

Frequently Asked Questions Regarding Child Custody Investigations

PART I: General Information

■ WHY DID THE COURT ORDER AN INVESTIGATION?

The Court may order an investigation in custody or visitation disputes if the judge believes that it is necessary to resolve complex issues such as safety of the children. Court Mediators and attorneys may also recommend to the Court that an investigation be conducted if, in their judgment, it would help to clarify allegations and promote settlement of issues in the best interest of the children.

■ WHAT ARE THE QUALIFICATIONS OF THE INVESTIGATORS?

The minimum educational requirements for a child custody investigator are established by law and the California Rules of Court. Generally, the investigator must possess a Masters Degree in Psychology, Social Work, Counseling, or Marriage and Family Therapy. Furthermore, investigators are required to have training in several areas including the developmental needs of children, family dynamics, domestic violence, safety assessment and child abuse. For more information on the education, training and experience requirements for child custody investigators see California Family Code 3110.5 and California Rule of Court 5.225c-i.

■ WHAT HAPPENS IN AN INVESTIGATION?

There are some tasks that are completed in every investigation, including the following: criminal history checks are completed on each parent; child protection agencies provide reports regarding investigations into allegations of child abuse involving the parents, any of the parent's children and the children who are subjects of the child custody investigation. If pertinent, police reports and school records may also be obtained.

The investigator will also speak with relevant witnesses (social workers, teachers, therapists, law enforcement officials, and persons who have directly observed incidents.) The investigator will not speak to "character witnesses," multiple persons who have observed the same incident, persons who want to offer their opinions about one of the parents, persons whose information is second hand, gossip, or not relevant to the investigation.

■ WILL ALL HOUSEHOLD OCCUPANTS HAVE A CRIMINAL BACKGROUND CHECK COMPLETED?

Yes, if a household occupant provides any caretaking for the child. The following persons will have background checks completed: Any adult relatives living in your home; cohabitating girlfriend or boyfriend; spouse, domestic partners.

Unless ordered by the court, no criminal background check will be completed on an adult occupant in the home who does not participate in the caretaking of the child and does not fit the descriptions stated in the previous paragraph. However, a criminal background check may be conducted on this person, or if the investigator discovers information that may precipitate the need for a criminal background check.

■ DOES THE INVESTIGATOR SPEAK TO THE WITNESSES I WANT SPOKEN TO?

The investigator will only speak to persons that have made direct observations of events or behaviors that are relevant to the issues identified by the court. You should be prepared to tell the investigator specifically what information the witness will likely report. Witnesses that tend to have more impact are those who are usually viewed as objective, such as police officers, school officials, and social workers.

However, witnesses that may be viewed as aligned with one parent may also provide important information, especially if they have observed behaviors of one or both parents. Witnesses that are not likely to be spoken to are those who have observed events from the distant past (except for incidents of domestic violence or child abuse), character witnesses, etc.

■ WHAT SHOULD I DO TO BE PREPARED FOR THE INVESTIGATION?

Complete the Parent Information Packet and provide it to your investigator. Have relevant documents, report cards, names and numbers of witnesses immediately available.

HOW MUCH TIME WILL THE INVESTIGATOR SPEND ON OUR CASE?

The time of each investigation varies. Such factors as complex issues, levels of conflict, or the availability of witnesses affects the time the investigator must spend to complete the investigation. The range varies, usually between 20 and 30 hours.

■ DOES THE DEPOSIT I PAID COVER THE COST OF THE INVESTIGATION?

Not usually. The costs of investigation are charged on an hourly basis to the parties. The costs of Partial Investigations have ranged from \$600.00 to \$3,500.00. Full Investigations have ranged from \$1,200.00 to \$4,500.

■ THE INVESTIGATION HAS BEEN ORDERED; CAN THE OTHER PARENT AND I STILL MAKE AN AGREEMENT AND GET THE INVESTIGATION CANCELLED?

Oftentimes, yes. However, based on factors in your case, the judge may require the investigation to go forward even though both parties would like to make an agreement. This may occur when there are allegations of domestic violence, child abuse/negligence or substance abuse. In most cases the parties are allowed to make agreements.

■ THE OTHER PARENT AND I BOTH WANT TO MAKE A CUSTODY AND PARENTING AGREEMENT BUT WE NEED HELP IN IRONING OUT SOME AREAS OF DISAGREEMENT. CAN THE INVESTIGATOR HELP US WITH THIS?

Yes. Investigators are also trained court mediators. Furthermore, you may wish to contact the Supervising Court Mediator, who can then schedule you for a mediation session.

■ THE INVESTIGATION IS BECAUSE OF THE OTHER PARENT'S PROBLEMS; WHY AM I BEING INVESTIGATED?

All child custody investigations evaluate both parents. While there may be several allegations or concerns about the other parent, the court will want information regarding the quality of parenting of each parent.

■ WILL EACH PARENT HAVE HER OR HIS OWN INVESTIGATOR?

There is one investigator assigned to each case.

■ CAN I REQUIRE THE INVESTIGATOR BE A MALE OR FEMALE?

You cannot require the investigator have any characteristics, such as sex, race, etc. The responsibility of the investigator is to conduct the investigation in an impartial manner, and to make an evaluation and recommendations based on the evidence obtained in the investigation.

PART II: Interviews/Home Visits

■ HOW LONG ARE THE INTERVIEWS?

The interviews of the parents are approximately 45-90 minutes in length; interviews of the children vary in length.

■ HOW MANY TIMES WILL I BE INTERVIEWED?

Each parent will be interviewed in person one-time. Parents may be contacted by the investigator if the investigator has follow-up questions or needs additional information. Usually children are interviewed once.

■ WILL THE CHILDREN BE SEEN IN EACH PARENTS HOME?

If you are having a Partial Child Custody Investigation there will not be a home visit. Partial Investigation interviews are conducted at the office of Family Court Services.

In Full Child Custody Investigations, the children may be seen in each parent's home; however this is not required and is at the discretion of the investigator. Such factors as court orders, geographical distance, school and work schedules may preclude this from happening.

■ WILL THE INVESTIGATOR COME TO MY HOME?

If the court ordered a Partial Child Custody Investigation, there will not be an in-home evaluation. If the court has ordered a Full Child Custody Investigation, the investigator will be coming to your home. Home visits will be limited to residences in the following counties: Orange, Los Angeles, Ventura, San Diego, Riverside and San Bernardino.

■ IS THERE A MINIMUM AGE IN ORDER FOR MY CHILD TO BE INTERVIEWED?

The general limit is age 5. However, at the discretion of the investigator, younger children, may be interviewed. The investigator is trained in conducting interviews with children.

■ CAN I BE PRESENT WHEN MY CHILD IS BEING INTERVIEWED?

Children are interviewed alone. The investigator must make efforts to reduce the possibility that what the child reports is influenced by the presence of one of the parents. There are cases when the child and the parent are observed together, but the child must also be interviewed alone.

■ WILL I BE TOLD WHAT MY CHILD SAYS?

A summary of what your child reports to the investigator will be provided in the investigative report. Interviews with children are not confidential. However, the investigator will not review the child's interview with you.

■ I LIVE A LONG DISTANCE FROM THE COURT; CAN I BE INTERVIEWED BY PHONE?

Interviews by phone present limits that may impact the quality of the interview. The investigator cannot observe non-verbal communication, nor engage in a discussion that is as spontaneous or thorough as a meeting in-person. However, there are circumstances that cannot be overcome, when a telephone interview must occur. Generally, if you reside in one of the counties adjacent to Orange County, or in Ventura County, you will need to appear in person for your interview.

■ CAN I HAVE MY ATTORNEY PRESENT DURING THE INTERVIEW?

Attorneys are not permitted to be present.

■ WILL I HAVE TO MISS WORK? WILL MY CHILD HAVE TO MISS SCHOOL?

You may need to miss work. Appointments for interviews are scheduled during regular Court business hours, between 8:30 a.m. and 5 p.m. There are no evening or weekend appointments. It is likely your child will miss some school the date of the interview.

PART III: After the Investigation

■ MAY I TALK TO THE INVESTIGATOR AFTER THE INVESTIGATION HAS BEEN COMPLETED?

After the investigation has been completed, contact between parents or a third party and the investigator is not allowed occur. This restriction is in place to avoid the appearance of favoritism, bias or special treatment. However, you may contact the Supervising Mediator to address questions you may have.

■ CAN A WRITTEN REPORT BE CHANGED AFTER IT HAS BEEN FILED WITH THE COURT?

Once the report is filed with the court, it cannot be changed. However, if there is new information the investigator may file an addendum to the report. If an addendum is filed, the investigator will state in the addendum whether or not the new information has any effect on the evaluation or recommendations made in the original report.

■ WHAT IF I DON'T AGREE WITH THE RECOMMENDATIONS?

You (or your attorney) may object to the investigator's report at your court hearing. You may voice your concerns and disagreements with the report to the judicial officer hearing your case. You may subpoena the investigator to appear at the hearing; you can then question the investigator regarding those aspects of the report you disagree with. The subpoena must be served five (5) calendar days before the hearing.

DOESN'T THE JUDGE JUST ORDER WHAT THE INVESTIGATOR RECOMMENDS?

The court does not "rubber stamp" reports. The child custody report may be only one of several factors the judicial officer will consider in making a decision regarding child custody. The judicial officer may incorporate some or all of the recommendations made by the investigator into the custody decision and parenting schedule.