor Day, Columbus Day, Veterans Day, MLK Day, Presidents Day, Memorial Day and July 4th. All fall on Mondays except July 4, which floats. If the weekly access schedule has the children with one parent EVERY Monday,

that needs to be addressed when you discuss these holidays. Options for handling these one day holidays include:

- a) Parents sit down every August with the school calendar and annual calendar, overlay their own access schedule onto the year, see where the holidays fall, and make decisions about which parent gets which Holiday in a way that feels equitable, and logistically sensible.
- b) Parents choose specific holidays and every year, those are their holidays -- e.g., Dad has Memorial Day every year, and Mom has Labor Day.
- c) Parents divvy up holidays and alternate in odd and even years.
- d) Parents let the regular weekly schedule prevail, and if one parent wants to spend a holiday with the children, or make it a three day weekend, they will request that schedule change at least 2 months in advance. Make up time will be offered if a parent loses time through this request.

Thanksgiving

Depending on whether family feels this is a loved and important holiday, typical options are as follows:

- a) alternate entire break (Wed. afternoon until Monday drop off) each year.
- b) split break each year, and alternate Wednesday afternoon until Friday afternoon for Parent A in odd years, Friday afternoon until Monday drop off for Parent B in odd years. Reverse in even years.
- c) Parent A has option to travel in odd years and take entire break. Parent B has that option in even years. If either parent chooses to remain in town during break, other parent has option to spend Saturday and Sunday (or any other portion of the break) with the children, which Parent who has Thanksgiving proper retains Thanksgiving itself plus other days as agreed upon.
- d) Alternate entire break, and Parent has option to travel. If parent remains in town, parents share Thanksgiving Day, with children spending a portion of the day with each parent - or all together. This is not a wise option for parents who are not amicable, and it is much less relaxing for the children.
- e) Alternate holiday with another major holiday (such as Christmas).

Winter Break - Christmas

For school aged children, winter break is approx. 10 - 14 days, sometimes longer for private schools. Depending on whether Christmas, Christmas Eve and other rituals around this holiday are important, and depending on whether the family has traditionally traveled or met with extended family for this holiday, following options are typical:

- a) Divide entire break equitably, with Parent A taking first half of break, and Parent B taking second half of break. Divide the time in a way that parents alternate spending December 24 -26 with the children each year. Parent who does not have the children can celebrate "Christmas" on a different date when they have the kids.
- b) Divide break equitably in some manner mutually agreed upon -- in advance, perhaps each August when annual scheduling is done. Parents agree to be in town from December 24 - 26 and split Christmas Eve and Christmas. Children might spend Dec. 24th and overnight with Parent A, and transition to Parent B on December 25th at 3PM, for late gifts and Christmas dinner, and spend that night with Parent B.

- c) Divide break equitably and parents agree to spend Christmas eve, morning and afternoon together in one parent's home -- if amicable. Parents often want to do this for the first year and then transition to a more divided manner of handling Christmas in future years.
- d) We tell parents children generally do not like moving around on Christmas day - not only does it interrupt their time in PJs playing with gifts, it often introduces the tension of the hand-off between parents, and the tension of saying good bye to one parent and hello to the other. We suggest that children often appreciate spending the entire holiday proper in one home and getting a second "Christmas" a few days later. Many families are not able to tolerate being away from their children on Christmas and choose to move the kids around anyway.

Spring Break

Spring break is usually 10-14 days, and sometimes includes Easter weekend. Depending on whether Easter is important to the family, and what their traditions are, typical options include the following:

- a) alternate entire break each year, including Easter
- b) alternate entire break each year, but determine Easter weekend separately if it is important to one parent and not to the other
- c) split break in half, giving each parent about 5 days each year. Suggest the parents determine which half to take according to where the regular weekends fall: the parent who gets the weekend that starts the break will get the first half, the parent whose regular weekend falls at the end of the break will get the second half. This protects against disruption of the regular weekly schedule of weekends.
- d) regular schedule prevails if neither parent is taking this as vacation.

Snow/Sick/Professional Days

Depending on whether one parent is an at-home parent, and one is working, or if both parents work and may be inconvenienced by these school closings, typical options include:

- a) regular schedule prevails, and parent who has the children wake up in their home that day is responsible for caring for them or getting child care -- parents commit to helping each other out.
- b) parent who is more easily available covers the time, and parents aspire to equitable time and responsibility -- if one parent has covered three of these days in a row, the other parent agrees to jump in the next few times it happens.
- c) parents agree in advance for all the scheduled days school will be closed, and then regular schedule prevails for emergency, unscheduled school closings according to where children wake up -- or who has children at end of day (either way is fine.)

Summer Vacation

Parents decide how many weeks of summer vacation each may take, and how many may be contiguous. Typical range is 2-4 weeks. Number of contiguous weeks may increase over time. Parents usually alternate first "dibs" of weeks and pick a date by which they must choose (usually in the winter).

Decide whether summer federal holidays will “trump” or not.

Introduction of Significant Others

Depending on whether this issue is emotional for the parents, and whether either parent already has a new partner, this can be a relaxed or highly intense topic. We generally discuss the following:

- a) importance of communicating with co-parent before introducing a new partner to children
- b) importance of giving children a significant period of time to adjust to the separation and divorce prior to adding in a new partner to their lives or consciousness
- c) importance of recognizing that children have radar for romantic vibes and if parents introduce a partner as a “friend” the children will pick up confusing non-verbal messages and this will make them anxious
- d) importance of using caution when considering the introduction of a new partner to avoid exposing children to people they will become attached to who might then disappear when the relationship ends
- e) importance of introducing and integrating new partners gradually - starting out with group activities, perhaps out in public, and evolving to more time in the home, and more time that is extended.

Relocation

Parents usually want to agree that neither can take the children outside of the Greater DC area without permission of the other (or the court). Some parents opt for a smaller “radius” within which either can move with the children (i.e. a number of miles, or a school district).

Halloween

Either alternate or let it fall where it falls.

Parents’ Birthdays

Usually recommend they let it fall where it falls and celebrate when it’s convenient, but parents may opt otherwise.

Children’s Birthdays

Usually recommend the actual birthday falls where it falls, with alternating hosting the “peer party” if they both care about it. If parents feel strongly about seeing the child on their birthday, can suggest non-custodial parent have option to spend from after school until dinner on day of the birthday.

Mother’s/Father’s Day

Virtually all parents want this day. Need to define the day-- is it a day/part of a day/or a weekend?

Right of First Refusal:

If either parent is able to take care of their child on their own custodial time, will they have the obligation to offer the time to the other parent? If so, how long a separation will trigger this obligation? We usually recommend that right of first kick in only for periods of overnight or longer (though we usually need to explain our reasoning to parents) Parent being offered the time may but is not obligated to take the time or to offer make-up time; custodial parent is responsible for child care if non-custodial parent does not accept the time.

Parents of very young children may opt for some aspirational language about trying to avoid long breaks from the children for either parent.

R PARENTING PLAN
for
BRENDA
SAM
RE: David , D.O.B. 4/13/99

CUSTODY

Parents agree to Joint Legal Custody and shared decision making about David. They agree to consult with one another about any significant plans or decisions regarding their son. Parenting decisions regarding education, childcare, or any other significant area of David's life will be shared between parents.

In the case of medical emergencies, both parents agree to make all reasonable efforts to contact the other parent and come to a shared decision about how to proceed. However, if this is impossible, each parent is free to make emergency medical decisions singly in order to protect David's health and welfare.

DECISION MAKING

In the case of educational decisions, mental health or medical decisions, or other important decisions that would affect David's life in a long term or profound manner, if both parents cannot come to a shared and mutual decision about how to proceed after they have tried repeatedly to discuss the issue and reach resolution, they agree to meet with a Parenting Coordinator (a professional who has the expertise and background necessary to help the parents discuss and resolve the issue in dispute). The professional chosen would be mutually agreed upon by both parents.

Neither parent will schedule David to participate in an activity that falls on the OTHER parent's time. For special, rare occasions, like birthday parties, if David is invited to participate with one parent, while that day falls on the other parent's time, there must be an agreement reached between both parents before acceptance of the invitation can be offered. If either parent would like to enroll David in an ongoing, regular activity, agreement between parents for that enrollment will need to be reached PRIOR to the enrollment or payment for such activity.

PROTECTIVE CLAUSE

If either parent becomes concerned about David's welfare during his time with the other parent, or if either parent becomes concerned about the physical or mental health of their co-parent, the concerned parent may initiate the following protective protocol to insure that David's safety and welfare will remain a priority for the family:

1. The concerned parent can contact Kate S and/or Lisa Herrick to conduct a short-term clinical evaluation of the situation, the needs of each parent, and the needs of David and to make recommendations regarding any intervention or treatment that may be needed. That ongoing intervention or treatment would be provided by a separate professional or facility, but parents could request referral names from

Kate S or Lisa Herrick, and either Collaborative Coach could facilitate the commencement of such intervention or treatment.

2. If the concerned parent did not wish to contact either Collaborative Coach, that parent could instead contact a designated Parenting Coordinator (to be named) and request a family meeting with that professional to attend to his/her concerns. *This PC should have several areas of expertise – child development, anger management, substance abuse and mediation expertise would all be essential.* If such a meeting is initiated by a concerned parent, the OTHER parent agrees to attend such a meeting, to participate in any clinical assessment that is recommended by that professional, and to follow any recommended treatment plans provided by that professional.
3. Both parents agree to review their Time Sharing Schedule and Parenting Plan with the help of a Parenting Coordinator (to be named), or with the help of Kate S and Lisa Herrick, Collaborative Coaches, IF either Step 1 or Step 2 as described above is initiated and to make temporary changes to the schedule as needed if either parent becomes incapacitated in any way, physically or emotionally, and is unable to parent David safely.
4. Both parents agree that if Brenda suffers a relapse in her use of alcohol, her overnight time with David will cease, she will seek immediate treatment and will participate with Sam in renegotiating the Time Sharing Schedule. Once she has successfully completed the treatment, and has reached at least 6 months of sobriety, she and Mr. R will obtain guidance from her substance abuse treatment team (as well as from a designated PC, or Kate Scharff and Lisa Herrick) to help them determine when Ms. R would be able to resume overnight custodial time with David. Should Ms. R relapse, she will have the opportunity to visit with David on a regular and frequent basis but the nature of that time with David will be negotiated with the help of her substance abuse treatment team, and the professional(s) who are helping the parents mediate the new schedule. Should Ms. R relapse, David will not accompany her at any time while she is driving, until her treatment is complete, her recovery is stable, and the resumption of driving with David has been negotiated with Mr. R. If Mr. R believes that Ms. R has relapsed, while Ms. R denies the relapse, she agrees to undergo a substance use evaluation from a reputable substance abuse treatment center and to permit the results of the assessment to be released to Mr. R.
5. Both parents agree that without the consultation and help from either a designated PC, or from Kate S and Lisa Herrick, neither parent will arbitrarily or unilaterally make a change in the Time Sharing Schedule during Phase I, or – after it is fully negotiated and agreed upon during the coming weeks, during Phase II – the permanent Parenting Plan.

TIME SHARING SCHEDULE

PHASE 1:

Parents will rely on a 2-2-5 schedule from the date of separation until September 1st 2008:

Father will have David for overnights on Mondays and Tuesdays each week.

Mother will have David for overnights on Wednesdays and Thursdays each week.

(If parents agree to reverse the order of those four days, giving Mother Mondays and Tuesdays, and Father Wednesdays and Thursdays, that schedule is equally acceptable to both.)

Mother will pick David up after school and then after camp on her designated days, and Father will pick David up after school or camp on Father's days. If both parents are working, David will go to day care or after school care until the designated parent for that night is available to pick him up. However, if Mother is not working on a given afternoon and Father would like her to pick David up, she will make herself available to do so.

David will stay with father on Father's overnights until the following morning when he returns to school/camp. On Mother's nights, David will sleep over at her home until the following morning when he returns to school/camp. On Father's nights, if Mother has picked up David after school or camp because she was not working and available, Father will pick David up at Mother's home or at David's activity as soon as he leaves work, *but no later than 6PM without a prior arrangement and agreement* from mother to keep David past 6PM. Similarly, *Mother may not keep David PAST 6PM on Father's nights without prior arrangement and agreement from father.*

Mother will drive David to school or camp when David wakes up at her home.

Father will drive David to school or camp when David wakes up at his home.

If either parent requests a favor from their co-parent regarding driving David to school or camp, both parents will make every effort to cooperate and provide this transportation coverage if at all possible, to alleviate stress on both parents, and on David.

Friday, Saturday and Sunday nights alternate between Mother and Father each week. The weeks will simply rotate, with weekends alternating regularly. When there are five weekends a month, the weekends will continue to alternate in a regular, uninterrupted pattern. In order to plan ahead, the family will need to sit down with a calendar to block out which weekends will fall on mother's time, and which will fall on father's time.

Vacation time for each parent should be scheduled to overlap with THAT PARENT'S WEEKEND, so neither parent is bumped from his/her weekend time with David by the other parent's vacation.

This creates a 2-2-5 schedule, which allows both parents regular and frequent time with David, prevents David from being apart from either parent for more than five nights in a row, and allows the family to create a predictable routine whereby everyone in the family KNOWS that if it is a Monday or Tuesday night, David will be with FATHER, and if it is a Wednesday or Thursday night, David will be with MOTHER. In this way, each family member can plan ahead for activities and events without continually consulting calendars

to see where David will be. Also important is that at age 7, David will be able to keep track of this schedule himself and can develop a sense of routine and stability.

If David wakes up ill, and cannot attend school/camp, it is the responsibility of the parent at whose home he awakens to remain with David for that day. If David falls ill at school, or at camp, it is the responsibility of the parent who will be picking David up FOR THE NIGHT to go pick David up and bring him home for the rest of the day and evening. However, parents agree to behave cooperatively and collaboratively when possible to help each other out so that neither parent must miss work repeatedly, or be forced to miss a particularly important professional event. This kind of cooperation benefits the family as a whole over the long term.

PHASE II

Beginning on September 1st, parents may choose to transform the schedule to some degree. Phase II will be discussed and negotiated over the next few weeks by Brenda and Sam with the help of Kate S and Lisa Herrick. Parents agree in this current Plan, however, to commit to keeping a schedule that allows regular and frequent time for David with each parent each week. While the specific time sharing may be altered to some degree during the school year, both parents agree that David needs to see both parents each week, and that both parents need to be involved in all aspects of David's life, including school, activities, sports, social time, homework time, and relaxation time.

SUMMER 2008

Mother will spend the last week of July with David for 7 days of uninterrupted time, and she may travel out of town with David during that week. If Mother requests additional vacation time with David during this summer, she will make a written request to Father for the time no later than 3 weeks prior to the time requested. That time may not conflict with Father's vacation time.

Father will spend two weeks of this summer with David – dates to be discussed and agreed upon by July 1st – for either two separate weeks of 7 days each of uninterrupted time, or for one two-week vacation of 14 days of uninterrupted time. Father may travel out of town with David for that vacation.

Both parents agree to give their co-parent an itinerary of travel, including flight or travel information, contact numbers, and addresses of destinations no later than 72 hours prior to ANY travel WITH David outside the locale of the Washington, DC metro area. This includes travel during weekends that either parent takes with David.

Both parents agree that David will be back in the Metro area from any vacation travel no later than 1 week prior to the first day of school so he can get ready to return to school and be rested for the commencement of the new school year.

When vacation time disrupts the regular, week day time sharing schedule, parents will make every effort to allow David some special time with the parent from whom he has been separated upon his return – in the form of a special dinner, lunch, or weekend visit. As mentioned above, however, vacations will be scheduled to coincide with the parent's regular weekend, so a parent's weekend time is not bumped by the other parent's vacation.

HOLIDAYS AND VACATIONS: (To Be Negotiated)

Thanksgiving: On odd years Mother will have David the entire break. On even years Father will have David for the entire break.

Christmas: Parents will split the winter break in half, and determine dates each year by October first. On odd years Father will have David from Dec. 23 – 26, and on even years Mother will have David from Dec. 23 – 26.

Spring Break: Parents will alternate years of Spring Break, or will split it in half, as they choose each year. Parents will discuss how to arrange Spring Break each year by December 15th and come to a decision about how to spend the time.

Federal Holidays: Parents will share holidays and discuss on their own, allowing either parent who can take the day off to spend it with David. If neither parent can take the holiday off from work, parents will work together to find day care or a play date to cover the time.

School Holidays: See above.

Mother's Day – David will spend with Mother from 10 - 6, even if this falls on Father's weekend. (If parents agree to different times, the plan will reflect that.)

Father's Day – David will spend with Father from 10 – 6, even if this falls on Mother's weekend. (If parents agree to different times, the plan will reflect that.)

Mother's Birthday – David will spend with Mother even if it falls on one of Father's days.

Father's Birthday – David will spend with Father even if it falls on one of Mother's days.

(Specific arrangements can be made by parents regarding times)

David's Birthday – Parents will make every effort to enable David to celebrate his birthday as he wishes, with friends at either home. Parents may participate in the party together, or arrange for each parent to have a chance to celebrate with David within a day or so of his actual birthday.

RIGHT OF FIRST REFUSAL:

Parents agree that if either parent needs to give up time with David on a previously scheduled night or weekend, they will first ask the other parent to provide coverage for that time before seeking child care from someone else.

MAKE UP TIME:

To Be Negotiated.

RELOCATION:

Mother and Father agree to remain living within 25 miles of the current residence for the next 10 years and within the Washington DC metropolitan area until David graduates from college.

5/28/08

PREPARED BY LISA HERRICK, PH D
COLLABORATIVE COACH
LICENSED CLINICAL PSYCHOLOGIST

Parenting Plan (Draft)

Chris and Alli

For their Minor Children Jacques and Nicholas

CUSTODY AND WEEKLY SCHEDULE

Parents agree to share joint legal and joint physical custody of their children, Jacques (age 16 months) and Nicholas (due Summer 2010).

JACQUES:

Parents agree to an initial schedule of weekly parenting time in which Chris will care for Jacques each afternoon after day care, Monday through Thursday. On alternate weeks of each month, (Weeks A and C) Chris will spend Wednesday, Thursday and Sunday overnights with Jacques, and will begin his care for Jacques on Sunday at 1PM. On the other two weeks of each month, Christophe will care for Jacques each Wednesday, Friday and Saturday overnight and Jacques will transition to Alli on Sunday at 1PM. On alternate Fridays, Jacques will spend the whole day with Alli, and remain with her overnight, and on the other Fridays, Jacques will transition to Chris for his Friday evening overnight at 6PM.

JACQUES

S	M	T	W	T	F	S
C 1 A	2 A	3 A	4 C	5 C	6 A	7 A
A 8 C	9 A	10 A	11 C	12 A	13 C	14 C
C 15 A	16 A	17 A	18 C	19 C	20 A	21 A
A 22 C	23 A	24 A	25 C	26 A	27 C	28 C

NICHOLAS:

Birth – 3 months:

Parents agree that Nicholas, assuming he is healthy and develops normally upon birth, will begin to spend 2 hour blocks of time with Chris five times a week during his first three months. This time can be spent in Alli's home, or in Chris's home, once parents are comfortable with Nicholas going outside according to the pediatrician's guidance. Both parents agree that Alli will breast feed Nicholas, and both parents will follow a schedule that allows Nicholas to breast feed without interruption and both parents support his developing a healthy eating schedule. Nicholas will generally spend his time with Chris

when Jacques spends his time with Chris, but parents will aspire to create some time for Nicholas to be with Christ one-on-one while Jacques is with Alli.

3 – 6 months:

Parents agree Nicholas will continue to spend two hour blocks of time with Chris three times a week during this period and in addition, he will begin spending four hour blocks of time with Chris during Chris's weekend time. At the point at which Alli returns to work, and Christophe is caring for Jacques in the afternoons, he will also be caring for Nicholas.

6 – 8 months:

Parents aspire to begin one overnight a week for Nicholas to spend at Chris's home when Jacques is there as well, but will wait to see if Nicholas is healthy, resilient, and adapting well to spending time in both homes.

8 – 16 months:

Nicholas will continue to spend afternoon time with Chris each week when Chris is also with Jacques, and in addition will begin to spend one overnight with Chris on alternate weeks on a Sunday, and two overnights with Chris on alternate weeks, following Jacques' schedule on a Wednesday and a Saturday. Nicholas will continue to breast feed, so scheduling his time with Chris will accommodate his feeding schedule. Parents aspire to having Nicholas spend 4-6 hours with Chris on either Saturday, or Sunday each week, depending on the regular schedule. If Nicholas is able to spend most of the day with Chris at some point during this period of 8 – 16 months, parents will also include a two hour break in the day for Nicholas to spend with Alli in order to touch base, and potentially breast feed

Parents agree to re-evaluate the schedule when Jacques is 5 years old, and Nicholas is 3 years old, to assess the needs of both Jacques and Nicholas at that time.

RIGHT OF FIRST REFUSAL

Parents agree that if either parent cannot care for the children during their custodial time, they will ask their co-parent to cover the time before arranging child care. For brief periods of time either parent will feel free to arrange play dates or a babysitter to care for Jacques and Nicholas but will confer with their co-parent to see if he or she is available if either child would prefer to be with a parent during that time. Parents are obligated to offer their co-parent the right of first refusal for all overnight time, and all significant portions of day light time during which they cannot care for the children on their own custodial time.

MAKE UP TIME

If either parent misses several days of his or her custodial time with the children due to travel, business or illness, parents will facilitate an overnight for the children just before, or just after the separation in order to shorten the period of separation between parent and children. However, if the regular schedule will allow that parent to see the children just

before and just after the separation anyway, then the regular schedule will prevail. Parents agree to rely on the regular schedule as much as possible so as not to create confusion or chaotic scheduling in an effort to make up lost time.

SUMMER

Parents agree that the regular schedule will prevail throughout the summer months.

In 2010, parents have agreed that Alli will spend May 29 – June 5 with Jacques, and one other week later in the summer as well. Chris will spend two weeks in June with Jacques in France. (If he can arrange to make this trip slightly shorter to cut down on potential stress for Jacques, he will do so.)

In 2011, each parent will have the option of spending two separate one week vacations with the children during the summer.

In 2012 and beyond, each parent will have the option of two weeks of uninterrupted time with the children during the summer. When the children become old enough to attend summer camps, parents agree to discuss summer camp plans for the children each year, some time prior to Spring Break, and agree to choose their vacation dates some time prior to June 1st each year.

In 2011 and in all odd years, Alli will have first choice of vacation dates for the summer, but must choose her dates by April 15 in order to have priority. In 2012 and in all even years, Chris will have first choice of vacation dates for the summer, but must choose his dates by April 15 in order to have priority.

FEDERAL ONE DAY HOLIDAYS AND SCHOOL CLOSINGS

Parents agree to sit down with the school and annual calendars each year during the month of August and review the regular schedule and the federal holidays (Labor Day, Columbus Day, Veteran's Day, MLK Day, Presidents' Day, Memorial Day, July 4th) as well as (once the children are in school) the scheduled school closings for conferences and teacher days. Parents will arrange by mutual agreement a sharing of these holidays to allow each parent to take three day weekends if they choose, and to insure one parent will be available to care for the children during these days. (Chris will begin to have the option for taking Nicholas for three day weekends when he reaches the age of 16 months. He may opt to take Jacques for three day weekends as of now.) Parents will divide the holidays equitably unless they mutually agree to do otherwise.

THANKSGIVING

Parents agree that in 2010 Alli will have the children on Thursday and Friday of Thanksgiving break, and Chris will have the children on Saturday and Sunday. In 2011 and in all odd years, Alli will have the children for the whole Thanksgiving break, from Thursday morning at 9AM until Sunday evening at 6PM. If she wishes to travel, she may

begin the break on Wednesday afternoon. In 2010 and in all even years, this reverses, and Chris will have the children for the whole break, as described above.

CHRISTMAS AND WINTER BREAK

Parents agree that in 2010 the regular schedule of overnights will prevail during the winter holidays, but Chris will have the children with him from the morning of December 24 until 10AM on December 25th. The children will then be with Alli from 10 AM on the 25th until the 26th, and then the regular schedule of overnights will resume.

In 2011 each parent will have half the winter break with the children, with December 24 and 25th alternating each year in order to allow each parent to spend half the break, including Christmas eve and Christmas day with the children every other year. The children will transition on the day that falls half way through the break. Parents will look at the calendar and determine which parent will take the first half of the break according to allowing the least disruption to the regular schedule, OR allowing for an alternate mutually agreeable schedule.

BIRTHDAYS

Parents agree to confer about birthday celebration arrangements and each will have the option to participate in organizing and attending the children's birthday parties. Each parent has the option of spending a portion of time with the birthday child on the birth date. Parents will have the chance to spend the actual birth date of each child with the child for an overnight on every other year – both parents will follow the regular schedule when possible but will adjust the schedule as needed to allow parents to alternate.

Parents will follow the regular schedule for their own birthdays, but will have the option of spending a portion of their own birthday with their children even if the day does not fall on their own custodial time.

MOTHERS AND FATHERS DAY

Alli will have the option of spending a significant portion of Mother's Day with their children each year, and Chris will have the option of spending a significant portion of Father's Day with the children. However, in terms of overnights, the regular schedule will prevail.

DECISION MAKING

Parents agree to make all important decisions about parenting together. This will include decisions about the children's education, health, mental health, and participation in any ongoing extracurricular activity. If either child has a medical emergency while with one parent, that parent is free to make any urgent decisions unilaterally to protect the child's welfare. That parent will notify the other parent as soon as possible so he or she can participate in subsequent decisions about the child's care.

RELOCATION

Parents agree to remain within the general Washington DC Metropolitan area until the children graduate from high school.

COMMUNICATION

Parents agree to communicate regularly and frequently about parenting issues. They agree to communicate any relevant information about the children's functioning, needs, important events or other matters to one another when the children transition from home to home. They agree to respond to each other's questions about the children's within a reasonable amount of time to promote smooth coordination in parenting.

INTRODUCTION OF NEW PARTNERS

Parents agree to a shared philosophy of using caution, thoughtfulness and care when considering the introduction to any new romantic partner to the children. Parents agree to communicate with one another first, before introducing anyone to the children, in order to keep them out of the middle, and to protect them from feeling any discomfort or sense of divided loyalty. Parents agree to proceed slowly and gradually in any integration of a new person in the children's lives in order to allow Jacques time to adjust to the changes in the family.

DISPUTE RESOLUTION

Parents agree to make a concerted effort to talk with one another about any area of disagreement regarding parenting, and to try to reach resolution through respectful problem solving discussions. If parents feel they cannot reach resolution on their own, they share a commitment to seek the help of a mediator, facilitator or expert in the field of the dispute in order to obtain help in reaching resolution without resorting to the legal system.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
Domestic Relations Branch**

PRINT PLAINTIFF'S NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

☐ **SUBSTITUTE ADDRESS:** CHECK BOX IF YOU
HAVE WRITTEN SOMEONE ELSE'S ADDRESS BECAUSE
YOU FEAR HARASSMENT OR HARM.

DR _____

Related Cases:

PLAINTIFF,

v.

PRINT DEFENDANT'S NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

☐ **SUBSTITUTE ADDRESS:** CHECK BOX IF YOU
HAVE WRITTEN SOMEONE ELSE'S ADDRESS BECAUSE
YOU FEAR HARASSMENT OR HARM.

DEFENDANT.

PARENTING PLAN

THE PURPOSE OF A PARENTING PLAN IS TO HELP YOU THINK CAREFULLY ABOUT THE DETAILS OF YOUR CUSTODY ORDER. YOU CAN DECIDE:

- WHO WILL MAKE WHAT DECISIONS ABOUT THE CHILD(REN)?
- WHO THE CHILD(REN) WILL STAY WITH AND WHEN?
- WHAT FINANCIAL CONTRIBUTIONS SHOULD BE MADE TO SUPPORT THE CHILD(REN)?

IF YOU WANT, YOU CAN ASK THE JUDGE IN YOUR CASE TO INCORPORATE THIS PARENTING PLAN INTO A COURT ORDER.

NOTE:

IF THE PARENTING ARRANGEMENTS ARE DIFFERENT FOR SOME OF YOUR CHILDREN,
YOU SHOULD WRITE UP A SEPARATE PARENTING PLAN FOR EACH CHILD.

THIS PARENTING PLAN INVOLVES THE FOLLOWING CHILD(REN):

Child's Name	Age	Where does this child live?

IF YOU HAVE CHILDREN NOT ADDRESSED BY THIS PARENTING PLAN, NAME HERE:

Child's Name	Age	Where does this child live?

LEGAL CUSTODY (who makes decisions about certain things)

Diet	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Religion	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Medical Care	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Mental Health Care	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Discipline	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Choice of School	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Choice of Study	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
School Activities	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
Sports Activities	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
_____	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
_____	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
_____	<input type="checkbox"/> Both parents decide together	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant

What process will you use to make decisions?

FOR EXAMPLE – THE PARENT CONFRONTED WITH OR ANTICIPATING THE CHOICE WILL CALL THE OTHER PARENT WHEN THE CHOICE PRESENTS ITSELF AND THE OTHER PARENT MUST AGREE OR DISAGREE WITHIN 24 HOURS OF ANY DEADLINE OR IF IN LESS TIME, THEN BEFORE ANY DEADLINE)

If you cannot agree, which of you will make the final decision?

PHYSICAL CUSTODY (where the child(ren) live)

The child(ren)'s residence is with _____

Describe which days and which times of day the child(ren) will be with each person:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

This schedule is ☐ every week ☐ every two weeks ☐ other _____

If not weekly, which of you has the child(ren) the rest of the time? _____

Drop-off

Where? _____

When? (time and day) _____

Pick-up

Where? _____

When? (time and day) _____

If one of you doesn't show up, how long will the other wait? _____

If there are extraordinary costs (taxi, train, plane, etc.) who will pay for which costs?

HOLIDAY VISITATION

HOLIDAY	Where will the child stay in...		
	Year A	Year B	Every Year
Martin Luther King Day			
President's Day			
Easter			
Memorial Day			
4 th of July			
Labor Day			
Yom Kippur			
Rosh Hashanah			
Thanksgiving			
Vacation after Thanksgiving			
Christmas Vacation			
Christmas Day			
Kwanza			
New Year's Eve/Day			
Spring Vacation			
Easter Sunday			
Child's Birthday			
Mother's Day			
Father's Day			
Other holiday: (Chanukah, Passover, Ramadan, etc)			

Summer Vacation:

SPECIAL ACTIVITIES OR SCHOOL ACTIVITIES

Name of Child	Activity	Will both of you attend? If not, which of you will attend?

TEMPORARY CHANGES TO THIS PARENTING SCHEDULE

FROM TIME TO TIME, ONE OF YOU MIGHT WANT OR NEED TO REARRANGE THE PARENTING TIME SCHEDULE DUE TO WORK, FAMILY OR OTHER EVENTS. YOU CAN ATTEMPT TO AGREE ON THESE CHANGES, IF YOU CANNOT AGREE, THE PARENT RECEIVING THE REQUEST WILL MAKE THE FINAL DECISION.

The parent asking for the change will ask

☐ in person ☐ by letter/email ☐ by phone ☐ _____

no later than ☐ 12 hours ☐ 24 hours ☐ 1 week ☐ 1 month ☐ _____

The parent being asked for a change will reply

☐ in person ☐ by letter/email ☐ by phone ☐ _____

no later than ☐ 12 hours ☐ 24 hours ☐ 1 week ☐ 1 month ☐ _____

COMMUNICATION

May parents contact one another? _____

When the child(ren) is/are with the one of you, how may they contact the other parent?

When and how may _____ contact the child? _____

When and how may _____ contact the child, when the child is visiting? _____

CHILD(REN)'S EXPENSES

Expense	Mother - amount or %	Father – amount or %
Health Insurance Coverage		
Medical Care (including co-pays)		
Dental (braces, fillings, etc.)		
Vision (eyeglasses, contacts, etc.)		
Other Health Care		
Mental Health Care		
Education (tuition, books, fees, etc.)		
Childcare (work-related)		
Other (music lessons, sports equipment, car insurance, etc.)		
Other		
Other		
Other		
Other		
Unexpected Expenses not anticipated at the time of this agreement		

☐ once a month ☐ other _____

Other

☐ Other

OTHER (anything else you want to agree on)

Date

Signature of Mother

Date

Signature of Father

Date

Signature of Witness



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. |

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- For

Parents

Courts

Attorneys

Children
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The Our Family Wizard Website
1302 Second Street Northeast, Ste.
200
Minneapolis, MN 55413
Info@OurFamilyWizard.com
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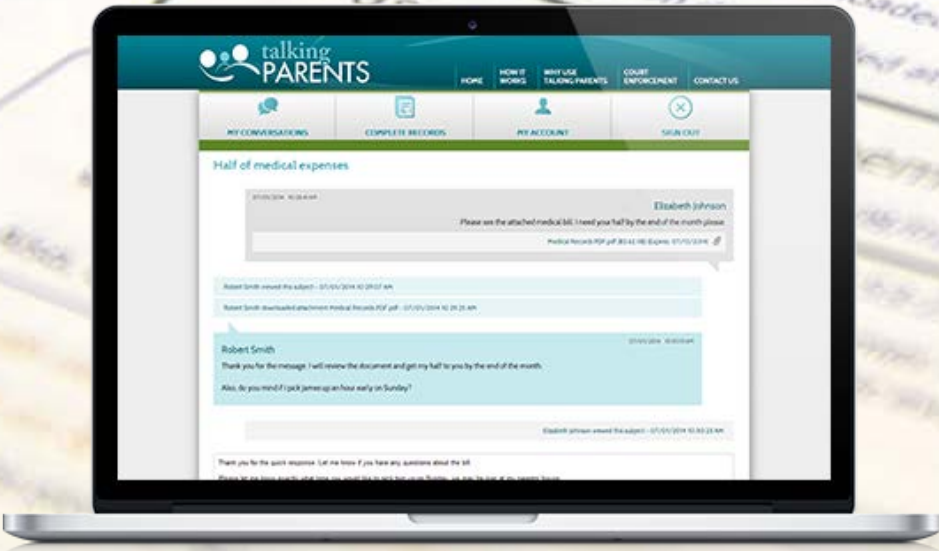



CREATE MY
FREE ACCOUNT

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.

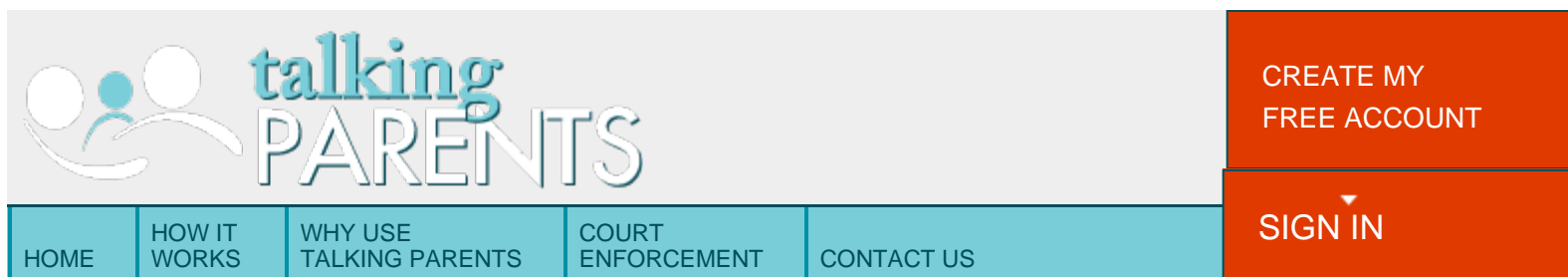
Create my Free Account

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

Create my Free Account

TalkingParents.com Privacy Policy

site by **BITWIZARDS**



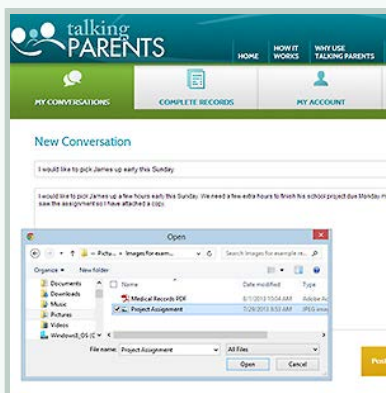
How It Works

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.

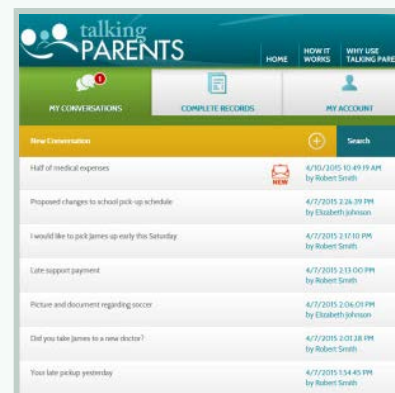
Sign up

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.



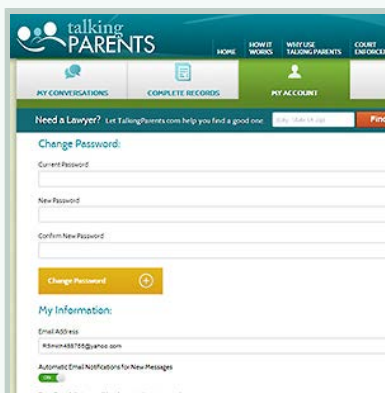
View Your Record

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.

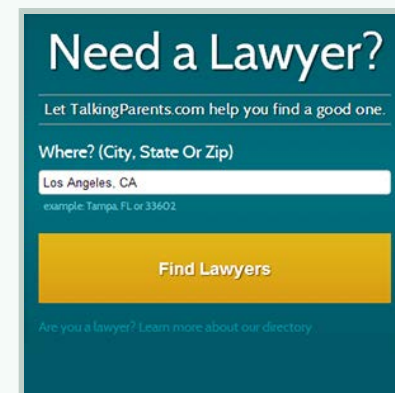
[Click here to view an example record](#)



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.



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 basic PAC protocol. The program is free.

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 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 NO. 16-03**

**Establishing the Program for Agreement and Cooperation
(Supersedes Administrative Order 07-06)**

WHEREAS, a large number of cases filed in the Family Court of the Superior Court of the District of Columbia involve litigants proceeding without assistance of counsel;

WHEREAS, a significant number of cases filed in the Family Court of the Superior Court of the District of Columbia involve complaints for custody as well as complaints for contested divorce and legal separation where custody is at issue;

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

WHEREAS, the Domestic Relations, Paternity and Support Subcommittee of the Family Court Implementation Committee created a pilot project in December 2006 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; and

WHEREAS, the PAC pilot program concluded in December 2009 after a comprehensive program evaluation recommended that the PAC program be made permanent and be expanded to include enhanced services;

NOW, THEREFORE, it is, by the Court,

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

1. The PAC program will be established as an operating program within the Family Court;
2. The PAC program will be mandated on all Domestic Relations Calendars that handle divorce, custody, and legal separation cases in the Family Court;
3. The PAC program will apply to all litigants involved in cases that have custody or visitation as a contested issue on those calendars. In cases involving domestic violence, parents and other caretakers will be screened to determine the manner of participation in the PAC program;

4. The Domestic Relations judge who presides over a custody dispute will assign the case to the PAC program when the Initial Hearing for the case is held. At that time, the parties will be scheduled to attend a parenting education seminar and an intake appointment for mediation with the Multi-Door Dispute Resolution Division, unless the parties provide proof of participation in private mediation, collaborative law or some other form of alternative dispute resolution;
5. 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;
6. Participation in the PAC program will occur without prejudice to the ability of any party to seek and obtain child support or emergency relief prior to completion of the education and mediation process;
7. 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.

SO ORDERED.

BY THE COURT

Date: March 14, 2016

/s/
Lee F. Satterfield
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

**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.



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	3140	Jesse Goinis	Jesse.Goinis@dcsc.gov	879-1264 Chambers: 879-1264	JM-2/JM-3
Deputy Presiding Judge Di Toro Jennifer	1510	Martine Caplan	JudgeDiToroChambers@dcsc.gov	879-1695	JM-12
Berk, Steven	3120	John Cannon Aliza Shatzman	john.cannon@dcsc.gov aliza.shatzman@dcsc.gov JudgeBerkChambers@dcsc.gov	Chambers: 879-3374	101
Leibovitz, Lynne	3520	Johanna Schmidt	Judgeleibovitzchambers@dcsc.gov	Chambers: 879-0441	JM -7
McLean, Carmen	2140	Amy Byrne Hannah Sydnor- Greenberg	Amy.Byrne@dcsc.gov Hannah.Sydnor-Greenberg@dcsc.gov	879-1296 Chambers: 879-1272	102
Salerno, Robert	2150	Kaitlin Bigger	Kaitlin.Bigger@dcsc.gov	879-3383	JM-13
Soltys, Darlene	5450	Grace Lee Jamie Hospers	Grace.lee@dcsc.gov Jamie.Hospers@dcsc.gov	879-2080	102
Wingo, Elizabeth	2110	Samantha Primeaux Varun Aery	Samantha.Primeaux@dcsc.gov Varun.Aery@dcsc.gov	879-3289 Chambers: 879-3282	102

SUPERIOR COURT OFFICES

<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	Catherine McGiffin	magistratejudgebreslowchambers@dcsc.gov	879-1488 Chambers: 879-4740	99
Magistrate Judge Tyrone 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

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

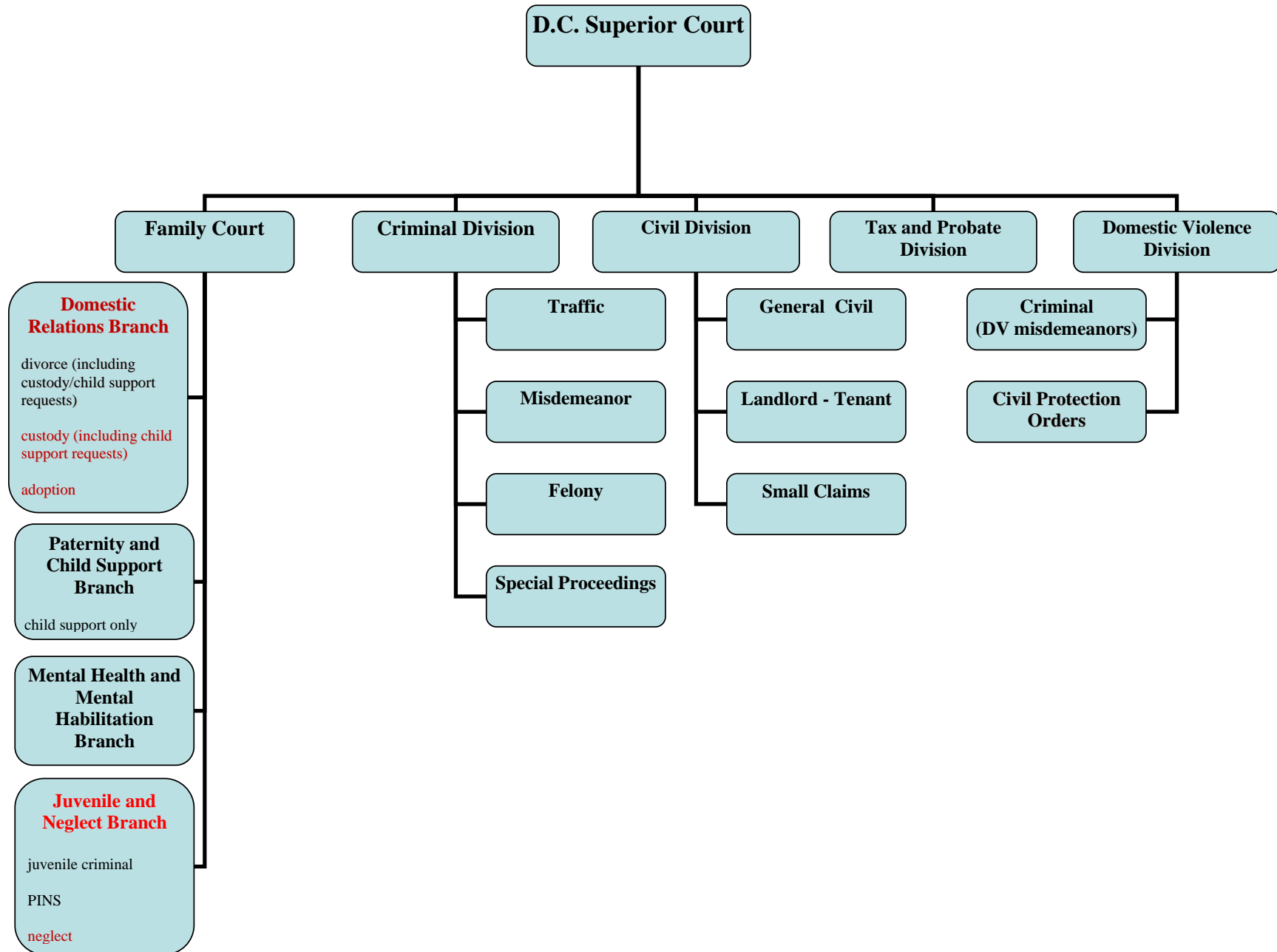
31) Housing Conditions, Landlord-Tenant, & Small Claims and Conciliation Branches of the Civil Division

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, child support and paternity adjudication, and juvenile criminal case files are not open to the public (although counsel can file an application to inspect child neglect/abuse and juvenile criminal case files).

The court uses 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, docket information can be viewed on-line on the court's website at <https://www.dccourts.gov/superior-court/cases-online>. Family Court cases and civil protection order cases are not available on-line at this 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 documents in the file (including pleadings and orders). This on-line image access was added in fall 2017; however, even when 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. See <https://www.dccourts.gov/sites/default/files/eaccess/eAccess-User-Guide-Updated.pdf> for more information.

When a case or 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.

If you are researching court records at court, the clerk may do the search or you may be doing the search yourself at a computer terminal in the clerk's office for that division of the court. Similarly, either you will request copies of the docket and documents from the clerk, or you will be able to print out the docket and documents yourself. If you are using a public access computer terminal, you should find out from the clerk what types of cases can be accessed on that particular division's public terminal.

1. D.C. Criminal Cases

D.C. criminal case dockets are available online (and document images in some but not all cases). 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 be able to request the clerk's office to make copies (including the Family Court clerk's office) but sometimes you may print them out yourself through the public access computer and sometimes you may need to use your own paper, so remember to bring some!

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's office.

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 and accurate 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 (and document images in some but not all cases).

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, some child support cases)

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 may 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. For CPO and DVM (domestic violence misdemeanor) files, 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.

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 eligible 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.

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.

Federal Court Records

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

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 or a review of the docket.
- Depending on the level of access to the court's database on a particular public access computer, you may be able to see more cases than the cases filed in that particular branch/division of the court. You can ask the clerk's office about the parameters of access on the particular computer. If it doesn't provide broader access, you can go to the other clerk's office(s) to search for cases in those branches/divisions.
- 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 database 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 can be 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).

September 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



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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**

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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.
 - (2) *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.
 - (3) *Distinctive Characteristics and the Like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.
 - (4) *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**



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