

16th Annual AB 1058 Child Support Training Conference



For Child Support Commissioners,
Family Law Facilitators,
Title IV-D Administrative
and Accounting Staff,
Paralegals, and Court Clerks

SEPTEMBER 4–7, 2012
The San Jose Marriott Hotel
Downtown San Jose



ADMINISTRATIVE OFFICE
OF THE COURTS

CENTER FOR FAMILIES, CHILDREN
& THE COURTS

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For Attendees of the 16th Annual AB 1058 Child Support Training Conference

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The points of view expressed at the conference and in the conference materials are those of the author(s) and presenter(s) and do not necessarily represent the official positions or policies of the Judicial Council of California.

We appreciate your attendance at the 16th Annual AB 1058 Child Support Training Conference. If you have any questions or comments, please contact the editors:

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TAB A

New Child Support Commissioners' Orientation

(For child support commissioners only)

**Hon. Adam Wertheimer,
Hon. Rebecca L. Wightman,
& Mr. Michael L. Wright**

***MATERIALS WERE DISTRIBUTED,
NOT AVAILABLE ONLINE***

TAB B

**Plenary Session/Welcome and Updates
(AOC, DCSS, and Legislative)**

**Hon. Richard J. Loftus, Jr.,
Hon. L. Michael Clark, Ms. Diane Nunn,
Mr. Michael L. Wright, Ms. Kathleen
Hrepich, & Ms. Tracy Kenny**

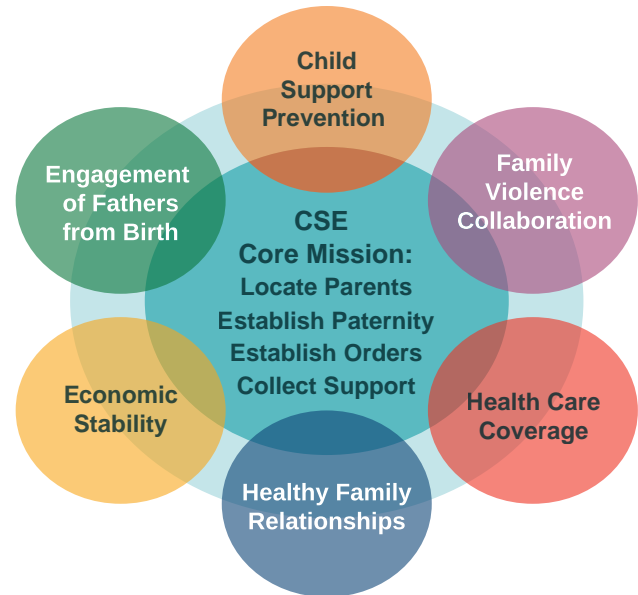
TAB B

AOC Update

Mr. Michael L. Wright

Family-Centered Innovations Improve Child Support Outcomes

The Promoting Child Well-Being & Family Self-Sufficiency Fact Sheet Series discusses how and why the child support program provides innovative services to families across six interrelated areas to assure that parents have the tools and resources they need to support their children and be positively involved in raising them. The series highlights examples of the family-centered approach that child support programs are undertaking to successfully serve all 17.5 million children in the program, representing one in four children in the country.



Over the past decade, a number of child support programs have demonstrated that a range of innovative strategies can improve the reliability of child support payments, particularly for the low-income families that need child support most. States are modernizing their child support programs by implementing policies to establish realistic child support orders, reduce child support debt, and intervene early when parents begin to struggle to make payments. They are working collaboratively with other programs to prevent the need for child support, to engage fathers in the lives of their children, to increase noncustodial parent employment, to improve family relationships, to secure health care coverage, and to help prevent family violence.

The Need for Family-Centered Child Support Services

The child support program serves one quarter of all children and half of all poor children in the country.¹ Moreover, the child support program serves these children and their parents for extended periods of time, typically until the children reach the age of majority.

One quarter of all custodial and noncustodial parents are poor and nearly two-thirds of custodial families in the child support program have incomes below 200 percent of the poverty threshold.² Thus, the child support program is uniquely positioned to help a large percentage of poor and near-poor families.

State child support programs have found that family-centered child support services can increase the reliability of child support payments, especially for low-income families who face multiple challenges to providing for their children. Connecting families to other services and delivering enhanced child support services can help low-income families meet the needs of their children. This approach recognizes that collecting support depends on responsive child support services, employment for noncustodial parents, cooperation between parents, and parents' emotional connection with their children.

Family-Centered Innovations Improve Child Support Outcomes

Child Support Program Accomplishments

The child support program has dramatically improved its performance since the passage of welfare reform in 1996.

- Annual child support collections have nearly tripled from \$11 billion to \$30 billion.
- The total number of paternities established or acknowledged per year has doubled.
- Cases with a child support order have increased 40 percent.
- The amount of child support collected for every dollar spent on the program has gone from \$3.59 to \$4.88.

The program reduces child poverty and promotes family self-sufficiency by making child support a reliable source of income. In fact, the program removes about a million people from poverty each year, and provides 10 percent of income for all poor custodial families and 40 percent of income for those poor custodial families who receive child support.³

The child support program is now recognized as one of the best performing government programs.⁴ These accomplishments were made possible as a result of the 1996 welfare reform law, which gave states sweeping new enforcement tools and automated interstate databases. Employers and banks have now become crucial private partners of the child support program.

The child support program works well for most parents in the child support caseload—the 75 percent or so who have steady incomes through regular employment or other means. However, it has been less effective for the approximately 25 percent of noncustodial parents who have a limited ability to pay child support. We know that 70 percent of unpaid child support debt is owed by parents with no or low reported earnings.⁵ A growing body of research suggests that reduced orders and debt relief can improve employment and child support payments.⁶

The Evolving Child Support Program Policy Agenda

Created in 1975, the primary purpose of the child support program was to recover welfare costs. But Congress has steadily embraced a broader mission for the program through legislative changes, which has resulted in the gradual shift in the child support program toward a family-centered service delivery model. Today, the child support program is a family-first program, distributing 96 percent of the child support collected to families.

Reflecting this family-centered focus, state child support programs have also started to update and broaden their collections strategies. Child support programs no longer rely exclusively on debt-driven enforcement remedies. Instead, most child support is collected through automatic income withholding. This strategy is combined with data analysis, early intervention, and customized service delivery that relies on proactive case management by child support staff. Traditional enforcement tools are still used when appropriate—that is, when parents have the ability to pay, but fail to do so. This approach has been successful because staff intervenes early to address the reasons parents cannot or do not pay child support. In particular, child support programs have begun to:

- Encourage parents to participate when child support orders are established.
- Educate parents about the child support program.
- Establish realistic child support orders.
- Use automated systems to detect non-compliance as early as possible.
- Notify noncustodial parents of missed payments before enforcement actions are taken.
- Modify obligations to ensure that they stay consistent with a parent's ability to pay.
- Reduce that portion of child support debt owed to the government if noncustodial parents start paying current support.
- Adopt federal options to pay more support to families, instead of keeping it to repay cash assistance.

In collaboration with its state and local partners, the federal Office of Child Support Enforcement (OCSE) is working to improve policies in these areas. This policy agenda is part of the family-centered approach to child support.

Family-Centered Innovations Improve Child Support Outcomes

Family-Centered Service Delivery Strategies in the Child Support Program

Over the past decade, the child support program has broadened the range of partnering organizations it works with to help parents meet the financial and emotional needs of their children. Today, child support programs are engaged in outreach, referral, case management and other strategies in partnership with numerous organizations, including fatherhood, workforce, and reentry programs. Sometimes the most effective way of increasing the reliability of child support payments is to address the underlying reasons parents are not paying their obligations, whether those reasons are related to unemployment, parental conflict, or disengagement. These activities have been organized into the following six areas:

- Preventing the need for child support enforcement.
- Engaging fathers from the birth of their first child.
- Promoting family economic stability.
- Helping build healthy family relationships.
- Ensuring that families have meaningful health care coverage.
- Preventing and reducing family violence.

This fact sheet series discusses each of these areas in turn. Each is part of a family-centered service delivery strategy, often conducted in collaboration with other programs, to benefit children by increasing the reliability of child support payments. These areas are interrelated, and many programs serving families and fathers provide comprehensive services across multiple service delivery areas. In this series, programs are generally included in the area that covers their primary function.

State child support programs are delivering family-centered services with child support program matching funds provided under Title IV-D of the Social Security Act as well as other funding sources. These other funding sources include competitive grant funding from OCSE and State Access and Visitation grant funding. Also, some state child support programs have requested and received waivers to use their federal child support incentive funds or child support matching funds for these purposes. Still others partner with other organizations to utilize services funded through other sources. OCSE plans to issue formal guidance that addresses the use of federal child support matching funds for family-centered services.

References

- ^{1.} Unpublished tabulations by the Urban Institute of the Census Bureau's 2008 Current Population Survey-Child Support Supplement in combination with data from the U.S. Department of Health and Human Services, Office of Child Support Enforcement, FY 2008 Annual Report to the Congress.
- ^{2.} Elaine Sorensen. "A National Profile of Nonresident Fathers and their Ability to Pay Child Support," *Journal of Marriage and the Family* 59:4 (Fall 1997): 785-797, and unpublished tabulations by the Urban Institute of the Census Bureau's 2008 Current Population Survey-Child Support Supplement.
- ^{3.} Elaine Sorensen. "Child Support is an Increasingly Important Source of Income for Poor Custodial Families." Washington, DC: Urban Institute. December 2010.
- ^{4.} FY 2006 U.S. Department of Health and Human Services. Budget in Brief. Retrieved Oct. 27, 2005 at <http://www.hhs.gov/budget/06budget/acf.html#legislativeProp>
- ^{5.} Elaine Sorensen, Liliana Sousa, and Simone Schaner. Assessing Child Support Arrears in Nine Large States and the Nation. Washington, DC: Urban Institute. July 2007.
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Overview

Overview

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COURT-RELATED IMPACT OF CRIMINAL JUSTICE REALIGNMENT

Sentencing. The Criminal Justice Realignment Act will eliminate prison as a sentence option for various felonies by authorizing courts to impose terms of over one year in county jail for certain felonies committed by specified defendants. There is no limit to the amount of time that may be served in county jail if the conviction is for a felony punishable by imprisonment in county jail. Offenders who serve their sentences in county jail pursuant to this change in the law are not subject to automatic parole or postrelease supervision. However, the court will be authorized to impose a sentence that includes a period of county jail time less than the maximum allowed by law, and a subsequent period of mandatory supervision, for a total period not to exceed that of the maximum sentence allowed by law.
 (Pen. Code § 1170(h), effective October 1, 2011.)

Revocation hearing officer. Superior courts will be authorized to appoint hearing officers to carry out the duties of the courts in conducting parole and community postrelease revocation hearings. Appointment to serve as a revocation hearing officer will require that the individual has been an active member of the State Bar for at least 10 years continuously prior to appointment; was a judge of a court of record of California within the last 5 years or is currently eligible for the Assigned Judges Program; or was a commissioner, magistrate, referee, or hearing officer authorized to perform the duties of a subordinate judicial officer of a court of record of California within the last 5 years. The superior courts of two or more counties may appoint the same person as a hearing officer.
 (Gov. Code § 71622.5, effective October 1, 2011.)

Postrelease community supervision. Persons released from state prison on or after October 1, 2011, after serving a prison term for a felony that is not a serious felony (as described in Pen. Code § 1192.7(c)), a violent felony (as described in Pen. Code § 667.5(c)), a third strike (pursuant to paragraph (2) of subdivision (e) of Pen. Code § 667 or paragraph (2) of subdivision (c) of Pen. Code § 1170.12), a crime where the person is classified as a high risk sex offender, or a crime where the person is required as a condition of postrelease supervision to undergo treatment by the California Department of Mental Health, will be supervised by a county agency, such as a probation department (to be determined by the board of supervisors). All other persons released from state prison on or after October 1, 2011, and all persons currently on parole will continue to be supervised by state parole.
 (Pen. Code, § 3451, effective October 1, 2011.)

Violation of condition of postrelease community supervision. County supervising agencies will have authority to dispose of violations of conditions of postrelease supervision using specified intermediate sanctions up to and including a period of "flash incarceration" in county jail for up to 10 days. There is no court involvement in cases disposed of in this way.
 (Pen. Code, § 3454, effective October 1, 2011.)

Revocation of postrelease supervision. If a supervising county agency determines, following application of its assessment processes, that authorized intermediate sanctions up to and including flash incarceration are not appropriate, the supervising county agency shall petition the revocation hearing officer to revoke and terminate postrelease supervision. The Judicial Council must adopt forms and rules of court to establish uniform statewide procedures to implement the final revocation process.

Upon a finding that the person has violated the conditions of postrelease supervision, the revocation hearing officer shall have authority to (1) return the person to postrelease supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail; (2) revoke postrelease supervision and order the person to confinement in the county jail; or (3) refer the person to a reentry court pursuant to Penal Code section 3015 or other evidence-based program in the hearing officer's discretion. Confinement pursuant to paragraphs (1) and (2) shall not exceed a period of 180 days in the county jail.
 (Pen. Code, § 3455, effective October 1, 2011.)

State parole supervision. Phase I (October 1, 2011, to July 1, 2013). Persons released from state prison on or after October 1, 2011, who do not meet the criteria described above for postrelease community supervision will continue to

CONTACT US

For assistance regarding criminal justice realignment, issues and questions may be submitted to:

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 Criminal Justice Court Services
 Office**
 455 Golden Gate Avenue
 San Francisco, CA 94102-3688

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crimjusticerealign@jud.ca.gov

Phone: 415- 865-8994

Fax: 415-865-8795

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be subject to the jurisdiction of and parole supervision by the California Department of Corrections and Rehabilitation (CDCR). Until July 1, 2013, the Board of Parole Hearings will continue to conduct all revocation proceedings. Persons whose parole is revoked by the board will be referred to county jail, rather than being returned to state prison. There is no court involvement in revocation of parole for these individuals during phase I.
(Pen. Code, § 3000.08, effective October 1, 2011, and operative until July 1, 2013.)

Phase II (beginning July 1, 2013. The supervising parole agency will have authority to dispose of violations of conditions of parole using authorized intermediate sanctions up to and including a period of "flash incarceration" in county jail for up to 10 days. There is no court involvement in cases disposed of in this way. If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising agency shall petition the revocation hearing officer to revoke parole. The Judicial Council must adopt forms and rules of court to establish uniform statewide procedures to implement the final revocation process.

Upon a finding that the person has violated the conditions of parole, the revocation hearing officer shall have authority to (1) return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail; (2) revoke parole and order the person to confinement in the county jail; or (3) refer the person to a reentry court pursuant to section 3015 or other evidence-based program in the hearing officer's discretion. Confinement pursuant to paragraphs (1) and (2) shall not exceed a period of 180 days in the county jail.
(Pen. Code, § 3000.08, effective July 1, 2013.)

Community corrections partnership. Each county's local community corrections partnership is required to recommend a local plan to the county board of supervisors for the implementation of the Realignment Act. The plan shall be voted on by an executive committee consisting of the chief probation officer of the county as chair, a chief of police, the sheriff, the district attorney, the public defender, the presiding judge of the superior court, or his or her designee, and specified county representatives.



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Child Support Services – Educating California Families Charter

Executive Sponsors: Lesley Bell, DCSS Program Policy Branch
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- Mary Ann Miller, DCSS, Office of Executive Program
- Natalie Dillon, Deputy Director, CSDA Scott Thomsen, Judge of the Superior Court of California, Nevada County
- Susan Groves, Family Law Facilitator/Manager, San Diego County

Background

The workgroup convened in December 2010 and has met several times between March and June 2011.

The workgroup focus is on exploring how the Department of Child Support Services (DCSS) and the Administrative Office of the Courts (AOC) can create awareness of the availability of post support order services to families who use private means to obtain child support orders. Families that currently utilize private family law professionals may not be aware of the low cost DCSS services available to them. An early intervention approach will bring new child support cases into the program, allowing the department's enforcement remedies to prevent or reduce cases from becoming delinquent. This proactive approach will provide benefits to families, family courts and the statewide program performance.

Workgroup Purpose

The work group is charged with developing messaging and communication strategies endorsed by DCSS and AOC. The Local Child Support Agencies (LCSAs) will utilize the strategies to promote an educational campaign directed to California family courts and their local private bar. The work group will identify obstacles and propose solutions to those obstacles to successfully launch the workgroup strategies.

Guiding Principles

The workgroup will consider the following principles for this project:

- The baseline to measure impact for this project will be the current Non IV-D caseload
- All recommendations will consider the benefits and impacts to families that could benefit from DCSS's services
- Messaging and strategies will be developed from input provided by focus groups and project stakeholders
- Recommended strategies for education materials will be as simple as possible so they are easy to understand

Workgroup Scope

The workgroup will:

- Assemble a focus group
- Plan, organize and direct how efforts will capture support and concerns of focus group
- Utilize input from focus group to develop strategies (i.e. factsheets, powerpoints, video)
- Prepare strategies and delivery plan to the courts, private bar, public, child support community
- Obtain AOC endorsement for letters to courts and child support commissioners communicating the efforts and requesting support
- Provide communication plan that will assist LCSAs implementation efforts of messaging and strategies
- Develop metrics that will measure the success of the effort

Final Deliverable

The work group will provide the LCSAs with a DCSS/AOC approved package containing strategies and materials to promote an educational campaign beneficial to families, the family courts, commissioners, and to the child support program. This effort will be completed in two phases. Phase I will encompass the development of educational materials; and strategies for delivery with delivery in August 2012. Phase II will consist of educating California families who can benefit from DCSS's services (implementing the messaging and strategies) and measuring the success of the effort.

Stakeholders

Core participants include Department of Child Support Services (DCSS) staff, Administrative Office of the Courts (AOC), California Judiciaries, private law attorneys, Local Child Support Agency (LCSA) and Child Support Directors Association (CSDA)

Project Activities

March 2012	Kickoff Meeting – Phase I Educational Materials
April 2012	Workgroup Meeting – Phase I Focus Group Reporting Out Messaging Group Start up
May 2012	Workgroup Meeting – Phase I Focus Group Deliverable Message Group Continues
June 2012	Workgroup Meeting – Phase I Message Group Deliverable
July 2012	Deliverables Reviewed – Phase I Internal Approvals Obtained – Phase I
August 2012	Deliverables Released – Phase I Child Support Awareness Month
September 2012	AOC Conference Outreach with Deliverables Workgroup Meeting Kickoff Meeting – Phase II Video
October 2012	Workgroup Meeting – Phase II Continue to Seek Educational Opportunities

TAB B

DCSS Update

Ms. Kathleen Hrepich

NO MATERIALS WERE DISTRIBUTED

TAB B

Legislative Update

Ms. Tracy Kenny

Legislative Update

2012 AB 1058 Conference

Overview

- Handout
- Child support related bills
- Parentage related bills
- Pension reform – AB 340

AB 1727 (Silva) p. 2

Allows ex parte termination of earnings assignment order for support when past due support is paid under circumstances when termination is non-discretionary

Circumstances:
Death/remarriage of spouse
Death/emancipation child
No current support order
Termination of stay improper
No current address

AB 2393 (Davis) p. 3

- Increases the low income obligor adjustment threshold to \$1500
- Provides for an annual ongoing adjustment by California CPI
- Sunsets January 1, 2018

AB 1337 (Alejo) p. 1

- Clarifies notice provisions for parentage proceedings when a parent is deceased
- Requires notice to person with custody & relatives of the second degree

SB 1476 (Leno) p. 4

- Allows a court to find that a child has more than 2 parents under existing parentage definitions
- Provides that cs guideline applies, but deviation allowed
- No change to calculator req'd

AB 340 Pension reform

All employees:

- Felony forfeiture
- 180 day wait for post-retirement public service

Current employees:

- 50/50 sharing by 2018 with caps for local systems

New employees:

- New formula "2% at 62"
- At least 50/50
- Cap on pensionable salary of \$110,100
- No employer pickup

Questions?

Tracy Kenny, Office of
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2012 AB 1058 Conference Legislative Update

Listed below are the family law related bills that have been passed in the 2012 legislative session. Four of these bills have been signed and have a Chapter number assigned, while the others have been enrolled, and are still awaiting consideration by the Governor. The status of the bills is as of Tuesday, September 4th. The Governor has until September 30th to sign or veto these bills. To obtain the text, status, history, or analyses of any bill listed below, go to www.leginfo.ca.gov, and use the Bill Information button to locate the bill. If you have further questions, please contact Tracy Kenny at (916) 323-3121, or Tracy.Kenny@jud.ca.gov.

AB 1217 (Fuentes) Surrogacy agreements

Status: Enrolled

Summary: Sets forth procedures for executing an assisted reproduction agreement for gestational carriers. Provides that such agreements are presumptively valid. Specifies that parties may file these agreements in court to obtain an order of parentage prior to the birth of the child, which will become effective upon the birth of the child. Provides that the surrogacy agreement and related documents shall only be available for inspection by the parties and their attorneys, and the State Department of Social Services absent an order by the court for good cause allowing third party access to the records.

AB 1337 (Alejo) Parent and child relationship

Status: Chaptered by the Secretary of State, Ch. 155, Statutes of 2012

Summary: Specifies who shall be served with notice of a parentage proceeding when one parent is deceased and there is no current or pending custody or guardianship matter before the court. Requires notice to the person with custody of the child and relatives within the second degree to the extent they can be located. For parties who cannot be located authorizes the court to prescribe alternate means of notice, or to dispense with notice in the case of relatives without custody of the child. Requires proof of service prior to the court hearing the parentage action.

AB 1406 (Committee on Judiciary) Dissolution of marriage: proceedings

Status: Chaptered by the Secretary of State, Ch. 107, Statutes of 2012

Summary: Requires that a petitioner or respondent for dissolution, separation, or nullity of marriage serve a copy of the preliminary declaration of disclosure at the time the petition or response is filed, or within 60 days of filing the petition or response unless that time period is extended by written agreement or court order. Also requires that the declarant include the prior two years tax returns as part of the disclosure. Clarifies recently enacted provisions concerning the role minor's counsel, and award of attorney's fees in family law matters.

AB 1522 (Atkins) Family law: monetary awards

Status: Enrolled

Summary: Prohibits an order of spousal support to a party who has been convicted of a sexually violent offense against the other spouse provided that the petition for dissolution is filed within 5 years of the conviction and any time served in prison, on parole or probation, and disallows the award of any community property interest in the injured spouse's retirement benefits. Further provides that, at the request of the injured spouse, the date of separation for

the marriage shall be the date of the incident giving rise to the conviction. Allows for community funds to pay for attorney's fees in appropriate cases, but provides that the separate property of the injured spouse may not be used to pay the other spouse's attorney's fees.

AB 1674 (Ma) Child custody: visitation

Status: Enrolled

Summary: Establishes a statutory framework to govern the required Judicial Council standards for supervised visitation providers. Provides that the court when ordering supervised visitation for cases in which it finds there is domestic violence or child abuse or neglect shall consider whether to order a professional or nonprofessional provider based upon the best interest of the child. Places some provisions of the existing Standard 5.20 in statute and makes them mandatory, but provides the court with the discretion not to apply them if it so orders or the parties stipulate. Requires that professional providers receive at least 24 hours of training on specified topics. Requires professional providers to complete a declaration or a Judicial Council form confirming that they meet the requirements to be a provider.

AB 1727 (Silva) Support orders: termination

Status: Chaptered by the Secretary of State, Ch. 77, Statutes of 2012.

Summary: Sets forth circumstances in which an obligor may seek ex parte relief to terminate the service of an assignment order for support if past due support has been paid in full. These include the death or remarriage of a spouse, the death or emancipation of a child, the absence of a current support order, the improper termination of a stay under specified circumstances, or the inability to deliver payment for six months due to the obligee's failure to notify the Department of Child Support Services (DCSS) of a change of address.

AB 1751 (Pan) Child support: access to information

Status: Enrolled

Summary: Authorizes county child welfare and probation agencies to access information collected by the California Parent Locator Service in order to identify, locate, and assess non-custodial parents of children who are subject to the jurisdiction of the juvenile court as dependents or delinquents.

AB 1757 (Fletcher) Family law: adoption

Status: Enrolled

Summary: Makes several changes to probate guardianship procedures, adoption processes, and adoptive placement considerations. Among other things, authorizes the probate court in a guardianship proceeding to refer any case of possible child abuse or neglect to the child welfare agency for investigation. Allows the court to take any reasonable steps it deems appropriate to protect the child's safety while that investigation is pending, including appointing a temporary guardian or issuing a temporary restraining order. Provides that the guardianship proceedings shall be stayed if dependency proceedings are initiated as a result of this investigation. Updates adoption venue provisions consistent with current law. Requires a proceeding to free a child from parental custody and control to be set within 45 days of filing the petition, and authorizes the court to decide the matter on the pleadings if no objection to the petition is filed.

AB 1807 (Cook) Family law: child custody

Status: Chaptered by the Secretary of State, Ch. 116, Statutes of 2012

Summary: Prohibits the court from ordering a child custody evaluation when a deploying party returns from military service and seeks a reversion to the prior custody order unless the party opposing reversion to the prior custody order makes a prima facie showing that reversion would not be in the child's best interest. Provides that the court shall maintain jurisdiction even if the child and the non-deploying parent relocate to another state, and provides that the deployment shall not by itself be a basis for terminating exclusive jurisdiction. States the intent of the legislature that family courts shall, to the extent feasible within existing resources and court practices, prioritize the calendaring of these cases, avoid unnecessary delay or continuances, and ensure that parties who serve in the military are not penalized for their service by a delay in appropriate access to their children.

AB 2365 (Nestande) Family law: child custody

Status: Enrolled

Summary: Adds to the matters a court shall consider in determining the best interest of a child in a custody proceeding either parent's habitual or continual abuse of prescribed controlled substances. Eliminates the sunset date on the court's existing authority to order drug or alcohol testing in a child custody matter.

AB 2393 (Davis) Family law: child support formula

Status: Enrolled

Summary: Until January 1, 2018, increases the net disposable income threshold for low income child support obligors from \$1000 to \$1500, and directs the Judicial Council to calculate an annual adjustment to that amount each March 1 based upon the change in the California Consumer Price Index.

SB 1064 (De León) Child custody: immigration

Status: Enrolled

Summary: Provides that immigration status shall not disqualify a relative from receiving custody, being appointed a probate guardian, or having a dependent child placed with the relative. Further provides that immigration status alone shall not constitute unsuitability for custody, guardianship or placement.

SB 1206 (Walters) Child abduction prevention

Status: Enrolled

Summary: Requires that the standard restraining orders in family law matters include a requirement that neither parent apply for a new passport or seek to renew an existing passport for a child without a court order or the written consent of the other parent. Authorizes the court, at the time it issues a protective custody warrant for a child who has been abducted by a parent, to also issue an order freezing the California assets of the party alleged to be in possession of the child.

SB 1433 (Alquist) Domestic violence: protective orders

Status: Enrolled

Summary: Modifies existing statutory requirements concerning firearms relinquishment in cases in which a Domestic Violence Prevention Act (DVPA) protective order has been issued to: (1) require courts to conduct a search to determine if the restrained person has a registered firearm when the court is performing other required criminal history searches on the party to be restrained by the order, subject to the availability of resources for this task; (2) require law enforcement officers who serve DVPA orders to request that a restrained person surrender his/her firearm when the order indicates that the party might have a gun; (3) require the restrained party to file a copy of the form filed with the court documenting the surrender of the firearm with the law enforcement agency that served the order; and (4) require a peace officer serving a DVPA protective order to take temporary custody of any firearm in plain sight or discovered pursuant to a lawful search as necessary to protect the peace officer or other person present.

SB 1476 (Leno) Family law: parentage

Status: Enrolled

Summary: Provides that where two or more claims or presumptions of parentage have been established, a court may find that a child has more than two natural or adoptive parents if it is required to serve the best interests of the child. Requires the court, in determining the best interest of the child, to consider the nature, duration, and quality of the presumed or claimed parents' relationships. Requires the court to apply the statewide child support guideline to these cases unless the court finds that it is a reason to deviate from the guideline. Specifies that the DCSS is not required as a result of this change to reprogram the California Child Support Automation System, make a change in the guideline, or issue a revision in any DCSS' regulation, policy, procedure, form or training material.

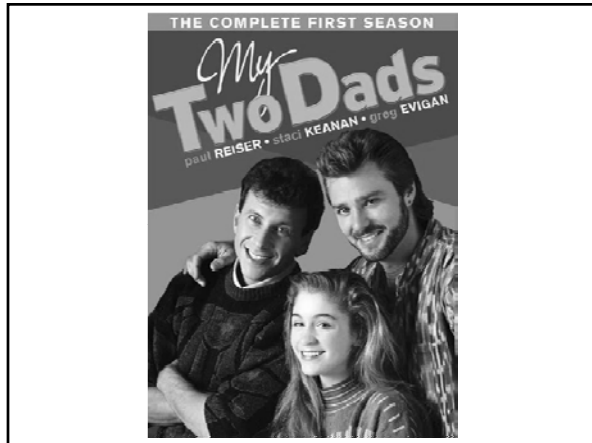
TAB C

**Best Practices – Establishing and
Disestablishing Parentage: What To Do
When Mom is Married and Has a Child
with Someone Other than Her Husband**

**Hon. Diana Baker, Hon. Connie Jimenez,
Hon. Drew Takaichi, Ms. Dee Dinnie,
Ms. Deborah Kratky, &
Ms. Leigh Parsons (Moderator)**

Best Practices – Establishing & Disestablishing Parentage

What to do when Mom is married
and has a child...
but not with her Husband



Panelists

- Hon. Drew Takaichi – Judge, Santa Clara
- Hon. Constance Jimenez – IV-D Commissioner, Santa Clara
- Hon. Diana Baker - IV-D Commissioner, Monterey
- Deborah Kratky – Attorney IV, DCSS, Santa Clara
- Dee Dinnie – Deputy Department Counsel, DCSS, Orange
- Moderator: Leigh Parsons, Supervising Attorney, SHC/FLF, Santa Clara

Parentage Presumptions

FC§ 7540	Marriage
FC§ 7611(a)	Marriage
FC§ 7611(b)	Botched Marriage
FC§ 7611(c)	Later Marriage
FC§ 7611(d)	Held Child out
FC§ 7554	DNA Test - Excluded
FC§ 7555	DNA Test - Not Excluded
FC§ 7646	Judgment - Reconsideration
FC§ 7573	VDOP

Competing Presumptions

FC§ 7612(b): If 2 or more presumptions arise under FC§ 7610 or 7611, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

DECLARATION OF PATERNITY

SECTION 12 READ OTHER SIDE BEFORE SIGNING

I declare under the penalty of perjury under the laws of the State of California that I am the **biological father** of the child named on this declaration and that the information I have provided is true and correct. I have read and understand the rights and responsibilities described on the back of this form. I understand that by signing this form I am consenting to the establishment of paternity, thereby waiving those rights. I am assuming all of the rights and responsibilities as the biological father of this child. I wish to be named as the father on the child's birth certificate.

I have been orally informed of my rights and responsibilities.

SIGNATURE OF FATHER: _____ DATE SIGNED: _____

SECTION 13 READ OTHER SIDE BEFORE SIGNING

I declare under the penalty of perjury under the laws of the State of California that I am the **unmarried natural mother** of the child named on this declaration and that the information I have provided is true and correct. I have read and understand the rights and responsibilities described on the back of this form. I certify that the man signing this form is the only possible father of this child. I know that by signing this form I am establishing the man signing this form as the biological father of this child with all the rights and responsibilities of a biological father under the laws of California. I consent to the establishment of paternity by signing this form. I have been orally informed of my rights and responsibilities.

SIGNATURE OF MOTHER: _____ DATE SIGNED: _____

**Voluntary Declaration of Parentage (VDOP/POP) +
Marital Presumption = VDOP INVALID but . . .**

AB 1349 (8/5/11) – Amended FC§ 7612 to add that VDOP is invalid if, at time of signing, there is a presumed father by marriage or attempted marriage under FC§ 7540 or 7611 (a-c). And presumed father under FC§ 7611 now has standing to file VDOP set aside within 2 years of VDOP execution.

- What is the effective date (only VDOPs signed after AB 1349, or all regardless of when signed)?
- What if presumed dad under FC§ 7611 doesn't learn of VDOP until >2 years after its execution?
- What is the effect of VDOP being invalid if VDOP never set aside? "Invalid" vs. Void vs. Voidable?
- What if VDOP executed by M & BF after M's divorce, but child was born before the divorce?

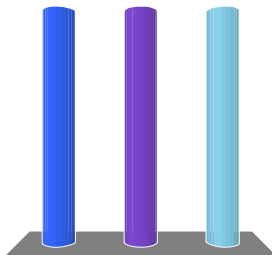
Our Scenario:

- H & W married
- W & BF have child



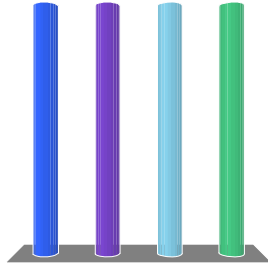
**LCSA Practice: Opening a Case
(Rebuttable presumption)**

1. Open against H
2. Open against BF
3. Other



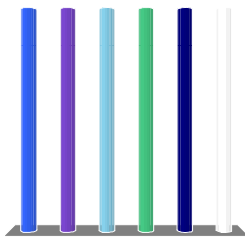
**LCSA Practice: Opening a Case,
LCSA can't locate H**
(Rebuttable presumption)

1. Open against H
2. Open against BF
3. Close Case
4. Other



**W & BF want to stip that BF is F in
a UPA case; No disso filed**

1. OK – stip are good!
2. Order genetic testing
3. Join H into UPA
4. Notice H
5. 2 & 3
6. 2 & 4

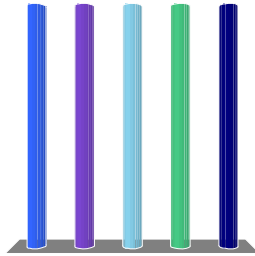


Join H into DCSS/UPA case?

- Does H have to be joined or noticed (Joinder "Lite") to establish Parentage for BF?

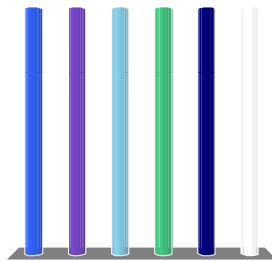
How/When to best determine if M is married to someone other than bio-F?

1. FLF/DCSS should ask when opening a case
2. UPA Petition should ask
3. Judge should ask
4. Find out by accident
5. Other



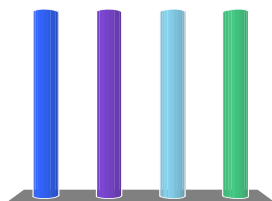
W is in to take H's disso default. She *actually* tells FLF she's pregnant...

1. Amend Petition, re-serve
2. Take default, RFO (FKA "osc") to disestablish
3. BF signs VDOP
4. Help W open UPA
5. 1 & 4
6. 2 & 4



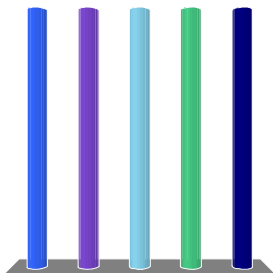
**BF has opened a UPA case. Then... H files for Divorce + CV
Neither is aware of the other's case. What do you do?**

1. Clerk's Office searches for ANY related cases
2. Hope Judge asks about parentage at a hearing
3. Hope one will find out about the other's orders
4. Other



When should genetic testing be ordered?

1. In all cases, even if parties stip
2. Don't if H or BF stip to parentage
3. From BF before disestablishing H
4. Won't ever order if conclusive presumption
5. Other



Petition Language

- What language can H or W put in disso Petition to disestablish parentage?

“Determine that Petitioner [Respondent] is not the biological father of CHILD’S NAME, (DOB), born [after date of separation] to Wife, and enter a Judgment of non-Parentage.”

OR

“Rebut marital presumption regarding parentage as to CHILD’S NAME, (DOB), with short reason.”

Disso Judgment – Special Cases

- CH will be born within 300 days of marriage termination
 - Judgment reserves issue, notes CH conceived during marriage
 - Post-judgment motion to disestablish
- Default Judgment: Can W disestablish by default or must reserve parentage issue?

H is not the bio-Dad -
Dismiss case
or
Non-Parentage Judgment?

- Marital presumption has been rebutted
- Testing excludes H

Ideas: Best Practice

- If case with All-Purpose Judge (APJ) & DCSS, set both in IV-D courtroom
- Default Judgment to disestablish parentage - must be a prove-up hearing, not by declaration.
- APJ and IV-D Commissioners should handle these cases, not Temporary Judges
- More ideas?

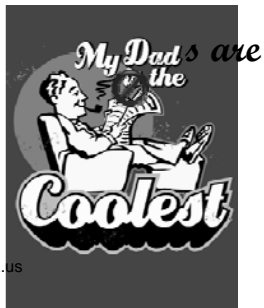


Needed Legislative "Updates"

- Treat UPA judgments and VDOPs as public after 2 years
- UPA Petition should ask about M's marital status
- Disso Petition should ask about ALL CH born during marriage
- Judicial Officer makes finding at UPA Judgment regarding M's marital status.
- Judicial Officer makes finding at disso Judgment regarding **all** CH born during marriage
- What else?



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Best Practices – Establishing and Disestablishing Parentage: A few Code Sections

FC§ 7540. Except as provided in Section 7541, the child of a wife **cohabiting** with her husband, who is **not impotent or sterile**, is conclusively presumed to be a child of the marriage.

FC§ 7541.

(a) Notwithstanding Section 7540, if the court finds that the conclusions of all the experts, as disclosed by the evidence based on blood tests performed pursuant to Chapter 2 (commencing with Section 7550), are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly.

(b) The **notice of motion for blood tests under this section may be filed not later than two years from the child's date of birth by the *husband***, or for the purposes of establishing paternity by the presumed father or the child through or by the child's guardian ad litem. As used in this subdivision, "presumed father" has the meaning given in Sections 7611 and 7612.

(c) The **notice of motion for blood tests under this section may be filed by the mother of the child not later than two years from the child's date of birth if the child's biological father has filed an affidavit with the court acknowledging paternity of the child.**

(d) The notice of motion for blood tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court.

(e) Subdivision (a) does not apply, and blood tests may not be used to challenge paternity, in any of the following cases:

- (1) A case that reached final judgment of paternity on or before September 30, 1980.
- (2) A case coming within Section 7613.
- (3) A case in which the wife, with the consent of the husband, conceived by means of a surgical procedure.

FC§ 7554.

(a) **If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly.**

(b) If the experts disagree in their findings or conclusions, or if the tests show the probability of the alleged father's paternity, the question, subject to Section 352 of the Evidence Code, shall be submitted upon all the evidence, including evidence based upon the tests.

FC§ 7555.

(a) **There is a rebuttable presumption**, affecting the burden of proof, of paternity, **if the court finds that the paternity index**, as calculated by the experts qualified as examiners of genetic markers, **is 100 or greater**. This presumption may be rebutted by a preponderance of the evidence.

(b) As used in this section:

(1) "Genetic markers" mean separate genes or complexes of genes identified as a result of genetic tests.

(2) "Paternity index" means the commonly accepted indicator used for denoting the existence of paternity. It expresses the relative strength of the test results for and against paternity. The paternity index, computed using results of various paternity tests following accepted statistical principles, shall be in accordance with the method of expression accepted at the International Conference on Parentage Testing at Airlie House, Virginia, May 1982, sponsored by the American Association of Blood Banks.

FC§ 7573.

Except as provided in Sections 7575, 7576, 7577, and 7612, a completed **voluntary declaration of paternity**, as described in Section 7574, that has been filed with the Department of Child Support Services **shall establish the paternity of a child and shall have the same force and effect as a judgment for paternity issued by a court** of competent jurisdiction. The voluntary declaration of paternity shall be recognized as a basis for the establishment of an order for child custody, visitation, or child support.

FC§ 7611.

A man is presumed to be the natural father of a child if he meets the conditions provided in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 or in any of the following subdivisions:

(a) **He and the child's natural mother are or have been married to each other** and the **child is born during the marriage, or within 300 days after the marriage is terminated** by death, annulment, declaration of invalidity, or divorce, or after a judgment of separation is entered by a court.

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

(2) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) With his consent, he is named as the child's father on the child's birth certificate.

(2) He is obligated to support the child under a written voluntary promise or by court order.

(d) He **receives the child into his home and openly holds out the child as his natural child.**

(e) If the child was born and resides in a nation with which the United States engages in an Orderly Departure Program or successor program, he acknowledges that he is the child's father in a declaration under penalty of perjury, as specified in Section 2015.5 of the Code of Civil Procedure. This subdivision shall remain in effect only until January 1, 1997, and on that date shall become inoperative.

(f) The child is in utero after the death of the decedent and the conditions set forth in Section 249.5 of the Probate Code are satisfied.

FC§ 7612

(a) Except as provided in Chapter 1 (commencing with Section 7540) and Chapter 3 (commencing with Section 7570) of Part 2 or in Section 20102, a presumption under Section 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) **If two or more presumptions arise** under Section 7610 or 7611 that conflict with each other, or if a presumption under Section 7611 conflicts with a claim pursuant to Section 7610, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) **The presumption under Section 7611 is rebutted by a judgment establishing paternity of the child by another man.**

(d) **Within two years of the execution of a voluntary declaration of paternity, a person who is presumed to be a parent under Section 7611 may file a petition** pursuant to Section 7630 **to set aside a voluntary declaration of paternity.** The court's ruling on the petition to set aside the voluntary declaration of paternity shall be made taking into account the validity of the voluntary declaration of paternity, and the best interests of the child based upon the court's consideration of the factors set forth in subdivision (b) of Section 7575, as well as the best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship. In the event of any conflict between the presumption under Section 7611 and the voluntary declaration of paternity, the weightier considerations of policy and logic shall control.

(e) A voluntary declaration of paternity is invalid if, at the time the declaration was signed, any of the following conditions exist:

(1) The child already had a presumed parent under Section 7540.

(2) The child already had a presumed parent under subdivision (a), (b), or (c) of Section 7611.

(3) The man signing the declaration is a sperm donor, consistent with subdivision (b) of Section 7613.

FC§ 7635.

(a) The child may, if under the age of 12 years, and shall, if 12 years of age or older, be made a party to the action. If the child is a minor and a party to the action, the child shall be represented by a guardian ad litem appointed by the court. The guardian ad litem need not be represented by counsel if the guardian ad litem is a relative of the child.

(b) The natural mother, each man presumed to be the father under Section 7611, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in Section 7666 and an opportunity to be heard. Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the petition to establish parental relationship, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

(c) The court may align the parties.

(d) In any initial or subsequent proceeding under this chapter where custody of, or visitation with, a minor child is in issue, the court may, if it determines it would be in the best interest of the minor child, appoint private counsel to represent the interests of the minor child pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8.

BILL NUMBER: AB 1349 CHAPTERED
BILL TEXT

CHAPTER 185
FILED WITH SECRETARY OF STATE AUGUST 5, 2011
APPROVED BY GOVERNOR AUGUST 5, 2011
PASSED THE SENATE JULY 14, 2011
PASSED THE ASSEMBLY MAY 2, 2011
AMENDED IN ASSEMBLY APRIL 14, 2011

INTRODUCED BY Assembly Member Hill

FEBRUARY 18, 2011

An act to amend Sections 7573, 7576, 7612, and 7613 of the Family Code, relating to paternity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1349, Hill. Paternity: conflicting presumptions.

Under existing law, with certain exceptions, a man is conclusively presumed to be the father of a child if he was married to and cohabiting with the child's mother. Existing law also provides that if a man signs a voluntary declaration of paternity, it has the force and effect of a judgment of paternity, subject to certain exceptions. Existing law further provides that a man is rebuttably presumed to be the father if he was married to, or attempted to marry, the mother before or after the birth of the child, or he receives the child as his own and openly holds the child out as his own. Under existing law, the voluntary declaration of paternity may be set aside by the court if genetic evidence establishes the man is not the father of the child, while the latter presumptions are rebutted by a judgment establishing paternity by another man. Existing law provides that if 2 or more presumptions conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

This bill would provide that a voluntary declaration of paternity is invalid if, at the time the declaration was signed, the child already had a presumed parent, as specified, or if the man signing the declaration is a sperm donor. The bill would authorize a person who is rebuttably presumed to be the child's parent under the above-described provisions to bring a motion to set aside a voluntary declaration of paternity, and would require the court to consider specified factors, including the nature, duration, and quality of the petitioning party's relationship with the child in deciding whether to set aside the voluntary declaration of paternity. The bill would include these proceedings among the exceptions to the provision that a voluntary declaration of paternity has the force and effect of a judgment of paternity. The bill would provide that, in the event of a conflict between a rebuttable presumption of paternity and the voluntary declaration of paternity, the weightier considerations of policy and logic control. The bill would make other conforming changes.

Under existing law, the donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in artificial insemination or in vitro fertilization of a woman other than the donor's wife is treated as if he were not the natural father of a child thereby conceived.

This bill would enable a sperm donor to be treated as a natural father if it is agreed to in a writing signed by the donor and the woman prior to the conception of the child.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7573 of the Family Code is amended to read:

7573. Except as provided in Sections 7575, 7576, 7577, and 7612, a completed voluntary declaration of paternity, as described in Section 7574, that has been filed with the Department of Child Support Services shall establish the paternity of a child and shall have the same force and effect as a judgment for paternity issued by a court of competent jurisdiction. The voluntary declaration of paternity shall be recognized as a basis for the establishment of an order for child custody, visitation, or child support.

SEC. 2. Section 7576 of the Family Code is amended to read:

7576. The following provisions shall apply for voluntary declarations signed on or before December 31, 1996.

(a) Except as provided in subdivision (d), the child of a woman and a man executing a declaration of paternity under this chapter is conclusively presumed to be the man's child. The presumption under this section has the same force and effect as the presumption under Section 7540.

(b) A voluntary declaration of paternity shall be recognized as the basis for the establishment of an order for child custody or support.

(c) In any action to rebut the presumption created by this section, a voluntary declaration of paternity shall be admissible as evidence to determine paternity of the child named in the voluntary declaration of paternity.

(d) The presumption established by this chapter may be rebutted by any person by requesting blood or genetic tests pursuant to Chapter 2 (commencing with Section 7550). The notice of motion for blood or genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court. The notice of motion for blood tests shall be made within three years from the date of execution of the declaration by the attesting father, or by the attesting mother, whichever signature is later. The two-year statute of limitations specified in subdivision (b) of Section 7541 is inapplicable for purposes of this section.

(e) A presumption under this chapter shall override all statutory presumptions of paternity except a presumption arising under Section 7540 or 7555, or as provided in Section 7612.

SEC. 3. Section 7612 of the Family Code is amended to read:

7612. (a) Except as provided in Chapter 1 (commencing with Section 7540) and Chapter 3 (commencing with Section 7570) of Part 2 or in Section 20102, a presumption under Section 7611 is a rebuttable presumption affecting the burden of proof and may be rebutted in an

appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under Section 7610 or 7611 that conflict with each other, or if a presumption under Section 7611 conflicts with a claim pursuant to Section 7610, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.

(c) The presumption under Section 7611 is rebutted by a judgment establishing paternity of the child by another man.

(d) Within two years of the execution of a voluntary declaration of paternity, a person who is presumed to be a parent under Section 7611 may file a petition pursuant to Section 7630 to set aside a voluntary declaration of paternity. The court's ruling on the petition to set aside the voluntary declaration of paternity shall be made taking into account the validity of the voluntary declaration of paternity, and the best interests of the child based upon the court's consideration of the factors set forth in subdivision (b) of Section 7575, as well as the best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship. In the event of any conflict between the presumption under Section 7611 and the voluntary declaration of paternity, the weightier considerations of policy and logic shall control.

(e) A voluntary declaration of paternity is invalid if, at the time the declaration was signed, any of the following conditions exist:

(1) The child already had a presumed parent under Section 7540.

(2) The child already had a presumed parent under subdivision (a), (b), or (c) of Section 7611.

(3) The man signing the declaration is a sperm donor, consistent with subdivision (b) of Section 7613.

SEC. 4. Section 7613 of the Family Code is amended to read:

7613. (a) If, under the supervision of a licensed physician and surgeon and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician and surgeon shall certify their signatures and the date of the insemination, and retain the husband's consent as part of the medical record, where it shall be kept confidential and in a sealed file. However, the physician and surgeon's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician and surgeon or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in artificial insemination or in vitro fertilization of a woman other than the

donor's wife is treated in law as if he were not the natural father of a child thereby conceived, unless otherwise agreed to in a writing signed by the donor and the woman prior to the conception of the child.

PATERNITY PRESUMPTIONS

Presumption	Criteria	Can Presumption be Overcome?	Who can rebut?	Time Limit	Burden of Proof	DNA Results
Marriage - FC 7540	H is F if married and co-habiting with W at time of conception and H is not impotent or sterile.	Yes but only within two years of child's DOB. Conclusive after two years that H is F. (FC 7541)	1. H, presumed F, or child can request DNA tests. 2. W can <i>if</i> bio-F files declaration of paternity. (FC 7541)	Two years from DOB. (FC 7541)		Result is conclusive. (FC 7541)
Marriage FC 7611(a)	Married to M or has been married to M and child born during marriage, or within 300 days after the marriage ended by death, annulment, declaration of invalidity, or divorce, or after a judgment of separation.	Rebuttable. Automatically rebutted by judgment establishing another man as F. (FC 7612)	Child, M, presumed F, adoption agency or prospective adoptive parent can file UPA case to declare the non-existence of F and child relationship. (FC 7630(a))	Within a reasonable time after obtaining knowledge of the relevant facts. (FC 7630(a)(2))	Clear and convincing. (FC 7612)	
Botched Marriage - FC 7611(b)	Before child's DOB, tried to marry M (but marriage could be declared invalid) and child is born within 300 days after court declared marriage invalid or, if invalid without court order, child born within 300 days after cohabitation terminated.	Rebuttable. Automatically rebutted by judgment establishing another man as F. (FC 7612)	Child, M, presumed F, adoption agency or prospective adoptive parent can file UPA case to declare the non-existence of F and child relationship. (FC 7630(a))	Within a reasonable time after obtaining knowledge of the relevant facts. (FC 7630(a)(2))	Clear and convincing. (FC 7612)	
Later Marriage - FC 7611(c)	After child's birth, married M or tried to marry M (but marriage could be declared invalid) and either (1) he put his name on birth certificate or (2) he made a written agreement to pay c/s or was court ordered to do so.	Rebuttable. Automatically rebutted by judgment establishing another man as F. (FC 7612)	Child, M, presumed F, adoption agency or prospective adoptive parent can file UPA case to declare the non-existence of F and child relationship.	Within a reasonable time after obtaining knowledge of the relevant facts. (FC 7630(a)(2))	Clear and convincing. (FC 7612)	

PATERNITY PRESUMPTIONS

Presumption	Criteria	Can Presumption be Overcome?	Who can rebut?	Time Limit	Burden of Proof	DNA Results
Held the Child Out as His Own FC 7611(d)	He received the child into his home and openly held the child out as his natural child.	Rebuttable. Automatically rebutted by judgment establishing another man as F. (FC 7612)	Any interested person can file UPA case to declare the non-existence of F and child relationship. (FC 7630(b))		Clear and convincing. (FC 7612)	
Voluntary Declaration of Paternity (aka VDOP or POP) FC 7573	VDOP signed and filed with DCSS. Establishes paternity with same force and effect as a judgment of paternity.	<ol style="list-style-type: none"> 1. If DNA excludes him, can set aside but only after considering best interests of child. (FC 7575(b)(1)). 2. Can also set aside per CCP 473. (FC 7575(c)(1)) 3. Invalid if, at time of signing, there is already a presumed parent under FC 7540 or FC 7611(a)(b) or (c). (Marriage presumptions.) (FC 7612) 	<ol style="list-style-type: none"> 1. M or man who signed the VDOP. DCSS but only if there are conflicting VDOPS/ judgments. 2. Either parent. 3. Presumed parent under FC 7611. 	<ol style="list-style-type: none"> 1. Two years from date VDOP signed. (FC 7575(c)(3)) 2. Per CCP 473. Time runs from initial order for custody, visitation, or c/s based on the VDOP. 3. Two years from date VDOP signed. 	<ol style="list-style-type: none"> 1. On the party trying to set aside the VDOP. 2. On the party trying to set aside the VDOP. (FC 7575(c)(2)) 	<ol style="list-style-type: none"> 1. Result is not necessarily conclusive. Best interests of child. 2. Exclusion is conclusive. If not excluded, decided per law. BUT – Court can act as court of equity. (FC 7575(c)(4))

PATERNITY PRESUMPTIONS

Presumption	Criteria	Can Presumption be Overcome?	Who can rebut?	Time Limit	Burden of Proof	DNA Results
DNA Test - Excluded FC 7554	If alleged F is excluded, the question of paternity shall be resolved accordingly.	No - except per VDOP set aside per FC 7575(b)(1).				Conclusive – except per VDOP set aside per FC 7575(b)(1).
DNA Test – Not Excluded FC 7555	Paternity Index of 100 or more.	Rebuttable.			Preponderance of the evidence.	Not conclusive.
Judgment - Reconsideration FC 7646	Paternity judgment may be set aside if DNA test excludes previously established F.		M, previously established F, child, or representative of the above.	1. If VDOP, two years from DOB. (But still have rights under FC 7575(c).) 2. If no VDOP, two years from when F knew/should have known of action to establish paternity or from judgment, whichever is first.		Result is not necessarily conclusive. Best interests of child. (FC 7648)

TAB D

Child Support Services Outreach to Family Law Customers in the Courthouse

**Hon. Michael S. Williams, Ms. Maria C.
Livingston, Ms. Joyce MacLaury,
Ms. Janet Nottley, &
Mr. Michael L. Wright (Moderator)**

DCSS Outreach to Family Law Customers in the Courthouse

INTRODUCTIONS (by order of appearance)

- ▶ Michael Wright, AB-1058 Program Manager/Supervising Attorney, Judicial Council--Administrative Office of the Courts
- ▶ Joyce MacLaury, Self-Help Services Unit Manager, Superior Court of California, County of Sonoma
- ▶ Janet Nottley , Director, Department of Child Support Services Napa County
- ▶ Hon. Michael S. Williams, Commissioner, Superior Court of California, County of Napa
- ▶ Maria Livingston, Self-Help Services Manager, Superior Court of California, County of Orange

GOALS OF THIS WORKSHOP

- ▶ Understand the implementation of the AOC- Department of Child Support outreach initiative
- ▶ Explore 3 pilot projects - Sonoma, Napa and Orange Counties
- ▶ Discuss Ethical Issues
- ▶ Brainstorm on barriers and ways to overcome them

▶ Michael Wright

**Review of the AOC/DCSS statewide
Family Law Outreach Initiative
“Educating California Families”**

SONOMA

Department of Child Support Services
NON – IV-D OUTREACH

Court Benefits

- ▶ Public education about child support
 - Assistance with Calculations
 - Explanation of Court Orders
 - Information and Referral

Court benefits cont'd

- ▶ Customer support in child support management
- ▶ More efficient enforcement
- ▶ General benefits of IV-D program expanded

DCSS Purpose

- ▶ Collaborate with Courts to provide immediate access, information and services.
- Increase cases with enforceable orders and increase other performance measures.

NAPA

Department of Child Support Services
NON - IV-D OUTREACH

NON IV-D COURT OUTREACH

- ▶ MISSION
 - To assist the court in providing non biased (neutral), customer service based, child support assistance to Napa County Court participants
- ▶ GOALS
 - Increase awareness of Child Support Services
 - Increase participation of both parents in process
 - Increase timely payments of support
 - Provide ongoing assistance to participants
 - Decrease court time and frequency

PROCESS

- ▶ Court introduces Case Managers (as separate agency)
- ▶ Court calls case
- ▶ If child support at issue, Court asks if they would like to meet with Case Manager to attempt resolution
- ▶ Case Manager meets with parties, explains that meeting is voluntary, explains the process and gathers income, timeshare, etc. and attempts agreement of issues between parties
- ▶ Case Manager explains CSS services available to both parties – offers application
- ▶ Case Manager submits information to the Court. If application completed, FLF sends OAH to child support

BENEFITS TO THE COURT

- ▶ A one-stop calendar reduces repeat appearances
- ▶ Parents do not have to exacerbate their disputes by returning to court
- ▶ Children start receiving support earlier
- ▶ Proceedings do not have to be interrupted by the court entering the data
- ▶ More accurate calculations can be made by the experts!
- ▶ The court has more time to resolve the difficult parenting/custody/visitation concerns
- ▶ Litigants perceive the court proceedings as individualized, with due attention to each person appearing in court
- ▶ Note: The benefits to the court overlap with benefits to the local Department of Child Support Services office, and to the parents. So, don't be surprised to see these benefits repeated in other frames!

BENEFITS TO CSS

- ▶ Early intervention of Child Support orders means less enforcement and more services
- ▶ Reduction of Arrears
- ▶ Effective outreach of family oriented services
- ▶ Performance

BENEFIT TO PARTICIPANTS

- ▶ Faster court appearance
- ▶ Less court appearances
- ▶ Better understanding of process, results and expectations
- ▶ Understanding of available resources with CSS, FLF, Workforce, Health Insurance, etc...

CUSTOMER QUOTES

- ▶ “Thank you for being there and helping me understand the process, my ex and I get along and you (CSS) take the stress out of the money part” *Obligor*
- ▶ “You helped my ex-husband understand that this was not about me but the kids and he is willing to cooperate” *Obligee*
- ▶ “Your Case Managers really took the time to explain everything to us, we thought you only helped people on Welfare, thank you for being there” *Both Parents*
- ▶ “I know you (CSS) do not have to be there, I am so thankful you were” *Obligor*

RESULTS

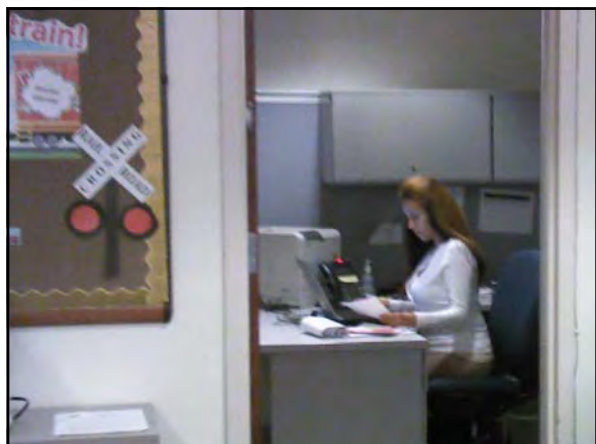
- ▶ 80% Sign Up Rate
 - 1/3 Obligees, 1/3 Obligors, 1/3 Couples
- ▶ 90% Current Support Collection Rate
- ▶ Satisfied Customers – Increase in customer letters of appreciation
- ▶ No case closures (unless appropriate)
- ▶ Reduction in court hearings – Modifications handled by Stipulation

ORANGE

Department of Child Support Services
NON – IV-D OUTREACH

Pilot Background

- ▶ Started with a Pilot of Facilitator at CSSD in 2011
- ▶ Regular Checkpoints & Statistics
- ▶ Guidelines
- ▶ On-going communication
- ▶ Be clear about the roles of CSSD & the Facilitator



**COMMENCING APRIL 23, 2012,
A REPRESENTATIVE FROM ORANGE COUNTY
CHILD SUPPORT SERVICES (CSS) WILL BE
AVAILABLE TO ASSIST FACILITATOR'S OFFICE
CUSTOMERS ON MONDAY AND WEDNESDAY.**

DISCLOSURE
Orange County CSS is a separate agency
and the CSS representative is **NOT** an
employee of the Court or Facilitator's
Office.

How referrals are made

- ▶ Referrals come from the Facilitator and the court based CSSD staff
- ▶ What kinds of referrals
 - Payment history
 - Address where summons and complaint were served
 - Inquires about opening a CSSD case via Self-Help triage
 - Inquires about case status
 - License release issues

▶ **ETHICAL ISSUES**

**Ethical Considerations
Neutrality of Court**

- ▶ Informational material provided to the public at court is neutral.
- ▶ The court distributes brochures and flyers (including DCSS materials).
- ▶ Referrals provide information in a neutral manner.

**Ethical Considerations Cont'd
Neutral Referrals**

- ▶ Referrals from Court Employees
- ▶ Referrals from Family Law Facilitator
- ▶ Referrals from the Bench
- ▶ DCSS Non-IV-D Communications at Court

Referrals by Court Employees

- ▶ Court employees often provide information and referral to customers in a neutral manner.
 - Ethics for Court Employees: Impartiality and Avoid Impropriety

Referrals by Family Law Facilitator

- ▶ Guidelines for Operation of Family Law Facilitator – Appendix C to California Rules of Court:
 - Impartiality and diligence
 - Delivering services in neutral manner
 - Making appropriate referrals.

Referrals by Family Law Facilitator cont'd

- ▶ Family Law Facilitator Act – Family Code 10004: Services Provided by Family Law Facilitator includes providing referrals to the local child support agency

Referrals by Family Law Facilitator cont'd

- ▶ What DCSS does/doesn't do
- ▶ How child support will be managed differently
- ▶ Relationship of DCSS to the case
- ▶ Both parents' access to DCSS

Referrals by Judicial Officer

- ▶ Judicial Referral to DCSS.
- ▶ Family Code 4201 provides: Orders may direct payments to SDU and/or direct LCSA to appear on behalf of a minor.

DCSS Communication with Obligor

- ▶ Family Code 4205:
 - Any notice from the LCSA requesting a meeting with the obligor for any purpose under this part shall advise the support obligor of the right to have an attorney present at the meeting.

DCSS Communication cont'd

Rules of Professional Conduct and State Bar Act have specific rules relating to communications with the public about legal services.

Rules of Professional Conduct Improper Solicitation RPC 1-400

- ▶ Solicitation shall not be made by a member or a law firm to a prospective **client** with whom the member or firm...has no family or prior professional relationship.

DCSS client is Public Interest

- ▶ Family Code 17406: The local child support agency represents the public interest. No attorney client relationship is created between LCSA and any person....

DCSS does not represent parties

- ▶ Family Code 17406: The local child support agency does not represent the individual or the children who are the subject of the case.

State Bar Act: Unlawful Solicitation

- ▶ Unlawful Soliciting Defined: State Bar Act, Art. 9 Section 6152
- ▶ It is unlawful for any person...public employee... to solicit for business for any attorneys...in superior courts.

Constitutional Protections

- ▶ 1st and 14th amendment protections for speech that is not for pecuniary gain, for solicitations that are for pro bono services.

Public Perception: Referrals Help

- ▶ By court personnel providing neutral referral and introduction to DCSS services it allows people to access information directly from DCSS at the court.

Logistics and Other Public Perceptions

- ▶ DCSS / Court relationship
- ▶ Location of IV-D Courtroom
- ▶ Location of FLF and other I&R

Public Perceptions cont'd

- ▶ Other agencies desire for access to litigants in the court room.
- ▶ Written criteria developed in advance could help define the limitations or scope of access.

BRAINSTORMING

- ▶ What barriers are there to implementing this initiative for some counties
- ▶ Any ideas on overcoming these barriers?
- ▶ Ideas on how to start a pilot

Orange County Child Support Services and Superior Court Self-help Customer Service Partnership - Pilot Project *Fact Sheet*

The Child Support Services (CSS) and Superior Court Lameroeux Justice Center (LJC) Self-help Customer Service Partnership - Pilot Project began April 23, 2012. Our goal is to provide services to customers in one visit with solutions to each CSS issue they may have in addition to providing any community resources in response to other deterrents they may face in helping them be successful. By providing a resource at LJC, the customer does not have to be redirected to the CSS main office to obtain information or assistance.

In partnership with Superior Court of Orange County, Office of the Family Law Facilitator (FLF) in Orange, a pilot project was initiated with one CSS staff member assigned to LJC 2 days per week to provide on-site services to customers seeking assistance with child support matters. Initially, one Sr. CSO was staffed at Mondays and Tuesdays, effective 4/23/12. Effective June 4th, 2012 the days of operation changed to Mondays and Wednesdays to test different days of the week where there was an increased volume of CSS traffic.

An assessment of customer needs was gathered to determine the effectiveness of this on-site service. Services provided to customers are the same as services provided at CSS. This includes:

- State Licensing Match System (SLMS) Releases
- Compromise of Arrears Program (COAP) information
- Information regarding payments; pay records etc.
- Guidance on child support forms
- Case Opening Applications

Onsite service benefits include: improved customer service as customers are able to meet with the FLF, court and CSS staff at one location on the same day to seek information and complete forms. This enables CSS and the FLF to complete expedited case actions. One stop services and resolution to issues in on visit is assisting customers in receiving much needed guidance while eliminating multiple visits. An additional benefit is to the departments, providing a reduction in walk-ins, phone calls and reduced costs.

Month/Year	Customers Assisted	Days/Hours per day
April 2012	17	3/8
May 2012	50	9/8
June 2012	86	8/8
July 2012	62	7/8
August 2012 (MTD)	45	5/8
Totals:	260	32/256

Top 5 Purpose of Visits

- | | |
|-------------------------|---------------------------|
| • Modification | • Open Child Support Case |
| • Payment/Arrears | • SLMS |
| • Wage Assignment (WGA) | • COAP |

Orange County Department of Child Support Services
Steven Eldred, Director
September 2012

TAB E

New Family Law Facilitators' Orientation

(For family law facilitators only)

**Mr. Michael L. Wright, Ms. Kristine Reiser,
& AOC AB 1058 Staff**

***MATERIALS WERE DISTRIBUTED,
NOT AVAILABLE ONLINE***

TAB F

**Modification Jurisdiction – In re
Marriage of Gruen (2011) and Beyond**

**Hon. Josanna Berkow &
Hon. Anthony Drewry**

Modification Jurisdiction: *Gruen & Beyond*

Commissioner Josanna Berkow
16th Annual AB1058 Conference
September 5, 2012



In re Marriage of Gruen

121 CA4th 627 (2011)

- Deborah Goodman and Arthur Gruen married in 1989 and had four children. Both were doctors. Arthur, a licensed physician, owned and operated several successful medical service businesses. Deborah did not complete her residency and became a stay-at-home mom.
- The couple owned a 4 acre estate in an upscale neighborhood of luxury homes. The property included a tennis court, barn, and guesthouse. Deborah claims that Arthur improved the property through large equity loans taken over her objection. Arthur paid all the family's expenses through his business account to which he had sole access.
- They separated in 2007 and Arthur filed for dissolution and an OSC to set child and spousal support in April 2008.

The Hearings & Orders



Hearing #1 August 1, 2008

- At this hearing set for temporary support orders pursuant to H's OSC, H & W stipulate to appointment of EC 730 Accounting Expert Tony Yip to prepare a report on H's income available for support.
- The court made a support order immediately effective that H pay all monthly housing expenses (mortgages, equity loans), all expenses for the four cars, all insurance payments (medical, life, car insurance), all credit card payments, plus an additional \$40,000 per month to W.
- The court stated that it made this support order "on an interim basis, without prejudice basis, pending next hearing [on August 21, 2008]."



Hearing #2 August 21, 2008

- H asked to take support off calendar and to continue the August 1, 2008 support order pending receipt of the 730 accounting report.
- There is no reference to the terms of the appointment order in the appellate record.
- W asked for increase in monthly support due to H's failure to pay the bills as ordered on August 1, 2008.
- The trial court stated: "I have concerns here of just continuing the temporary order, as H suggested until we get the Yip [accounting] report".
- The court told H it was in his best interest to get the information to Yip quickly.

Hearing #2 continued

- The court confirmed that the August 1 order was "enforceable".
- H and W entered the following stipulation: "**temporary support orders made at the August 1, 2008 hearing are to remain in effect pending further order of the court**".
- The court's minutes state that H's OSC was NOT continued.
- The court made no specific reservation of jurisdiction to modify the current order pending the receipt of the Accounting Report.
- H filed no subsequent motion to modify the August 1 order.

Hearing #3 December 4, 2008

- The only matter set for hearing this day was custody.
- Remember that H's OSC re support was taken off the court's calendar at his request. No continuance date was set. No specific reservation to retroactively modify the current order was made.
- The court inquired about the current status of the 730 accounting report, was informed that CPA Yip had requested H to provide more documents and made the following statement on the record.
- *"This is a temporary order that I'm looking at this point. I'm continuing to reserve jurisdiction on setting temporary orders. . . . Any order that I would make on Mr. Yip's report is going to be an interim order only, and pending final settlement at time of trial With respect to the current order, interim order on support, that remains in effect."*

Hearing #4 December 19, 2008

- Parties are in court on an unrelated matter.
- Court scheduled a case management conference for February 17, 2009

H's OSC #2 February 4, 2009

- In January H received Yip's unsigned draft accounting report stating that his monthly income is a mere \$49,000.
- On February 4th H files an OSC for "retroactive reimbursement" seeking a reduction in support retroactive to 8/1/08 and "credits and reimbursements for overpayments of support".

Hearing # 5 February 10, 2009

- On February 10th W filed an ex parte request for continuance of the case management conference then set for February 17th.
- The court denied request and made the following statement on the record:
- ***"I can always reserve jurisdiction to retroactively modify support order . . . if at time of trial, I find that the support should have been something else, that H's income was other than what was reported by Tony Yip."***

W's OSC February 10, 2009

- W files an OSC seeking enforcement of the temporary order for \$351,332 in unpaid support.
- This motion is apparently set for hearing on March 20th.

Hearing #6 February 17, 2009

- The court held a case management conference on February 17th and continued the conference to April 7th still awaiting a final accounting report from the 730 expert.
- W's counsel asked the court to confirm that there was no pending motion to modify the temporary support order. The court confirmed that there was no pending modification motion and stated:
- ***[T]he current order, was a temporary order without prejudice pending the results of Mr. Yip's evaluation, income analysis. The court reserved jurisdiction to retroactively modify that order, basically. That's my recollection . . . There may have been an overpayment of support since August 1st, 2008. I don't know how it's going to turn out at this point."***

Hearing #7 March 20, 2012

- This was apparently the hearing set on W's OSC to enforce the current August 1, 20008 support order and determine arrears.
- W filed a brief that challenged the court's jurisdiction to consider H's OSC seeking "retroactive reimbursement" that sought a reduction in support retroactive to the effective date of the original temporary order.
- W asserted that there was no jurisdiction to modify the absent a pending motion and the court itself had confirmed on February 17th that there was no modification motion pending.

Hearing #7 continued

- The court further denied W's request for continuance to consider Yip's second unsigned draft report of 3/9/09 and stated:
- ***"My review of the record is that at no time did I lose jurisdiction over the issue. I think that each and every hearing, it was clear that we were waiting for Tony Yip's report."***
- The court allowed the parties to file additional briefing and took the motion under submission.

Hearing #8 April 10, 2008

- The court had now received the final accounting report of the 730 expert almost a full nine months after approving the appointment.
- Adopting the 730's conclusions about H's income the court significantly reduced H's support obligations under the previous temporary order. The order reduced both base support owed and re-allocated the large monthly expenses for the house, cars an insurance between the parties.
- The court made the new order retroactive replacing the original order in its entirety.
- The court reserved on H's claims for reimbursement of support overpayments and stated: ***"Neither over-payment nor under-payment of past support has been determined. There is no fixed amount of what either party owes the other in terms of support, the court does not authorize the issuance of a writ today."***

Hearing # 9 May 26, 2009

- This hearing was on H's motion to reconsider the April 10th order based on erroneous calculation of mortgage interest and on W's motion for "clarification" of that order.
- The court heard argument and continued the matter to June 17th for decision.

Final Hearing #10 June 17, 2009

- The court agreed with H on the mortgage interest calculation error and further reduced support.
- The court stated it was clear that the reduced support was below the MSOL and "***did not see how W was going to meet her current expenses***".
- Then per W's request for clarification, she was ordered to make additional payments for the piano and car insurance.

The Appeal



Grounds



- W appealed the March 20th, April 10th and June 17th orders on two grounds:
 - Retroactive modification of accrued temporary support order was prohibited by law.
 - Prospective modification of temporary support was improper because there was no pending motion for modification.

GRUEN ANALYSIS: Part 1 Temporary v. Permanent Support

- Temporary support orders are usually obtained soon after dissolution petition is filed prior to the final determination allocating the marital estate.
- The purpose of temporary support is to maintain the living conditions and standards of the parties and their children as closely as possible to the status quo – their “accustomed manner” pending trial and the division of the assets and obligations of the parties.
- A temporary order is based on need and is not an adjudication of any of the issues in the litigation.

Part 1 continued

- A temporary support order is an “interlocutory order collateral to the main issue, dispositive of the rights of the parties in relation to the collateral matter, and directing payment of money” and therefore is directly appealable. Gruen, 191 CA4th at p. 637 quoting *In re Marriage of Skelley* (1976) 18 C3d 365,368.
- A temporary support order constitutes a necessary exception to the **one final judgment rule** and if no timely appeal is taken the issues determined by the order are **res judicata**, *Gruen, supra* at p.638

GRUEN ANALYSIS: Part 2 Modification 101

- Any support, temporary or permanent, order will not be modified absent a material change of circumstances. *Murray, supra at p. 595; In re Marriage of Van Sickle* (1977) 68 CA3d 728, 739-740.
- Even on a showing of materially changed circumstances, a court is statutorily prohibited from retroactively modifying a support order beyond the date the underlying request for modification was filed. *Ibid; Gruen at p. 638-639 citing In re Marriage of Tavares* (2007) 151 CA4th 620, 628 .

Part 2 continued: Statutory Prohibitions of Retroactive Modification

- Section 3603 [a temporary child or spousal support order] may be modified or terminated at any time except as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate”.
- Section 3653, subd. (a) [support orders in general] “an order modifying or terminating a support order may be made retroactive to the date of filing of the notice of motion or order to show cause to modify or terminate, or to any subsequent date”.

Another Relevant Statutory Prohibition: Set Aside

- Section 3692 [set asides] “ [A] support order may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the support to become excessive or inadequate.”

Three Key Holdings of Gruen

- **RETROACTIVE MODIFICATIONS**

- Court's view that it can always retain jurisdiction to retroactively modify a temporary order is error.
- Temporary orders are final and not subject to collateral attack.
- Parties are entitled to rely on the amount of the temporary support ordered w/o threat of repayment or credit.
- The court's intent and its use of the terms: "interim" order and "made w/o prejudice" are general rules true to all temporary orders and did not confer jurisdiction specifically prohibited by statute.

Holdings (cont.)

- **PROSPECTIVE MODIFICATIONS**

- There is no jurisdiction to make prospective modifications absent a pending motion continued to a date certain on the court's calendar.
- There is no such jurisdiction before a motion is actually filed seeking further modification (FC 3603).
- And, such motion must be based on the parties' *current circumstances*, not those raised months earlier in an OSC AND must be supported by *current* IED completed w/in the past 3 months providing no facts have changed. CRC 5.128.

Holdings (cont.)

- **WAIVER**

- No waiver of jurisdictional defect found here. W continually verified there was no pending motion filed and nowhere agreed to waive right to rely on finality of temporary order never appealed.
- There was no stipulation entered regarding retroactive modification pending completion of the accounting report.
- Court did not make any statement regarding reservation of jurisdiction until the February 2009 hearing, six months after the temporary order became effective.

Holdings (cont.)

- **WAIVER (cont.)**

- *Gruen* distinguishes cases establishing subject matter jurisdiction cannot be conferred by waiver. Here the court had jurisdiction over the subject matter and the parties. Quoting from *In re Marriage of Murray, supra*, 101 CA4th at p. 599 the *Gruen* court stated: "Action in excess of jurisdiction by a court that has jurisdiction in a fundamental sense (i.e. jurisdiction over the subject matter and the parties) is not void, but only avoidable. [Citations] In contrast to cases involving other types of jurisdictional defects, a party may be precluded from challenging action in excess of a court's jurisdiction when the circumstances warrant applying principles of estoppel, disfavor of collateral attack or res judicata." *Gruen, supra*, 191 CA4th at p.641.

Holdings (cont.)

- **WAIVER (cont.)**

- In *Gruen*, the court found no basis for equitable relief.
- The court stated that it would be "improper to artificially prolong an original support hearing to get around the limits on retroactivity".
- Accordingly, all of the trial court's orders retroactively modifying the original temporary support order made 8/1/08 were REVERSED.



TAB G

**Trauma Informed Systems: What Do You
Need to Know to Effectively Deal with
Domestic Violence Victims and
Batterers as Parties**

**Mr. Steve Baron, Ms. Nancy Marshall, &
Ms. Fariba R. Soroosh (Moderator)**

TRAUMA INFORMED SYSTEMS

16th Annual Child Support Training Conference
September 5, 2012

Steve Baron, MFT
Adjunct Professor, University of Santa Clara
Retired, Superior Court, Family Court Services, Santa Clara County

**TRAUMA 101
COMING UP**

- The most toxic emotion is:
 - SHAME

- The antidote is:
 - DIGNITY

**TRAUMA 101
COMING UP**

- The most disabling emotion is:
 - HELPLESSNESS

- The antidote is:
 - EMPOWERMENT

Positive Stress

- Moderate, short-lived physiological response
 - Increased heart rate, higher blood pressure
 - Mild elevation of stress hormone, cortisol , levels
- Activated by:
 - Daily life

National Scientific Council on the Developing Brain, Harvard University 2006

Tolerable Stress

- Physiological responses large enough to disrupt brain architecture
- Relieved by supportive relationships (e.g., attachment):
 - that facilitate coping,
 - restore heart rate and stress hormone levels
 - reduce the sense of being overwhelmed

National Scientific Council on the Developing Brain, Harvard University 2006

Toxic Stress

- Strong & prolonged activation of stress response systems in the **absence** of buffering protection of interpersonal support
 - Recurrent abuse, neglect, severe maternal depression, substance abuse, family violence
 - Increased susceptibility to cardiovascular disease, hypertension, obesity, diabetes and mental health problems

What is "Trauma" per DSM IV definition of PTSD?

- Personally experiencing or witnessing an event that involves actual or threatened death, injury, or harm, to self, family member, or close associate, e.g. DV;
- Victims response must involve intense
 - Fear
 - Helplessness, or
 - Horror

Why Does Trauma Cause Symptoms? It Overwhelms & Dysregulates The Brain's Limbic System

- When one is faced with something perceived to be a threat, the brain (limbic system) triggers the release of the stress hormones to prepare you to effectively respond - up to the level of "fight or flight."
- Epinephrine/nor epinephrine (adrenaline) pumps up your system (heart rate, blood pressure, breathing) to deal with the threat, and
- cortisol which is supposed to act as a "brake," slow the system down, and return stress hormones to baseline levels.

Why Does Trauma Cause Symptoms? It Overwhelms & Dysregulates Brain's Limbic System contin.

- Something is "traumatic" when it overwhelms (due to the severity, or the prolonged or cumulative nature of the experience) the limbic system's ability to regulate those stress hormones, and they don't return to healthy baseline levels.
- This state of dysregulation in the brain and stress hormone levels can interfere with healthy emotional, behavioral, and cognitive functioning, and over the long run – physical health.

**Be an Emotional Regulator,
Not a Trauma Reminder.**

- Trauma creates neural networks in the right brain which holds "implicit," non-verbal memory (images, facial characteristics, feelings, sounds) which are triggered by trauma reminders, e.g., like the stress of going to court, or feelings of helplessness.
- When these neural networks are triggered by trauma reminders, or serious stress, the brain and nervous system sometimes begins reacting like it did during the trauma. That's often a reason why people sometimes act "inappropriately," or they don't understand or follow directions, when you are trying to help.

**Key Learning Point:
Working with Traumatized Clients**

- When the brain is emotionally dysregulated, the left pre-frontal cortex responsible for "executive functioning" is not optimally activated and people may have greater difficulty understanding, thinking clearly, analyzing information, problem solving, and effectively planning.

**Key Learning Point contin.:
Working with Traumatized Clients**

- Very stressed human beings may not be able to hear and understand you, until you hear them and communicate back in a manner that makes clear that you have just understood what they have said.
- This very basic step, together with providing a safe and structured environment, usually helps most upset people begin to calm emotionally, physically, and behaviorally, process information better, think more clearly, and make better decisions than they can when they are more emotionally stressed or overwhelmed.

**Key Learning Point contin.:
Working with Traumatized Clients**

- First, actively & reflectively listen until client feels understood.
- Take more time and go slower, and make sure they are understanding you correctly.
- Use summarizing statements.
- Be supportive.
- Setting limits is fine, just do it respectfully.
- All of this helps the client emotionally re-regulate the client, and helps them think, problem solve, and plan more effectively.

**Chronic Trauma Impacts
Physical Health**

- Chronic trauma can negatively impact the immune system and physical, as well as emotional, health. See the ACE (Adverse Childhood Events) studies.

Post Traumatic Stress Disorder

- Symptoms include some form of:
 - Re-experiencing, e.g., "flashbacks," intense distress when exposed to trauma reminders.
 - Persistent Avoidance - of trauma reminders, e.g., inability to recall aspects of trauma, not wanting to think, feel, talk about it.
 - Increased arousal, e.g., sleep problems, irritability or outbursts of anger, difficulty concentrating, hypervigilance, startle response.

PTSD continued

- Symptoms last more than one month. Can be delayed onset.
- Symptoms cause impairment in social, occupational, or other important area of functioning.

“Complex Trauma”

- Is usually the result of repetitive interpersonal trauma, like repetitive DV and or serious emotional abuse, “battering.”
- These symptoms associated with complex trauma go beyond those contained in PTSD category, and have been identified by Judith Herman, M.D., Bessel van der Kolk, M.D. and other trauma specialists, and many of them are noted in the associated characteristics section of the PTSD diagnosis .

“Trauma & Recovery” by Judith Herman, M.D.

- Prolonged, repeated trauma (“complex trauma”) occurs only in circumstances of CAPTIVITY, as can occur for:
 - prisoners of war;
 - hostages, and;
 - women and children in abusive situations

Complex Trauma Symptoms

- Emotional Regulation problems
 - Anger, self destructive, suicidal, excessive risk taking.
- Attention, Consciousness probs.
 - Difficulty maintaining focus and attention, dissociation, amnesia
- Self Perception problems
 - "Damaged goods," guilt (feels responsible), SHAME, "Nobody can understand," minimizing.

Complex Trauma Symptoms

- Problems in Relationships
 - Inability to trust, revictimization, victimizing others.
- Somatization
 - Digestive system problems, chronic pain, various physical symptoms
- Loss of Meaning in Life
 - Despair, hopelessness, loss of previously sustained beliefs.

What To Do

- Be ATTUNED to the client's INTERNAL experience.
- Actively LISTEN to that internal experience (paraphrase it back to them) so the client feels understood.
- You can compassionately still set limits treating the client with respect and dignity.
- This helps you become the temporary external emotional regulator of the client, and helps them self regulate their emotions, behavior and cognition.
- Repair relationship ruptures that occur in your working relationship with the client.

Re-Examining "Battering": Are All Acts of Violence Against Intimate Partners the Same"
by Ellen Pence & Shamita Das Dasgupta

- BATTERING: An ongoing patterned use of intimidation, coercion, and violence as well as other tactics of CONTROL to establish and maintain a relationship of DOMINANCE over an intimate partner. Such violence has historical precedence and (typically) involves widespread use of superior strength and coercion. (Pence and Das Gupta)

"Battering" contin.

- Violence used by men against women who are their intimate partners has its historic roots in centuries of institutionally sanctioned dominance of one gender over the other in key spheres of relationships such as economic, sexual, intellectual, cultural, spiritual, and emotional.

"Battering"; Pence & Das Gupta

- While it is not unusual for a woman to use violence in her intimate relationship, it is exceptional for her to achieve the kind of dominance over her male partner that characterizes battering.
- "We...believe that ...a 'one-size-fits-all' intervention approach...would meet neither the goals of fairness nor public safety."
- They identified five distinct categories of DV and "...contend that each category...has different social and historical roots (and) requires distinct interventions."

2. Resistive Violence

- Victims of battering often retaliate and resist battering by using force themselves in order to escape and/or stop the violence used against them, and as a method of protecting themselves or their children.
- A woman who cannot access any resource (YOU are the resource) may use violence to self protect more readily than those who can access alternative resources (YOU AGAIN) or recourses.

3. Situational Violence

- Intimate partners often use violence against each other to express anger, disapproval, or reach an objective. But here the partner being violent does not use a pattern of intimidation and violence to establish control or dominance.
- The victim of an episode is typically not fearful of the partner.
- The position of victim and perpetrator may shift and change continuously.

Caution!

- "Battering" is often misdiagnosed as a form of situational violence because:
 - Practitioners typically intervene in a specific incident and tend not to investigate for any pattern of abuse.
 - Victims of battering are generally not free to describe the totality of the abuse and often do not recognize the pattern in the ongoing violence.

4. Pathological Violence

- In this category, individuals use violence against others including their intimate partners clearly secondary to alcohol or drug use, mental illness or physical disorders, or neurological damage. In this type, when the cause is removed or successfully treated, the violence ends.

Caution!

- Practitioners need to be astute in discriminating Pathological Violence from other types, e.g. batterers who also abuse alcohol/drugs and who batter when using or sober.

5. Antisocial Violence

- Violence is not typically focused on any particular person or gender.
- Similar to batterers as they use violence to dominate, but a very resistant to change.
- Nearly 25% of men who are court ordered to batterer's programs are anti-social.

Note:

- Categories are not always mutually exclusive (and the nature or severity of the violence may override the need for categorizing the violence.)
- Practitioners may get only one chance to successfully intervene, and misjudging battering for other kinds of violence might make an enormous difference for the victim and children.
- "We would rather err on the side of caution."

Reference

- Ellen Pence, Praxis International, Inc.; Shamita Das Dasgupta, Manavi, Inc., & Praxis International, Inc. 2004.

DANGER ASSESSMENT

- Jacquelyn C. Campbell, PhD. RN, FAAN, Copyright 2004 Johns Hopkins University, School of Nursing.
- Several risk factors have been associated with increased risk of homicides of women and men in violent relationships.

Risk Factors

- Has the physical violence increased in severity or frequency over the past year?
- Does he own a gun?
- Have you left him during the past year?
- Is he unemployed?
- Has he ever used a weapon against you or threatened you with a lethal weapon? If yes, was the weapon a gun?
- Does he threaten to kill you?
- Has he avoided being arrested for DV?

Risk Factors contin.

- Do you have a child that is not his?
- Has he ever forced you to have sex when you did not wish to do so?
- Does he ever try to choke you?
- Does he use illegal drugs, e.g. amphetamines, meth, PCP, cocaine, street drugs or mixtures?
- Is he an alcoholic or problem drinker?
- Has he ever forced you to have sex when you did not wish to do so?

Risk Factors contin.

- Does he control most or all of your daily activities? E.g., does he tell you whom you can be friends with, when you can see your family, how much money you can use, or when you can take the car?
- Is he violently and constantly jealous of you? E.g., does he say "If I can't have you, no one can."?
- Have you ever been beaten by him while you were pregnant?
- Has he ever threatened or tried to commit suicide?

Risk Factors contin.

- Does he threaten to harm your children?
- Do you believe he is capable of killing you?
- Does he follow or spy on you, leave threatening notes or messages on answering machine, destroy your property, or call you when you don't want him to?
- Have you ever threatened or tried to commit suicide?

Brief General Narrative Assessment Questions: Jan Johnston, PhD.

- Describe the FIRST, WORST, & MOST RECENT incidents or threats of violence in the relationship.
- Tell me everything about each, from beginning to end including when they happened. (Expand with open ended questions, e.g. "And then what happened?")
- What other incidents have occurred?
- How often does the violence occur? In the past year, has the frequency decreased, increased, or remained the same? Why?

Clients Who May Have a History of Violent Behavior

- Due to their own, often disavowed, history of trauma or neglect, many are preoccupied with fears of rejection and abandonment, or fear of being seen as inferior. Feelings of helplessness are intolerable for them.
- When they experience those trauma reminders or feelings, they sometimes automatically respond as if it's some level of threat to their very survival, and they respond accordingly, usually with some form of anger or withdrawal.

Clients Who May Have a History of Violent Behavior

- Under stress, they tend to be hyper vigilant and hypersensitive to anything THEY PERCEIVE as criticism, judgment, disagreement with their views (which they may perceive as your "not understanding" and which feels like personal rejection), personal slight, insult, unfairness, or shaming. **It's not what you intend by your comments, it's what they perceive.**
- This may be triggered as much by your non-verbal behavior, facial reactions, vocal tone, body posture, as by anything you say.

Clients Who May Have a History of Violent Behavior

- This stress response may sometimes erode their inhibitions, interfere with their cognitive functions, and make it more difficult for them to control their impulses and consider the real world consequences of their own behavior.

Clients Who May Have a History of Violent Behavior

- The potential for violence escalates whenever anyone with that potential feels grossly disrespected or humiliated, hopeless, or that they have nothing to lose. They are most at risk of taking it out on those upon whom they have access and/or identify as being associated with the cause of their pain or frustration.

Clients Who May Have a History of Violent Behavior

- These clients are often looking for a **dependent relationship**.
- Don't fall into the trap of being the rescuing hero. It can be tempting. But it's a pedestal you can easily be knocked off of when things don't go the client's way. You can be empathetic and respectful while maintaining clear professional boundaries at the same time. Or,

Clients Who May Have a History of Violent Behavior

- for clients with a history of abusing power and control,
- **a controlling relationship**. They often present as pleasant and charming, and things tend to go just swimmingly, including with you, until they don't get their way, and they blame someone, maybe you...when they are likely to start getting upset, angry, and more intimidating.

Fundamental Considerations for Helping Alleged Victims & Offenders.

- Treat every individual in a respectful, fair, and dignified manner regardless of her or his standing as an alleged victim or an alleged offender.
- Why treat offenders respectfully and fairly? For one reason, treating people who have histories of violent behavior disrespectfully or unfairly makes them more likely to express aggressive behavior and take it out on their victims. Secondly, it violates the Code of Ethics for Court Employees.

What To Do

- Educate/Orient: Let them know what to expect, how the process works, what you can do for them, and what you can't, and, if necessary, explain why.
- Listen with empathy and interest.
- **Provide STRUCTURE.** Your professional and empathetic presence helps to provide secure **and constructive containment** for the client, their emotions and their behavior.
- Acknowledge intense feelings until they get that you understand, and then step away from them, and re-focus on the business at hand.

What To Do

- Avoid agreeing with the content of their story. If they press you to believe them, let them know that you will never know the full story with certainty, but you will assist them within your role.
- **Don't argue** with the client's logic. Try to understand it. Avoid rejecting them or responding with angry confrontations .

Working With an Angry Client: Example

- "Mr. Jones, I know you are extremely upset and you feel that you are not being treated fairly, that the system is unjust and biased, and that you will not be given a fair shake. Is that accurate?"
- (Authoritatively and supportively WITHOUT SHAMING) "Mr. Jones, again, I know that it is extremely upsetting and frustrating, but it will be hard for me to know how I can be helpful when you are yelling. So I need you to stop. Thank you.
- If he continues: "Mr. Jones, I'm going to step away a give you a couple minutes, and then I'll return and try one more time. I'll be back in 2 or 3 minutes."
- Never place an client in a situation where they feel trapped cannot walk away from you.

What Else To Do

- Pay particular attention to non verbal cues that they may be upset. Check in with them, e.g. "Is there something I said that you found upsetting?" "Do you feel like I'm not being supportive of you?"
- Take responsibility for the misunderstanding and try and repair it.
- Again, keep clear and firm boundaries without shaming/rejecting/judging/abandoning.

What To Do

- Validate any positive or constructive efforts the client has made (being well prepared, being patient).
- Do not make promises or guarantees you may not be able to keep.

Summary of "Do's"

- Always strive to be in and create a physically and emotionally **safe, structured**, and calming environment for yourself and your client.
- Treat clients with dignity and respect, and when you're with them, give them your full attention.
- Be attuned to and empathize with the client without getting hooked or encouraging emotional dependence.
- Maintain clear professional presence and boundaries in a respectful and caring but clear manner. Set limits as needed. Do not tolerate abusive or otherwise inappropriate behavior.

Summary of "Do's" contin.

- Actively listen.
- Orient and educate about the process.
- Let the client know what to expect.
- Acknowledge and utilize client strengths.
- Break overwhelming problems down into do-able tasks; mobilize client strengths in assigning tasks.
- Connect client with appropriate services and resources.
- Readily seek consultation, supervision, support and assistance as needed. IF NOBODY ELSE IS THERE, USE THE PHONE. Take good care of yourself outside of work.

Some "Don'ts"

- Be naïve or forget about safety.
- Get distracted, be disrespectful, patronizing, dismissive, judgmental, shaming, angry, critical, argumentative.
- Assume they understand what's happening unless they are able to accurately feed it back to you.

Some Don'ts contin.

- Support justifications for violent, abusive or otherwise inappropriate behavior. You can communicate that you understand the client's point of view without communicating you agree with it. Your agreement is not the point. Your service is.
- Get pressured or trapped into feeling like you have to believe your client. You weren't there. You don't know what happened.
- Argue with your client.
- Make promises or guarantees you may not be able to keep.
- Let yourself become isolated.

**Thank You
For Helping People**

- See above.

Adverse Childhood Experiences and their Relationship to Adult Well-being and Disease : *Turning gold into lead*



A collaborative effort between
Kaiser Permanente and the Centers for Disease Control

Office on Women's Health, US Dept. of HHS
Chicago, IL July 20, 2011

Robert F. Anda, M.D.
Vincent J. Felitti, M.D.

Origins of the ACE Study

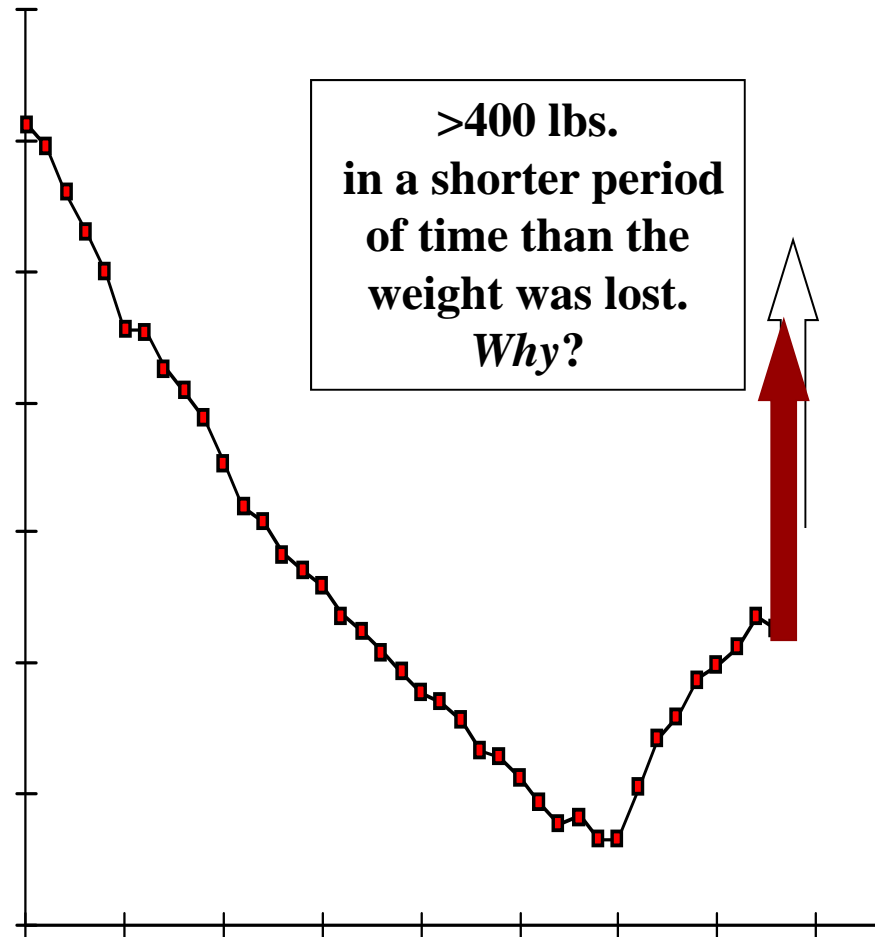


51 weeks later

408 → 132 lbs



What is the *core* problem here?



**>400 lbs.
in a shorter period
of time than the
weight was lost.
*Why?***

Weeks

ACE Study Design

Survey Wave 1

71% response (9,508/13,454)

n=13,000

*All medical evaluations
abstracted*

Survey Wave II

n=13,000

*All medical evaluations
abstracted*

vs.

*Present
Health Status*

N = 17,337

Mortality

National Death Index

Morbidity

Hospitalization

Doctor Office Visits

Emergency Room Visits

Pharmacy Utilization

Prevalence of Adverse Childhood Experiences

	Prevalence (%)
Abuse, by Category	
Psychological (by parents)	11%
Physical (by parents)	28%
Sexual (anyone)	22%
Neglect, by Category	
Emotional	15%
Physical	10%
Household Dysfunction, by Category	
Alcoholism or drug use in home	27%
Loss of biological parent < age 18	23%
Depression or mental illness in home	17%
Mother treated violently	13%
Imprisoned household member	5%

Adverse Childhood Experiences Score

Number of categories (not events) is summed...

<i>ACE Score</i>	<i>Prevalence</i>
0	33%
1	25%
2	15%
3	10%
4	6%
5 or more	11%*



- Two out of three experienced at least one *category* of ACE.
- If any one ACE is present, there is an 87% chance *at least one other category* of ACE is present.
- * Women are 50% more likely than men to have a Score >5.

On my beginning is my end. Ó

T.S.Eliot, *Quartets*

Depression:

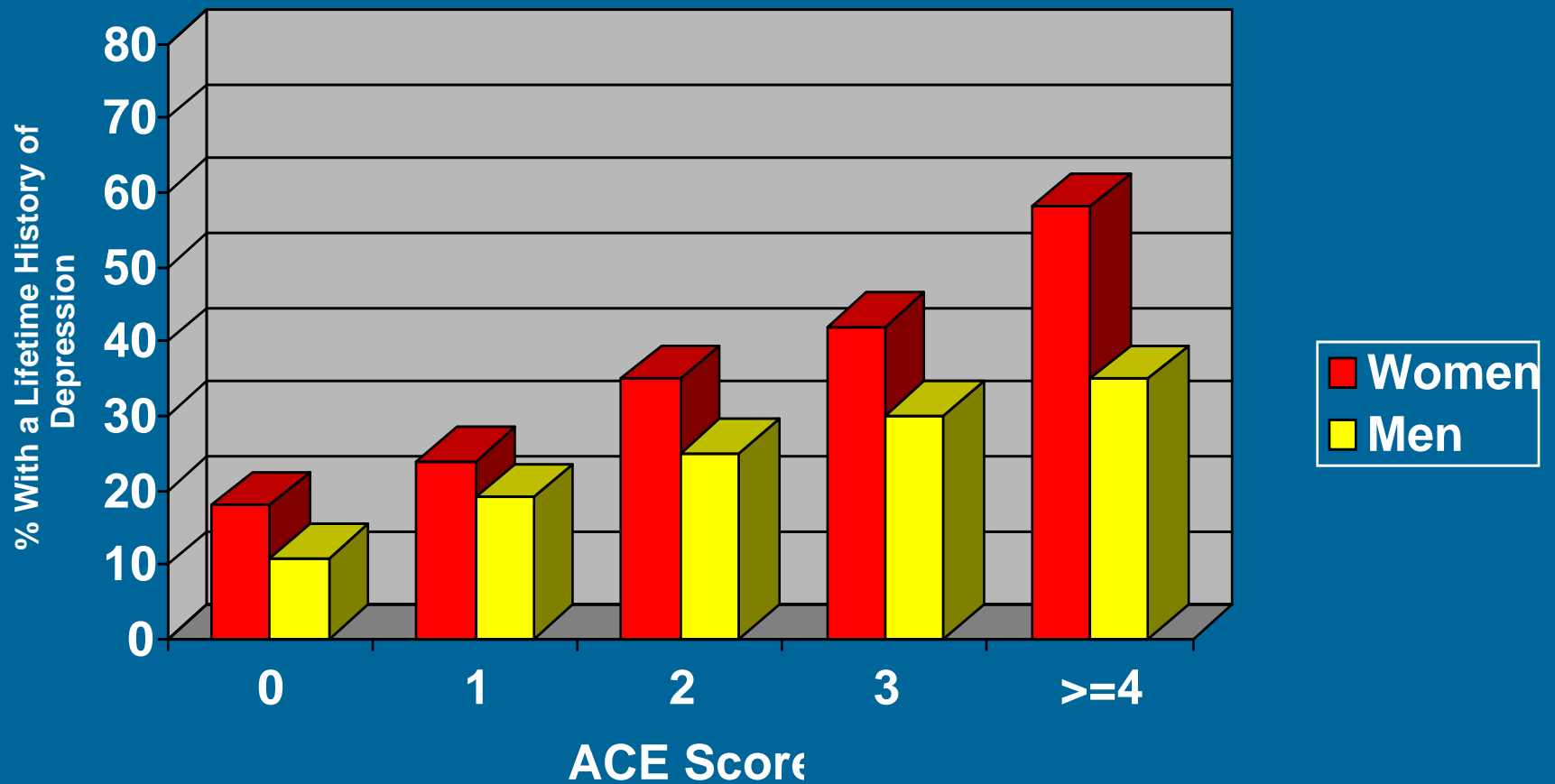
Most say depression is a disease.

Many say depression is genetic.

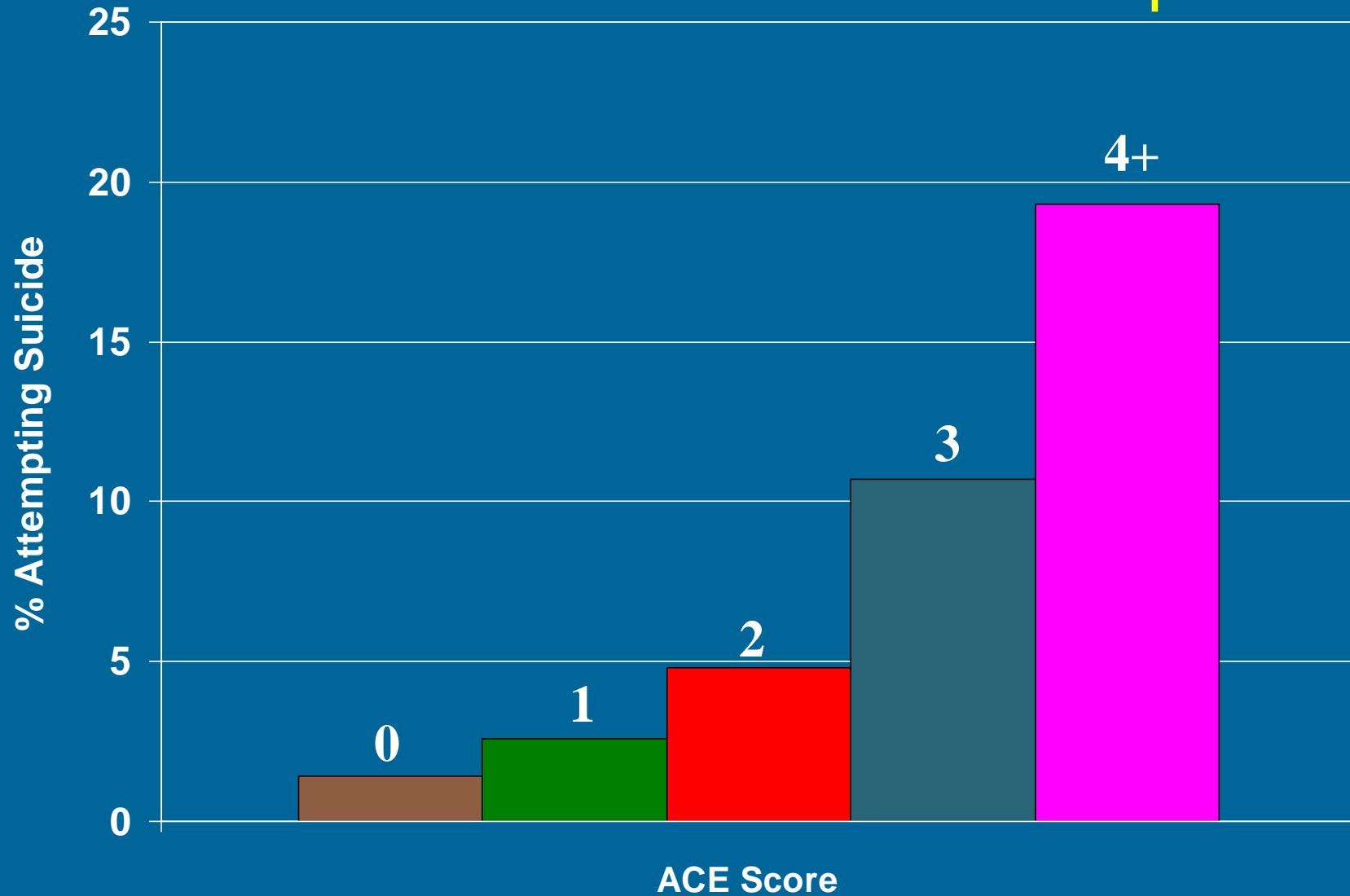
Some say it is due to a chemical imbalance.



Childhood Experiences Underlie Chronic Depression

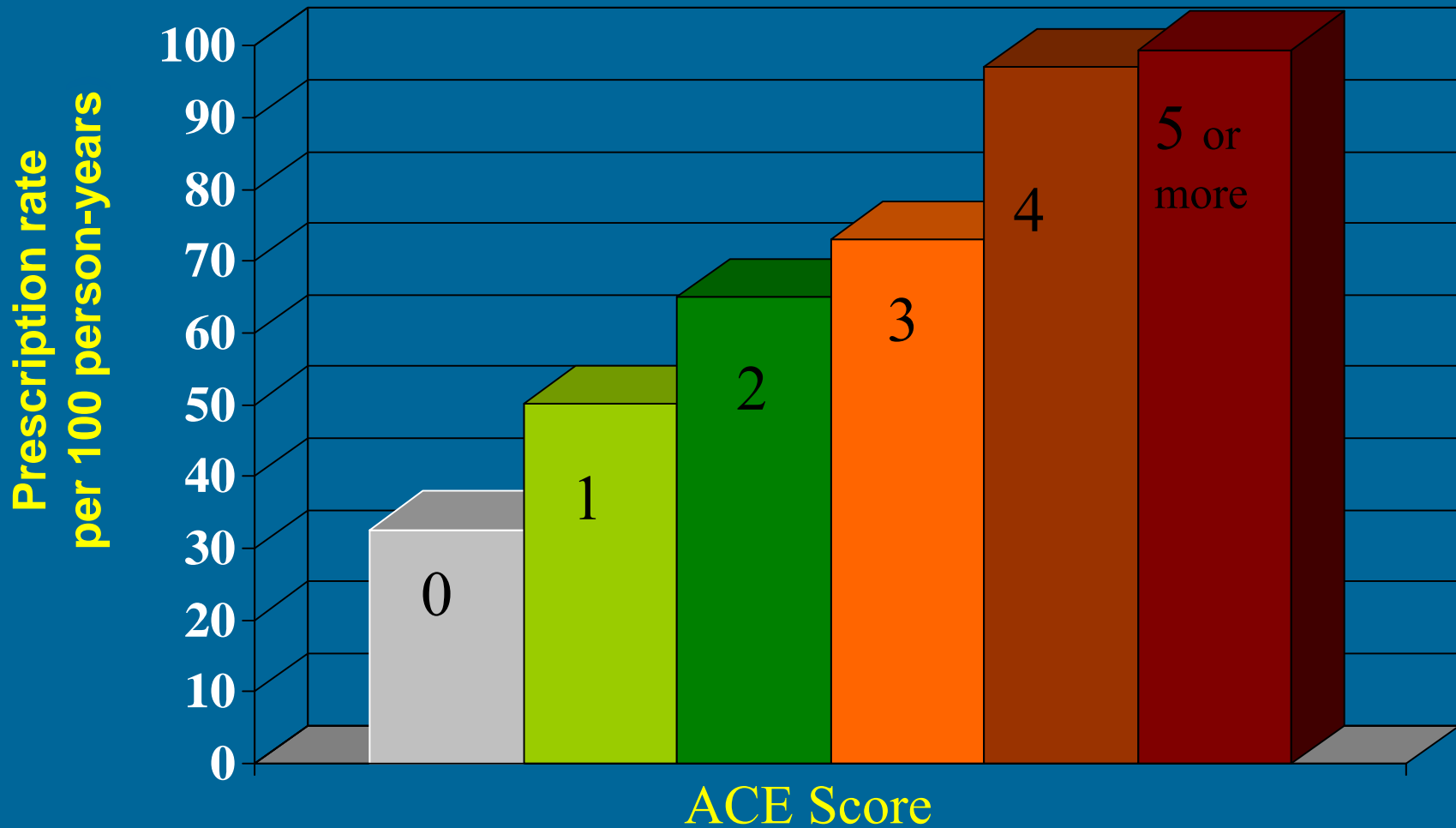


Childhood Experiences Underlie Suicide Attempts

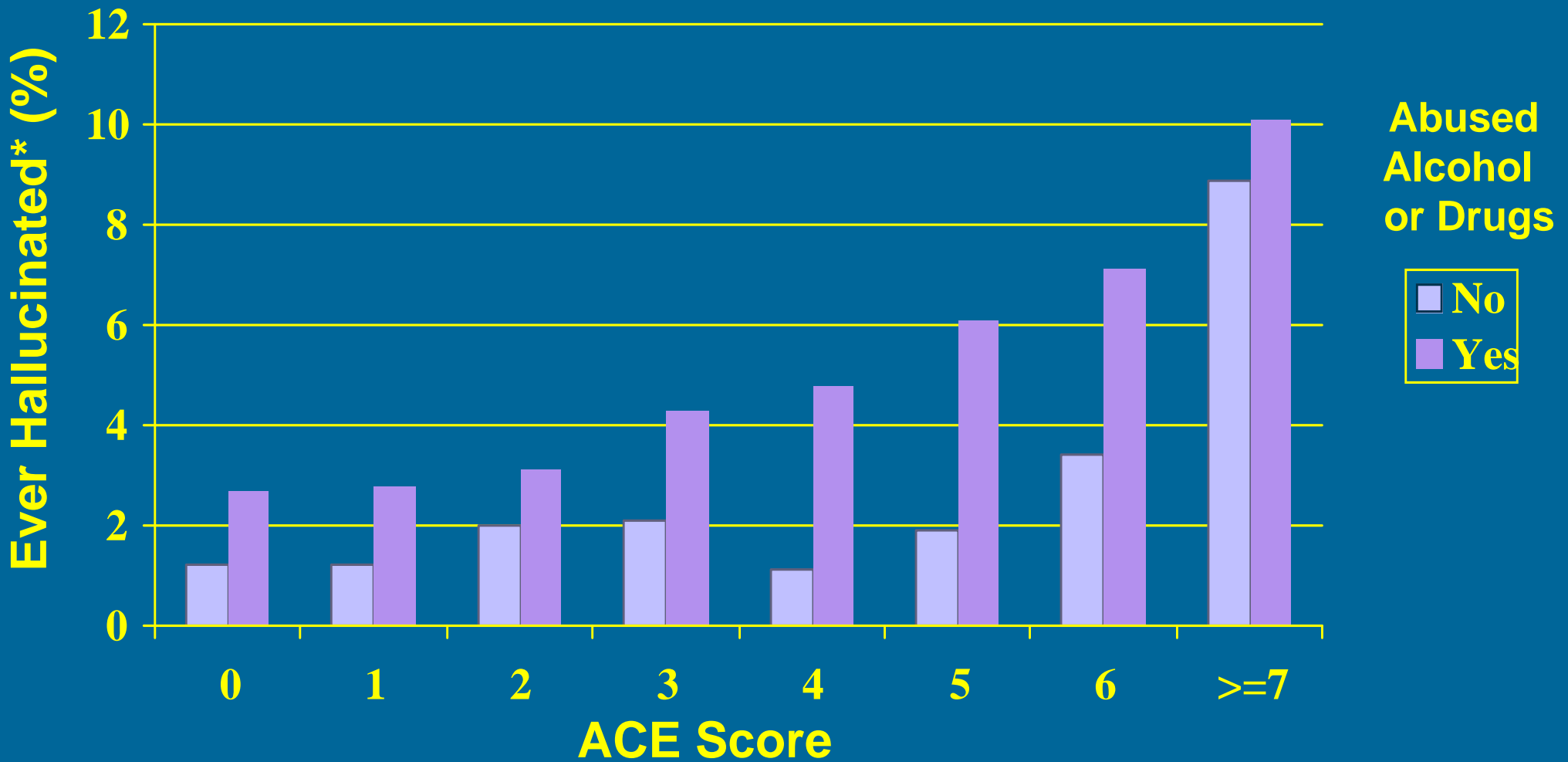


ACE Score and Rates of Antidepressant Prescriptions

approximately 50 years later



ACE Score and Hallucinations



*Adjusted for age, sex, race, and education.

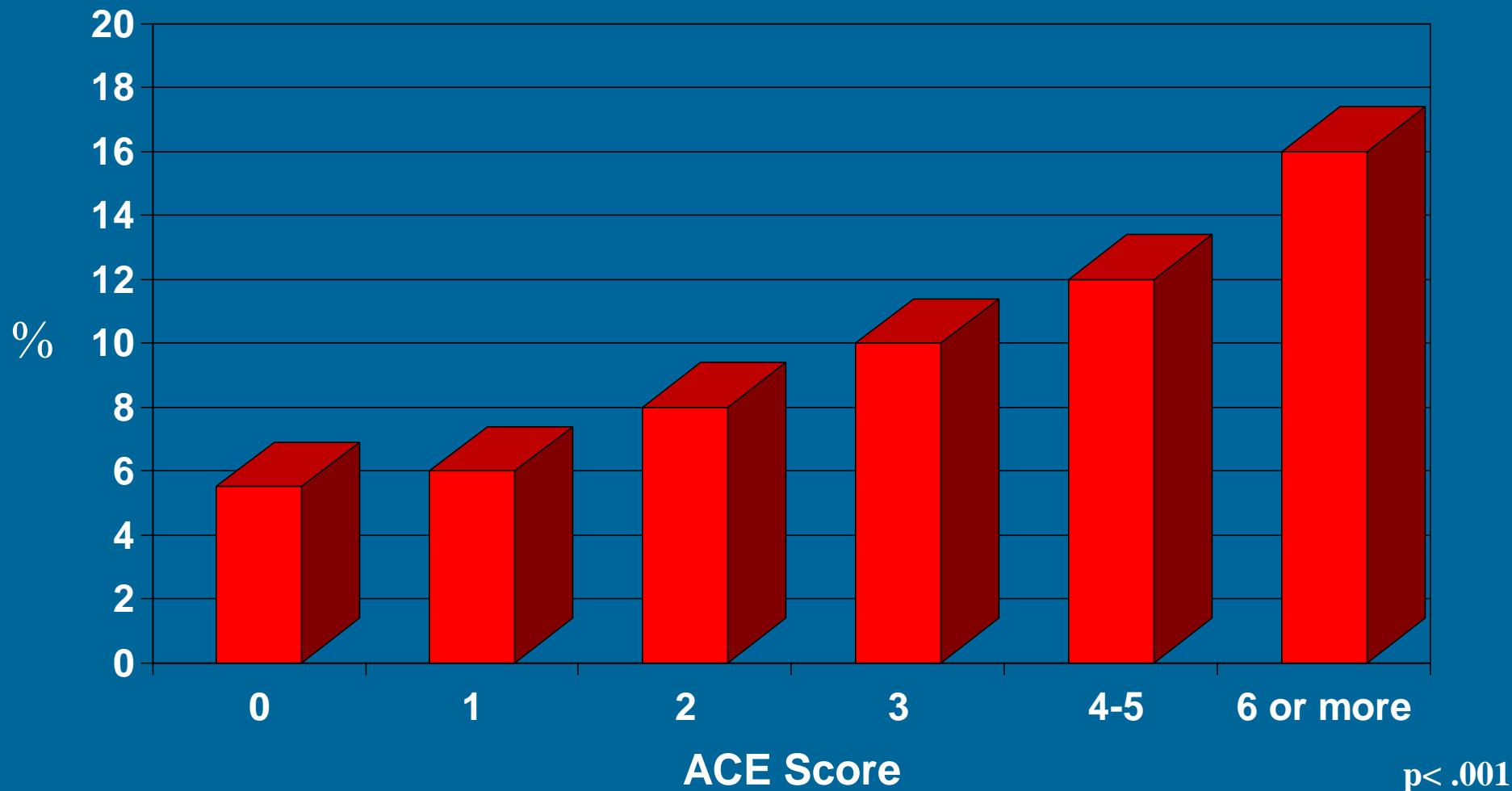
The traditional concept:

“Addiction is due to the characteristics intrinsic in the molecular structure of some substance.”

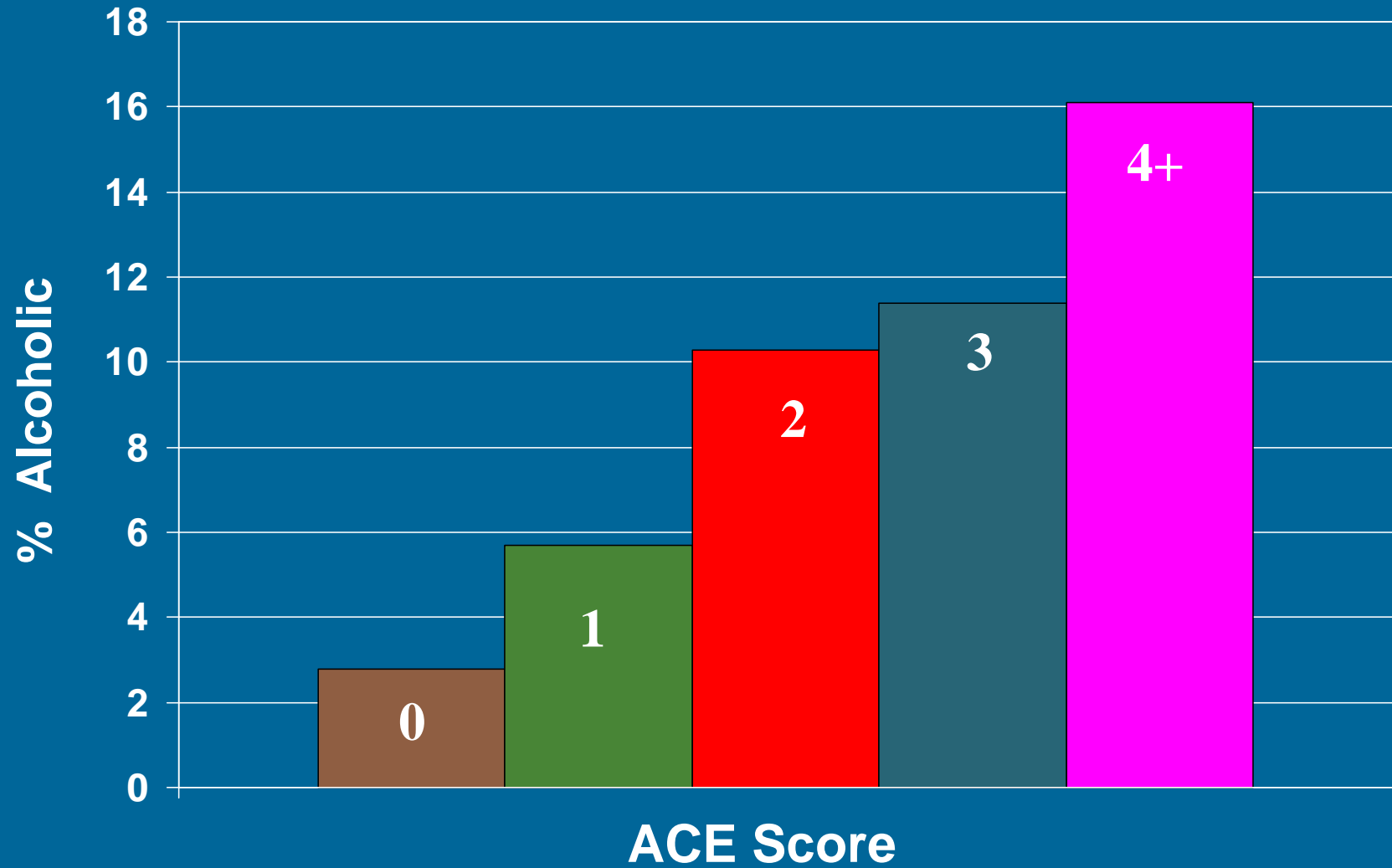
The ACE Study shows that:

Addiction highly correlates with characteristics intrinsic to that individual's childhood experiences.

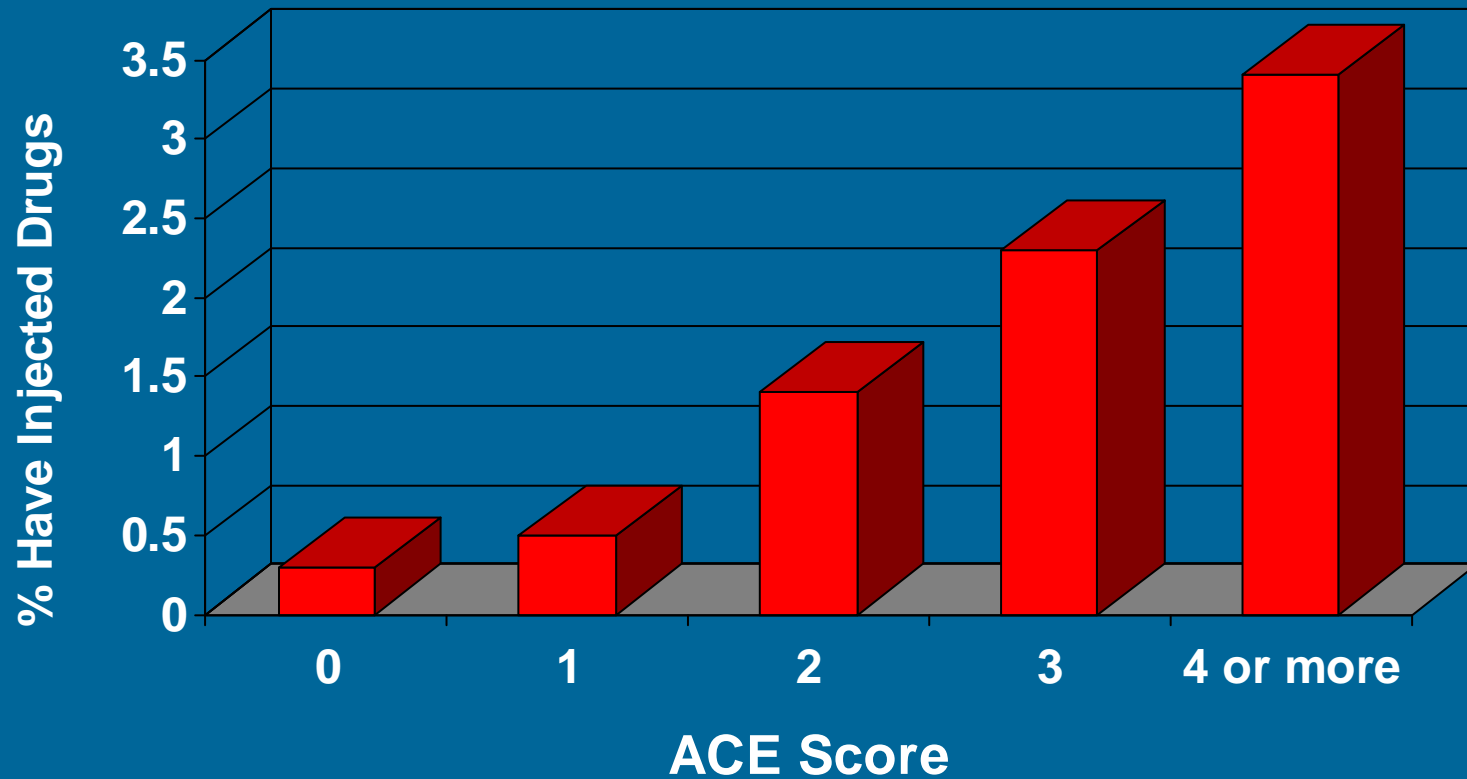
Adverse Childhood Experiences vs. Smoking as an Adult



Childhood Experiences vs. Adult Alcoholism

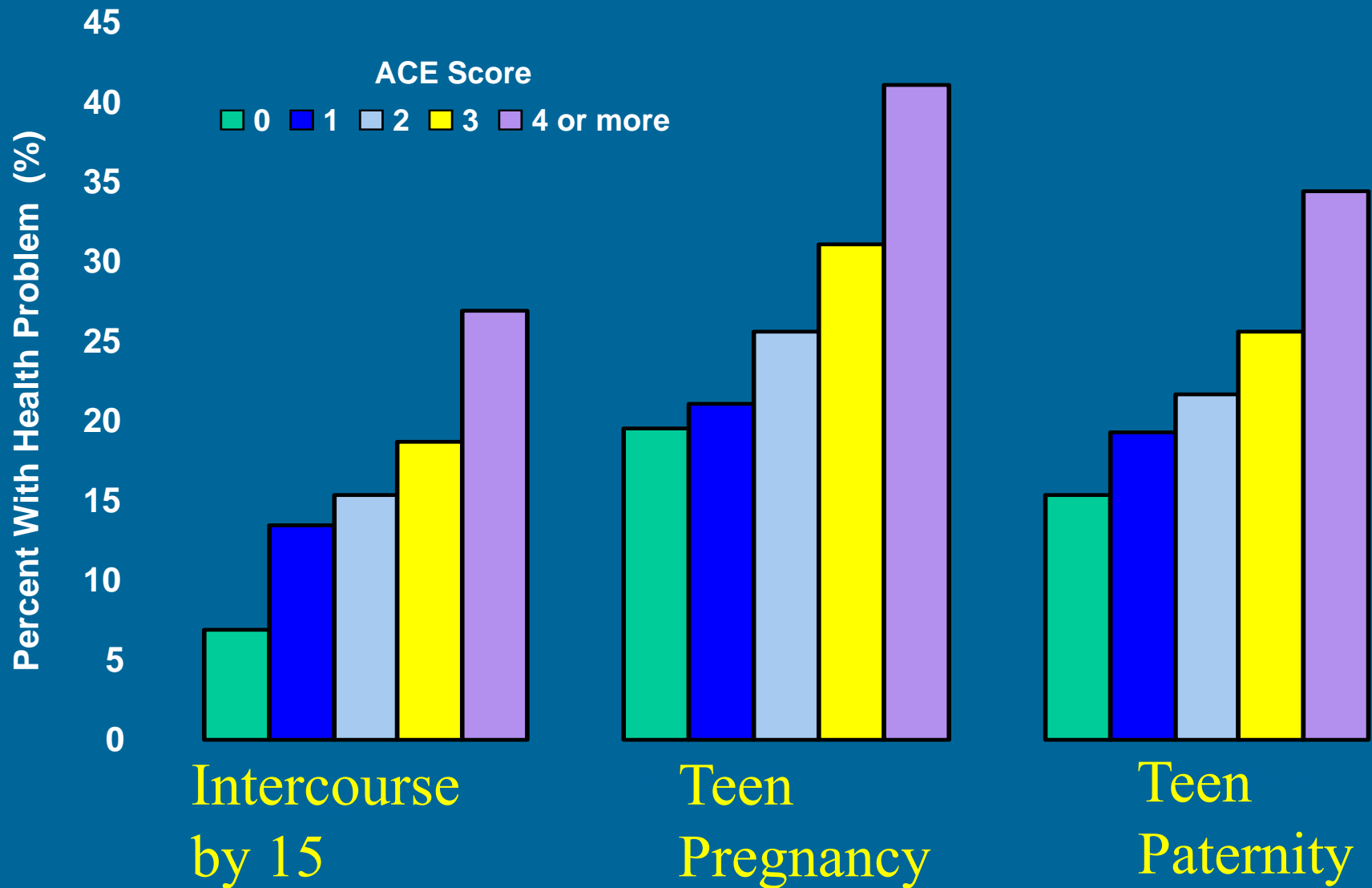


ACE Score vs Injection Drug Use

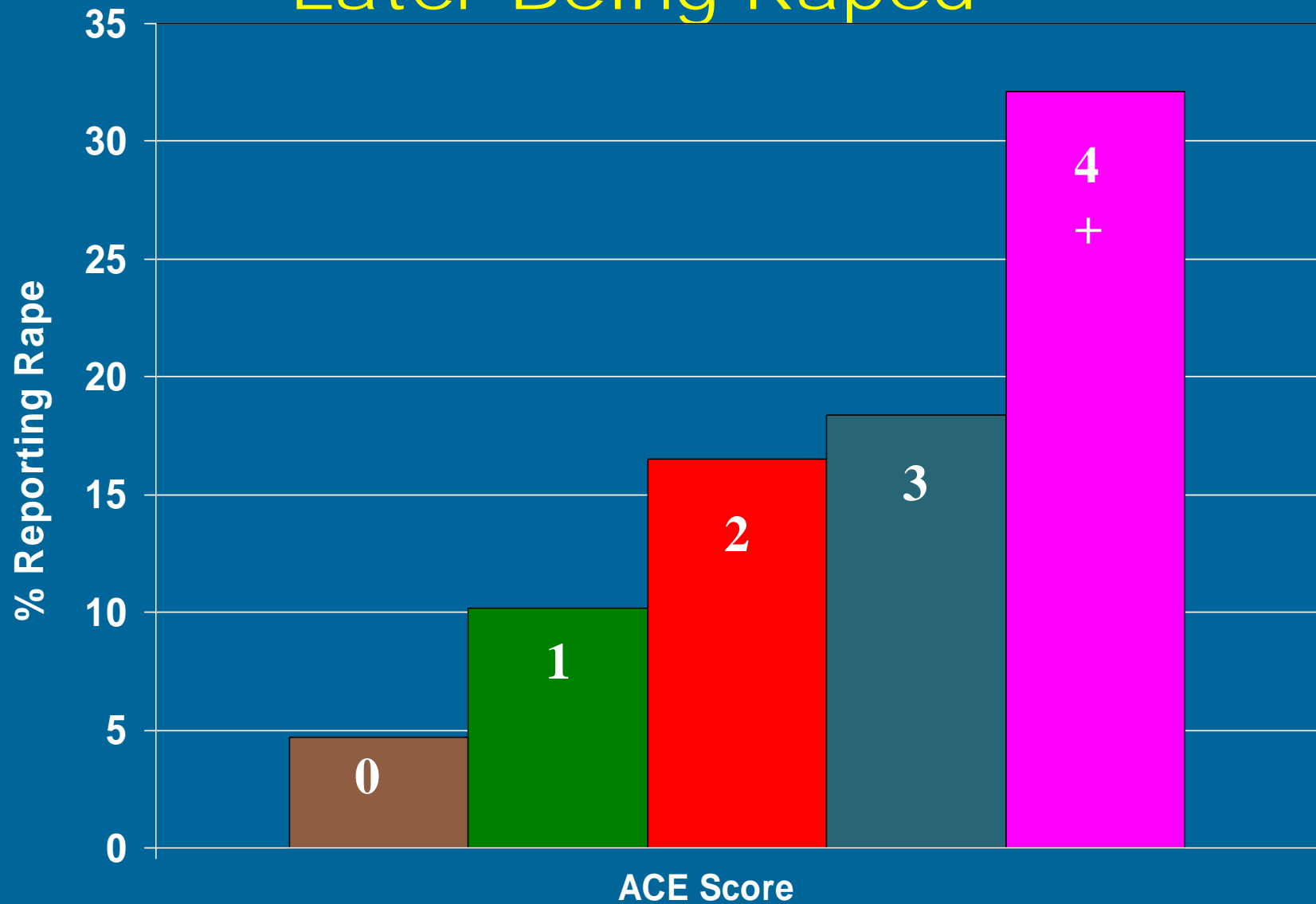


$p < 0.001$

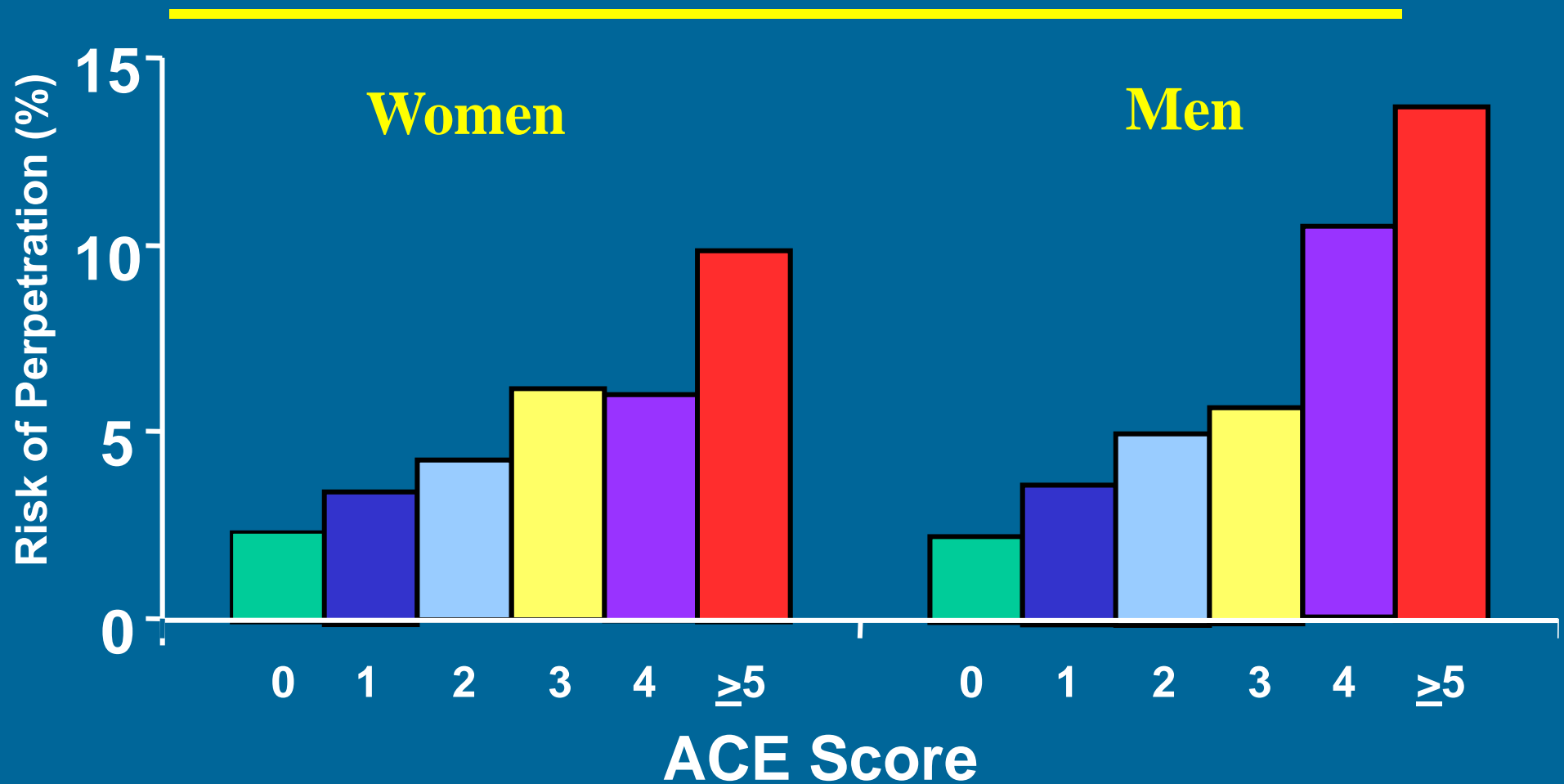
ACE Score and Teen Sexual Behaviors



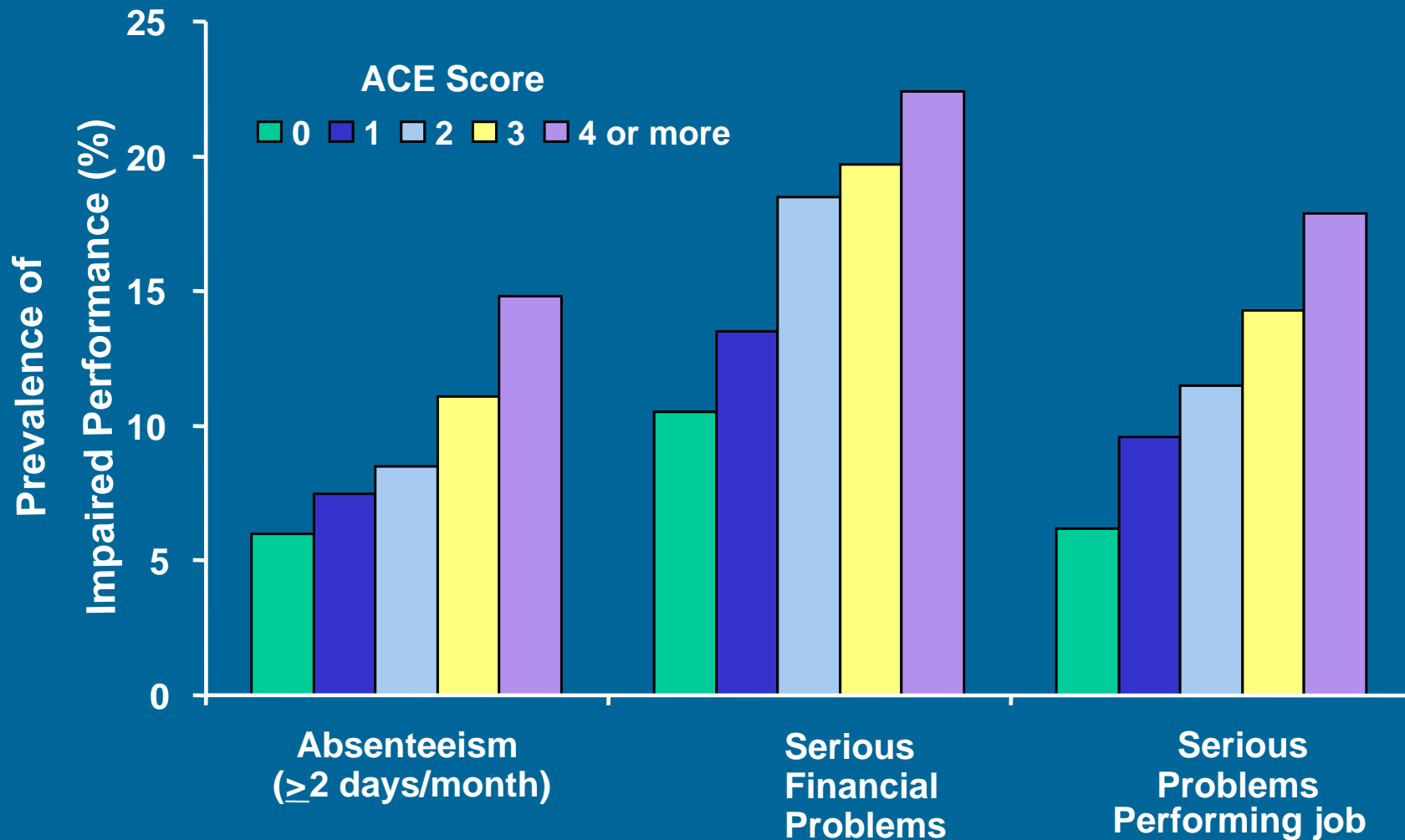
Childhood Experiences Underlie Later Being Raped



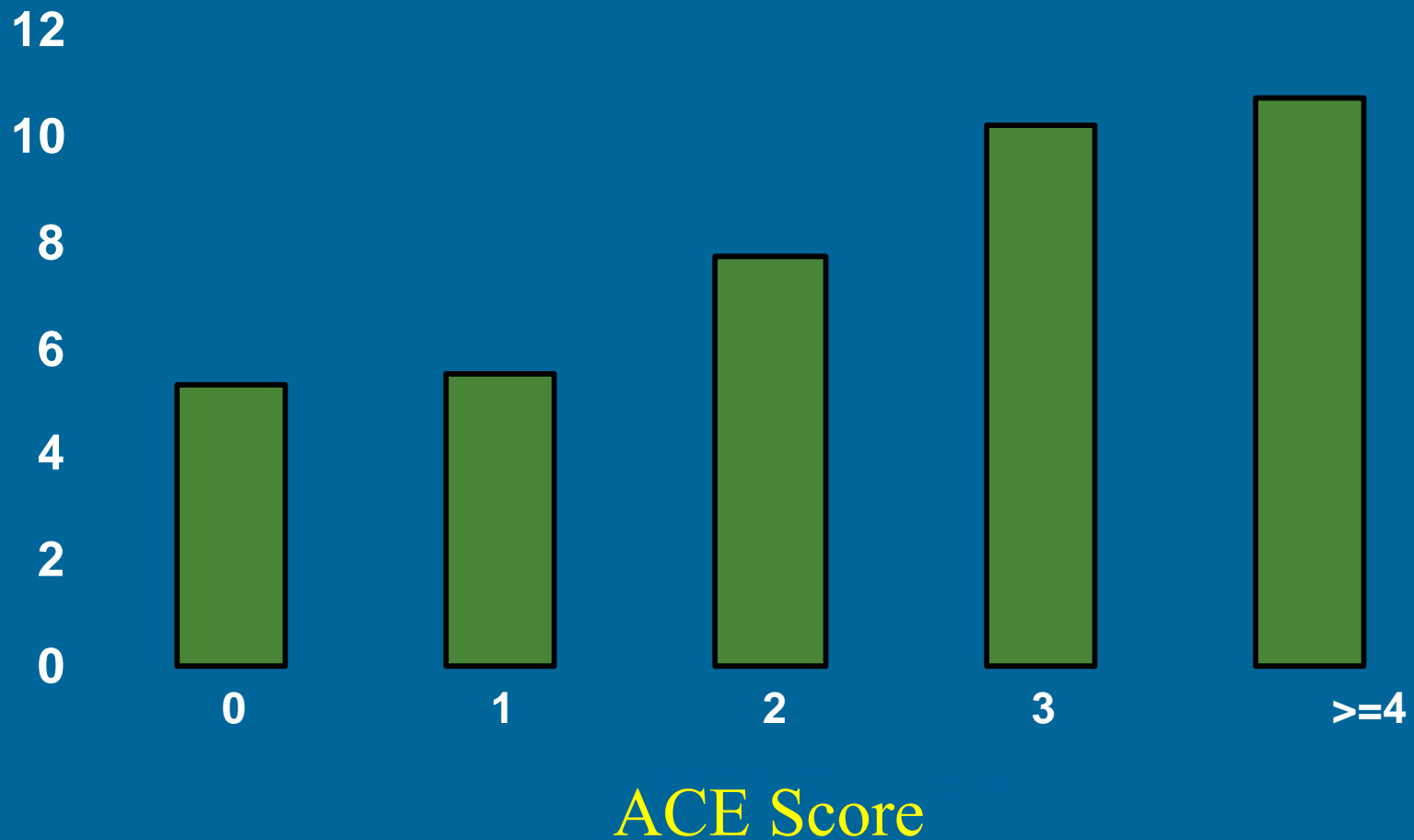
ACE Score and the Risk of *Perpetrating* Domestic Violence



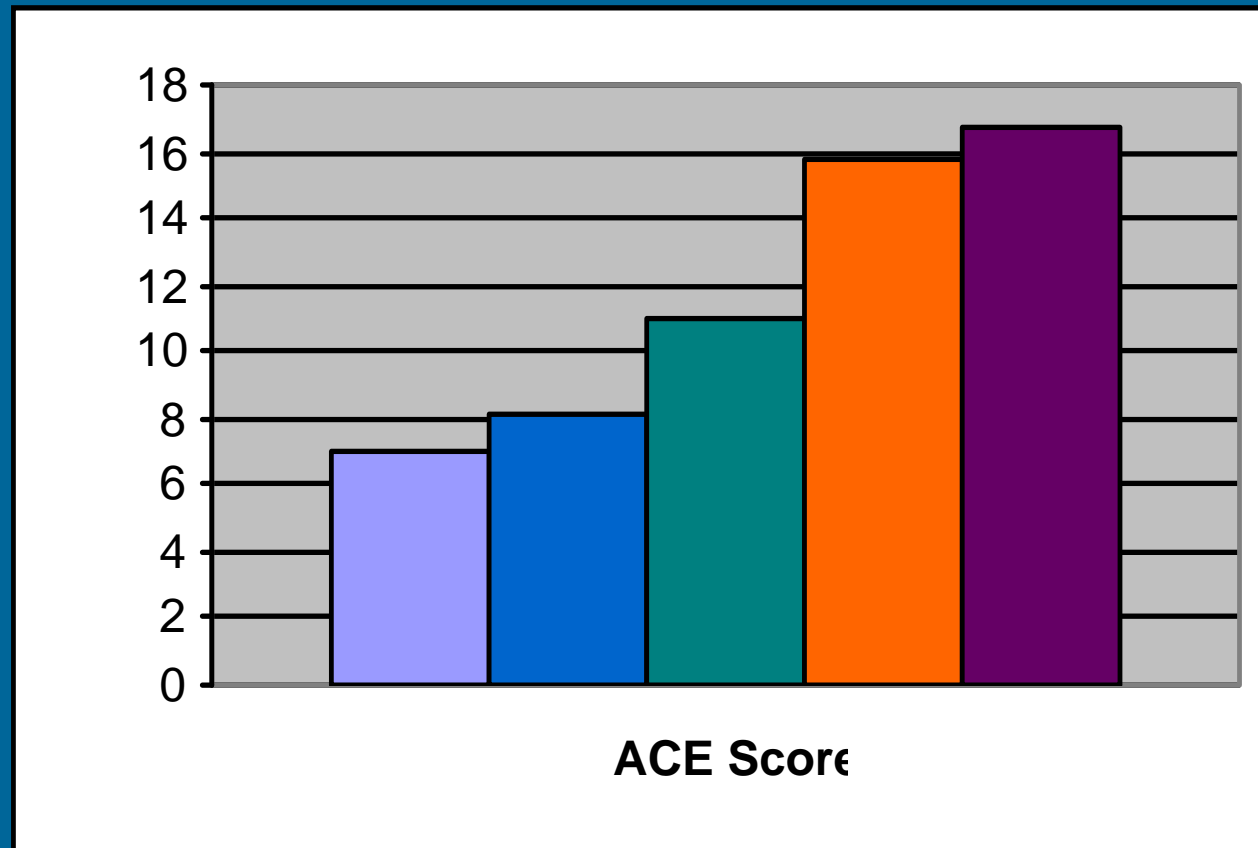
ACE Score and Indicators of Impaired Worker Performance



The ACE Score and the Prevalence of Liver Disease (Hepatitis/Jaundice)



ACE Score vs. COPD



ACEs Increase Likelihood of Heart Disease*

- **Emotional abuse** 1.7x
- **Physical abuse** 1.5x
- **Sexual abuse** 1.4x
- **Domestic violence** 1.4x
- **Mental illness** 1.4x
- **Substance abuse** 1.3x
- **Household criminal** 1.7x
- **Emotional neglect** 1.3x
- **Physical neglect** 1.4x



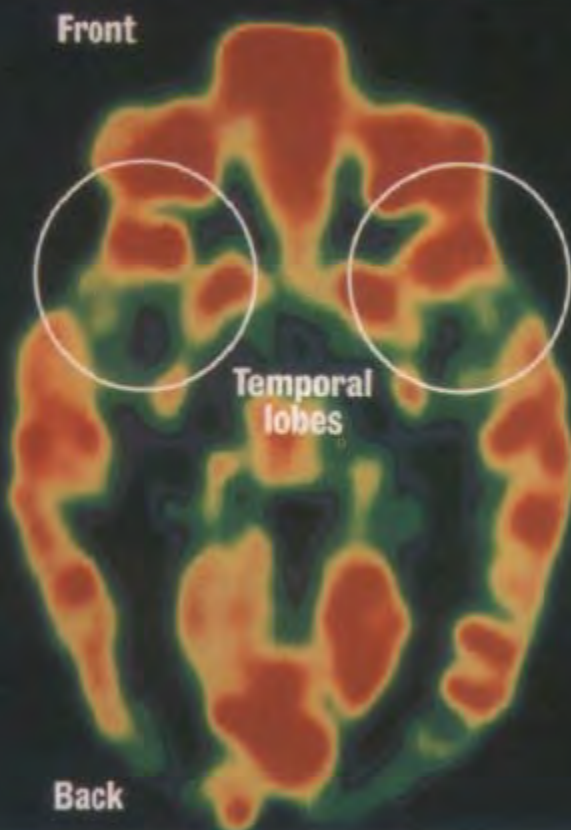
*After correction for age, race, education, and conventional risk factors like smoking and diabetes. *Circulation*, Sept 2004.

How and why do
Adverse Childhood Experiences
exert their influence throughout life?

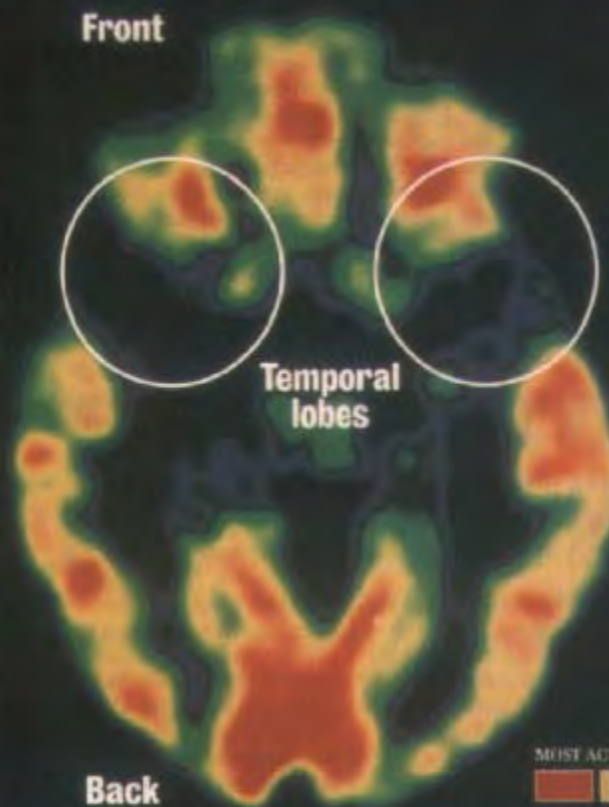
Why is treatment so difficult?

Healthy Brain

This PET scan of the brain of a normal child shows regions of high (red) and low (blue and black) activity. At birth, only primitive structures such as the brain stem (center) are fully functional; in regions like the temporal lobes (top), early childhood experiences wire the circuits.

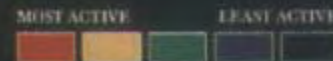


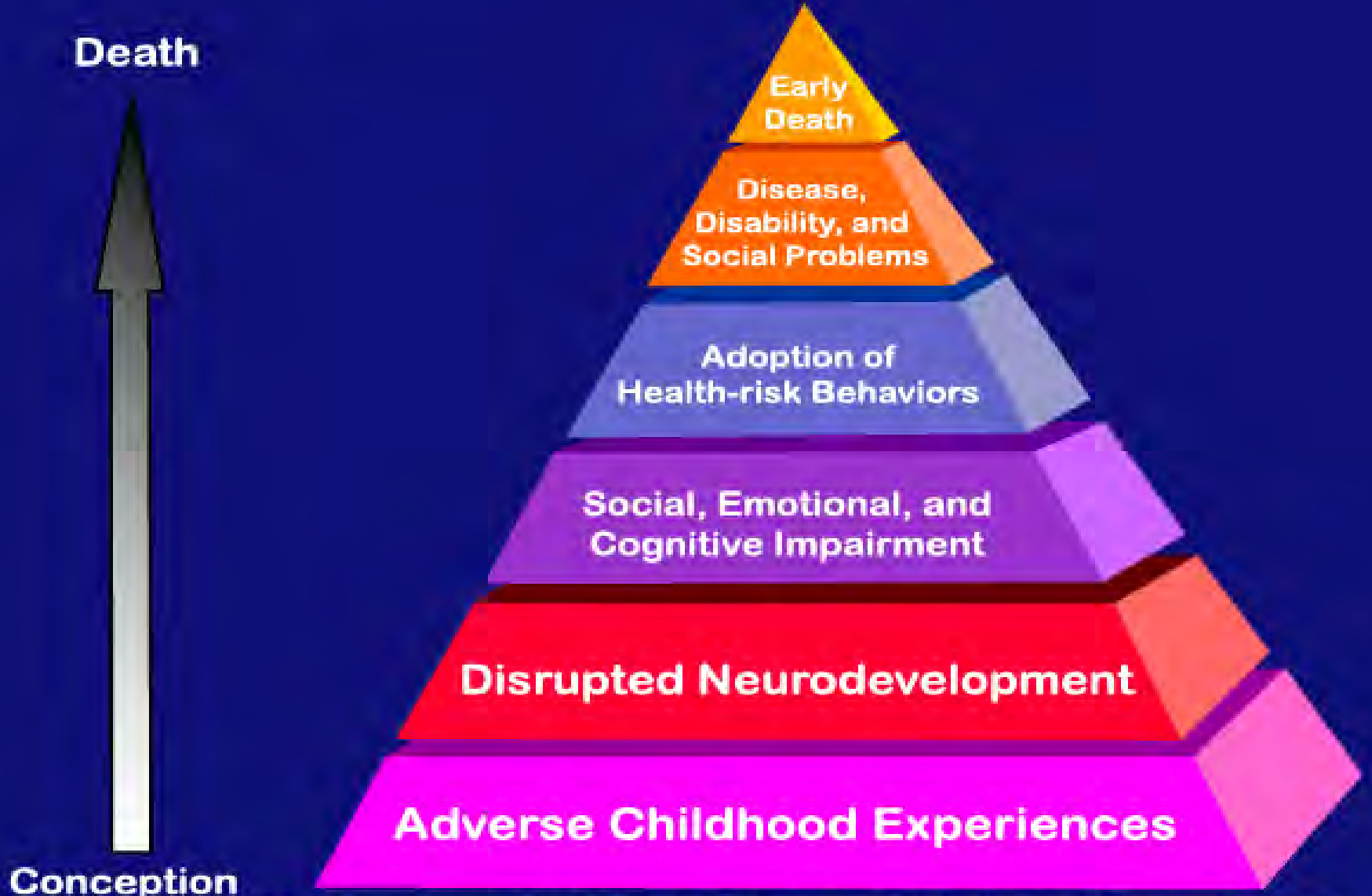
Front



An Abused Brain

This PET scan of the brain of a Romanian orphan, who was institutionalized shortly after birth, shows the effect of extreme deprivation in infancy. The temporal lobes (top), which regulate emotions and receive input from the senses, are nearly quiescent. Such children suffer emotional and cognitive problems.





Mechanisms by Which Adverse Childhood Experiences Influence Health and Well-being Throughout the Lifespan

In Summary, the ACE Study indicates:

Adverse childhood experiences are the most *basic and long-lasting* determinants of health risk behaviors, mental illness, social malfunction, disease, disability, death, and healthcare costs.

A Public Health Paradox

What are conventionally viewed as Public Health *problems* are often personal *solutions* to long-concealed adverse childhood experiences.

“It’s hard to give up something that almost works.”

Translating Research into Practice

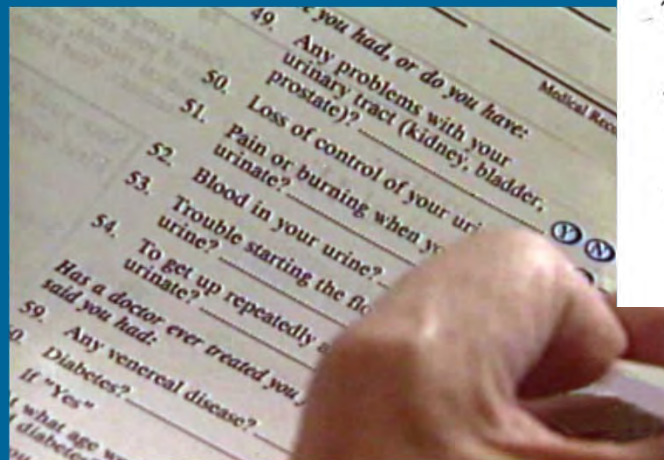
a beginning



1.3 million comprehensive patient evaluations since 1975

An Individual, Population-based Health Appraisal System: A Biopsychosocial Concept

- Comprehensive history (*not* symptom-initiated) obtained at home by detailed questionnaire, better by Internet.



69. Depression or feel "down in the dumps"? Y N —

70. Much trouble with nervousness? Y N —

Do you:

71. Sometimes drink more than you think is good for you? Y N —

72. Use street drugs? Y N —

Have you ever:

73. Been raped, or sexually molested as a child? Y N —

73a. As a child, been physically abused? Y N —

73b. As a child, been verbally abused? Y N —

Includes ACE Questions

Unconventional R.O.S. Questions of Demonstrated Value

- **Have you ever lived in a war zone?**
- **Have you been a combat soldier?**
- ***Who* in your family has committed suicide?**
- ***Who* in your family has been murdered?**
- ***Who* in your family has had a nervous breakdown?**
- **Were you molested as a child?**
- **Have you ever been held prisoner?**
- **Have you been tortured?**
- **Have you been raped?**

Benefits of a Biopsychosocial Preventive Approach

Biopsychosocial evaluation: **35% reduction in DOVs**
in subsequent year.
(120,000 patient sample)

Biomedical evaluation:
(Control group) **11% reduction in DOVs**
in subsequent year.
(700 patient sample)

Final Insights from the ACE Study

- Adverse childhood experiences are common but typically unrecognized.
- Their link to major problems later in life is strong, proportionate, and logical.
- They are the nation's *most basic* public health problem.
- It is comforting to mistake intermediary mechanism for basic cause.
- What presents as the 'Problem' may in fact be an attempted solution.
- Treating the solution may be threatening and cause flight from treatment.
- Primary prevention is presently the only feasible population approach.
- Using this information clinically will be resisted, by us.

Further Information

www.cestudy.org

Google or Medline (Anda or Felitti as author name)

VJFMDSDCA@mac.com

info@cavalcadeproductions.com (Documentary DVDs)

www.HumaneExposures.com (3 books)

TRAUMA INFORMED SYSTEMS

16th Annual Child Support Training Conference
September 5, 2012

Nancy Marshall, MFT
Domestic Violence Intervention Collaborative

What is “trauma informed?”

- Recognition that a high percentage of the individuals coming to court have trauma histories
- Often the reason for court engagement is trauma related

Trauma Informed Services

- Incorporate awareness of trauma with service delivery
- Minimize revictimization
- Recognize that reactive behaviors can be an individual's attempts to cope and survive

**for contemplation
ARE STAFF TRAUMA SENSITIVE?**

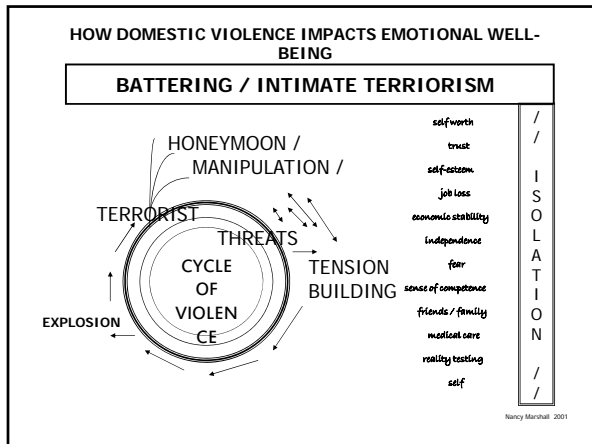
- Coming to court can be traumatic
- Facing an abusive former partner can be triggering
- Feeling overwhelmed can impact cognitive process
- Motivational interviewing, reflective listening, empathic understanding

**For contemplation
ARE THERE SAFETY FACTORS TO CONSIDER?**

- Existing restraining orders
 - Peaceful, no contact...
- Power differential
- Entering or exiting the court house /self help center

**For contemplation
IS YOUR SYSTEM TRAUMA INFORMED?**

- Reception & Waiting areas
 - Separate seating areas
 - Security
 - Child friendly



**Repetitive Acts
tend to
Compound
Trauma**

- Typical Reactions or Symptoms**
- Sleeping too little or sleeping too much.
 - Changes in eating patterns.
 - Difficulty concentrating, or intense concentration to keep intrusive thoughts at bay.
 - Hypervigilance to surroundings, or a decrease in awareness of surroundings.
 - Avoidance of thoughts, feelings, places, activities, people and /or conversations that remind her of her abuser and/or the trauma she experiences, or a need to talk about the trauma and think about the places, activities, ... related to the trauma, repetitively.
- Nancy Marshall 2001

Typical Reactions or Symptoms

- Irritability, or absence of emotional responsiveness/reactivity.
- Feeling detached – from her experiences, from other people in her life, from her life.
- Loss of interest, loss of hope.
- Apathy or outrage
- Lack of ability to recognize or experience more than a limited range of emotions (e.g. anger, sadness, guilt and/or shame).
- Anxiety – feeling restless, keyed up, on edge. Anxiety can range from mild to panic attacks.

Typical Reactions or Symptoms...

- Flashbacks – being flooded with memory. This can be emotional, physiological, and/or cognitive (with and without visual and or auditory flashback of the trauma).
- Fear: for physical, emotional, economic safety; for children's safety; for ability to recover and provide for self (and any children) in the future.
- Feeling like she is losing her mind.
- Substance use/abuse

Nancy Marshall 2001

- DRUGS
- ALCOHOL
- DOMESTIC VIOLENCE

Drugs, Alcohol and Domestic Violence

- Trauma history:
 - Increases vulnerability for revictimization
 - Increases vulnerability for substance abuse
- Substance Abuse:
 - Increases vulnerability for traumatic events
 - Increases vulnerability for revictimization

Drugs, Alcohol & Domestic Violence...

- Batterer's will often use the excuse of being high/loaded to justify their abuse.
- Batterer's will at times get victims high, knowing their victim won't call the police while under the influence.

There can be a circular pattern...

- *Reengaging in a power and control dynamic can trigger relapse for victims in recovery.*
- *Relapse can make victims vulnerable to reengagement in a domestic violence relationship.*

Drugs, Alcohol & Domestic Violence

- Drugs and/or alcohol & domestic violence – common overlap.
- Substance use/abuse can and often does contribute to impacts of domestic violence.
- As disinhibitors, drugs and alcohol can contribute to increased levels of violence.
- With the exception of true pathological violence, drugs and alcohol do not cause domestic violence.

Drugs, Alcohol & Domestic Violence...

- Victims are often coerced into using drugs and/or alcohol by their partners.
- Drugs and/or alcohol are a way to escape the nightmare of domestic violence.
- Batterer's can gain an increased level of power and control over victims if they become "hooked" – especially if the Batterer is their connection.

SPECIAL CONSIDERATIONS

- Special considerations can result in increased traumatic impacts.
- Male Victims
 - Men who reach out for help face obstacles women do not face.
 - Lack of full service sheltering
 - Lack of services
 - Skepticism
 - Attitudes about men being "MEN"

SPECIAL CONSIDERATIONS

- DV & Law Enforcement Officials
 - Training and job requirements of law enforcement officials, when inappropriately directed at intimate partners, exacerbate impacts on victim emotional and physical safety.
 - Establish who is in charge using presence, voice, stance.
 - Maintain control
 - Use interviewing, interrogation, surveillance and eavesdropping to gain information

SPECIAL CONSIDERATIONS

- DV & Law Enforcement Officials ...
- Lie effectively to maintain officer safety and gain evidence in undercover work
- Understand the law and the limitations of the law, grounds for arrest, chargeable offenses, and offenses that lack sufficient evidence for law enforcement response.
- *Victims are coming to a Court which is protected by Law Enforcement*

SPECIAL CONSIDERATIONS

- Same Sex Relationships
- Law enforcement response does not always look at altercations in same sex relationships as domestic violence.
- Impacts on safety
- Impacts on services
- Impacts on protective orders
- Impacts on Interventions

SPECIAL CONSIDERATIONS

- DV & Mental Illness
- Seriously mentally ill are more susceptible to victimization
- They are often very dependent on their abusive partners
- They often are not believed, or may be blamed, when they disclose the abuse
- Perpetrators behaviors are often perceived as being "understandable" vs. power and control.

IMPACTS OF DOMESTIC VIOLENCE
ON
CHILDREN

CHILDREN

The Family Violence Prevention Fund (www.endabuse.org) reports:

- 15.5 million U.S. children live in families in which partner violence occurred at least once in the past year. 7 million live in families in which severe partner violence occurred.
- The majority of U.S. nonfatal intimate partner victimizations of women (two-thirds) occur at home.
- In a single day in 2007, 13,495 children were living in a domestic violence shelter or transitional housing facility.

Children-Family Violence Prevention Fund

- ...Children who have been exposed to family violence suffer symptoms of PTSD, such as bed-wetting or nightmares, and are at greater risk than their peers of having allergies, asthma, gastrointestinal problems, headaches and flu.
- Children of mothers who experience prenatal physical domestic violence are at an increased risk of exhibiting aggressive, anxious, depressed or hyperactive behavior.
- Females exposed to their parents' dv as adolescents are significantly more likely to become victims of dating violence than daughters of nonviolent parents.
- Children who experience childhood trauma, including witnessing incidents of dv, are at greater risk of having serious adult health problems (tobacco use, substance abuse, obesity, cancer, heart disease, depression, unintended pregnancy...
- The Alabama Coalition Against Domestic Violence (www.acadv.org) provide an excellent outline of age-specific indicators in children exposed to DV.

Children...

- Some children are very resilient and are minimally impacted
- Some show no symptoms initially, with behavioral indicators of trauma surfacing over time
- Some show immediate symptoms which dissipate over time.

"Characteristics of Batterers"

Lundy Bancroft and Jay G. Silverman "The Batterer as Parent" (Sage Publications, Inc. 2002)

- Control
 - Criticism, verbal abuse, isolation cruelty ...
 - Arguments and decision making, household responsibilities, emotional caretaking and attention, sexual relations, finances, child rearing, outside social contacts.

"Characteristics of Batterers"...

- Entitlement
 - Expectation of family life to center on the meeting of their needs, often characterizing his/her partner as selfish or uncaring when attempting to assert her own needs.
 - High and unreasonable expectations: Physical, emotional, sexual. Meals, home maintenance, children's behaviors, social calendar...
 - Double standards
 - Batterer may define his abusive behaviors as efforts to protect his own rights and see his partner's attempts to protect herself as abuse of him.

"Characteristics of Batterers"...

- Selfishness and Self-Centeredness
 - Batterer may perceive his needs as being of paramount importance, to have their needs be anticipated even when not expressed, and to have the needs of other family members postponed or abandoned. Usually occurs in specific relation to his partner or his children.
- Superiority
 - Batterer's often believe themselves to be superior to their victims, therefore treating their partners' opinions with disrespect and impatience. (disgust, harsh criticism, ridicule, humiliation, referring to partner as "the wife" or "her" or other terms vs. her name...)

"Characteristics of Batterers"...

- Possessiveness
 - Perceives partner as an owned object
 - Increased risk for sexual assault
 - **INCREASED RISK FOR VIOLENCE WHEN A RELATIONSHIP TERMINATES**
- Confusion of Love and Abuse
 - Relationship violence may be described as a reflection of how much love they have for their partner... "I wouldn't get like that if I didn't love her so much".
- Manipulativeness
 - Public – private personas
 - Arguing style that twist partner's words, distort past events

"Characteristics of Batterers"...

- Contradictory Statements and Behaviors
 - Behaviors controlling, manipulative, violent...
 - Words support equality, respect, opposition to violence
- Externalization of Responsibility
 - If she hadn't, if the kids hadn't, if my boss hadn't.....
- Denial, Minimization and Victim Blaming
 - I didn't push her, she slipped.
 - Under-reporting the number of incidents, minimizing the impact of the violence, the seriousness of the harm
 - She ran her mouth, provoked it...

Batterers...

Bancroft and Silverman state (p. 19)

"Batterers tend to abuse more than one woman over the course of their adult relationships."

"This high degree of conflict in his current relationship is probably the result of his abusiveness rather than its cause, and if he replicates these dynamics in his future relationships, his children may be at risk"

CAUTION

- The most dangerous time in a domestic violence relationship is when the victim is leaving or after she has left.

- *Safety Planning*

- Needs to be fluid
- Needs to be individualized
- Encourage individuals leaving domestic violence relationships to connect with local shelter based agencies for information and support.

Nancy B. Marshall r. 2006

TRAUMA INFORMED CARE GOALS

The overall goal of trauma-informed care is to restore a sense of SAFETY, trust, autonomy, and control to the survivor.

The guiding principles are:

- safety first (both physically and emotionally);
- respecting boundaries;
- sharing control and ensuring that the survivor has choices;
- collaboration;
- empowerment; and
- minimizing re-traumatization.

TAB H

Roundtables: Child Support Commissioners, Family Law Facilitators, and Paralegals

**Hon. David E. Gunn, Ms. Lollie A.
Roberts, Ms. Fariba R. Soroosh,
Ms. Maria Chavez**

TAB H

Child Support Commissioners' Roundtable

(For child support commissioners only)

Hon. David E. Gunn

***MATERIALS WERE DISTRIBUTED,
NOT AVAILABLE ONLINE***

TAB H

Family Law Facilitators' Roundtable *(For family law facilitators only)*

**Ms. Lollie A. Roberts &
Mrs. Fariba R. Soroosh**

***MATERIALS WERE DISTRIBUTED,
NOT AVAILABLE ONLINE***

TAB H

Paralegals' Roundtable
(For paralegals only)

Ms. Maria Chavez

***MATERIALS WERE DISTRIBUTED,
NOT AVAILABLE ONLINE***

TAB I

Confidentiality Issues

Mr. John Cardoza & Ms. Anna L. Maves

Confidentiality Laws & Issues

16th Annual Child Support Training Conference
September 4-7, 2012

Confidentiality Laws & Issues

- Anna Maves, Senior Attorney,
Administrative Offices of the Court
- John Cardoza, Managing Attorney
VDCSS

General Rule Re: IV-D Cases

- IV-D Agencies may not disclose
any confidential information,
- obtained in connection with the
performance of IV-D functions
- outside the administration of the
IV-D program.
- Subject to statutory exception

Federal Authority

- 42 U.S.C. § 653
- 42 U.S.C. § 654
- 45 C.F.R. § 303.21
- 45 C.F.R. § 302.35
- 45 C.F.R. § 307.13

California Authority

- Family Code § 17212
- 22 C.C.R. § 111440
- 22 C.C.R. § 111430

Caveat:

- Family Code § 17212(e): Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

Exceptions

- "In furtherance to the administration of the program"
- Information produced or provided by a case participant
- Payment history to participant or "designee."

Exceptions

- Income and Expense information to the other parent
- Records subject to the Public Records Act
- Information related to crimes against children, including child abduction

Exceptions

- The IV-D Program can provide information to the local agency responsible for the Titles
 - IV(A) (TANF),
 - IV(B) (Child and Family Services, including Child Protection),
 - and IV(E) (Foster Care)under the Social Security Act:

Other limitations

No information shall be disclosed if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data.

Other limitations

No information shall be disclosed if the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the CP or the child.

Enumerated Exceptions - Factors

- Authorized person?
- Authorized purpose?
- About whom?
- What sources?
- What information?
- Any specific limitations?

Who? IV-D Agency

Purpose:

- Establish paternity; establish, modify or enforce support
- Locate a person under an obligation of support or from whom support is sought
- Locate a parent in a Non IV-D case to disburse a income withholding collection

Who? IV-D Agency

About Whom:

- Non-custodial parent
- Putative Father
- Custodial Parent
- Child

Who? IV-D Agency

Sources Searched:

- Federal Parent Locator Service (FPLS)
- In-state sources in compliance with §17212

Who? IV-D Agency

Authorized Information:

(Including but not limited to):

- Person's Name
- Person's SSN
- Person's address
- Employer's Name
- Employer's address
- Employer's ID Number

Who? IV-D Agency

Authorized Information:

- Wages, income and benefits of employment
- including healthcare coverage
- Type, status and amount of assets
- or debts owed by or to the individual

Who? IV-D Agency

Limitations:

None

Who? Court Involved in Support

Purpose:

- To locate any individual under an obligation to support
- From whom support is sought, or to whom support is owed
- Can be about a parent or child involved in a Non IV-D support case

Who? Court Involved in Support

About Whom:

- Non-custodial parent
- Putative Father
- Custodial Parent
- Child

Who? Court Involved in Support

Sources Searched:

- Federal Parent Locator Service (FPLS)
- In-state sources in accordance with State law

Who? Court Involved in Support

Authorized Information:

- Wages, income and benefits of employment
- including healthcare coverage
- Type, status and amount of assets of,
- or debts owed by or to the individual

Who? Court Involved in Support

Limitations:

- No IRS information for Non IV-D cases unless independently verified
- No MSFIDM or FIDM for Non IV-D cases
- No required subsequent attempt to locate without a new request

General Rule Re: Court Proceedings

In general, the public must be provided with reasonable access to the trial court records, unless there is a specific law or rule protecting privacy.

Other Confidential Court Proceedings

- Uniform Parentage Act Cases
- Mediation Proceedings
- Private Trial on Issues of Fact

Does Family Code §17212 Apply to Court Files?

- Statutory scheme of Family Code §17212
- Difference of opinion by different courts.

What About UIFSA?

- Petition seeking to establish parentage, support or to modify support must contain residential address and SSN.
- Family Code § 4926 allows the court to protect identifying info.

FL-191 Child Support Case Registry Form

- Requires the parties to disclose confidential information
- Family Code § 4014(b) requires the information to be treated as confidential.
- CRC Rule 5.330

Questions?

- Anna.Maves@jud.ca.gov

- john.cardoza@ventura.org

GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406):
 RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

TELEPHONE NO.: _____ FAX NO.: _____

FOR RECORDER'S USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
<input type="checkbox"/> NOTICE REGARDING PAYMENT OF SUPPORT <input type="checkbox"/> NOTICE OF ASSIGNED SUPPORT <input type="checkbox"/> SUBSTITUTION OF PAYEE	CASE NUMBER: _____

1. The obligor (the person paying support) in this proceeding is *(name and last known address)*:

2. a. The local child support agency is providing the following services *(check all that apply)*:
 - (1) Current support
 - (2) Support arrears
 - (3) Medical support
- b. The local child support agency is no longer providing the services under title IV-D of the Social Security Act.

3. The substituted payee is:
 - a. The local child support agency *(specify)*:
 - b. Other *(specify)*:

4. An abstract or notice of support judgment or support judgment was recorded as follows:

<u>County</u>	<u>Date of recording</u>	<u>Instrument number</u>	<u>Book number</u>	<u>Page number</u>
---------------	--------------------------	--------------------------	--------------------	--------------------

5. All payments must be made as follows *(check all that apply)*:
 - a. Income withholding payments must be directed to the State Disbursement Unit at *(specify address)*:
 - b. All current support payments other than income withholding payments must be sent to *(specify)*:
 - c. All arrears payments other than income withholding payments must be sent to *(specify)*:
 - d. Other *(specify)*:

THE SUBSTITUTED PAYEE MUST BE CONTACTED WHEN NOTICE TO A LIENHOLDER MAY OR MUST BE GIVEN.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

6. An assignment of support rights by operation of law under Welfare and Institutions Code section 11477(a) has been made to the county of *(specify)*:
7. a. Each parent must notify the local child support agency in writing within 10 days of any change in residence or employment.
- b. Each parent must complete a *Child Support Case Registry Form (FL-191)* and deliver it to the court within 10 days of any change in residence or employment.

Date: _____

_____ _____

(TYPE OR PRINT NAME) (SIGNATURE)

NOTICE:
No acknowledgment is required when this form is recorded by a local child support agency.

ACKNOWLEDGMENT
(To be completed when this form is recorded by a person or entity other than a local child support agency.)

STATE OF CALIFORNIA)
 COUNTY OF)

On _____, before me, _____ (Here insert name and title of the officer)
 personally appeared _____,
 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 (SIGNATURE OF NOTARY)

(Seal)

Family Code 17212:

(a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

- (1) The establishment or maintenance of parent and child relationships and support obligations.
- (2) The enforcement of the child support liability of absent parents.
- (3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 17604 and Chapter 6 (commencing with Section 4900) of Part 5 of Division 9.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States **Code** and this division, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the party, a good cause claim under Section 11477.04 of the Welfare and Institutions **Code** has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the party or the child. When a local child support agency is prohibited from releasing information pursuant to this subdivision, the information shall be omitted from any pleading or document to be submitted to the court and this subdivision shall be cited in the pleading or other document as the authority for the omission. The information shall be released only upon an order of the court pursuant to paragraph (6) of subdivision (c).

(3) Notwithstanding any other provision of law, a proof of service filed by the local child support agency shall not disclose the address where service of process was accomplished. Instead, the local child support agency shall keep the address in its own records. The proof of service shall specify that the address is on record at the local child support agency and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The local child support agency shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program

approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States **Code** and to the county welfare department responsible for administering a program operated under a state plan pursuant to Part A, Subpart 1 or 2 of Part B, or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States **Code**.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Income and expense information of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government **Code**) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 3 of the Evidence **Code** shall not be applicable to proceedings under this part. At any hearing of a motion filed pursuant to this section, the court shall inquire of the local child support agency and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child, or location of a concealed, detained, or abducted child or the location of the concealing, detaining, or abducting person, may be disclosed to any district attorney, any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States **Code**, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States **Code**.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this division, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States **Code** and this article.

(2) For purposes of this division, "obligor" means any person owing a duty of support.

(3) As used in this division, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 17400.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

IV-D Benchguides - Confidentiality

C. Confidentiality and Locate Information

1. [§203.103] Uniform Parentage Act Cases

Actions filed under the Uniform Parentage Act (UPA) to determine the existence or nonexistence of a parent and child relationship are confidential, including all papers and records—other than the final judgment—whether part of the court file or a public agency file. Fam C §7643(a). The parties or their attorneys (or their agents with proper authorization) may inspect and copy any of the court’s permanent records (Fam C §7643(b)), but any other inspection or copying is only allowed in exceptional circumstances on a showing of good cause. Fam C §7643(a). An attorney must obtain the party’s consent before authorizing an agent to inspect and copy the permanent record. The attorney must state in the written authorization that he or she obtained the party’s consent. Fam C §7643(b). Court hearings under the UPA may be held in closed court without admitting anyone except those necessary to the proceeding. Fam C §7643(a).

2. [§203.104] Other Court Proceedings

General family law proceedings are public, with the following exceptions:

- Conciliation proceedings under Fam C §§1800 et seq.
- Mediation proceedings under Fam C §§3175 et seq.
- A private trial on issues of fact. Unless otherwise provided, the court can direct the trial of any issue of fact joined in a proceeding to be private, “when it considers it necessary in the interests of justice and the persons involved,” and exclude all persons except officers of the court, the parties, their witnesses, and counsel. Fam C §214.

3. Records and Documents

a. [§203.105] In General

Generally, the public must be provided with reasonable access to trial court records unless there are confidentiality laws or rules protecting their privacy. Many courts also have electronic records, which are governed specifically by Cal Rules of Ct 2.500 et seq, under which such records are to be made publicly available under specified circumstances. Specific confidentiality and related statutory provisions exist for the following types of documents or information.

b. [§203.106] Department of Child Support Services Records

Family Code §17212(b)(1) and its identical counterpart, Welf & I C §11478.1(b)(1), provide the exclusive authorization for disclosure of information. Except as otherwise provided by these sections, “all files, applications, papers, documents, and records established or maintained by any public entity” under the support enforcement program are “confidential” and “not ... open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program.” No information may be released or the whereabouts of a party or child disclosed when (Fam C §17212(b)(2); Welf & I C §11478.1(b)(2)):

- A protective order exists,

- A good cause claim under Welf & I C §11477.04 is pending or approved, or
- The public agency establishing or enforcing support has reason to believe that release of the information may result in physical or emotional harm to the party or child. In all these situations, the agency must omit such information from pleadings and documents submitted to the court and cite those sections in its place. Such information can only be released by court order on noticed motion under Fam C §17212(c)(6) or Welf & I C §11478.1(c)(6) as noted below. Fam C §17212(b)(2); Welf & I C §11478.1(b)(2).

* JUDICIAL TIP: Despite statutory authority for the agency to omit the information on pleadings or documents filed with the court, the court has a right and responsibility to make inquiry, and examine as needed, the actual address or locate information for purposes of determining due process issues and whether service was proper in any given case.

Disclosure of agency files, records, or information is authorized as follows (Fam C §17212(c)(1)–(8); Welf & I C §11478.1(c)(1)–(8)):

- For agency use in administering its duties.
- If requested by a person or designee who wrote, prepared, or furnished the document to the agency.
- The payment history of an obligor under a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person’s designee.
- Income and expense information of either parent to the other for purposes of establishing or modifying a support order.
- Public records subject to disclosure under the Public Records Act under Govt C §§6250 et seq.
- On noticed motion, when the court finds that release or disclosure is required by due process, and after the court has inquired if there is a reason to believe release of the information may result in physical or emotional harm.
- Information relating to an imminent threat or crime against a child or the location of a concealed or abducted child (or of a person concealing or abducting) may be released to an appropriate law enforcement agency or judicial proceeding on the same issue, to extent not prohibited by federal law.
- Release of social security number, most recent address, and place of employment of the absent parent may be released to an “authorized person” as defined in 42 USC §653(c), on request and only if the information has been provided to the California Parent Locator Service (CPLS) by the Federal Parent Locator Service (FPLS). See also CSS Letter 09-04 (request and authorization for release of specified information to authorized person or agency).

The circumstances under which a person, agency, or court can access information in the FPLS is outlined in chart form in Appendix C.

* JUDICIAL TIP: Courts often face the situation of a parent seeking locate information for service of a related OSC or motion involving custody or visitation when the child support agency is enforcing support and knows where the other parent is located, but the agency is not willing to release it. When appropriate, the court may consider authorizing the release of information to a single specified source—*e.g.*, the child abduction unit or

sheriff—for purposes of service only, with an express provision that the information is not to be disclosed to the other parent, nor put on any proof of service submitted for filing. The filed proof of service can state it was served “at the address on file with the child support agency under Fam C §17212(b)(3) and/or (c)(6) [or Welf & I C §11478.1(b)(3) and/or (c)(6)]” with the address available for the court to view *in camera* as needed.

c. [§203.107] Child Support Registry Forms

The court must require the parties to file a completed child support case registry form (form FL-191) each time an initial order for child or family support, or a modification of such order, is made (except for cases the local child support agency is pursuing under Fam C §17400). The court may keep a copy of the form, or the information on the form, in an electronic format provided all information is kept confidential. Cal Rules of Ct 5.330(c), (g).

d. [§203.108] Tax Returns

There is limited disclosure of contents and copies of tax returns. Fam C §3665(b); see §203.102. Tax return information provided by the Franchise Tax Board to DCSS must be done in accordance with privacy and confidentiality laws of the state and the United States. Fam C §17452(c). Any tax returns retained by the court are confidential and must be sealed. Fam C §3552(c).

e. [§203.109] UIFSA Protections

Under the Uniform Interstate Family Support Act (UIFSA) (see §§203.33 et seq), if a party alleges in an affidavit or pleading under penalty of perjury that the health, safety, or liberty of a party or child would be jeopardized by disclosing identifying information, that information must be sealed and may not be disclosed to the other party or the public, unless a hearing is held where the court considers the health, safety, or liberty of the party or child and orders disclosure of information determined to be in the interest of justice. Fam C §4926. Procedures for nondisclosure orders and duties of the support enforcement agency are contained in Fam C §§4977 and 4978.

f. [§203.110] Child Abduction Records

Child abduction records are confidential. Fam C §17514.

g. [§203.111] Child Psychological Evaluations

Psychological evaluations of the child regarding custody or visitation must be maintained in the confidential portion of the file and may not be disclosed except to certain individuals. Fam C §3025.5.

h. [§203.112] Domestic Violence Criminal Search Information

Relevant information obtained by the court during the required criminal history search for restraining order hearings must be kept in a confidential case file. Fam C §6306(d). At the request of either party, the court must release the information it relied on to the party or counsel. Fam C §6306(c)(2). The court must disclose the information to court-appointed mediators or custody evaluators, who are made subject to the California Law Enforcement Telecommunications System (CLETS) policies, practices, and procedures under Govt C §15160. Fam C §6306(d).

i. [§203.113] Protective Orders and Other Domestic Violence Orders

In connection with a protective order, the court may issue an ex parte order prohibiting disclosure of address or other identifying information of a party, child, parent, guardian, or other caretaker. Fam C §6322.5. The court must also order that any restrained party be prohibited from taking any action to obtain the address or location of a protected party or a protected party's family members, caretakers, or guardian unless there is good cause not to make such an order. Fam C §6322.7(a).

4. [§203.114] Social Security Numbers

In marital proceedings, either party may redact any social security number from a document filed with the court. Fam C §2024.5(a). Judicial Council forms now contain a notice of that right. As a general rule, parties must not include, or must redact when inclusion is necessary, social security numbers and financial account numbers from the pleadings or other papers filed in a court's public file, unless otherwise provided by the law or ordered by the court. If financial account numbers are required, only the last four digits may be used. On court order, a confidential reference list may be filed with the redacted documents. Cal Rules of Ct 1.20(b)(2), (4); see form MC-120. Civil Code §1798.85 provides protection of an individual's social security number, both to its use and disclosure. The provisions of the statute cannot be waived. CC §1798.86. An abstract of judgment that includes an order requiring payment of child support must also contain only the last four digits of the payor's social security number. Fam C §4506(a) (for documents created on or after January 1, 2010).

5. [§203.115] State Agencies

All state, county, and local agencies must cooperate with the local child support agency in exchanging and providing locate and other information for enforcement purposes to the support agency or to the California Parent Locator Service (CPLS), notwithstanding any other confidentiality laws. Fam C §17505. CPLS is authorized to collect and disseminate a variety of locate, financial, and other identifying information, and there are provisions to protect the information providers, as well as the information itself. Fam C §17506. Generally, the collection, maintenance, and dissemination of personal data by agencies is governed by the Information Practices Act of 1977. CC §§1798 et seq. When such records are used to make any determination about the individual, the agency must maintain them accurately and with completeness to the extent possible. When a record is transferred out of state government (*e.g.*, credit reporting), the agency must correct, update, withhold, or delete any portion of the record that it knows or has reason to believe is inaccurate or untimely. CC §1798.18. Failure to maintain records accurately or other violations of the Information Practices Act can lead to a civil action against the agency and the imposition of attorney fees and costs, as well as injunctive relief. See CC §§1798.45 et seq.

NCSEA – Safeguarding Confidential Info

Hypotheticals

- Local sheriff stops into the office to get an address for the NCP so that he can serve a criminal warrant.
- Local sheriff asks for an address to serve a Child Support Arrest Warrant.
- Local Sherriff asks for address to arrest a CP who was video taped stealing a caseworker's purse from an LCSA interview cubicle.
- Grand jury subpoena for information relating to the CP parent who is suspected of illegal drug trafficking.
- A police officer calls the local CSE office and tells the manager that the police are looking for a person who has committed a crime. The suspected criminal may be dangerous and a potential harm to the public. They know he has a child support case, and they want locate information. The manager calls the IV-D Director and asks if the manager can give out address information. What should the IV-D Director do or say?
- The State Department of Corrections (DOC) requests locate information on a delinquent sex offender because they have heard that CSE might be garnishing the offender's pay checks for child support. Can the noncustodial parent's address be released?
- In a Responding case in which CP lives in another state, the FBI asks for an address for the NCP because CP reported that NCP failed to return the child after summer visitation.
- A Family Law Dependency Court inquires of an LCSA whether there is a paternity Judgment or Declaration for a particular child.
- State Bar from another jurisdiction contacts the IV-D program. They are doing a character and fitness examination of a recent law school graduate seeking admission to the bar. They want to know if NCP has been paying his support obligation. NCP paid regularly until he quit his job to attend law school. CP does not

want the IV-D agency to say anything bad about NCP because if they do, he will not be admitted, and her chances of getting better child support go out the window.

- Child Protective Services requests information to locate the grandmother of a child in their care to see if the grandmother would be interested in taking custody of the abused child. The IV-D agency has an open case for the grandmother because the Grandfather is still paying off his child support arrears.
- Child Protective Services wants a copy of a voluntary acknowledgment.
- Local IV-A agency wants a copy of a payment history related to a CP who has applied for assistance with housing and child care.
 - What about IV-A agency from another state?
- Local sheriff asks for a copy of a voluntary acknowledgment. They are investigating whether to prosecute the NCP for statutory rape because the child's mother was a minor when the child was conceived.
 - What about GT results?
- NCP requests records verifying that CP received public assistance so he can determine if the state has an interest in the arrears.
 - Does it matter whether the CP has waived her share of the arrears?
- The IV-D agency sends letter saying that they have a case with a NCP that has another case with a different CP in your jurisdiction. They want to know what the amount of the order is, whether he is paying it, and whether the agency has found any property against which to place a lien.
 - They also want to know if you have found any bank accounts through FIDM.
- The court of another state wants to locate a custodial mother who moved away from the Court's state with a child. The father, who voluntarily acknowledged the child at birth, is trying to obtain a custody/visitation order in the court requesting the locate information.

- Child Protective Services is trying to locate an alleged father who abandoned a child so that they can serve him with a Petition to Sever Parental rights. They request locate information known to the IV-D agency.
- CP calls to ask why her child support payments have been reduced by more than half. The payments have been reduced because NCP is receiving unemployment benefits. Can you tell CP that?
- Another IV-D agency asks for NCP's email address and phone number?
- Child Protective Services asks for NCP's email address and phone number?
- NCP's attorney sends a discovery request seeking all available information on CP's wages, including screen prints indicative of information received from the unemployment agency.
- Judge called a IV-D attorney to court and demands (with threat of jail) to know the address of a CP because the NCP/attorney wants to serve the CP in a visitation suit; or a custody suit.
- Should the child protective services (CPS) agency in State A request locate services from the IV-D agency in State B without first requesting locate services from the IV-D agency in State A?
- Should the IV-D agency in State B, upon receiving a locate request from CPS in State A, assure that the child is receiving either IV-B or IV-E services before providing locate services to the CPS in State A?

TAB J

**Court Clerks' Training: Fundamentals,
Advanced, and UIFSA**

**Ms. Heather Barajas, Mr. Barry J. Brooks,
Ms. Tomieanna Campros, Ms. Janet
Davis, Ms. Kari Korreng, Ms. Kathryn
Whitney, & Mr. Michael L Wright**

TAB J

Court Clerks' Training: UIFSA

Mr. Barry J. Brooks

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ACTION TRANSMITTAL

AT-11-05

DATE: May 16, 2011**ATTACHMENTS:** [OMB 0970-0154 Form Final](#)[OMB 0970-0154 Form Instructions Final](#)[Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit](#)**TO:** State and Tribal Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Individuals**SUBJECT:** Revised Income Withholding for Support (IWO) Form

BACKGROUND: Statutory requirements under sections 466(a)(1), (a)(8) and 466(b)(6) of the Social Security Act (the Act) require the use of the Income Withholding for Support (IWO) form in all IV-D cases, and in non-IV-D cases with orders initially issued in the state on or after January 1, 1994. The interim final rule issued on February 9, 1999 [64 FR 6237] implemented section 466(b)(6)(A)(ii) of the Act requiring the use of the OMB-approved IWO form (OMB 0970-0154) [see 45 CFR 303.100(e)(1)]. Private firms, attorneys, and courts authorized under state law to issue IWOs must use the OMB-approved IWO form for all child support income withholding by employers. We urge states to review their income withholding procedures and state plan pre-print pages 2.12-1, 2.12-8, and 2.12-8B to ensure compliance with the income withholding requirements.

Tribes that operate IV-D programs (i.e., child support programs established in accordance with Title IV-D of the Act) are required to use the IWO form. This requirement was established with the publication of the Final Rule for Tribal Child Support Enforcement Programs on March 30, 2004 [69 FR 16638].

Changes to the IWO Form

Comments were solicited for revisions to the IWO form via the Federal Register on June 30, 2010 [75 FR 37816]. The IWO form and instructions were updated for consistency and clarity in light of numerous comments suggesting changes. Key changes include:

- **Elimination of shading:** Shading of sections in the existing IWO form causes problems when it is faxed to employers/income withholders. Vital information is obscured, requiring employers to contact states to resend the form. We removed the shading in the IWO.
- **Requirement of underlying order:** We reworded the note on page one to clarify that if the employer or income withholder receives this document from someone other than a state or tribal child support agency or a court, a copy of the underlying order containing a provision authorizing income withholding must be attached.
- **Remittance identifier:** To prominently display the remittance identifier, we moved it to page one above the case and order identifier. This will ensure employers/income withholders are using the remittance identifier when submitting payments.
- **Checkbox for employer returns:** We added a checkbox on page two of the form for the employer to indicate that the IWO is being returned because it does not direct payments to the State Disbursement Unit (SDU) or the IWO is not regular on its face. Instructions

for this box are located on page two of the form, under "Payments to SDU".

- Employment termination section: We expanded the notification of employment termination section to include change in income status.
- Instructions to reject and return invalid IWOs: We provided guidance in the instructions to the form that indicate the circumstances under which an IWO must be rejected and returned to sender.

Approach for Improving the Income Withholding Process

As stated in DCL-10-14, the federal Office of Child Support Enforcement convened a group of employers, members of the judiciary, and state and federal child support representatives to discuss items that could be addressed to improve the income withholding process and to develop an approach for implementing the improvements. We carefully considered the comments received as we developed the following approach to improve the income withholding process.

IWOs issued on or after 05/31/11 (i.e., new IWOs)

1. If the IWO is not directed to the SDU as required by federal law [section 454B of the Act] then the employer should reject the IWO and return it to the sender, effective immediately.
2. If the employer receives a document to withhold income that is not issued on the OMB-approved IWO form as required by federal law (section 466(a)(8) and 466(b)(6)(A)(ii) of the Act) then the employer must reject the document and return it to the sender, effective 05/31/12.

IWOs issued before 05/31/11 (i.e., IWOs already processed by employer)*

1. If the IWO is not directed to the SDU as required by federal law (section 454B of the Act) then the employer should contact the state child support enforcement (CSE) agency in the state that issued the underlying support order on a case-by-case basis to request a revised IWO directing payment to the SDU. The state may use procedures under section 466(c)(1)(E) of the Act, upon providing notice to the obligor and obligee, to direct the obligor or other payor to change the payment destination to the SDU. The employer should continue to send payments to the non-SDU address until the state CSE agency or sender issues a revised IWO directing payment to the SDU.
2. If income withholding is not issued on the OMB-approved IWO form as required by federal law (section 466(a)(8) and 466(b)(6)(A)(ii) of the Act) and the order presents a problem for the employer (i.e., insufficient information to process the IWO) or the order has been modified, then the employer should contact the sender to request an OMB-approved IWO form. The employer should continue withholding income until a new OMB-approved IWO form is received.

*Please note: If the underlying support order meets any of the following criteria, then there is no requirement for states to process income withholding payments through the SDU:

1. support order initially issued in the state before January 1, 1994 and has never been modified; or
2. support order initially issued in the state before January 1, 1994 and has no arrearages; or
3. support order initially issued in the state before January 1, 1994 and is not associated with a IV-D case.

Attached is a copy of the revised Income Withholding for Support (IWO) form, as required by sections 452(a)(11), 454(9)(E), 466(a)(1), (a)(8) and 466(b)(6) of the Act. Also attached are the instructions to the revised form. The Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit question and answer document is attached to clarify federal requirements regarding the income withholding process.

SUPERSEDED MATERIAL: AT-07-07, AT-04-05, AT-01-07, AT-98-03

REFERENCES: AT-97-12, AT-97-04

EFFECTIVE DATE: States, tribes, and others should begin using this form immediately. States that need additional time to implement use of the IWO form are directed to continue to honor previous forms until 05/31/12, when the requirement for states to use the OMB-approved IWO form must be implemented. The form and instructions are available at <http://www.acf.hhs.gov/programs/cse/forms/>.

INQUIRIES: Please contact your ACF/OCSE Regional Program Manager if you have any questions.

Sincerely,

Vicki Turetsky
Commissioner
Office of Child Support Enforcement

cc: ACF/OCSE Regional Program Managers
Tribal IV-D Directors

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What is an IWO?

Commonly known as an income withholding order or IWO, the Income Withholding for Support is the standard form approved by the Office of Management and Budget that must be used by all entities to direct employers to withhold income for child support payments.

What is the SDU?

The State Disbursement Unit (SDU) is a centralized collection and disbursement unit for child support payments from employers, income withholders, and others. An SDU is responsible for:

- Receiving and distributing all payments
- Accurately identifying payments
- Promptly disbursing payments to custodial parents
- Furnishing payment records to any parent or to the court

Why were standard forms and payment directions developed?

Under provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Congress required the use of a standard withholding process to increase child support collections for all families, promote self-sufficiency for low-income families, and reduce the burden on employers. States were also required to establish and maintain SDUs to receive child support payments from employers and other sources (1) for all IV-D cases and (2) for all non-IV-D cases with support orders initially issued on or after January 1, 1994 payable through income withholding.

How is income withholding ordered?

When entering a child support order, judicial and administrative officials must enter an IWO. Some states use the following language in the child support order:

“Reference is hereby made to a separate income withholding order, the entry of which is required of this (Court) (Agency) by law and specifically incorporated herein as part of this (Court’s) (Agency’s) order in this case.”

Are there exceptions to income withholding?

Yes, section 466(a)(8)(B)(i) of the Social Security Act allows two exceptions as stated below:

“The income of a noncustodial parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such income shall not be subject to withholding under this clause in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.”

Must I use the OMB-approved IWO form?

Yes, the IWO form has been required since August 22, 1996, for orders issued or modified on or after January 1, 1994.

The revised IWO form, instructions, and process flow was published on May 16, 2011. However, other requirements concerning the revised IWO form became effective May 31, 2011 [see AT-11-05]:

! All IWOs that order an employer to withhold payments, including those issued by courts and private attorneys, must direct payments to the SDU.

Employers/income withholders are instructed to return the IWO to the sender if payment is not directed to the SDU.

! All entities or individuals authorized under state law to issue income withholding orders to employers must use the OMB-approved IWO form.

Effective May 31, 2012, any IWO received that is not on the OMB-approved IWO form will be returned to the sender by the employer.

A fillable version of the form is available at: www.acf.hhs.gov/programs/cse/forms/OMB-0970-0154.pdf.

Additional Web Resources

- [Section 466 of the Social Security Act](#)
- [Action Transmittal 11-05 \(AT-11-05\)](#)
- [45 CFR 303.100](#), Procedures for income withholding
- [Intergovernmental Referral Guide](#) containing each state’s IWO procedures
- [State Contact and Program Information Matrices](#) for state-specific information and contacts for questions
- [Income Withholding](#), choose Private Sector Employers or Federal Agency Employers to get information on processing the IWO notice and calculating withholding amounts, with examples



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THE OFFICE OF CHILD SUPPORT ENFORCEMENT

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ACTION TRANSMITTAL**AT-12-01****DATE:** June 18, 2012**TO:** State Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Individuals**SUBJECT:** Turner v. Rogers Guidance**CONTENT:****I. Turner v. Rogers Overview**

In June 2011, the United States Supreme Court decided the case of *Turner v. Rogers*.¹ The question in *Turner* was whether the due process clause of the 14th Amendment of the U.S. Constitution requires states to provide legal counsel to an indigent person at a child support civil contempt hearing that could lead to incarceration in circumstances where the custodial parent or opposing party was not represented by legal counsel.² The United States Supreme Court held that under those circumstances, the state does not necessarily need to provide counsel to an unrepresented noncustodial parent if the state has "in place alternative procedures that assure a fundamentally fair determination of the critical incarceration-related question, whether the supporting parent is able to comply with the court order."³

The Supreme Court in *Turner* specifically left unresolved the question of what due process protections may be required where: (1) the other parent or the state is represented by an attorney; (2) the unpaid arrears are owed to the state under an assignment of child support rights; or, (3) the case is unusually complex. Accordingly, this guidance, directed to state child support agencies (and prosecuting attorneys funded with title IV-D funds), is based upon the due process considerations expressed in *Turner*. This AT is not designed to define for IV-D agencies what is constitutionally required when there is a IV-D attorney or representative participating in the civil contempt hearing that may lead to incarceration. However, using *Turner* as a guidepost, this AT urges state IV-D agencies to implement procedural safeguards when utilizing contempt procedures to enforce payment of child support and encourages IV-D agencies to individually screen cases prior to initiating or referring any case for civil contempt.

In 2003, Mr. Turner, the noncustodial parent, was ordered to pay \$51.73 per week in child support. Over the course of several years, he was held in civil contempt for nonpayment on five occasions and was incarcerated on several occasions. In South Carolina, each month the family court clerk identifies child support cases in which the obligor has fallen more than five days behind and automatically initiates a civil contempt hearing.⁴ In 2008, under the facts giving rise to this lawsuit, Mr. Turner was held in civil contempt and served a 12-month jail term. At the hearing, Mr. Turner was not represented by counsel, nor was a IV-D attorney involved. In ordering that Mr. Turner be jailed, the lower court did not make any findings on the record regarding Mr. Turner's ability to pay the entire arrears amount, which the court set as the purge amount. Mr. Turner subsequently appealed alleging that his rights were violated because the due process clause of the 14th Amendment required the state to provide him with appointed counsel in a civil contempt hearing that could lead to incarceration.

In *Turner*, the United States Supreme Court held that a state does not need to automatically provide counsel to a defendant in a child support civil contempt proceeding, under the specific facts of the case, as long as the state provides adequate procedural safeguards. In *Turner*, neither the state nor the custodial parent were represented by legal counsel. The *Turner* Court indicated that adequate substitute procedural safeguards might include:

- Providing notice to the noncustodial parent that "ability to pay" is a critical issue in the contempt proceeding;
- Providing a form (or the equivalent) that can be used to elicit relevant financial information;
- Providing an opportunity at the contempt hearing for the noncustodial parent to respond to statements and questions about his/her financial status (e.g., those triggered by his/her responses on the form declaring financial assets); and
- Requiring an express finding by the court that the noncustodial parent has the ability to pay based upon the

individual facts of the case.

The *Turner* Court concluded that, used together, these four procedures would have been sufficient to meet minimum due process requirements under the circumstances of the case where neither the custodial party nor the state was represented by counsel. The Court emphasized that these four procedures are not an exclusive list, and there may be other pathways to satisfying minimum due process requirements in similar proceedings. This remains an evolving and uncertain area of constitutional law, and states are encouraged to carefully review their own civil contempt procedures and consult with their attorneys to determine appropriate minimum due process protections warranted where incarceration is a possible outcome.

II. State Contempt Practices

Title IV-D agencies are bound to ensure that noncustodial parents receive due process protections.⁵ The federal government has an interest in ensuring that the constitutional principles articulated in *Turner* are carried out in the child support program, that child support case outcomes are just and comport with due process, and that enforcement proceedings are cost-effective and in the best interest of children. Accordingly, this guidance is directed to state and local IV-D agencies and prosecuting attorneys funded with IV-D matching funds.

Child support civil contempt practices, including the right to appointed counsel in certain proceedings, vary considerably from state to state.⁶ For example, some state child support agencies rarely, if ever, bring civil contempt actions, and many states provide for legal counsel in a civil contempt action when it can lead to incarceration. In light of *Turner*, states continue to have latitude in determining the precise manner in which the state implements due process safeguards in the conduct of contempt proceedings, including the respective roles of the IV-agency, prosecuting attorneys, and court. It should be noted, however, that when there is a IV-D attorney or state representative participating in the civil contempt proceeding, even the procedural safeguards identified in the *Turner* case may not be sufficient to satisfy due process requirements in all cases.

Using *Turner* as a guidepost may be useful, however, as states review their civil contempt procedures. OCSE strongly recommends that IV-D agencies consult their attorneys concerning their existing practices, including notices, in light of the *Turner* decision. States should consider whether the procedures employed in the state's contempt practice are fundamentally fair, and whether additional procedural safeguards should be implemented to reduce the risk of erroneous decision making with respect to the key question in the contempt proceeding, the noncustodial parent's ability to pay.

This guidance identifies minimum procedures that IV-D programs should consider in bringing child support civil contempt actions that can lead to incarceration. At the same time, this guidance is not intended to prohibit the *appropriate* use of contempt. The issue is not the use of contempt procedures *per se*, but contempt orders that do not reflect the true circumstances of the noncustodial parent, and if not satisfied, can lead to jail time. Some states routinely use show cause or contempt proceedings to elicit information from the noncustodial parent, and jail is not a typical outcome. Other states have redirected their enforcement resources away from civil contempt to practices that encourage voluntary compliance with child support orders, such as setting realistic orders through early intervention programs when the noncustodial parent falls behind.⁷ Civil contempt proceedings may also be used to direct certain actions by the obligor, such as obtaining or maintaining employment or participating in job search or other work activities. Due process protections, where incarceration is not a possibility, may be quite different depending upon individual case circumstances.

III. Distinguishing Between Civil and Criminal Contempt

Contempt is commonly understood as conduct that intentionally defies a court order, and which may be punishable by a fine or incarceration. The Supreme Court recognized a distinction between civil contempt and criminal contempt, which have different purposes and require different constitutional protections. Criminal contempt is punitive in nature, designed to punish a party for disobeying a court order. Defendants in criminal contempt cases are entitled to the protections of the Sixth and Fourteenth Amendments, including the right to counsel.

A civil contempt proceeding, on the other hand, is remedial and is designed to bring about compliance with the court order – “to coerc[e] the defendant to do’ what a court had previously ordered him to do.”⁸ Incarceration for civil contempt is conditional, and thus any sentence must include a purge clause under which the contemnor would be released upon compliance. As noted in *Turner*, under established Supreme Court principles, “[a] court may not impose punishment in a civil contempt proceeding when it is clearly established that the alleged contemnor is unable to comply with the terms of the order.”⁹ Because once the civil contempt is purged the contemnor is free to go, it is often said that the contemnor “carr[ies] the keys of [his] prison in [his] own pockets.”¹⁰

In the child support context, it is conceivable that either proceeding may be warranted, but ability to pay commonly “marks a dividing line between civil and criminal contempt.”¹¹ A finding of civil contempt for failure to pay support typically requires that an obligor has been subject to a support order, was able to comply with

the order, and failed to do so. Although state statutes vary in setting forth the elements of civil contempt, many civil contempt statutes require that the underlying order was willfully, or intentionally, violated. The *Turner* Court also suggested that an express finding that the obligor has the actual and present ability to comply with the court's purge order may be required prior to sentencing the contemnor. In other words, the obligor "must hold the key to the jailhouse door," whether it is satisfying a purge payment, participating in an employment or substance abuse treatment program, or other required actions.

IV. Using Civil Contempt in Child Support Cases in Which Ability to Pay is at Issue

A. Screening Cases Before Referring or Initiating Civil Contempt Proceedings that Can Lead to Incarceration

Turner highlights the importance of carefully screening cases prior to initiating contempt proceedings. Child support agencies should re-examine state and local policies and practices regarding civil contempt to ensure that obligors are afforded sufficient due process protections and that initiation of civil contempt proceedings is appropriate. This includes an assessment of the screening mechanism used by child support agencies before referring a case for prosecution or initiating or filing a request for an order to show cause or other contempt action that can lead to incarceration. Whether or not the state provides appointed counsel in civil contempt proceedings, effective screening to identify appropriate contempt actions will save child support program costs, preserve scarce judicial resources, avoid unnecessary court hearings, and avoid the risk of constitutional violations.

All IV-D programs are urged to screen cases before referring, initiating, or litigating any civil contempt action for non-payment of support that could lead to incarceration, regardless of the role of the IV-D program in the court action. Generally, a "show cause" or other contempt action should only be initiated in these cases where there is evidence of the noncustodial parent's ability to comply with the underlying child support order and evidence that there is actual and present ability to pay the purge amount ordered.

Agency screening procedures should include the following elements:

- (1) cases should be individually reviewed;
- (2) the individual review should include an assessment as to whether there is sufficient evidence of the obligor's ability to pay the underlying child support order at the time a payment was due and the obligor's actual and present ability to comply with the requested remedy in a civil contempt proceeding, i.e., pay the purge order amount, or participate in an employment program, or other required activities.

1. Cases Should Be Individually Reviewed

IV-D agencies are encouraged to consider the obligor's individual circumstances. Therefore, a screening process, whether automated or manual, that identifies a case for contempt proceedings based solely upon the obligor's failure to pay (e.g. a threshold amount or period of arrears) may often result in the state's inability to show willfulness. State laws may vary as to whether it is the obligor's primary burden to "show cause" why he or she should not be held in contempt, or whether the state must first present a *prima facie* ("on its face") case sufficient to warrant a finding of contempt. While states may use automation to identify such obligors who are *potentially* eligible for a civil contempt case, wherever possible the IV-D agency should also make an inquiry into the actual and present circumstances of the individual obligor before initiating contempt.

2. The Individual Review Should Examine Actual and Present Ability to Comply

The child support agencies should only pursue a civil contempt action leading to incarceration when there is: 1) *prima facie* evidence, or a good-faith basis to believe, that the obligor willfully violated the underlying child support order, i.e. the obligor had the ability to pay the order, but did not do so; and 2) the obligor has an actual and present ability to comply with the purge order. The purge amount may be the full amount of child support arrears, or a lesser amount, or a schedule of payments the noncustodial parent is required to make in order to pay the full amount of arrears. The fact that there are overdue payments on an existing support order should not, standing alone, usually be considered sufficient to result in an order of incarceration. Screening for actual and present ability to pay is especially important when the underlying support order amount is based on imputed income.

To the extent possible, the screening should be based upon current data or information. For example, IV-D programs could use data from the National Directory of New Hires or the State Directory of New Hires to ascertain whether the individual has any record of employment and income and Financial Institution Data Match (FIDM) information to ascertain whether the individual has available funds in any accounts in a financial institution (other than SSI or other needs-based income). Additionally, custodial parents may provide information on income or assets or circumstantial evidence of the obligor's income and assets may be available from other sources.

If the screening process reveals that the obligor does not have an appropriate support order based upon the obligor's ability to pay, the IV-D agency should conduct a review and adjustment of the order or provide information to the obligor about requesting review and adjustment upon proper notice to the parties.

B. Notice Should Be Provided to the Obligor that "Ability to Pay" is a Critical Issue in the Contempt Proceeding

The four criteria identified in the *Turner* case, though not necessarily sufficient to satisfy due process requirements where the custodial parent is represented or the state IV-D agency is involved in the case, provide insight into minimal due process protections that should be observed. The four criteria, taken together, may be sufficient in most circumstances, but states may also have additional or other protections that guarantee due process. States may use the *Turner* decision as a guide in determining the appropriate procedural safeguards necessary in IV-D civil contempt hearings. At a minimum, states should provide the noncustodial parent with specific notice about the hearing.

Notice that is sufficient to inform the obligor of the critical nature of the proceedings is the essential first criterion to assure due process. In *Turner*, the Supreme Court indicated that noncustodial parents charged with civil contempt must be given written notice that ability to pay will be a critical issue in the contempt proceeding. A IV-D agency should include this notice provision in its contempt process, for example, a statement that the court will consider evidence of inability to pay. Such a notice typically also includes an order to appear at a specific date, the amount of the claimed arrears, the dates during which the arrears accrued, and notice that a finding that the obligor willfully failed to pay support may lead to incarceration. The exact language should be clear, simple, and concise. Because this notice should be designed for obligors without legal representation, the notice should be written plainly and not use complicated legal language.

When providing the required notice, IV-D agencies may want to use this opportunity to provide information to, or elicit additional information from, the person charged with contempt. For example, they may enclose forms designed to obtain current financial information, and to inform the obligor that he should bring specific information to the civil contempt hearing or that he may have an opportunity to submit financial information in advance of the hearing. IV-D agencies may want to consider implementing a face-to-face meeting or conference with the obligor in advance of scheduling a contempt hearing. Additionally, IV-D agencies may wish to provide information about legal resources available to the noncustodial parent, such as self-help centers, legal services programs or pro bono attorneys, or legal representation projects that provide assistance to noncustodial parents in child support matters.

Some child support agencies may be required to use a contempt notice approved by the court, including a standardized Order to Show Cause notice applicable to all types of cases, not just child support cases or matters where ability to pay is at issue. In these situations, the IV-D agency could lend its expertise in developing new forms specifically for child support civil contempt cases or assist in developing an addendum with specific notice provisions applicable to child support contempt proceedings that can be attached to the notice. For example, following the *Turner* decision, a number of child support agencies have worked closely with their judiciary or with their state or local Access to Justice Commissions to develop new notice materials and other appropriate procedural safeguards for unrepresented litigants.¹²

Turner did not address the questions of whether notice of the proceedings should be provided to custodial parents or whether they should have an opportunity to participate in such proceedings. State practices vary on the level and type of notice provided to custodial parents (who are frequently not a party to the proceeding). Nevertheless, states may wish to inform custodial parents of the civil contempt proceeding. For example, the custodial parent may have information on the noncustodial parent's ability to pay. Some local IV-D offices have had success in routinely involving both parents in an informal conference early in the case and thereafter.

C. Judicial Procedures Should Provide an Opportunity to Be Heard on the Issue of Ability to Pay and Result in Express Court Findings

The remaining three procedural safeguards — eliciting financial information on ability to pay, providing the noncustodial parent an opportunity to be heard, and requiring express court findings about the noncustodial parent's ability to pay the purge amount — fall within the responsibility of the court in conducting a hearing in a child support civil contempt case. (States with administrative hearings may not have the capability to order incarceration, and do not routinely rely on civil contempt proceedings to enforce child support.) Additional or alternative procedures may be constitutionally required where one side is represented, where the case involves state debt, or where the case is unusually complex in order to ensure a fundamentally fair process.

To expedite these proceedings, it may be useful for the state agency to provide the obligor with a form, or the equivalent, that can be used to elicit relevant financial information. The purpose of this form is to assist the judicial officer in obtaining necessary information to make a determination about the noncustodial parent's actual and present ability to pay a purge amount, or possibly order other measures, such as participation in a work or substance abuse program, to avoid incarceration.

Providing a form is a relatively easy and efficient method of collecting information that can complement automated data available to the child support program. Although *Turner* did not state what might be required in the form, child support agencies are in a unique position to assist the judiciary in identifying the type of information that is most useful, readily obtained and relevant in the child support context. Courts are accustomed to eliciting information on financial status for purposes of determining whether a party is eligible for

court fees to be waived or for appointed counsel, but this inquiry may not be as extensive, or appropriately tailored to assist the court in determining whether the obligor willfully failed to pay the underlying support order and the obligor's ability to pay the purge amount. A form may include, for example, questions about the noncustodial parent's expenses, employment information and specific questions about current income and assets. If the IV-D program uses forms in the civil contempt screening process, this information may be admissible at the contempt hearing. The form should be clear and easy for unrepresented obligors to understand and respond to.

In addition, basic due process requires that the alleged contemnor be provided an opportunity at the contempt hearing to respond to statements and questions about his or her financial status (e.g., those triggered by his/her responses on the form declaring financial assets). Having an opportunity to be heard is a foundation of due process. The civil contempt hearing should present an opportunity to fully develop a record. Research finds that noncustodial parents are more likely to comply with child support obligations when they perceive that the proceedings have been fair, they have been able to explain their circumstances and to be heard, and they have been treated respectfully.¹³ In light of *Turner*, at the conclusion of the hearing, the court should make an express finding that the noncustodial parent has the ability to pay the purge amount ordered. To best serve families, courts should consider requiring that this finding be written and tailored to the facts of the individual case before the court. A determination that the noncustodial parent has the actual and present ability to pay or otherwise comply with the purge order should be based upon the individual circumstances of the obligor. Thus, in calculating a purge amount, states are discouraged from setting standardized purge amounts — such as a fixed dollar amount, a fixed percentage of arrears, or a fixed number of monthly payments — unrelated to actual, individual ability to pay. A purge amount that the noncustodial parent is ordered to pay in order to avoid incarceration should take into consideration the actual earnings and income as well as the subsistence needs of the noncustodial parent. In addition, purge amounts should be based upon a written evidentiary finding that the noncustodial parent has the actual means to pay the amount from his or her current income or assets.

In some cases, the result of the contempt review may be a determination by the IV-D agency that the underlying order was inappropriately established or is no longer justifiable. If the noncustodial parent fails to respond to a support petition, some states have a practice of imputing income, which may not result in a support order based upon ability to pay and, ultimately, may not be effective in collecting child support. Research shows that support orders based on imputed income often go unpaid because they are set beyond the ability of parents to pay them. For example, research consistently shows that orders set above 15 to 20 percent of a noncustodial parent's income results in lower compliance than more accurate orders that are based upon actual ability to pay.¹⁴ There also is evidence that when orders are set too high, even partial compliance drops off.¹⁵ The result is high uncollectible arrears balances that can provide a disincentive for obligors to maintain employment in the regular economy. Inaccurate support orders also can help fuel resentment toward the child support system and a sense of injustice that can decrease willingness to comply with the law.¹⁶ The research supports the conclusion that accurate support orders that reflect a noncustodial parent's actual income are more likely to result in compliance with the order, make child support a more reliable source of income for children, and reduce uncollectible child support arrearages.¹⁷

V. Using Civil Contempt in Child Support Cases in Which Ability to Comply is at Issue

Some states or localities use the threat of contempt sanctions to direct noncustodial parents to participate in programs or activities that will improve their ability to reliably support their children, such as requiring participation in workforce programs, fatherhood programs, or substance abuse treatment programs. Research indicates that these kinds of programs and services can be successful in increasing child support payment and sustaining those increases for years.¹⁸ In this context, the use of contempt proceedings may be a procedural mechanism to order a noncustodial parent to participate in programs or take advantage of other services as an alternative to incarceration.

These are also considered to be civil contempt actions because the obligor has the ability to comply with the contempt order (e.g. the ability to participate in a "jobs not jail" program or services offered by a problem-solving court), and thus "holds the key to the jailhouse door." In this context, ability to comply with the order may depend upon access to services (e.g. transportation, scheduling) or screening for any relevant disabilities.

More information on programs and services as an alternative to incarceration in civil contempt proceedings is provided in separate policy guidance.¹⁹ These practices also include setting accurate orders based upon the noncustodial parent's actual ability to pay support, improving review and adjustment processes, developing debt management programs, and encouraging mediation and case conferencing to resolve child support issues. For example, establishing child support orders based on parents' ability to comply results in higher compliance and increased parental contact and communication with the child support agency. When parents are involved in setting orders and those orders are based on accurate information, they are more likely to avoid default orders and arrears, and thus less likely to be involved in civil contempt cases. Effective review and adjustment or modification of orders is also an important step in ensuring that noncustodial parents continue to comply with

accurate orders based on actual ability to pay them.²⁰ Alternative dispute resolution, debt management, employment programs, and self-help resources²¹ may also avoid the unnecessary build up of arrears and civil contempt actions.

Civil contempt that leads to incarceration is not, nor should it be, standard or routine child support practice. By implementing procedures to individually screen cases prior to initiating a civil contempt case and providing appropriate notice to alleged contemnors concerning the nature and purpose of the proceeding, child support programs will help ensure that inappropriate civil contempt cases will not be brought. By using *Turner* as a guidepost and urging the adoption of, at least, minimum safeguards in all such proceedings, this AT builds upon the innovations already incorporated into many child support programs over the past decade to limit the need for and use of civil contempt.

EFFECTIVE DATE: This action transmittal is effective immediately.

INQUIRIES: Please contact your ACF/OCSE Regional Program Manager if you have any questions.

Sincerely,

Vicki Turetsky
Commissioner
Office of Child Support Enforcement

Endnotes

¹ *Turner v. Rogers*, 564 U.S. ___, 131 S. Ct. 2507 (2011).

² Due process refers to the conduct of legal proceedings and the rules established to protect the rights of individuals, including notice and the right to a fair hearing.

³ *Turner*, 131 S. Ct. at 2512.

⁴ *Turner*, 131 S. Ct. at 2512. See S.C. Rule Family Ct. 24 (2011). This method of automatic judicial procedure appears to be unique among states.

⁵ See 42 USC 466(a)(a)A – state tax refund; 42 USC 466(a)(6) – requirement for noncustodial parent to post bond/security for payment; 42 USC 466(a)(7) – credit bureau reporting; 42 USC 466(a)(8)(B)(iv) – IWO; 42 USC 466(a)(14)(A)(ii)(II)(bb) – AEI; 42 USC 466(c) – Expedited Procedures; 45 CFR 303.5(g)(2)(iii) – Paternity establishment; 45 CFR 303.100(a)(6) – IWO; 45 CFR 303.101(c)(2) – Expedited Processes under 466(a)(2) and (c); 45 CFR 303.104(b) – Procedures for noncustodial parent posting bond/security.

⁶ Karen Gardiner, *Administrative and Judicial Processes for Establishing Child Support Orders*, Lewin Group, 2002.

⁷ See “Establishing Realistic Child Support Orders: Engaging Noncustodial Parents” OCSE fact sheet, available at http://www.acf.hhs.gov/programs/cse/pubs/factsheets/paid/establishing_realistic_child_support_orders.pdf.

⁸ *Turner*, 131 S. Ct. at 2516 (citing *Gompers v. Bucks Stove and Range Co.*, 221 US 418, 442 (1911)).

⁹ *Turner*, 131 S. Ct. at 2516 (quoting *Hicks v. Feiock*, 485 U. S. 624, 638, n. 9)

¹⁰ *Turner*, 131 S. Ct. at 2516 (quoting *Hicks v. Feiock*, 485 U. S. 624 at 633).

¹¹ *Turner*, 131 S. Ct. at 2518, (quoting *Hicks v. Feiock*, 485 US 624, 635, n.7 (1988)).

¹² See

http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/

¹³ Maureen Waller and Robert Plotnick, *Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research Journal of Policy Analysis and Management*, Vol. 20, No. 1, Winter, 2001; I-Fen Lin, *Perceived Fairness and Compliance with Child Support Obligations*, Institute for Research on Poverty, Discussion Paper no. 1150-97, 1997 (based on a sample of divorced parents in 1986 and 1988).

¹⁴ Carl Formoso, *Determining the Composition and Collectability of Child Support Arrearages*. WA: Washington Department of Social and Health Services, Division of Child Support (2003); Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* CA, Orange County Child Support Services (2011); U.S. Department of Health and Human Services. Office of Inspector General. *The Establishment of Child*

Support Orders for Low Income Non-custodial Parents, Washington, D.C.: U.S. Department of Health and Human Services. OEI-05-99-00390 (2000).

¹⁵ Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* CA, Orange County Child Support Services (2011).

¹⁶ Christy Visser and Shannon Courtney, *Cleveland Prisoners' Experience Returning Home*, Urban Institute, 2006, available at http://www.urban.org/UploadedPDF/311359_cleveland_prisoners.pdf; Maureen Waller and Robert Plotnick, *Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research* *Journal of Policy Analysis and Management*, Vol. 20, No. 1, Winter, 2001.

¹⁷ For further information, see the report, *The Story Behind the Numbers: Understanding and Managing Child Support Debt*, OCSE Study (2008), available at: <http://www.acf.hhs.gov/programs/cse/pol/IM/2008/im-08-05a.pdf>.

¹⁸ See, for example, Irma Perez-Johnson, Jacqueline Kauff, and Alan Hershey. 2003. *Giving Noncustodial Parents Options: Employment and Child Support Outcomes of the SHARE program*. NJ: Mathematica Policy Research (October). Irene Luckey and Lisa Potts. "Alternative to Incarceration for Low-Income Non-custodial Parents." *Child and Family Social Work*. (March) 2010: 1-11. Susan Gunsch. *PRIDE: Parental Responsibility Initiative for the Development of Employment*. Presented at Client Success Through Partnership: 2010 State TANF and Workforce Meeting. Dallas, Texas. July 2010. Pearson, Jessica, Lanae Davis, and Jane Venohr. 2011. *Parents to Work!* CO: Center for Policy Research (February). Daniel Richard and John Clark. "NEON program marks \$10 million Milestone." *Child Support Report* 33:5 (May) 2011.

¹⁹ These innovations are discussed further in an Information Memorandum on alternatives to incarceration, available at <http://www.acf.hhs.gov/programs/cse/pol/IM/2012/im-12-01.htm>.

²⁰ See "Providing Expedited Review and Modification Assistance" OCSE fact sheet, available at http://www.acf.hhs.gov/programs/cse/pubs/factsheets/paid/providing_expedited_review_and_modification.pdf.

²¹ See "Access to Justice Innovations" OCSE fact sheet, available at http://www.acf.hhs.gov/programs/cse/pubs/factsheets/paid/access_to_justice_innovations.pdf.

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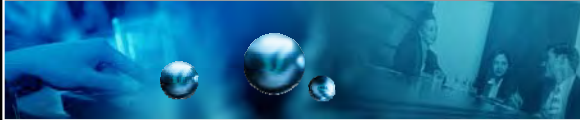
TAB J


Court Clerks' Training—Fundamentals

**Ms. Heather Barajas, Ms. Tomieanna
Campros, Ms. Kathryn Whitney, &
Mr. Michael L Wright**

AB1058 Annual Conference

2012: Court Clerk Fundamentals





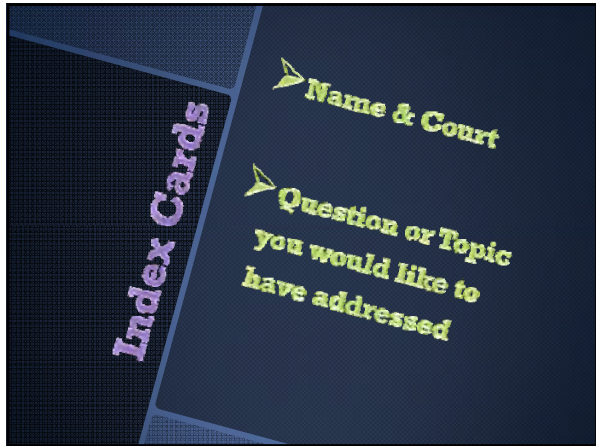
**ADMINISTRATIVE OFFICE
OF THE COURTS**
EDUCATION DIVISION/CENTER FOR
JUDICIAL EDUCATION AND RESEARCH

•Your Instructors

<ul style="list-style-type: none"> • 12 years with Calaveras Superior Court • 10 years with AB1058 • Court Clerk III • Civil/Family Law/Probate/Child Support • kwhitney@calaveras.courts.ca.gov <p>Kathryn Whitney</p> 	<ul style="list-style-type: none"> • 3 years with Yuba County Superior Court • 3 years with AB1058 • Court Clerk II • Family Law & Self-Help/Child Support/Child Custody Mediation • hbarajas@yubacourts.org <p>Heather Barajas</p> 	<ul style="list-style-type: none"> • 15 years with Kern County Superior Court • CCTI Instructor – 1st yr AB1058 • Assistant Court Supervisor • Civil/Family Law/ Child Support • tomieanna.campros@kern.courts.ca.gov <p>Tomieanna Campros</p> 
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Introduction & Overview

- ✓ Please turn off cell phones 
- ✓  Breaks & lunch
- ✓ Code direction, not individual courts 
- ✓  Network on breaks & lunches!
- ✓ Class attendance; leaving early 





LEGAL INFORMATION VS. LEGAL ADVICE


Judicial Council form MC-800

Keep a copy handy!
Note: AOC provided larger copies to post
– know where they are posted!

"WE ARE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE MUST BE FAIR TO EVERYONE."

JUDICIAL COUNCIL FORMS

Mandatory	Optional
<ul style="list-style-type: none"> • Form is mandatory and must be used– cannot use pleading paper • Will state Adopted for mandatory use • Clerk can reject for filing • LCSA's have six months to convert to new forms 	<ul style="list-style-type: none"> • Forms not mandatory – may state the following: <ul style="list-style-type: none"> ➢ Adopted for alternative mandatory use ➢ Approved for optional use



RESOURCE ACTIVITY

- Each table has an index card with the name of a document
- Find the document in the manual
- Write down:
 - Page Number where found
 - Form Number
 - Revision Date
 - If the form is Mandatory or Optional

RESOURCE ACTIVITY

DOCUMENT	PAGE	FORM #	REVISION DATE	MANDATORY OR OPTIONAL
CHILD SUPPORT REGISTRY	380	FL-191	7/1/2005	Mandatory
DEFAULT TIME LINE TABLE	48	N/A	N/A	N/A
NOM & DECLARATION FOR JOINDER NOM TO SET ASIDE JUDGMENT OF PATERNITY	95	FL-661	1/1/2003	Optional
NOTICE OF INTENT TO TAKE INDEPENDENT ACTION	342	FL-272	1/1/2006	Mandatory
NOTICE OF OBJECTION	132	FL-645	1/1/2003	Mandatory
OSC RE CONTEMPT	269	FL-665	1/1/2011	Optional
REQUEST FOR DISMISSAL	389	FL-410	1/1/2003	Mandatory
REQUEST FOR HEARING RE REGISTRATION STIP & ORDER WAIVING UNASSIGNED ARREARS	297	FL-618	1/1/2010	Mandatory
	199	FL-575	1/1/2007	Mandatory
	234	FL-615	1/1/2011	Optional

**•SUMMONS & COMPLAINT
(aka Sumplaint - FL-600)
Page 26**

- Filed by governmental agency
- Court address
- Parties
- Items 1 – 13 as applicable
- Signed by LCSA attorney, not clerk
- **PROPOSED** judgment (FL-630)is attached (box 1A checked)

****NOTE****

- This form may be used for original, amended or supplemental complaint.
- 1st amended complaint may be filed without leave of the court prior to answer being filed.

**•DECLARATION FOR AMENDED
PROPOSED JUDGMENT - FL-616
(page 38)**

- Filed by governmental agency
- Court address
- Parties
- POS
- **AMENDED PROPOSED** judgment is attached (box 1A checked)

****NOTE****

- This form is used **ONLY** when the LCSA has received (within 30 days of POS of S/C) additional income information that changes the financial request of the judgment, supplemental complaint.
- POS - Defendant's time to answer is extended by 30 days if served in person, and 35 days if served by mail, from the date of service of the Declaration for Amended Proposed Judgment
- Other parent may be served by mail. Defendant may be served by mail **ONLY** if service of the original S/C was by personal service.

•PROOF OF SERVICE

- Proof of Service is no different in AB1058 cases than any other types of cases.
- POS is found in CCP 415.10, etc.
- Service of S/C may be by personal service; certified mail with a returned, signed Notice and Acknowledgment of Receipt; substitute service with follow-up mail service; or by publication.
- You may want to keep a copy of the SERVICE OF PROCESS TABLE easily accessible.

****INTERESTING NOTE****

- If service by certified mail & NAR, per CCP 415.30(d)
"If the person to whom a copy of the summons and of the complaint are mailed pursuant to this section fails to complete and return the acknowledgement form set forth in subdivision (b) within 20 days from the date of such mailing, the party to whom the summons was mailed shall be liable for reasonable expenses thereafter incurred in serving or attempting to serve the party by another method permitted by this chapter, and, except for good cause shown, the court in which the action is pending, upon motion, with or without notice, shall award the party such expenses whether or not he is otherwise entitled to recover his costs in the action"

SERVICE OF PROCESS TABLE		
METHODS OF SERVICE	SERVICE REQUIREMENTS	SERVICE DEEMED COMPLETED
Personal Service CCP 415.10	Personally delivered to respondent	Immediately upon delivery
Substituted Service CCP 415.20(B) Requires a due diligence declaration showing attempt(s) of personal service	Delivery to a competent adult (over 18) apparently in charge at the respondent's home, usual place of abode, business or mailing address (not a PO Box), who must be told of the contents delivered AND a copy must be mailed to respondent at same address	10 th day after the date of mailing
Service by Mail CCP 415.30 Notice and Acknowledgment of Receipt: Sender must complete date of mailing, sign and indicate what documents are being sent.	Respondent must sign and date the Notice and Acknowledgment of Receipt; the original is returned to the court attached to the Proof of Service	The date the Notice and Acknowledgment is signed by the Respondent
Service by Mail CCP 415.40 Certified mail outside of California only	Delivery to respondent by certified mail, return receipt signed and dated by respondent; attached to Proof of Service prior to filing with the court; declaration of service by mail will also be completed	10 th day after date of mailing
Service by Publication CCP 415.50 Available where other party cannot be service by any reasonable method with due diligence	Application and order for publication of summons must be submitted to the court. Upon proper review, the court can order summons published in newspaper most likely to give actual notice	28 th day after the first day of publication Government Code 6064

RESOURCE ACTIVITY

Complete

TYPE OF SERVICE

- Personal
- Substituted Service
- Notice & Acknowledgement
- Certified Mail
- Publication

When Deemed Complete

- _____
- _____ day after date of _____
- _____ day _____
- _____ day after date of _____
- _____ day after date of _____

PROOF OF SERVICE (when deemed complete)

TYPE OF SERVICE	WHEN POS DEEMED COMPLETE
• Personal	• Immediately upon delivery
• Substituted Service	• 10th day after date of mailing
• Notice & Acknowledgement	• Day NAR signed by Respondent
• Certified Mail	• 10th day after date of mailing
• Publication	• 28th day after 1st date of publication

What if person refuses service? Or tosses documents on ground?
Is POS valid?

•REQUEST FOR DEFAULT

- Check to be sure that POS is sufficient as to defendant. If the time has not expired for defendant to file answer, check with your court to see if you should hold the document, file in but not enter default, or return to LCSA without filing along with a note of explanation.
- The Declaration for Default or Uncontested Judgment (FL-616) is Adopted for Mandatory Use – however, courts may choose to not use it.

****NOTE****

May not be entered if any of the following documents have been filed and the motions pending:

- Answer
- Denial
- Motion to Dismiss
- Demurrer and/or Motion to Strike
- Motion to Quash
- Motion to Stay Proceedings
- Motion to Transfer

RESOURCE ACTIVITY

Complete

TYPE OF SERVICE

- Personal
- Substituted Service
- Notice & Acknowledgement
- Certified Mail
- Publication

When Default May Be Entered

- _____ day after date of _____
- _____ day _____
- _____ day after date of _____
- _____ day after date of _____

Default Timeline Table (when default may be entered)

TYPE OF SERVICE	WHEN POS DEEMED COMPLETE
• Personal	• 31st day after date of service
• Substituted Service	• 41st day after date of mailing
• Notice & Acknowledgement	• 31st day after NAR signed
• Certified Mail	• 41st day after date of mailing
• Publication	• 59th day after 1st date of publication

•JUDGMENT FL-630 (Page 79)

- Filed by governmental agency
- Court address
- Parties
- POS
- Judgment (now box 1B is checked)

****NOTE****

- The clerk is no longer responsible for processing, filing or serving the Notice of Entry of Judgment.



MINUTE ORDERS

Minutes are to be maintained by the clerk as part of the permanent record of the court [GC§69844] - it is the official record of the Court's proceedings, required by law, showing who was present at the hearing and what happened, as well as what findings and orders the court made.

IMPORTANT INFO/TIPS

- > Use Complete Sentences.
- > Present tense vs. Past tense
- > Better to say too much than too little
- > About the chronological record of events...
- > No abbreviations
- > Keep in mind who your audience is for your minutes!

An Exercise in Listening



Communicating



“The greatest problem in communication is the illusion that it has been accomplished.”

Daniel W. Davenport,
Communication Expert

“Hey”

That’s not fair!!

Watch out – be careful!!

I thought of a good idea.

Be careful – you’re pushing it.

My, you’re attractive.



Exhibits

Once introduced, marked for identification only, or received/admitted into evidence, the exhibit becomes the sole responsibility of the clerk. (PC §1417.) The clerk must not release any exhibit except on order of the court. The clerk must require a signed receipt for a released exhibit [CRC 2.400(c)(1)]

IMPORTANT INFO/TIPS

- Before a document is presented to a witness or referred to, it should be "marked for identification".
- Mark/tag the exhibit according to local procedures.
- Do not cover printed portion of documents.
- The minute order must include:
 - that the exhibit was marked
 - if it was received into evidence
 - the number/letter assigned to it
 - a brief description of the exhibit
 - if the exhibit was returned to the submitting parties during the hearing.
- Understanding when to give the exhibit to the Judge!

SWEARING IN THE PARTIES

OATH TO WITNESS

DO YOU SOLEMNLY STATE UNDER PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE IN THIS ISSUE OR MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

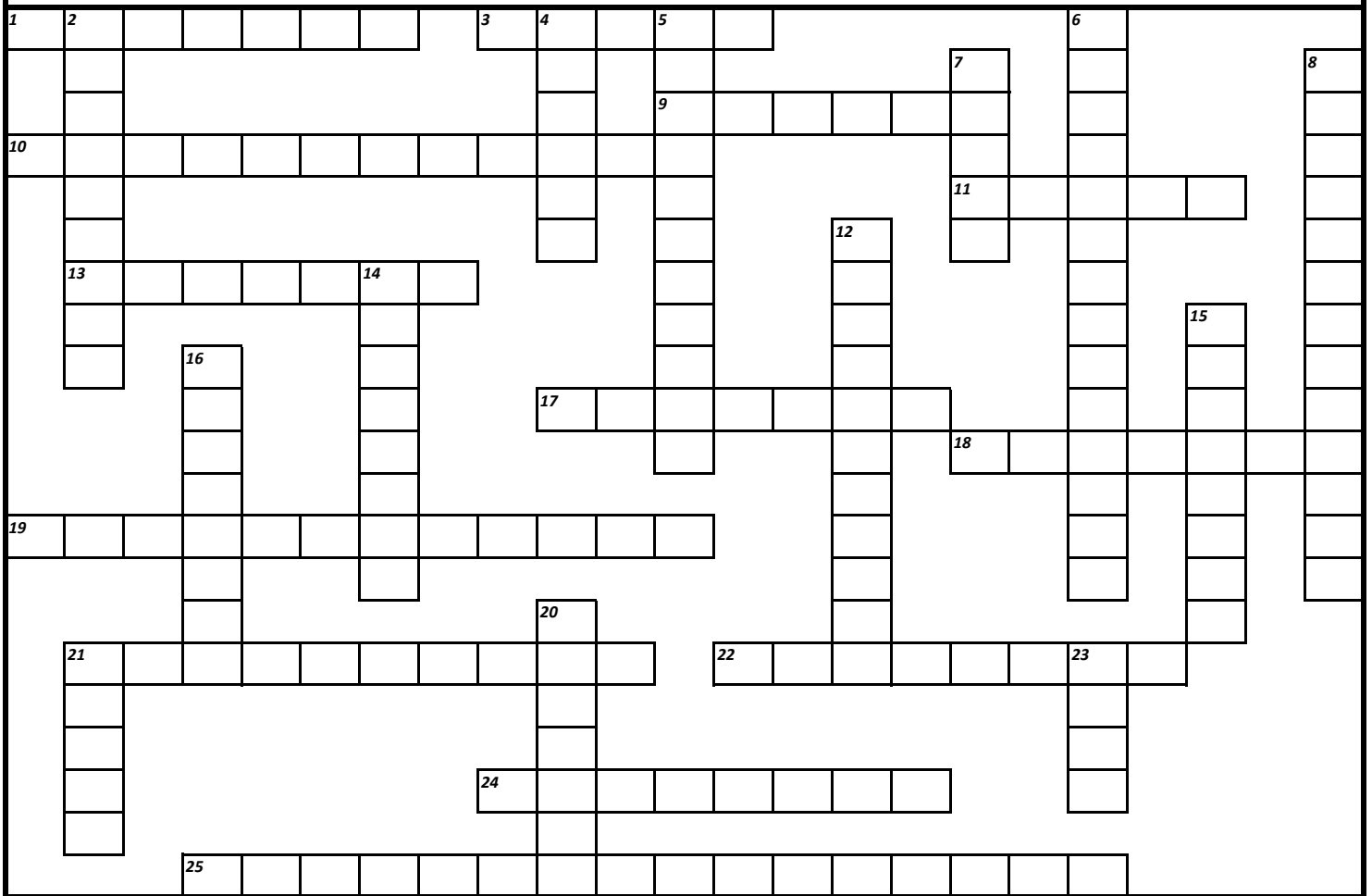
PLEASE BE SEATED, STATE YOUR FULL NAME, AND SPELL YOUR LAST NAME FOR THE RECORD. [CCP §2094(2)]

OATH TO HEARING IMPAIRED INTERPRETER

DO YOU SOLEMNLY STATE UNDER PENALTY OF PERJURY, THAT YOU WILL WILL AND TRULY INTERPRET THE SPOKEN LANGUAGE INTO THE SIGN LANGUAGE, AND THE SIGN LANGUAGE INTO THE SPOKEN LANGUAGE, IN THE CASE NOW PENDING BEFORE THIS COURT?

[EVID §751(a)]

AB1058 Training
September 5 - 7, 2012
San Jose, California



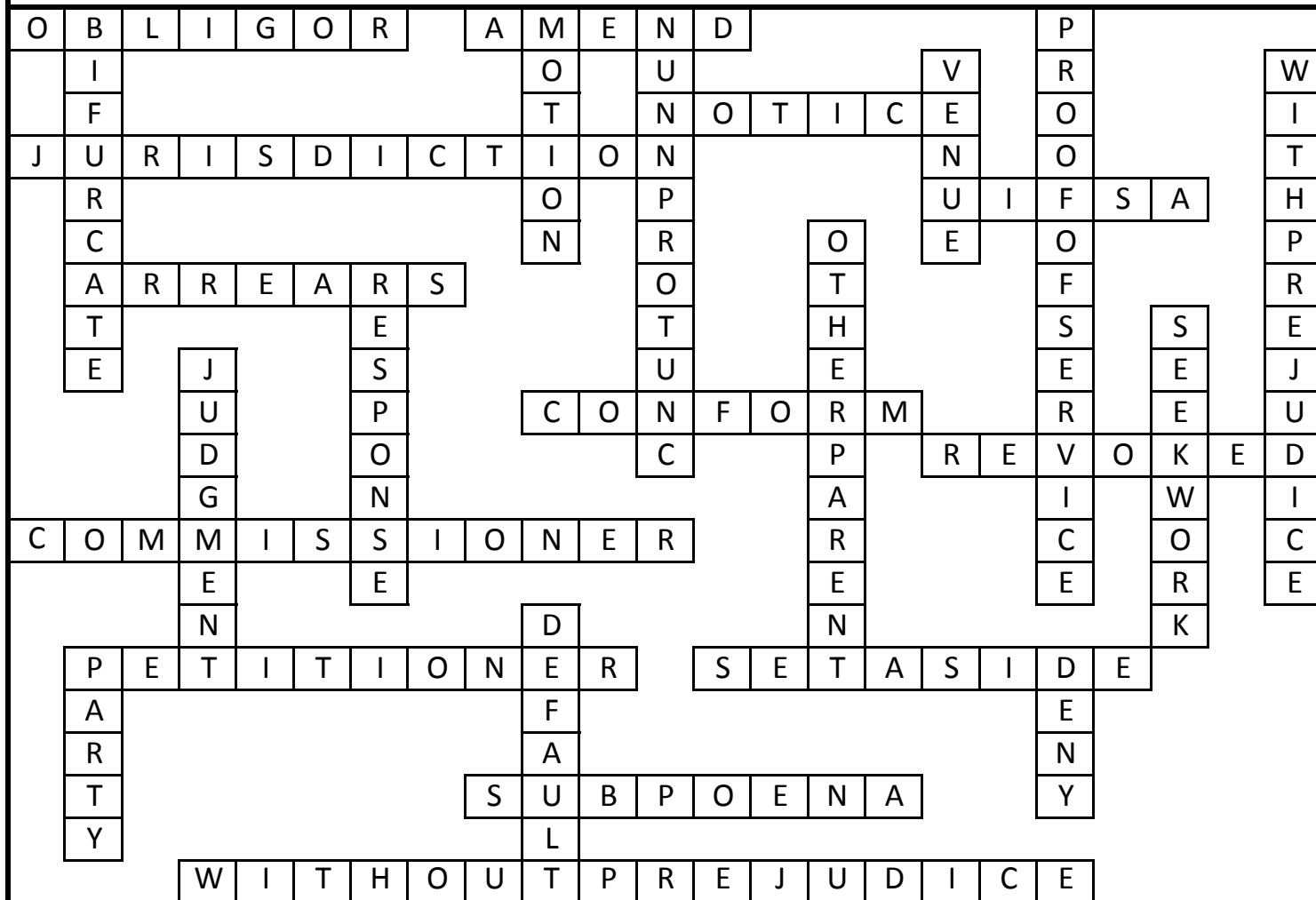
ACROSS

- 1) Person to whom someone else is obligated under a contract
- 3) To change or revise
- 9) Information intended to apprise a person of a proceeding
- 10) The authority of a particular court to hear and decide action
- 11) Uniform Interstate Family Support Act
- 13) Money which is overdue and unpaid
- 17) To make copies resemble the original document; to endorse file copies of an original document
- 18) Annulled, rescinded, or recalled
- 19) Officer who is charges with administration of the laws relating
- 21) One who presents a petition to a court
- 22) To reverse, vacate, cancel, annul or revoke a judgment, order, etc.
- 24) A writ commanding the appearance of a witness or party in court under a penalty in case of disobedience
- 25) When a case is dismissed but the plaintiff is allowed to bring a new suit on the same claim

DOWN

- 2) To divide into two parts or branches
- 4) An application, written or oral, to the court, by parties or counsel for a ruling or order
- 5) Latin phrase which means "then for now"
- 6) Evidence submitted that service has been completed
- 7) Power of particular court to function
- 8) When a case is dismissed for good reason & the plaintiff is barred from bringing an action on the same claim
- 12) Designation given to custodial parent once they have become a party to the action
- 14) Formal written statement setting form grounds of defense
- 15) Endeavor to obtain employment
- 16) Official decision of court upon respective rights and claims
- 20) The omission or failure to perform a legal or contractually duty
- 21) Individual by or against whom a legal suit is brought
- 23) To refuse to grant a petition or protest

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**AB1058 Annual Training Conference
9-6-2012, San Jose Marriott, Word Search**

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Abstract

Arrears

Child Support

Claim

Commissioner

Contempt

DCSS

Declaration

Default

Denial

Exemption

Family Support

Foreign Support Order

Genetic Testing

Government

Guideline

Health Insurance

Income and Expense

Joinder

Judgment

Notice of Motion

Oath

OEX

Order

Order to Show Cause

Payment

POP Declaration

Proof of Service

Registration

Response

Seek Work

Set Aside

Stipulation

Supplemental

UIFSA

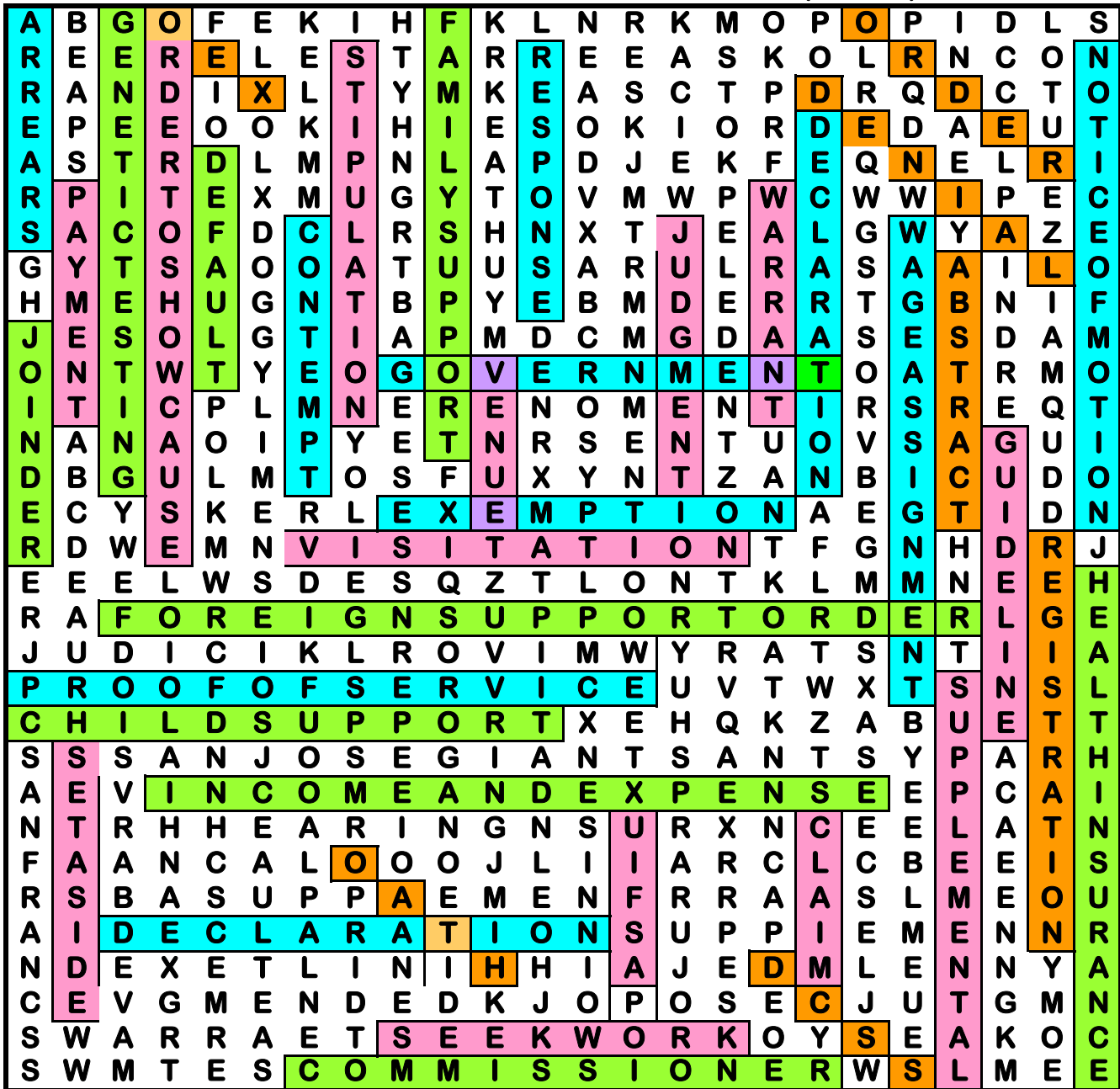
Venue

Visitation

Wage Assignment

Warrant

AB1058 Annual Training Conference
9-6-2012, San Jose Marriott, Word Search (Master)



Abstract
Arrears
Child Support
Claim
Commissioner
Contempt
DCSS
Declaration
Default
Denial
Exemption
Family Support
Foreign Support Order

Genetic Testing
Government
Guideline
Health Insurance
Income and Expense
Joinder
Judgment
Notice of Motion
Oath
OEX
Order
Order to Show Cause
Payment

POP Declaration
Proof of Service
Registration
Response
Seek Work
Set Aside
Stipulation
Supplemental
UIFSA
Venue
Visitation
Wage Assignment
Warrant

TAB J

Court Clerks' Training—Advanced

**Ms. Janet Davis, Ms. Kari Korreng, &
Mr. Michael L. Wright**

2012
AB 1058 COURT CLERK
ADVANCED TRAINING

JANET DAVIS,
AMADOR SUPERIOR COURT

KARI KORRENG,
SONOMA SUPERIOR COURT

MICHAEL WRIGHT
SUPERVISING ATTORNEY

GROUND RULES



Welcome to the advanced training

- 3X5 cards:
- Write down any areas you would like to talked about during today's training.
- Please feel free to ask question.
- Every question is welcomed.

Questions from last year

- Is there a difference between an "Answer" and a "Response"?
- Can a IV D Commissioner set spousal support?
- What is the authority regarding LCS issuing their own writs?
- In a confidential case is the Judgment public record?

More questions

- What is the process in your county for Superior Court review?
- Can a party request to have the other party's address disclosed?
- Can the Other Parent requests to be joined before Judgment.
- How are arrears reflected on form FL692?

More questions

- When genetic test results are submitted in Court are they taken in as an exhibit? Or are they confidential?
- Notice Regarding Payment of Support form from other Counties. Are we required to file these in our County?
- Is there a form for Change of Venue?

- What forms start the case moving forward?
- If both parents reside out of state – in what case would we still be hearing the case?
- Is there a difference between a first supplemental and first amended? How are these forms used?



Morning Break time
10:00 am to 10:30 am



1: 45 P.M. Matter called. Sue Yoo is present representing the Department of Child Support. Terry Smith is present in pro per.

Court advises the defendant of her constitutional rights.

Ms. Smith understands her rights and advises the court she is not planning on denying the charges.

The court advises Ms. Smith of the maximum possible consequences for each contempt.

Ms. Smith waives her constitutional rights and admits the allegations.

Ms. Yoo informs the court the amount due is principal of \$5700 and interest of \$349.44 for a total due of \$6049.44.

Discussion regarding the defendant's employment and financial status.

The Court finds the defendant is in contempt of court by failing to pay child support.

Court sentences the defendant to 95 days county jail, which calculates as five days for each 19 counts of contempt. Court stays the execution of the sentence. Court orders defendant to become current on her child support payments by December 15, 2012.

The Court orders if the defendant has become current on her support payments by December 15, 2012 the contempt shall be purged and dismissed, and the jail sentence permanently stayed.

Hearing to determine whether the contempt has been purged is scheduled December 20, 2012 at 8:30 A.M.

lawyer biographies



Sue H. Yoo
Associate
New York


Phone +1-212-558-4000
Fax +1-212-558-3588

sook@skltsms.com
Add to Outlook

How does your court handle contempt?

Lunch time
12:00 to 1:00

Afternoon Break Time
3:00 to 3:30 pm



**California Department of
Child Support Services**

Resources > Calculate Child Support

NEED TO...

- [Apply for Services](#)
- [Make a Payment](#)
- [Check My Child Support Account](#)
- [Get Information Forms](#)
- [Consult Child Support](#)
- [Enrollment Patterns](#)
- [Contact My Local Child Support Agency](#)
- [View Parent Payment Alerts](#)
- [Childs DCSS](#)
- [Find DCSS Job Vacancies](#)

ADDITIONAL LINKS

- [Child Support Guidelines](#)
- [Local Child Support Agencies](#)

Welcome to the Guideline Calculator

The California Guideline Calculator is based on California Child Support Guidelines and can be used to estimate the amount of child support that may be ordered in your case.

The Court Commissioner or Family Law Judge is the final authority to determine the amount of child support order. This calculator provides only an estimate and is not a substitute for the amount of child support that will be ordered. Other factors may affect the amount of child support awarded.

The Federal Child Tax Credit Act of 2001 - Income Reduction of the 32% Annual Spousal Fee

In the Federal Child Tax Credit Act of 2001, Public Law 106-471, or 106th Congress, 2nd Session, the 32% Annual Spousal Fee is being reduced to 10% starting on January 1, 2009. As of October 1, 2010, the State will no longer pay the fee on behalf of families. Beginning October 1, 2011, and every October thereafter, DCSS will adjust the 42% Annual Spousal Fee to all lower income earners that meet the criteria for adjustment. The service fee will be reduced from the most recent available calendar year's child support guidelines until the fee is fully removed. Although the first adjustment is paid to the custodial parent on or after October 1, it will be reduced to 50% the first year it is paid for the amount of the collection received.

If you have any questions about the child support guidelines, you should talk with a lawyer or contact a family law facilitator.

Due to recent updates to the Guideline Calculator on July 18, 2010, the application is being viewed using the Internet Explorer 9 browser and Adobe 9 version.

Guideline Calculator Links

- [Go to Calculator](#)
- [Download California Guideline Child Support Calculator User Guide \(pdf 1.75 MB\)](#)
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2012 AB 1058 Advanced Clerk Training Handout List

1	AB 1058 Complaint Flow Chart	Tab 1 on Excel document titled "AB 1058 Flow Chart Handouts"
2	Joinders Flow Chart	Tab 3 on Excel document titled "AB 1058 Flow Chart Handouts"
3	Judgment Flow Chart	Tab 4 on Excel document titled "AB 1058 Flow Chart Handouts"
4	Notice Of Motion Flow Chart	Tab 5 on Excel document titled "AB 1058 Flow Chart Handouts"
5	Register Ca Support Order Flow Chart	Tab 6 on Excel document titled "AB 1058 Flow Chart Handouts"
6	Telephone Appearance Flow Chart	Tab 7 on Excel document titled "AB 1058 Flow Chart Handouts"
7	Commissioner Objection Flow Chart	Tab 8 on Excel document titled "AB 1058 Flow Chart Handouts"
8	Oaths	Tab 9 on Excel document titled "AB 1058 Flow Chart Handouts"
9	MC 800 We Can Vs We Can't	Tab 12 on Excel document titled "AB 1058 Flow Chart Handouts"
10	Waiver of Constitutional Rights Prior to Entry of Plea of Guilty of Nolo Contendre	Tab 14 on Excel document titled "AB 1058 Flow Chart Handouts"
11	Judicial Council Form Legend	Tab 15 on Excel document titled "AB 1058 Flow Chart Handouts"

GOVERNMENTAL SUMMONS AND COMPLAINT PROCESS

FL-600 Summons and Complaint Regarding Parental Obligations
FL-630 "Proposed Judgment Regarding Parental Obligations" **must** be attached.

FL-616 Declaration for Amended Proposed Judgment
Only used when the LCSA has, within 30 days of service of the summons and complaint received additional income information that changes the financial requests.

UNCONTESTED

CONTESTED



POS-010 Proof of Personal Service

FL-610 Answer filed

FL-620 Request to Enter Default Judgment

FL-680 Notice of Motion for Judgment

FL-697 Declaration for Default or Uncontested Judgment

Court Hearing



FL-630 Judgment Regarding Parental Obligations
or
FL-615 Stipulation for Judgment Regarding Parental Obligations and Judgment

FL-635 Notice of Entry of Judgment and Proof of Service by Mail
(process done by the LCSA)

DONE

THREE TYPES OF JOINDER OF OTHER PARENT

EX PARTE MOTION BY LOCAL CHILD SUPPORT AGENCY

FL-660 Ex Parte Motion by Local Child Support Agency
3 sections to the form:
1) Motion – signed by LCSA
2) Declaration – signed by LCSA
3) Order – signed by the court

STIPULATION AND ORDER FOR JOINDER

FL-663 Stipulation and Order for Joinder of Other Parent
2 sections to the form:
1) Signatures of the parties and the LCSA
2) Order – signed by the court

NOTICE OF MOTION FOR JOINDER OF THE OTHER PARENT IN GOVERNMENTAL ACTION

FL-661 Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action

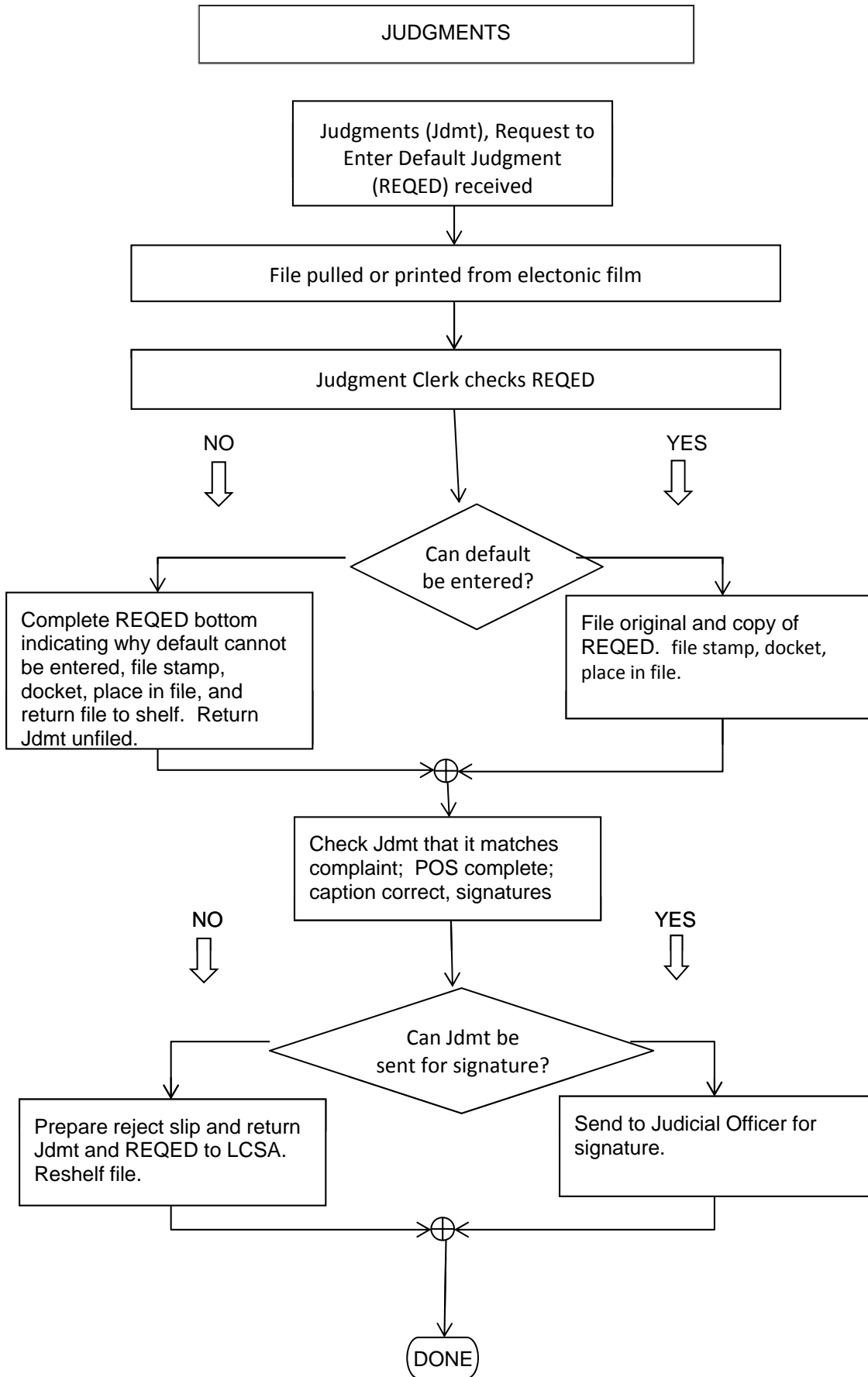
(This process is to be used when the 'other parent' was not listed as a party in the support order or judgment. Anyone can use this

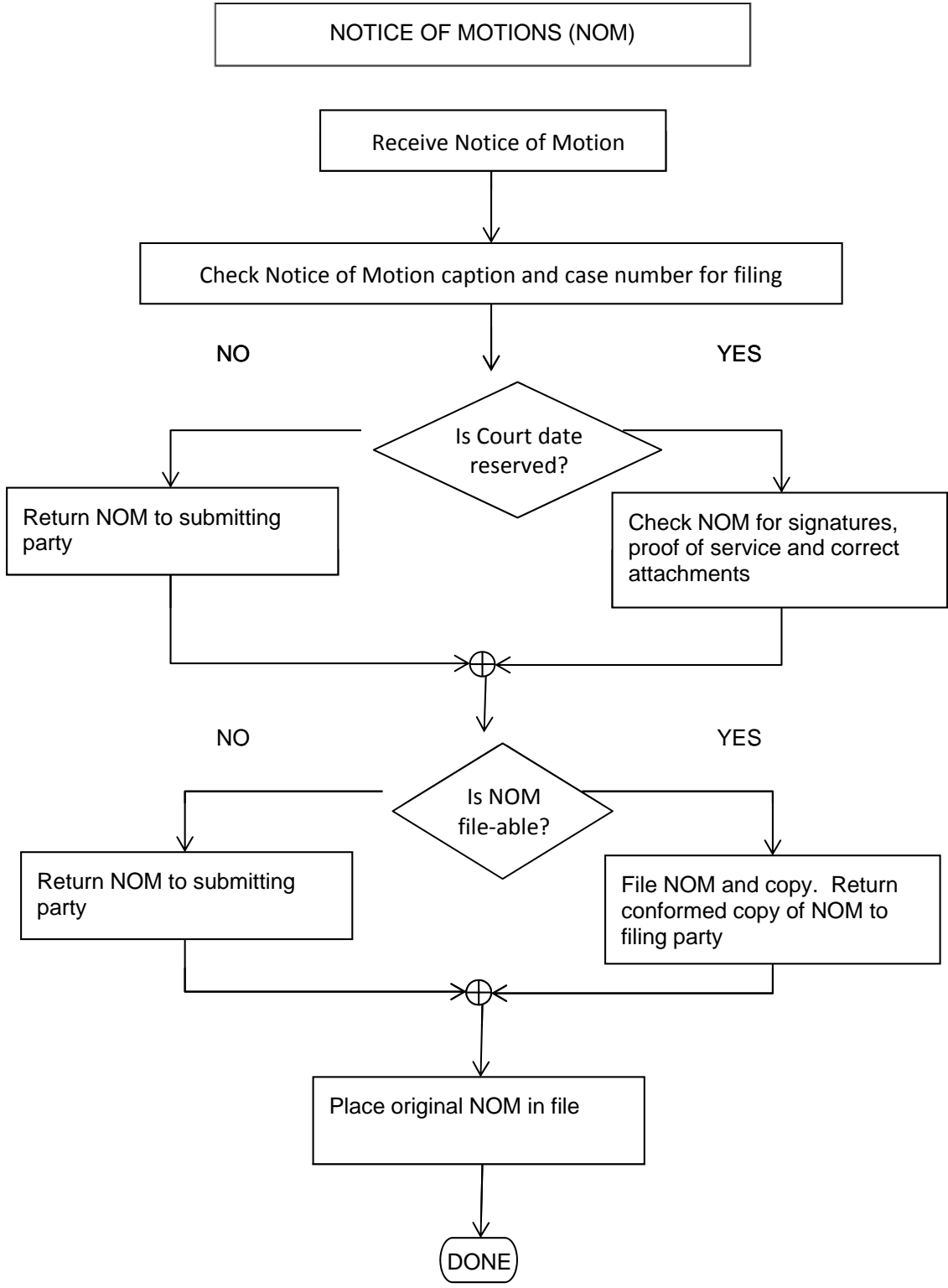
FL-662 Responsive Declaration to Motion for Joinder of Other Parent (Consent Order of Joinder)

If the responding party consents to the joinder, the court can make the joinder order on this form and it will take the hearing off calendar.

FL-687 Order After Hearing

(If parties do not stipulate and matter proceeds to a contested hearing.)





REGISTRATION OF ORDERS FROM OTHER CALIFORNIA COUNTIES

FC 5600 et seq

Either the local child support agency (LCSA) or the Obligee may register a support order obtained in another California county. Venue = Obligor's county of residence; Obligee's county of residence; County where subject child of the order resides, or any county where the obligor has income, assets or other property

ANSWER 'NO'

ANSWER 'YES'

Registration by LCSA?

Obligee Documents to register:

- Verified Statement of Registration (There is specific criteria it must contain and is covered in FL-440);
- An endorsed filed copy or a copy of an endorsed filed copy of the most recent support order;
- FL-420 Declaration of Payment History, a statement of arrearages, including an accounting of amounts order and paid each month, any added costs, fees and interest;

LCSA Documents to register:

- FL-650 Statement for Registration of California Support Order;
- An endorsed filed copy or a copy of an endorsed filed copy of the most recent support order;
- FL-420 Declaration of Payment History, a statement of arrearages, including an accounting of amounts order and paid each month, any added costs, fees and interest;

Court Clerk Must:

- File the documents without fees or costs (FC 5602(b))
- Promptly send notice of the registration to the obligor with a copy of the registered support order and the obligee's mailing address. (FC 5602(c))
- Documents shall be sent using any form of mail requiring a return receipt from the addressee as the clerk must provide proof the obligor personally received the notice of registration by mail or other method of service. (FC 5602(c))

Court Clerk Must:

- FL-651 - Forward notice of registration to the courts in all other counties or states that issued the original order or modification of the order. (FC 5601(e))

FL-575 Request for Hearing Regarding Registration of Support Order

Obligor has 20 days after service of the notice of the registration to file a noticed motion requesting the court to vacate the registration or for other relief. The clerk of the court completes the certificate of mailing.

No Request for Hearing Regarding Registration of Support Order filed, the California support order and all other documents are confirmed.

DONE

GOVERNMENTAL
REQUEST FOR TELEPHONE APPEARANCE
CRC 5.324

FL-679 Request for telephone appearance (Governmental)

This form **must** be filed by a party, attorney, witness or parent wishing to appear via telephone. It must be filed 12 court days before the hearing and served on the other parties.

Opposition to telephone appearance request.

This would be done in declaration format and is to be filed 8 court days before the hearing and served on the other parties.

Court's Decision on Telephone Appearance

5 Court days before the hearing the court will give notice of its decision on the request either by telephone, fax, express mail, e-mail, in person or other reasonable means to ensure notification.

DONE

Notes:

CRC 3.670(l)(2) If a vendor provides for telephone appearance services in a proceeding for child or family support under Title IV-D, the amount of the fee for a telephone appearance under (j)(1) is \$58 instead of \$78.

The time requirements set forth in the rule can always be shortened by the court
The time requirements set forth in the rule can always be shortened by the court

CRC 3.670(j)(2) An additional late request fee of \$30 is to be charged for an appearance by telephone if the request to the vendor or the court providing telephone appearance services is not made at least three days before the scheduled appearance, except when:

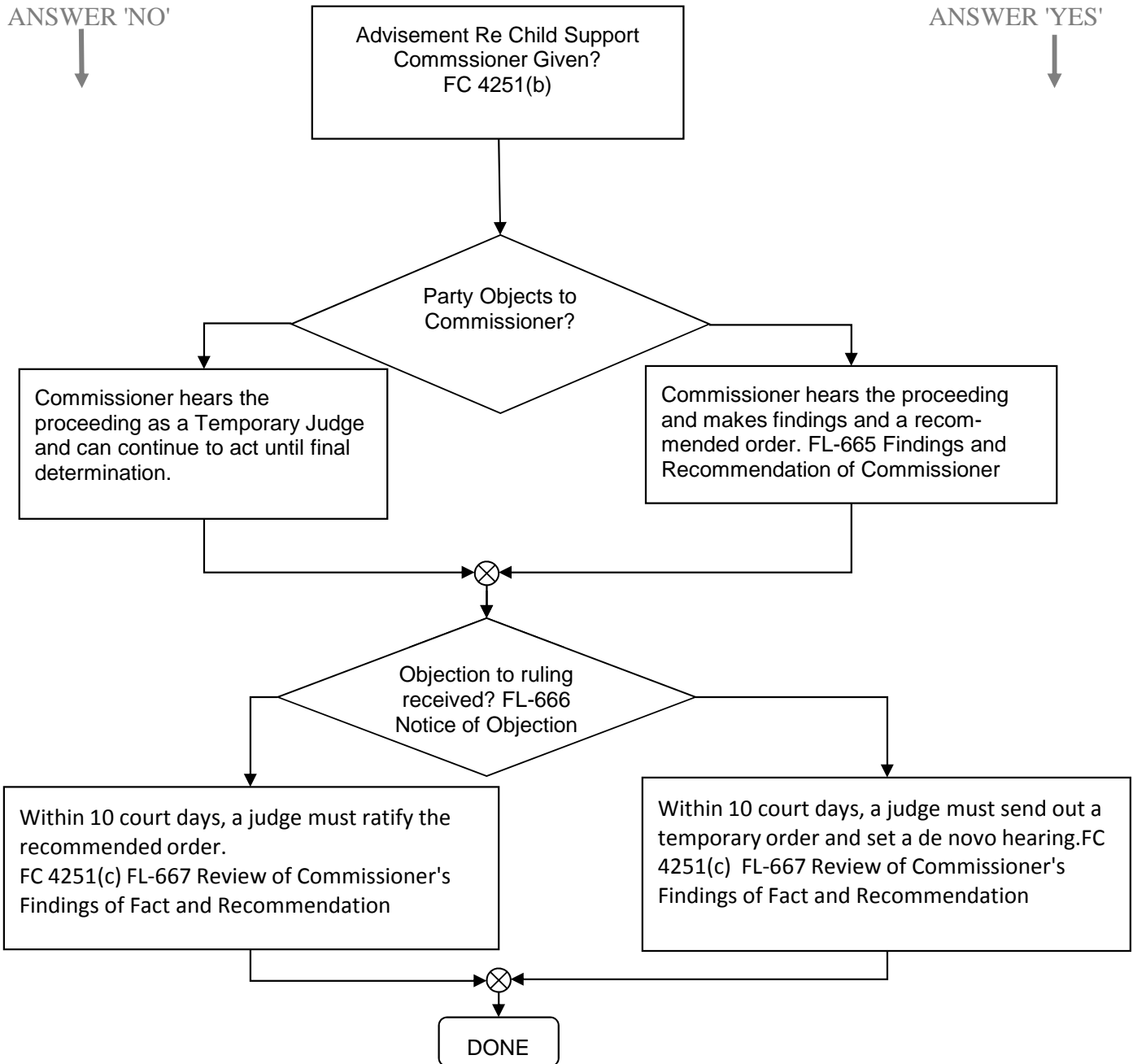
(A) There is an ex parte or other hearing or conference set on shortened time for which three days' notice would not be feasible or practical;

(B) The court, on its own motion, sets a hearing or conference on shortened time;

(C) The matter has a tentative ruling posted within the three-day period; or

(D) The request to appear by telephone is made by a party that received notice of another party's intent to appear and afterward decides also to appear by telephone under (g)(2). The request of a party seeking to appear under (g)(2) is timely if the request is made to the vendor or the court

CHILD SUPPORT COMMISSIONER OBJECTION
PROCESS
FC 4251et seq



Ancillary proceedings, such as contempt and other enforcement actions, are not a continuation of the original cause; the commissioner does not have the power to hear them as a temporary judge without giving the parties a new opportunity to object. *Reisman v Shahverdian* (1984) 153 CA3d 1074, 1095, 102 CR 194.

COMMON OATHS

OATH TO WITNESS

DO YOU SOLEMNLY STATE UNDER PENALTY OF PERJURY, THAT THE EVIDENCE THAT YOU SHALL GIVE IN THIS ISSUE OR MATTER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

PLEASE BE SEATED, STATE YOUR FULL NAME, AND SPELL YOUR LAST NAME FOR THE RECORD. (*CCP §2094(2)*)

OATH TO HEARING IMPAIRED INTERPRETER

DO YOU SOLEMNLY STATE UNDER PENALTY OF PERJURY, THAT YOU WILL WELL AND TRULY INTERPRET THE SPOKEN LANGUAGE INTO THE SIGN LANGUAGE, AND THE SIGN LANGUAGE INTO THE SPOKEN LANGUAGE, IN THE CASE NOW PENDING BEFORE THIS COURT? (*EVID §751(a)*)



WELCOME TO THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF

WE ARE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE MUST BE FAIR TO EVERYONE.

This is a list of some things the court staff can and cannot do for you.

We can	explain and answer questions about how the court works.	We cannot	tell you whether or not you should bring your case to court.
We can	provide you with the number of the local lawyer referral service, legal services program, family law facilitator program, and other services where you can get legal information.	We cannot	tell you what words to use in your court papers. (However, we can check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number, and presence of attachments.)
We can	give you general information about court rules, procedures, and practices.	We cannot	tell you what to say in court.
We can	provide court schedules and information on how to get a case scheduled.	We cannot	give you an opinion about what will happen if you bring your case to court.
We can	provide you information from your case file.	We cannot	talk to the judge for you.
We can	provide you with court forms and instructions that are available.	We cannot	let you talk to the judge outside of court.
We can	usually answer questions about court deadlines and how to compute them.	We cannot	change an order signed by a judge.

Since court staff may not know the answers to all questions about court rules, procedures, and practices, and because we don't want to give you wrong information, we have been instructed not to answer questions if we do not know the correct answers. For additional information, please contact a lawyer or your local law library, or check the California Courts Self-Help Center Web site at www.courtinfo.ca.gov/selfhelp.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>) DEPARTMENT OF CHILD SUPPORT SERVICES	TELEPHONE NO:	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:		
WAIVER OF CONSTITUTIONAL RIGHTS PRIOR TO ENTRY OF PLEA OF GUILTY OR NOLO CONTENDRE		CASE NUMBER:

Obligor to Initial After Reading:

Put initials in boxes

1. I UNDERSTAND THAT I AM CHARGED WITH CONTEMPT OF COURT TO WHICH I INTEND TO ADMIT AND I HEREBY SPECIFICALLY, INTENTIONALLY, AND WITH FULL KNOWLEDGE AND UNDERSTANDING THEREOF, GIVE UP EACH AND ALL OF MY FOLLOWING RIGHTS:
 - a. To be represented by an attorney of my own choice, or if I cannot afford an attorney to have the court appoint one to represent me, subject however, to the possibility that the court may at the conclusion of these proceedings against me require that I pay a portion or all of the costs thereof based upon my then financial ability.
 - b. To a public trial by court.
 - c. To a speedy trial.
 - d. To confront the witnesses against me in a trial and to cross-examine them myself or through my attorney.
 - e. To subpoena witnesses for my defense.
 - f. To testify in my own defense.
 - g. To refuse to testify if I so desire and to thereby refuse to give evidence that may be used against me.
 - h. To the presumption of innocence until the prosecution shall have proved me guilty beyond a reasonable doubt.
 2. I UNDERSTAND THE NATURE OF THE CHARGES AGAINST ME, THE ELEMENTS THEREOF, AND THE AVAILABLE PLEAS AND DEFENSES THERETO.
 3. I UNDERSTAND THAT THE PENALTIES FOR THIS OFFENCE ARE AS FOLLOWS:
 - First finding of contempt: No mandatory sentence.
 - Maximum sentence: 120 hours of community service or 120 hours of imprisonment, for each count of contempt.
 - Second finding of contempt: No mandatory minimum sentence.
 - Maximum sentence 120 hours of community service, and 120 hours of imprisonment, for each count of contempt.
 - Third and subsequent finding of contempt: No mandatory minimum sentence.
 - Maximum sentence: 240 hours of community service, and 240 hours of imprisonment for each count of contempt.
- I understand that if I do not do the community service as ordered by the Court for any finding of contempt, a jail sentence will be imposed.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT/CLAIMANT:	

4. I UNDERSTAND THAT IF I AM NOT A CITIZEN OF THE UNITED STATES, THE CONVICTION FOR THE OFFENSE CHARGED MAY HAVE THE CONSEQUENCES OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES.
5. MY PLEA IS ENTERED FREELY AND VOLUNTARILY.
6. OBLIGOR: I have personally initialed each of the above and understand each and every one of the rights outlined above and I hereby waive and give up each of them in order to enter my plea to the above charge.

Dated: _____ SIGNED: _____
Obligor's signature

7. OBLIGOR'S ATTORNEY ONLY: I am the obligor's attorney of record and I have explained each of the above rights to the obligor, and having explored the facts with him/her and studied his/her possible defenses to the charge(s), I concur in his/her decision to waive the above rights and to admit the charge(s). I further stipulate that this document may be received by the court as evidence of the obligor's intelligent waiver of these rights and that it shall be filed by the clerk as permanent record of that waiver. I have witnessed the reading of this form by the obligor and his/her initialing and signature upon it.

Dated: _____ SIGNED: _____
Attorney's signature

INTERPRETER:

I, _____, a qualified interpreter, having been sworn, truly translated this form and all the questions therein to the obligor in the _____ language. With the exception of the obligor's signature, I have completed the form at the obligor's direction. The obligor indicated understanding the contents of the form, and then signed the form.

Dated: _____ SIGNED: _____
Interpreter's signature

8. THE COURT FINDS THAT SAID WAIVERS HAVE BEEN MADE KNOWINGLY, INTELLIGENTLY, FREELY, VOLUNTARILY, AND UNDERSTANDINGLY, AND THAT THERE IS A FACTUAL BASIS FOR THE PLEA(S).

Dated: _____ SIGNED: _____
Judicial Officer

JUDICIAL COUNCIL FORM LEGEND

Top left of form:
Designates who may use the form i.e.
(governmental agency, attorney)

Top right of form:
Gives the Judicial Council form number



Diagram illustrating the top left and top right of form FL-600. The top left section contains the text "GOVERNMENTAL AGENCY (under Family Code, §§ 17400 and 17400)". The top right section contains the text "FOR COURT USE ONLY" and the form number "FL-600".

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):

FOR COURT USE ONLY

FL-610

Bottom left of form:

- Indicates if "Adopted for Mandatory Use" or "Approved for Optional Use"
- Indicates form number
- Date of most current revision

Bottom right of form:

- References all statutes and rules relevant to the form
- Web site www.courtinfo.ca.gov
- Number of pages

Form Adopted for Mandatory Use
Judicial Council of California
FL-600 (Rev. January 1, 2007)

SUMMONS AND COMPLAINT OR SUPPLEMENTAL
COMPLAINT REGARDING PARENTAL OBLIGATIONS
(Governmental)

Page 1 of 8
Family Code §§ 2530.1, 17400,
17402, 17404, 17420, 17430
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsAndFlow.com

2012 California Rules of Court

Rule 1.30. Judicial Council forms

(b) Mandatory or optional forms

Judicial Council forms are either mandatory or optional.

Rule 1.31. Mandatory forms

(a) Use of mandatory forms and acceptance for filing

Forms adopted by the Judicial Council for mandatory use are forms prescribed under Government Code section 68511. Wherever applicable, they must be used by all parties and must be accepted for filing by all courts. In some areas, alternative mandatory forms have been adopted.

Rule 1.35. Optional forms

(a) Use of optional forms and acceptance for filing

Forms approved by the Judicial Council for optional use, wherever applicable, may be used by parties and must be accepted for filing by all courts.

TAB K

AB 1058 Administration and Accounting

**Mr. Paul Fontaine, Mr. Shaheen
Abutaha, & Mr. Michael L. Wright**

16th ANNUAL CHILD SUPPORT TRAINING CONFERENCE

Administration and Accounting

Agenda

Thursday, September 6, 2012

8:30 am – 5:00 pm

Speakers: Paul Fontaine, Michael Wright, Abutaha Shaheen

8:30 – 9:00

Introductions – **(Paul)**

- Introductions & Housekeeping & Purpose of training
- Walk Thru Agenda
- Agenda Questionnaire

9:00 – 10:00

Program Manager's Update State Budget – **(Michael)**

- Program Overview
 - Purpose of the program
 - Description of IV-D Services
 - Government/Agency Roles
- Contractual Agreements
 - DCSS and AOC contract
 - AOC and Courts contract
 - Program expectations: deliverables and service package
- AB 1058 Program Audits
 - Program Audits – DCSS Audit Status update
 - Financial Audit - DOF Audit process and status update
 - Operating Audit - AOC Internal Audit process
- AB 1058 Program IV-D Services and Other Family Law Services
 - AB 1058 Child Support Commissioner vs. other commissioner activities
 - Other family law issues/ Custody and Visitation
 - FLF and Self Help Expansions
 - AB1058 Family Law Facilitator vs. Self Help activities
 - Funding Tree
- AB 1058 Program Funding Update
 - Base Funding
 - Federal Drawdown Funding
 - Court/other program Funding
 - FY 10-11 CSC/FLF Program Spending Recap Charts
 - Mid-year Reallocation Process

- Chart of remaining funds through fiscal years

- Program Budget Implications
 - Judicial branch budget reductions and impacts on the AB 1058 program
 - DCSS realignment
 - Cost saving strategies & best practices

10:00 – 10:30

Break

10:30 – 11:00

AB 1058 Accounting Forms, questions from the courts– **(Paul)**

- Timesheet and Contractor Activity Log
- Payroll Summary Sheet
- Operating Recap Sheet
- Summary Sheet
- Invoice Face Sheet

11:30 – 12:00

Administrative and Grant Reporting Requirements – **(Paul)**

Costs Treatment

- Direct versus indirect costs
- Allocability and Allowability
- Allocation Methods
- Sell-back, Cash out, Unproductive time charges
- Furlough reporting
- Post employment benefits, i.e. Unemployment/retirement/medical

12:00 – 1:30

Lunch

1:30 – 3:00

Requests for Program Modifications and Enhancements– **(Paul)**

Types of Changes/Requests

- Personnel: changes leave charges,
- Facilities
- Award Amounts
- Budget Changes
- Accounting vs. Processing

Approval Cycle

- Judicial review
- Program Management
- Finance

3:00-3:30

Break

3:30 – 4:00

Invoice Processing Cycle – **(Paul)**
Moodle
Group FAQ Session

4:00 -5:00

One on One Issues Discussions

AB 1058 Program Administrative and Accounting Track

1. State Budget and Impact on AB 1058 Funding

Question:

2. Base funding and Federal Drawdown Option funding

Question:

3. Midyear Reallocation Process

Question:

4. Standard Agreements and Program Audits

Question:

5. Standard Program Accounting Forms (incl. Timesheet, Contractor Activity Log, Payroll Summary, Operating Recap Sheet, Summary Sheet, Invoice Face Sheet)

Question:

6. Grant Administration and Reporting Requirements

Question:

7. General Questions:

AB 1058 Accounting & Administration Training

Michael Wright, Paul Fontaine, Shaheen Abutaha

Agenda

- Introductions
- Program Manager's Update
- AB 1058 Accounting Forms
- Administrative and Grant Reporting Requirements
- Cost Treatments and Methods of Allocation
- Request for Program Modifications and Enhancements
- Invoicing Cycle
- General FAQ Session
- One on One FAQ Discussion

ADMINISTRATIVE OFFICE OF THE COURTS

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AB 1058 Program Manager Update

Michael Wright,
Supervising Attorney/Program Manager
September 2012

Agenda

- Child Support Program Overview
- Contractual Agreements and Deliverables
- Program Audits
- Program Activities and time reporting
- Program Funding Status and Updates
- Mid-Year Reallocation Process
- Program Budget Implications and Solutions

AB 1058 Program Overview

What is the AB 1058 Program?

- Legislative mandated IV-D program
- Enforce child support cases
- Collection and distribution of payments
- Provide health care coverage to support child

Title IV-D Program Services

- Locate noncustodial parents
- Establish paternity
- Establish child support orders
- Enforce child support orders
- Collection and distribution of support

AB 1058 Program Overview

Government Roles

- Federal (Office Of Child Support Enforcement, OCSE)
 - Funding to establish program
 - Policies & Regulations
- State Administer (DCSS & AOC)
 - Child Support Commissioner (CSC)
 - Family Law Facilitator (FLF)
- Local services provided
 - Courts
 - LCSA



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AB 1058 Program Contracts

- Contract between DCSS and JCC
- Contract between JCC and Local Court
 - Block grant subject to expectation of a standard package of "services"
 - Court Deliverables



8

Standard Service Package

- Expectations
 - CSC calendar time, FTEs and support staff
 - Court reporters & interpreters
 - Security
 - Training Requirements

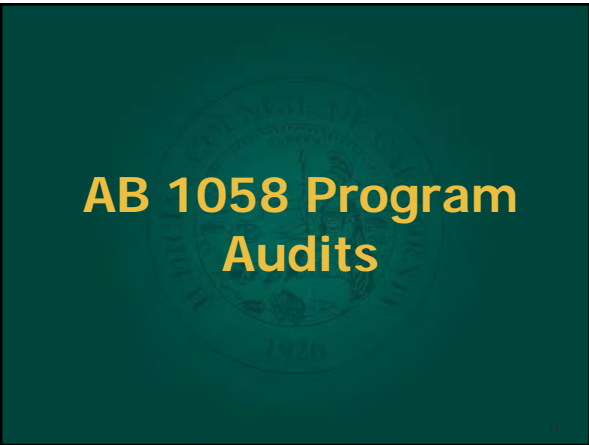


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Court Deliverables

- Plan of Cooperation with Local Child Support Agency (LCSA)
- Disclosure of all funding sources
- Written contract between contracted FLF and CSC
- Quarterly FLF Data Report (customer service statistics)
- Written FLF Office Complaint resolution process

AB 1058 Program Audits



AB 1058 Program Audits

- Historical Audits
 - Office of Child Support Enforcement (OCSE)
 - Administrative Office of the Courts
- Information Requests
 - Department of Child Support (DCSS)
 - Office of Child Support Enforcement (OCSE)

AB 1058 Program Audits

- Department of Child Support Audit Update
 - Compliance of federal and state regulations
 - Completion of program deliverables
 - Proper accounting records and adequate documentation
 - Program cost efficiencies
 - Consistency of application of cost



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AB 1058 Program Audits

- Office of Child Support Enforcement (OCSE)
 - Financial statements
 - Proper accounting records and adequate documentation
 - Internal control - Segregation of duties
 - Authorized approvals
 - General Areas of Concern
- Administrative Office of the Courts Audit
 - Operations/Internal Control
 - Contract Compliance



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AB 1058 Program IV-D Services

AB1058 Commissioner vs. Other Family Law Services

AB 1058 Services

- Child support cases opened at LCSA
- Child Support matters
- Paternity matters
- Companion Spousal support matters
- Health insurance matters

Other Family Law Services

- Non-LCSA parentage/child support cases heard by commissioner
- Domestic Violence
- Custody and Visitation
- Dissolution of marriage issues other than support
- Adoptions
- Juvenile Delinquency



FLF Program Expansion

- Increase merge of Family Law Facilitator and Self-Help offices
- Separation of Funding
 - IV-D Program funds
 - Self Help funds
 - Other court program funds
- Understanding of activities between AB 1058 facilitator, self help and other family law functions



AB 1058 Family Law Facilitator Functions

Title IV-D

- Child support cases opened at LCSA
 - Child Support matters
 - Paternity matters
 - Companion Spousal support matters
 - Health insurance matters

Outreach Activities

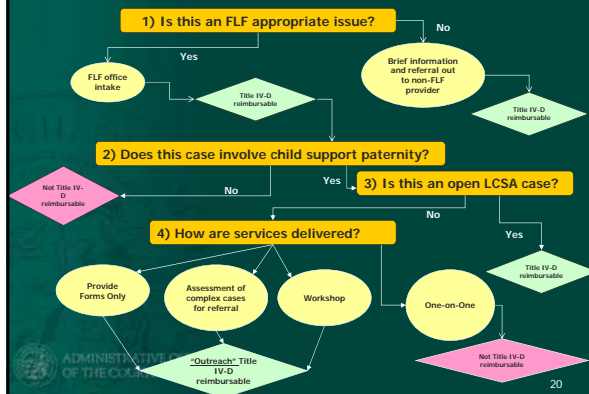
- Child support cases not yet filed at the LCSA.
 - Providing information & referral services
 - Distributing court forms
 - Brief Explanation of court process



Self-Help and other family Law Functions

- Domestic Violence
- Custody and Visitation
- Dissolution of marriage issues other than support
- Adoptions
- Juvenile Delinquency
- Non-Child Support Related Activities
- Other non-grant activities, ie. General court administration

FLF Reimbursability Decision Tree



AB 1058 Program Funding & Spending Update

AB 1058 Program Funding

- Program Funding Sources
 - Reduction in Base Allocation
 - For FY 2011/2012 and 2012/2013
 - Increase in Federal Draw Down)
 - For FY 2011/2012 and 2012/2013

AB 1058 Program Funding

Federal Drawdown Option

- Short term alternative began FY 07-08
- Additional federal funds
- Requires court contribution
- Subject to a cap

Federal Drawdown Option

Mechanism for the courts to recover two-thirds of additional program costs beyond the base maximum

Example:

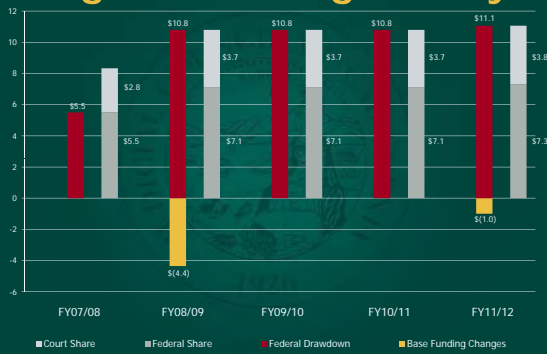
Court expenses exceed base allocation by \$300.

- Court Share (1/3) - \$100
- Federal Share (2/3) - \$200

AB 1058 Program Funding

- Reduced base and increased federal draw down
- Flat funding in Child Support Program for FY 10-11 and FY 11-12
- Decrease in Child Support Program base funding for FY 08-09 + increase in federal draw down option
- Flat funded in Child Support Program for FY 07-08 + federal draw down option

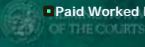
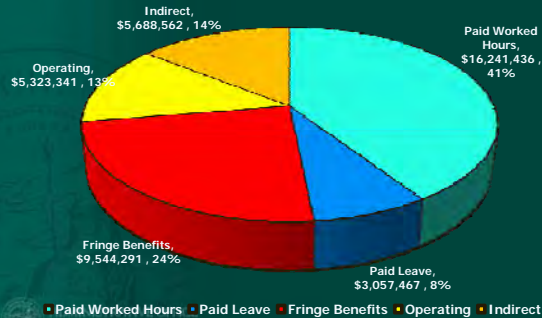
Program Funding History



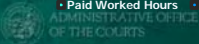
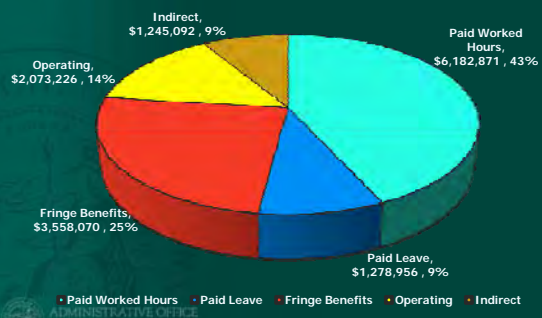
Expenditure Categories

- Expenditure categories are consistent for both the CSC and FLF Programs
 - Salaries
 - Benefits
 - Operating Expenses
 - Indirect

CSC Program Expenditures by Category FY 10/11



FLF Program Expenditures by Category FY 10/11

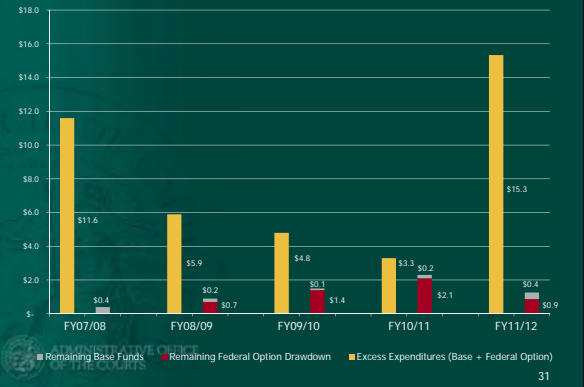


AB 1058 Program Mid-Year Reallocation

- Annual Court Questionnaire
 - Assume current program level
 - Exclude program expansion
 - Exclude program enhancements and new facility leases
 - Expenditures to date (used to calculate funding for remainder of year)
- Review and evaluation by AOC committees with approval by Judicial Council
- AOC-Court contract amendment
- Continue reimbursement process using amended budget amounts



History of Remaining Funds



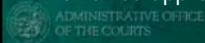
AB 1058 Program Budget

- Budget Implications and Updates
 - Judicial branch budget reductions and impacts on the AB 1058 program
 - Impacts from Reductions in Court Reserves
 - Annual Distribution Impacts - TCTF

Break 10:00 – 10:30

AB1058 Timesheets

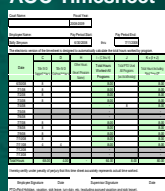
- Timesheet – Court employees (W-2)
- Contract Activity Log – Contractors (1099)
- Positive Reporting- account for 100% of time
- Increments of 15 minutes
- Furlough days not reported on timesheet
- Must be completed and signed by employee and reviewed approved by supervisor



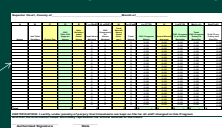
37

AB 1058 Payroll Summary Sheet

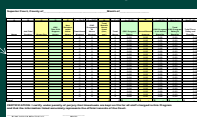
AOC Timesheet



AB 1058 Payroll Summary Sheet



Other Program Payroll Summary Sheet

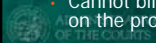


ADMINISTRATIVE OFFICE OF THE COURTS

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AB 1058 Payroll Summary Sheet

- Salaries & Wages
 - Gross salary for the pay period
 - 100% of time distribution for the pay periods being reported
 - Proportional overtime wages related to Title IV-D matters
- Benefits Types
 - Fringe benefits: social security, employee insurance: life, health, unemployment, workers compensation, pension plan costs, and other similar benefits
 - Paid Leave: vacation, annual leave, sick leave, holidays, court leave, and military leave
 - Cannot bill more leave hours than earned while working on the program



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Partially Reimbursable Expenses

- Perimeter security
- Rent
- Office Supplies
- Equipment

Pre-Approved Expenses

- Written prior approvals required:
 - Minor Remodeling
 - Equipment Purchases > \$5,000

AB 1058 Summary Sheet

Payroll Summary Sheet

AB 1058 Summary Sheet

Operating Recap Sheet

Regular State Court, County of		Month of			
Invoice #	Description	Check/Invoice #	Date Paid	Amount	
Total				0.00	
Partially Reimbursable Expenses		Invoice #	Check/Invoice #	Date Paid	Amount
Total				0.00	
* Total AB 1058 amount				0.00	

AB 1058 Summary Sheet

Categories	Budget	Previously Billed	Current Reporting Period	Total FTD Expenditure
Salaries	1,500,000.00	1,500,000.00	70,000.00	1,570,000.00
fringe benefits	450,000.00	450,000.00	8,000.00	458,000.00
Total Personnel Expenditures	1,950,000.00	1,950,000.00	78,000.00	1,978,000.00
Indirect Costs (25.00%)	487,500.00	487,500.00	19,500.00	516,500.00
Operating Expenses	2,437,500.00	2,437,500.00	97,500.00	2,475,000.00
Contracted Commission Expenditure	50,000.00	50,000.00	2,000.00	52,000.00
Court Reporting	5,000.00	5,000.00	100.00	5,100.00
Interim Staff	2,000.00	2,000.00	100.00	2,100.00
Staff Services	10,000.00	10,000.00	10,000.00	20,000.00
Paralegal Services	20,000.00	20,000.00	500.00	20,500.00
Rent	10,000.00	10,000.00	2,000.00	12,000.00
Traveling	2,000.00	2,000.00	-	2,000.00
Other Direct Costs (excluding personnel and indirect costs)	2,000.00	2,000.00	800.00	2,800.00
Total Operating Expenditures	157,000.00	157,000.00	17,300.00	157,000.00
Total Expenditures	2,437,500.00	2,437,500.00	97,500.00	2,475,000.00

Funding Sources	Amount	Expenditures Approved Prior Periods	Contract Balance Prior to Current Reporting Period	Current Period Reimbursement
State Appropriation	2,000,000.00	2,000,000.00	88,200.00	94,000.00
Federal District Court Award	500,000.00	411,800.00	88,200.00	42,000.00
Federal District Court Award	300,000.00	271,780.00	76,212.00	42,000.00
Court Order 30%	175,000.00	145,170.00	23,988.00	27,000.00
Total Reimbursement				42,000.00

AB 1058 Invoice Face Sheet

AB 1058 Summary Sheet

Invoice Face Sheet

<p>STATE OF CALIFORNIA JUDICIAL COUNCIL OF CALIFORNIA</p>		<p>JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS 600 CALIFORNIA STREET, SUITE 100 SAN FRANCISCO, CA 94104</p>	
<p>INVOICE</p>		<p>INVOICE NUMBER: 00000000000000000000 ISSUE DATE: 06/20/2010</p>	
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALameda</p>		<p>CONTRACT NUMBER: 00000000000000000000</p>	
<p>ADDRESS: 1000 BAY STREET, SUITE 100, OAKLAND, CA 94612</p>		<p>BILLING PERIOD: 06/01/2010</p>	
<p>PROGRAM TITLE: Child Support Commission Program</p>			
<p>PROGRAM PERIOD: July 1, 2009 - June 30, 2010</p>			
<p>ACCOUNTING CONTRACT: 00000000000000000000</p>		<p>PHONE NUMBER: 00000000000000000000</p>	
<p>E-MAIL ADDRESS: 00000000000000000000</p>		<p>FAX NUMBER: 00000000000000000000</p>	
<p>PROGRAM EXPENDITURES (FUND REQUESTED)</p>			
CATEGORY	AMOUNT		
PERSONNEL (Salaries & Benefits)	78,000.00		
OPERATIONAL EXPENSES & EQUIPMENT	17,300.00		
INDIRECT COSTS	2,000.00		
TOTAL EXPENDITURES	97,300.00		
TOTAL REIMBURSABLE AMOUNT	97,300.00		
<p>CERTIFICATION: I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE AMOUNT BILLED ABOVE IS TRUE AND CORRECT IN ACCORDANCE WITH THE CONTRACT.</p>			
<p>COURT OFFICIAL (NAME & TITLE): 00000000000000000000</p>			
<p>DATE: 06/20/2010</p>			

AB 1058 Invoice Face Sheet

<p>STATE OF CALIFORNIA JUDICIAL COUNCIL OF CALIFORNIA</p>		<p>JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS 600 CALIFORNIA STREET, SUITE 100 SAN FRANCISCO, CA 94104</p>	
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<p>COURT OFFICIAL (NAME & TITLE): 00000000000000000000</p>			
<p>DATE: 06/20/2010</p>			

Administrative and Grants Reporting Requirements

ADMINISTRATIVE OFFICE OF THE COURTS

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Grant Reporting Requirements

- Codes of Federal Regulation
 - CFR Part 45, Subtitle B, Chapter III, Office of Child Support Enforcement (Child Support Enforcement Program)
- OMB Circular A-102 (Uniform Administrative Requirements for State and Local Govt. agencies)
- Cost Principles: 2 CFR 225 (formerly known as Circular A-87)
- Rules of Court
- Contractual Agreement between JCC and the Courts

ADMINISTRATIVE OFFICE OF THE COURTS

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Grant Reporting Requirements

- Administrative Requirements
 - Financial and Accounting Records
 - Proper supporting documentation
 - Approval and Authorized signature
 - Recommended/Approved Forms
 - Record Retention and Access to Records
 - Access by Grantor & Auditors
 - Retained for 3 years

Electronic Files



Paper files



ADMINISTRATIVE OFFICE OF THE COURTS

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Costs Treatment

Direct vs. Indirect Costs

- **Direct Cost** are identified with a particular cost objective
- **Indirect Costs** are incurred for common or joint objectives of an organization and cannot be readily identified with a particular cost objective

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Direct/Indirect Determination

- Does the cost result in a direct benefit to a federal program?
- Can it be easily and accurately traced to the federal program?
- Does it benefit more than 1 federal program?
- Is it normally charged indirect?
- Have you calculated the proportional benefit?

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Costs Allowability Requirements

- Allocable
- Necessary and Reasonable
- Treated Consistently
- Determined according to GAAP
- Net of applicable credits
- Not used for cost sharing/matching on another federal award
- Adequately documented
- Authorized under state/local laws & regulations
- Conforms to limits & exclusions in costs principles, federal laws and award T&C
- Consistent with recipient policies for federally and non-federally funded activities



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Costs Allocability

- Must meet ONE of these criteria:
 - Incurred specifically for the program award
 - Benefits both program award and other work and can be distributed in reasonable proportion to benefits received
 - Necessary to organization's overall operation, although no direct relationship to particular cost objective



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Methods of Allocation

- Allocation Methods:
 - Full Time Employee (FTE)
 - Number of Child Support Cases
 - # of Court Departments
 - Other Approved Methods



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Note:

A cost which is allocable to an award isn't necessarily allowable or reasonable

Administrative/Grant Reporting

- Sell-back, Cash out, unproductive time charges
- Furlough Reporting
- Bailiff/Security costs plans
- Post employment benefits
 - Retirement benefits
 - Medical benefits
 - Unemployment benefits

Lunch 12:00 – 1:30

Agenda

- Request for Program Modifications and Enhancements
- Invoicing Cycle
- Moodle
- General FAQ Session
- One on One FAQ Discussion

Request for Program Modifications and Enhancements

Program versus Finance

Program

- Key Personnel changes
- Facility changes: lease and relocation
- Funding level changes
- FLFED database reporting
- Leave charges: buy backs and cash outs

Finance

- Budget modifications
- Finance reporting inquiries
- Accounting Forms
- Leave charges: buy backs and cash outs
- Reimbursement inquiries

Program Issues

- Creating new budget line item for material changes
- Moderate to high impact
- Affect other courts
- Changes not within funding level
- Approval process – long term
 - Program Manager
 - Finance Review
 - Committee Review
 - Judicial Review



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Finance Issues

- Creating new budget line item for minor changes
- Budget category change
- Low impact
- Affect only one court
- Changes within funding level
- Approval process – short term
 - Program Manager
 - Finance Review



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Grant Processing versus GL Accounting

Grant Processing

- AB 1058 Program Grant Accountant
- Allowability of program expenditures inquiries
- Program budget inquiries
- Reimbursement inquiries
- Reimbursements through SCO

GL Accounting

- SAP General Ledger Accountant
- Recording financial transactions
 - Accounts Receivable
 - Accounts Payable
 - General Ledger
- Payments through court specific accounts




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Break 3:00 – 3:30




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Invoicing Cycle




- Court incurs monthly expenses July 1 – July 30
- Court summarizes data and invoices AOC August 20th
- AOC receives invoice August 24th (2-3 days)
- AOC grant accountant combines invoice with other invoices for review and approval August 28th (1 week)
- AOC accounts payable unit processes and produces claim schedules September 3rd (4-5 days)




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Invoicing Cycle




- AOC grant accountant summarizes transactions for the week and submit a request to DCSS for reimbursement September 4th
- DCSS reviews and processes invoices September 11th (1 week)
- DCSS sends reimbursement to AOC Sept. 18th (1 week)



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Invoicing Cycle




- AOC releases claim schedules to State Controller's Office (SCO) September 18th
- SCO receives claim schedules and combines with claims from other agencies September 22nd
(2-3 days)

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Invoicing Cycle



- SCO reviews claim schedules September 28th
(1 week)
- SCO processes check payments October 2nd
(1 week)
- SCO sends checks to courts October 6th
(2-3 days)
- Court receives payment October 9th
(2-3 days)

Approximately **TWO** months for court to receive payment

ADMINISTRATIVE OFFICE OF THE COURTS

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Invoicing Cycle

- Factors that may delay reimbursement:
 - Errors/Error Treatment
 - Omissions
 - Late Submissions
 - Vacations
 - Monetary Thresholds
 - Budget Implications
 - Cash Implications
 - Contract Implications
 - Court Issues

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AB 1058 Moodle Training Site

- What is Moodle?
 - AB 1058 Program Reporting training website
 - <http://calcourts.moodle.com>
- Why do you want to use it?
 - Provides training on the concepts and requirements for submitting claims for reimbursement for CSC and FLF Programs
 - Allows court employees to interact and have discussions by posting on forum
 - Satisfies the California Rule of Court, Rule 10.452 court staff training requirement

Q&A

AOC Contact Information:

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TAB L

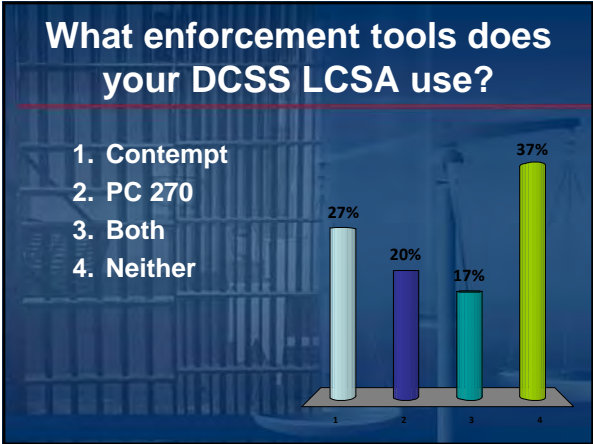
**Contempt of Court, Punishment,
Probation and Probation Revocation**

**Hon. Scott P. Harman &
Hon. Adam Wertheimer**

CONTEMPT OF COURT; PUNISHMENT, PROBATION AND PROBATION REVOCATION

ADAM WERTHEIMER,
COMMISSIONER SAN DIEGO COUNTY
SCOTT HARMAN
COMMISSIONER SACRAMENTO COUNTY

16th Annual AB 1058 Child Support
Training Conference
September 6, 2012
Marriott Hotel
San Jose, California



WHAT IS THE NATURE OF A CONTEMPT ACTION?

CIVIL?

IT IS BROUGHT UNDER THE CCP

QUASI CRIMINAL?

THERE IS POSSIBLE JAIL TIME, BUT IT IS BROUGHT UNDER THE CCP AND FAMILY/IVD COURTS ARE NOT CRIMINAL DEPARTMENTS

CRIMINAL?

THERE IS PUNISHMENT, INCLUDING LOSS OF LIBERTY UPON CONVICTION

CIVIL vs. CRIMINAL

HICKS v. FEIOCK, 485 U.S.624, 108 S.C.T. 1423 (1988)

ELECTION OF REMEDY AT OUTSET.
RELIEF SOUGHT GOVERNS CHARACTER.

CRIMINAL = UNCONDITIONAL SENTENCE OR NO PURGE. POSSIBLE LOSS OF LIBERTY. PUNITIVE.

CIVIL = CONDITIONAL SENTENCE (I.E. PURGE BY SUBSEQUENT ACTS) OR NO POSSIBLE LOSS OF LIBERTY. REMEDIAL.

CIVIL vs. CRIMINAL

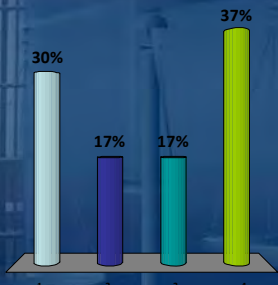
NO SUCH THING AS "QUASI-CRIMINAL".
ALL CHILD SUPPORT CONTEMPTS SHOULD BE TREATED AS CRIMINAL.
AGREE?

SO WHAT?

- CRIMINAL DUE PROCESS PROTECTIONS APPLY
- RULES OF CRIMINAL PROCEDURE APPLY

In your county When a citee makes his/her first court appearance on a contempt action are they advised of their constitutional rights?

1. Yes by the court
2. Yes by LCSA
3. Yes by both
4. No



RIGHT TO COUNSEL

County of Santa Clara v. Superior Court (Rodriguez) (1992) 2 Cal. App. 4th 1686 [5 Cal. Rptr. 2d 7]:

“When an indigent person has been ordered to show cause why he or she should not be found in contempt and punished for alleged disobedience of an order to pay child support, and the potential punishment includes a possible jail sentence, must the county provide an attorney, at public expense, to represent the indigent citee? We hold that it must.”

RIGHT TO COUNSEL

What about TURNER V. ROGERS (2011) 131 S.C.T. 2507?

“the Due Process Clause does not automatically require the provision of counsel at civil contempt proceedings to an indigent individual who is subject to a child support order, even if that individual faces incarceration (for up to a year).”

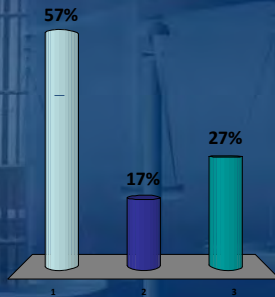
Applies to “civil” contempts. Not ours. See also Cal. Const., Art. 1 §15

APPOINTMENT OF COUNSEL

- HOW DO YOU DETERMINE ELIGIBILITY?
- WHO IS APPOINTED?
- HOW DOES COURT APPOINTED COUNSEL GET PAID?
- PROCEDURES FOR REIMBURSEMENT OF COURT APPOINTED COUNSEL FEES EXPENDED?

WHAT HAPPENS IN YOUR COUNTY IF CITEE FTAS?

1. The court issues a warrant
2. The court proceeds in absentia/default
3. Depends upon the case



FAILURE TO APPEAR

IS PERSONAL APPEARANCE OF CITEE REQUIRED?

- AT WHAT STAGE?
- PC 1429 – ARRAIGNMENT

"In a misdemeanor case the plea of the defendant may be made by the defendant or by the defendant's counsel."

FAILURE TO APPEAR

TRIAL IN ABSENTIA

- PC 1043

“(e) ...if the defendant fails to appear in person at the time set for trial or during the course of trial, the court, in its discretion, may do one or more of the following, as it deems appropriate:

- (1) Continue the matter.
- (2) Order bail forfeited or revoke release on the defendant's own recognizance.
- (3) Issue a bench warrant.
- (4) Proceed with the trial if the court finds the defendant has absented himself voluntarily with full knowledge that the trial is to be held or is being held.”

- FARACE v, SUP. CT. 148 CAL.APP.3d 915 (1983)

BENCH WARRANTS

AMOUNT OF BAIL?
 TERMS OF WARRANT?
 PROBLEMS WITH OTHER COUNTIES?
 EXONERATION OF BAIL

- USE FOR SUPPORT ARREARS?
- IF SO, HOW?
- RETURN TO PERSON WHO POSTED BAIL?
- BAIL FORFIETURE PROCEDURE?

TRIAL BY JURY

IF PUNISHMENT OVER 180 DAYS ENTITLED TO TRIAL BY JURY. In re Kreitman, 40 Cal.App.4th 750 (1995)

IF DECLARE AT START PUNISHMENT POSSIBLE 179 DAYS OR LESS: NO RIGHT.

DOES YOUR LCSA EVER PLEAD MORE THAN 36 COUNTS?
 HAS ANYONE HAD ONE?
 WHAT WOULD THE PROCEDURE BE IN YOUR COUNTY?

PUNISHMENT

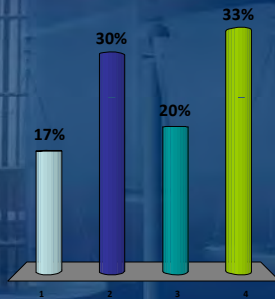
CCP §1218:

- \$1,000 fine per count (applicable in family law matter?)
- 1st contempt: Up to 120 hours imprisonment or up to 120 hours community service.
- 2nd contempt: Up to 120 hours imprisonment and up to 120 hours community service.
- 3rd and subsequent contempts: Up to 240 hours imprisonment or up to 240 hours community service

"The court shall take parties' employment schedules into consideration when ordering either community service or imprisonment, or both."

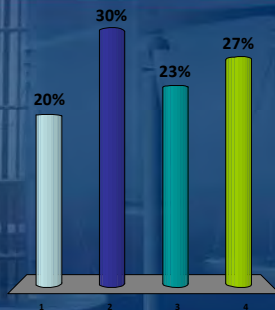
When do the courts in your county send people to jail?

1. After finding of guilt
2. After violation of probation
3. Depends upon the case (mixture of 1 & 2)
4. Never



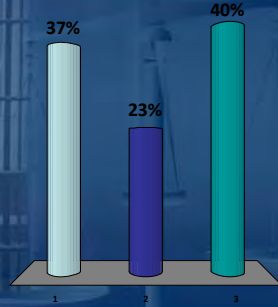
Will your counties' jails hold contemnners for their entire sentence?

1. Yes
2. No
3. Sometimes
4. I don't know



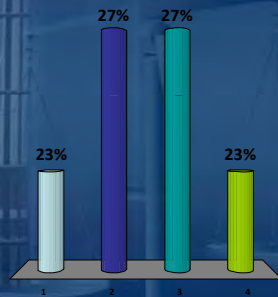
Are contemnners in your county fined as part of their sentence?

- 1. Yes
- 2. No
- 3. I don't know



Are contemnners in your county sentenced to community service in lieu of incarceration?

- 1. Yes
- 2. No
- 3. Sometimes
- 4. I don't know



SENTENCING

WHAT IS YOUR TYPICAL SENTENCING SCRIPT?

COMMUNITY SERVICE

COMMUNITY SERVICE VS. PUBLIC WORK SERVICE

WHO ADMINISTERS THE COMMUNITY SERVICE?

WHAT IS YOUR PROCEDURE WHEN YOU SENTENCE PEOPLE TO COMMUNITY SERVICE?

HOW DO YOU ENSURE COMPLIANCE?

WHAT DO YOU DO WHEN THERE IS NOT COMPLIANCE

COMMUNITY SERVICE

CCP §1218 (B) The court shall order the contemner to pay an administrative fee, not to exceed the actual cost of the contemner's administration and supervision, while assigned to a community service program pursuant to this paragraph.

PROBATION

WHAT ARE TYPICAL TERMS OF PROBATION AND HOW ARE THEY REVIEWED IN YOUR COUNTY?

WHO SUPERVISES PROBATION IN YOUR COUNTY?

HOW OFTEN IS COMPLIANCE REVIEWED?

WHAT DO YOU DO IF A PERSON DOES NOT COMPLY WITH THE TERMS OF PROBATION?

PROBATION REVOCATION

PROCEDURE

SUMMARY REVOCATION

PETITION TO REVOKE

RIGHT TO COUNSEL

ARRAIGNMENT: DENY OR ADMIT
ALLEGATIONS (NOT "G" OR "NG")

TYPICAL PLEA AGREEMENT IN YOUR
COUNTY? REVOKE AND REINSTATE?

PROBATION REVOCATION

HEARING, NOT TRIAL

HEARSAY ADMISSIBLE

STANDARD OF PROOF=

PERPONDERANCE OF THE EVIDENCE

SCOPE OF HEARING

SENTENCING ON REVOCATION – IF ISS
IMPOSE ANY TIME UP TO FULL
SENTENCE

PROBATION REVOCATION

IF EXECUTION SUSPENDED MUST
REINSTATE PROBATION OR
TERMINATE PROBATION AND SERVE
SENTENCE

CAN'T REDUCE SENTENCE ONCE
PROBATION REVOKED

PROBATION REVOCATION

TYPICAL PROBATION REVOCATION
PROCEDURE IN YOUR COUNTY?

SEE BENCHGUIDE 84: PROBATION
REVOCATION FOR LAW AND SCRIPTS

QUESTIONS?

TAB M

**Dealing with Difficult Personalities:
Tools and Strategies for Managing
the Most Difficult Court Users**

**Mr. Frank Del Fiugo & Ms. Fariba R.
Soroosh (Moderator)**

The Mental Health Spectrum

- ❑ Mental Health issues are viewed on a Spectrum.
- ❑ Diagnosis is not black and white.
- ❑ Mental Health Issues may vary infinitely from person to person.
- ❑ A spectrum approach starts with looking at basic diagnostic criteria for a disorder or disorders and then include an additional range of issues. (e.g. traits, lifestyle, behavioral patterns and personality characteristics)

Mental Health Spectrum

- ❑ From this perspective, we can look at patterns then develop tools and strategies for more effective outcomes when working with challenging clients.
- ❑ Individuals with *Personality Disorders* are often more difficult to mediate as they are diagnosed as erratic, emotional, dramatic disorders.
- ❑ Individuals may appear *more* disturbed under duress.

Personality Disorders

- ❑ *Personality disorders are pervasive chronic psychological disorders, which can greatly affect a person's life.*
- ❑ *These disorders can negatively affect one's work, one's family, and one's social life.*
- ❑ *Personality disorders exists on a continuum so they can be mild to more severe in terms of how pervasive and to what extent a person exhibits the features of a particular personality disorder.*

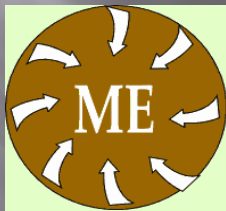
Personality Disorders

- ▣ While most people can live pretty normal lives with mild personality disorders (or more simply, personality traits), during times of increased stress or external pressures (work, family, a new relationship, **mediation**, etc.), the symptoms of the personality disorder will magnify and seriously interfere with their emotional and psychological functioning.
- ▣ Particular focus today on Personality Disorders that may make mediation challenging.
- ▣ DSM-IV-TR

Personality Disorders

- ▣ When personality traits are rigid and self-defeating, they may interfere with functioning and even lead to psychiatric symptoms and cause more or less suffering of patient or other persons or both and lead to social maladaptation (relations, family, work...)
- ▣ With aging, some factors may mitigate, some factors may accentuate.

Narcissistic Personality Disorder



Narcissistic Personality Disorder



Narcissistic Personality Disorder (NPD)

- ▣ Pervasive pattern of grandiosity, need for admiration, and a lack of empathy.
- ▣ Narcissistic personality disorder is a mental disorder in which people have an inflated sense of their own importance and a deep need for admiration.
- ▣ Those with NPD believe that they're superior to others and have little regard for other peoples' feelings.

NPD

- ▣ Behind this mask of ultra-confidence lies a fragile self-esteem, vulnerable to the slightest criticism. They take any sort of neutral or negative feedback ultra-personally.
- ▣ They can be exploitive, arrogant and stubborn. He or she feels powerful and fulfilled when creating powerlessness in another.

NPD Interventions/Strategies

- ▣ Joining
- ▣ Manage your expectations - If you are looking for equal treatment you will be disappointed. If your expectations are high, you may spend excessive time and energy with minimal results.
- ▣ A good indicator of narcissistic character is that you may feel bad for the narcissist even if he or she holds the power/momentum going into a mediation.
- ▣ Be willing to listen a lot and carefully.

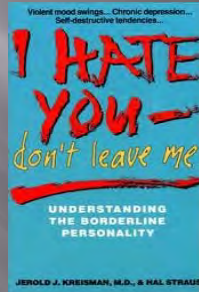
NPD Interventions/Strategies

- ▣ Provide positive recognition frequently.
- ▣ Empathize: If possible, be honest and sincere in your acknowledgement, praise and recognition.
- ▣ Don't worry about making the narcissist more self centered.
- ▣ Avoid directly challenging the narcissist's wishes or desires due to their low frustration tolerance.

NPD Intervention/Strategies cont.

- ▣ Be extremely precise in what you want to communicate.
- ▣ Know what he or she wants.
- ▣ Genuinely, precisely be able to show the narcissist the positives of a possible compromise. Name positive attributes to keep client engaged.
- ▣ Examples. "It sounds like you have a really good grasp of the mediation process. In my experience, many individuals need more time to understand this." "I really understand how upsetting this must be for you. I see how bothered you are because you feel this is a waste of your time. This must be difficult."

Borderline Personality Disorder



Borderline Personality Disorder (BPD)

- ❑ Splitting
- ❑ Extreme "black and white" thinking, instability in relationships, self-image, identity and behavior. (e.g. *Fatal Attraction*)
- ❑ A person with borderline personality disorder often experiences a repetitive pattern of disorganization and instability in self-image, mood, behavior and close personal relationships. Central feature is instability.
- ❑ A stressful situation like the breakup of a romantic relationship or the death of a parent may cause the individual to break down.

BPD

- ❑ Suicide or suicide attempts.
- ❑ Relationships with others are intense but stormy and unstable.
- ❑ The person may manipulate others and often has difficulty trusting others.
- ❑ There may be unpredictable and impulsive behavior which might include excessive spending, promiscuity, gambling, drug or alcohol abuse, shoplifting, overeating or physically self-damaging actions such as suicide gestures.
- ❑ *The person may show inappropriate and intense anger or rage with temper tantrums, constant brooding and resentment, feelings of deprivation, and a loss of control or fear of loss of control over angry feelings..*

BPD Interventions/Strategies

- ❑ BPD needs a highly structured meeting for success. Spend time on ground rules, and make sure he/she fully understands the process. (Although this is done for all mediation clients, it may need to be the main area of focus for the BPD client)
- ❑ Mediator needs to be consistent firm.
- ❑ Goal is to help he or she manage their stress and anxiety.
- ❑ Keep meetings short if possible. Watch for triggers and escalation.

BPD Interventions/Strategies

- ❑ Plan for breaks/time-outs early and frequently if necessary.
- ❑ Ask if they have learned relaxation techniques and have them apply before/during mediation.
- ❑ Prepare them for best/worst case scenarios
- ❑ Validate
- ❑ Boundaries – Boundaries – Boundaries

Anti-Social Personality Disorder



Anti-Social Personality Disorder (APD)

- ▣ Also known as psychopathy or sociopathy
- ▣ There is a pervasive pattern or disregard for and violation of the rights of others
- ▣ Repeatedly performing acts that are grounds for arrest
- ▣ Deceitfulness, as indicated by repeatedly lying, use of aliases, or conning others for personal profit or pleasure
- ▣ Impulsivity or failure to plan ahead

Anti-Social Personality Disorder (APD)

- ▣ Irritability and aggressiveness, as indicated by repeated physical fights or assaults
- ▣ Reckless disregard for safety of self or others
- ▣ Consistent irresponsibility, as indicated by repeated failure to sustain consistent work behavior or honor financial obligations
- ▣ Lack of remorse, as indicated by being indifferent to or rationalizing having hurt, mistreated, or stolen from another
- ▣ Having shallow or seemingly nonexistent feelings.

APD Strategies/Interventions

- ▣ Very few strategies and interventions if there is a complete lack of empathy or false empathy.
- ▣ Main strategy may be that of reward system or contingency management.
- ▣ If client is able to “get something out of it” she/he may be willing to make agreements.



APD Strategies/Interventions

- ❑ Due to impulsivity, disregard for others and the law, an agreement, a "successful" mediation may only last until the individual leaves the room.
- ❑ If the person with APD has a history of violence, mediation may be contraindicated.
- ❑ Manage Expectations. There is really no proven treatment for APD except very rigid boundaries.



Histrionic Personality Disorder



Histrionic Personality Disorder (HPD)

- ❑ Histrionic personality disorder is a condition in which a person acts very emotional and dramatic in order to get attention.
- ❑ Acting or looking overly seductive
- ❑ Being easily influenced by other people
- ❑ Being overly concerned with their looks
- ❑ Being overly dramatic and emotional
- ❑ Being overly sensitive to criticism or disapproval

Histrionic Personality Disorder (HPD)

- ▣ Believing that relationships are more intimate than they actually are
- ▣ Blaming failure or disappointment on others
- ▣ Constantly seeking reassurance or approval
- ▣ Having a low tolerance for frustration or delayed gratification
- ▣ Needing to be the center of attention (self-centeredness)
- ▣ Quickly changing emotions, which may seem shallow to others

HPD Strategies/Interventions

- ▣ Similar to BPD, client will need a highly structured meeting for success
- ▣ Briefly educate on the possible consequences of emotional outbursts or reactivity.
- ▣ Modeling. Rehearse possible scenarios when preparing a client for mediation. Do best case/worse case scenario with client and have them practice their responses. Role play.
- ▣ Affirmations and Validation. Show confidence in the person.

A Final Note Personality Disorders

- ▣ Personality Disorders often occur in clusters. We may see several characteristics from each disorder.
- ▣ If we see the dominant disorder we will tailor interventions accordingly.
- ▣ Finally, severe personality disorders are the most difficult clients to deal with.
- ▣ We must be vigilant with personality disordered individuals by not taking failure (or success) personally.

A Final Note Personality Disorders

- ▣ Keep It Simple. Direct, clear, communication. Boundary setting. Join by listening and empathizing.
- ▣ The Mediator's Challenge: *To assess when parties, due to mental illness are unable to appreciate the nature of mediation as a process for effective communication.*
- ▣ *In other words, CAPACITY is the issue that mediators must struggle with—specifically, when do parties not possess the capacity to engage in the process effectively?*

Recognizing the Dangerous Client

- ▣ Past history is the best predictor of future violence.
- ▣ Pay attention to your intuition. If you feel unsafe, others may feel the same way.
- ▣ Participant Safety, Site Safety and Mediator Safety are greatly enhanced when we know who we're dealing with.
- ▣ It would be ideal to have a background check.
- ▣ *In the moment assessment:* Substance abuse, mental health issues (e.g. paranoia) and threats - direct or veiled should never be minimized and appropriate steps should be taken for the safety of all parties involved.

Intrapersonal and Interpersonal Communication

- ▣ *Intrapersonal Communication* is having an internal dialog with yourself. It is important to be aware of your self-talk when dealing with difficult clients.
- ▣ In order to deal effectively with problematic clients, we need to have *self-awareness*. What are my personal beliefs and biases?
- ▣ Difficult or personality disordered clients trigger many different emotions in us: Frustration, anxiety, apathy, fear, the desire to help and take care of, etc.
- ▣ Paying attention to our internal dialog helps us remain objective and avoid taking things personally.

Intrapersonal and Interpersonal Communication

- *Interpersonal communication* is the process that we use to communicate our ideas, thoughts, and feelings to another person. Our interpersonal communication skills are learned behaviors that can be improved through knowledge, practice, feedback, and reflection.
- We must regularly ask ourselves: *If I'm struggling, am I proficient in asking for help and feedback?*
- Exercising and Enhancing our intrapersonal/interpersonal skills makes all the difference by modeling calm negotiations, pure listening and appropriate boundaries.

Group Exercises

1. Impactful Communication Basics
 - Reflect
 - Validate/Empathize/Affirm
 - Summarize
2. What I like about . . .

Q and A

