

Office of the State Court Administrator



TO: Child and Family Investigators
FROM: Office of the State Court Administrator
DATE: July 19, 2013
RE: Practice Guideline – Use of Support Staff, CJD 04-08 Standard 8

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The Office of the State Court Administrator in consultation with the Office of the Child's Representative has developed a Practice Guideline regarding the use of support staff by Child and Family Investigators. The purpose of this guideline is to provide clarification regarding what role support staff may play in a CFI investigation.

Chief Justice Directive 04-08

Standard 8. The CFI shall collect data and conduct an investigation sufficient to allow the CFI to provide competent opinions.

A CFI shall complete a fact finding investigation consistent with the court order of appointment, the legal standard being addressed, and the complexity of the family and the family issues being investigated.

COMMENT

A CFI must be careful to assure both fairness and the appearance of fairness, allowing the parties relatively comparable opportunities to present their perspectives. Depending on the case, the CFI may need information from collateral sources such as teachers or therapists; may need to review school, medical, or other records; may need to check criminal histories or obtain results of drug testing; or may require other case-specific information. The flexibility of the role allows the court to set forth specific areas to investigate under the order of appointment.

A CFI should use methods of data collection that are consistent with accepted professional standards. S/he should indicate any limits to the data or information and how that may impact his or her ultimate opinions. S/he should document the investigation to ensure accountability. A CFI should recognize that his or her file may be discoverable by parties and counsel in the case, and therefore, should maintain clearly documented records.

Practice Guideline – Use of Support Staff

The individual CFI is the court appointee charged with investigating the issues outlined in the order of appointment and as such is solely responsible for conducting the investigation and developing recommendations to the court.

A CFI **MAY USE** support staff in the following manner:

- Creating files
- Scheduling appointments
- Copying
- Typing
- Proof reading reports
- Requesting and compiling documents
- Collateral contacts for purposes of gathering background or factual data (the report to the court must indicate which support staff made the contact).

A CFI **MAY NOT** use support staff in the following manner:

- Interviewing the child(ren)
- Interviewing parties
- Authoring the court report
- Conducting home visits (unless the CFI is present AND the support staff has passed a criminal background check conducted by SCAO)

Discussion

The requirement that all party and child(ren) interviews be conducted firsthand by the CFI appointed to the case ensures that only qualified individuals who have passed a criminal background check are conducting the interviews and home visits, and drawing conclusions from the data based on that individual's independent perspective. The only exception would be for collateral contacts made for purposes of gathering background or factual data only, as with a school or employer. The reason for this requirement is that a CFI may be called to testify in support of, or in explanation of, the investigation and must be able to testify with personal knowledge about why certain conclusions and recommendations are being made.

Support staff may be used to assist a CFI in conducting home visits, as needed, but support staff must pass a criminal background check conducted by the Judicial Department's Division of Human Resource prior to providing such assistance in order to protect the integrity of the program. Moreover, the support staff may not substitute for the CFI who must be present at all times when interviewing the parties and child(ren) in order to be able to make a personal, firsthand assessment of the facts.

If a CFI chooses to employ support staff to assist in his or her practice, the CFI should be aware that he or she is responsible for the actions of their support staff and must have support staff sign a confidentiality agreement. Use of support staff for administrative tasks, such as those outlined above, do not require the support staff to submit to a criminal background check.