



FLO: Divorce and the Foreign Service



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Your Rights

If you are in the process of divorce and you are a Foreign Service employee or dependent on orders serving under Chief of Mission or in the U.S., the Family Liaison Office (FLO) is here to provide guidance to you and your family.

You have a right to:

- Make informed decisions;
- Pension, survivor and health benefits;
- Use the Family Liaison Office's services;
- Privacy and confidentiality through FLO;
- Advance travel (if you are posted overseas);
- Use the Career Development Resource Center;
- Considerate and respectful customer service;
- Seek garnishment of wages if spouse is in arrears;
- Apply for jobs using your Executive Order Eligibility;
- Access information under the Freedom of Information Act;
- Access Employee Consultation Services for counseling services; and
- Use employee assistance programs to help you locate a lawyer

Employees are reminded they have a responsibility to facilitate the return of their spouse/partner (and children, if any) to the United States or other location the family may choose. Employees are encouraged to reach a settlement with respect to disposition of HHE effects before the spouse/partner departs. Employees are also encouraged to reach a settlement with the spouse/partner in order to ensure adequate financial resources for the spouse/partner and family to establish themselves in the United States or other location.

For more information on your rights and responsibilities, contact the Management Officer or CLO at post or FLO in D.C. They are here to assist you. Some benefits terminate once a divorce is final. See FLO's website for more details at www.state.gov/m/dghr/flo, or contact us at (202) 647-1076 or via email at FLOAskSupportServices@state.gov.

Chapter 1

Counseling

Scenario

“Yesterday, my spouse came home from work and announced that divorce papers have been filed. The children and I have been asked to leave post immediately. I was devastated! It is the middle of the school year and only the second year of our three-year tour. I had NO idea this was coming and am in a state of shock. My first thought is about our children, especially the middle one, who has special needs. How will they respond and get through this? Many thoughts are flying through my head about the dissolution of our marriage and family. How could this have happened when I thought everything was going along so well? All of us had adjusted well to this post, the kids were reasonably comfortable at school, and I had finally found a job I liked in the Embassy. Who can I talk to about counseling to try to put this back together?”

At Post

Scenario

“My post is so small and such a fish bowl that I have been afraid to talk to anyone because I know that the word will get around fast.... Although I am miserable, I still don’t want to put my spouse’s career in jeopardy.”

You may feel comfortable discussing your situation first with the Regional Medical Officer (RMO), Nurse Practitioner, the Regional Psychiatrist (RMO/P) and /or the Community Liaison Officer (CLO). They may refer you to an approved counselor at post, specializing in family practice. Also, the Employee Consultation Service (ECS) has licensed clinical social workers available to help work through family crises (202) 663-1815. This service is completely confidential.

If child or domestic abuse is involved you should contact the RSO or Family Advocacy Officer, who is generally the Deputy Chief of Mission, right away (3 FAM 1810). Domestic abuse is defined as “any act or threat of violence against a victim (other than a child) that results or threatens to result in physical or mental injury to the victim” (3 FAM 1811.4). The Family Advocacy Team at post consists generally of the DCM, MED, and the RSO.

In the Department/Headquarters

You may want to contact someone in the Department right away. The Family Liaison Office (FLO), particularly the Crisis Management Officer and Crisis Management Specialist, are available to provide confidential guidance and referral. Also the Employee Consultation Service (ECS) has licensed clinical social workers available to help work through family crises. This service is completely confidential. In some cases you may want to contact MED Mental Health Services (M/MED/MHS). Both offices respect confidentiality; they consider employees and spouse/partners to be independent clients. Members of tandem couples may prefer to select different counselors.

Where to Get Information

Scenario

“I don’t know where to start. Where else can I get information about divorce and where I might file if we can’t work things out?”

FLO’s online [information on divorce](#) and the Office of Retirement’s “[Former Spouse Benefits Under the Foreign Service Retirement Systems](#)” guide provide information on a variety of subjects related to separation and divorce, including those related to retirement benefits and former spouse Federal Employee Health Benefits (FEHB) enrollment.

Filing for divorce is a civil/personal matter. The State Department suggests that you speak to an attorney licensed in the state where you will file, who can counsel you in case law and on all legal matters pertaining to the property settlement, the custodial agreement, or the divorce decree. Each state sets guidelines on filing requirements, residency, child support payments, etc. To help you locate a lawyer, and learn more about filing for divorce, consider using the following resources:

Information Quest (IQ) is a great free resource and referral service, available to all direct hire State Department employees and family members as part of the Employee Assistance Program: www.worklife4you.com. This is managed through Human Resources/Employee Relations (HR/ER). You may contact an IQ Specialist in any work/life area and receive initial free counseling and legal consultation. To request these enhanced services or any other customized research and referrals, email the Specialist directly at: Specialist@LifeCare.com, or call Information Quest’s toll-free number: 1-866-552-IQ4U (4748) or TTY/TDD 1-800-873-1322. Specialists are available any time of the day or night, every day of the year.

- USAID has a contract with WorkLife called Staff Care: www.staffcare.usaid.gov. Specialists are available 24 hours a day, seven days a week, 365 days a year.
- Free-phone: 1-(877)-988-7243 (1-877-98USAID);
- Direct Dial: 1-(919)-645-4960 (Long distance/international charges apply unless call made from a USAID Mission Tie-Line.);
- Collect/Reverse Charge Calling: +44-0-(208)-987-6200 (Instructions: Call collect or dial direct; they will take your number, and call you back.);
- TTY: 1-(866)-228-2809;
- SMS Texting: 1-(919)-324-5523.

Most other agencies have a similar WorkLife contract; consult with the management officer or HR officer at your agency to find out how to access your Employee Assistance Program.

There are a variety of resources on divorce available outside the government as well. See Chapter 9, “Resources,” for some suggestions. Many private insurance companies have lists of counselors who accept your insurance plan. You may feel most comfortable contacting your religious institution for information and guidance first. This is a very emotional issue, so it is a good idea to try to get several sources of information to best prepare yourself.

What about Legal Counsel?

You may be working hard to save the relationship, while at the same time thinking you should be consulting a lawyer, just in case. Even if you are overseas, it is important that **each party** consult a family law attorney in the state where the divorce action may be filed in order to be informed about the legal details/requirements pertaining to such actions. For more information on selecting an attorney, see Chapter 4, “Legal Assistance.” But before you select an attorney, you may want to do some of your own research and speak to several attorneys/legal resources. The Department of State’s Office of Legal Adviser does not provide such advice. At the very least, you should try to have a telephone conversation with an attorney **before leaving post**. The attorney can give specific guidance on separation agreements and the types of documents that should or should NOT be signed before departure. Most importantly, the lawyer can advise the party about actions that may protect the party against charges of family desertion, or assist in temporary child-custody issues. Be aware that some attorneys will require a retainer agreement before offering such guidance.

The following list of questions to ask an attorney is offered as a guide. It focuses on priorities, is by no means comprehensive, and includes questions that may or may not be appropriate for a foreign attorney.

- 1) Are charges made by the hour or by the case? How much are the charges?
- 2) Will there be a retainer fee? How much and when will it be due? Can you expect a letter outlining the fee arrangements?
- 3) Will the lawyer be the sole attorney handling the case? If not, when can you meet the other members of the firm who will assist?
- 4) How long has the lawyer practiced law and specifically matrimonial law?
- 5) How many contested trials has the attorney been involved with?
- 6) If children are involved, what experience does the attorney have with contested custody proceedings?
- 7) How long will your case take to resolve?
- 8) What does the attorney require of you as a client?
- 9) Which U.S. state will have paramount interest in the marital status of the parties?
- 10) What are the residency requirements in order to file for divorce in a particular state?
- 11) If a foreign divorce is contemplated, will it be enforceable in the home state?
- 12) If a simple separation agreement is written to indicate that the separation is by mutual consent, will this document be legal in the home state?

You will need to provide the attorney with a clear picture of the income and property of the marriage. The following list, although not complete, describes the types of information that you must furnish your attorney. Be sure to hand carry this information with you if you are coming from overseas.

- General information for each spouse/partner;
 - Name, date of birth
 - Home and work address
 - Academic background
 - Employment history
 - Military service

- History of relationship/marriage;
 - Date of marriage
 - Any previous separations or divorce proceedings
- General information for each child;
 - Name, date of birth/adoption
 - Special needs/talents
 - Health
 - School/academic information
- Relief sought; and
- A brief description of your thoughts on custody, support, and property distribution.

The Family Liaison Office has a short list of lawyers in the Washington, D.C., area who are familiar with the Foreign Service. It is available upon request and is intended to be a place to start, not a recommendation of a particular attorney or attorneys. The American Foreign Service Association (AFSA) at www.afsa.org also has a list of attorneys. The attorney you select to represent you should have some background in this area to enhance his/her ability to effectively represent you. For basic legal information regarding divorce actions in the relevant state, you could also begin with initial free legal consultation through Information Quest (IQ). They may be able to help you with questions related to jurisdiction to grant a divorce. (See Chapters 3 and 4 for further information on jurisdiction, lawyers, mediation and arbitration as well as the resources on finding a lawyer in Chapter 9)

What about Children?

Scenario

“And what about the children? What do I tell them? I don’t want to worry them but it will be hard to hide my anxiety. Tom and I will surely be arguing about everything at this point.”

Children may sense that the relationship between their parents has changed, and that there is some tension between the two of you. According to various counseling materials, it is important to explain to your children that you are not getting along, and may be considering separation and divorce. Hopefully you will have agreed to seek counseling before going any further and can share that fact at this time with your children.

It is better if both you and your spouse explain what is going on to all of your children at the same time so that they have a feeling of support from each other. Reassure them regularly that you both still love them and that it is not their fault their parents are not getting along and may divorce. When talking with your children keep their ages in mind; you may want to rehearse what you will say and anticipate questions so that you are consistent.

Chapter 2

Departure from Post

Information provided in Chapter 2 “Departing Post” applies to family members who depart and their employee sponsor remains assigned to post. In the case where the employee sponsor is curtailed or reassigned to a new location (with travel orders), the family member no longer has status at post and should consult with post MGT on proper procedures for pack-out and relocation.

Scenario

“If counseling fails, will I (as an EFM) be able to stay in the official Embassy residence for a while and, if not, would the Embassy find me alternate housing? What would determine how long I could remain at post? If I go back to the U.S. with the kids, will the government pay our way? And what about HHE?”

A former EFM/ spouse states:

“I would like to share my experience with other spouses/partners who face divorce while stationed overseas:

- *Don’t allow yourself to be forced out of your home, unless you are concerned about your safety (a possible abuse situation).*
- *Don’t leave post until:*
 - 1) *You understand, and have requested, Advance Return of Family travel orders, which cover the cost of plane tickets home and allows for the shipment of HHE.*
 - 2) *You execute a statement of mutual consent indicating that you are not abandoning or deserting your spouse/partner and/or your family. Make sure that a U.S. Consular Officer serves as witness.*
 - 3) *You have put in place a memo, or agreement - Authorization to Receive Goods Shipped from Post.*
 - 4) *You have executed and notarized a Joint Property Statement that documents what you have in storage, so that this can be released to you.*
 - 5) *You have the powers of attorney you need, including a limited power of attorney from your bank or credit union.*
 - 6) *You have plans and resources in place. (Contact your bank/credit union to make sure that you will not be closed out of joint accounts without your written, notarized permission).*

Without these documents in place, it may be more difficult to set up a home and take care of yourself and your children.” ~ Susan

At this point

- What is the process?
- Who needs to be involved?
- What resources are available?

You may leave post with your children, if you have any at post, or perhaps alone. EFM/spouses who are still married and spouses/partners on the employee's travel orders, qualify to receive USG-owned or leased housing, if available. When post has a vacancy in the housing pool, they may be compelled to let a spouse/partner (and their children) move in (for a limited time) so they can get organized to leave post, or until the end of a school semester or year when a month or two remains. This is to try to minimize the disruption to the children's education (this is where the Family Advocacy Team at post and MED can play a role). The post is not required to provide separate housing at post.

An EFM/spouse/partner who departs post before the tour of duty ends can use advance travel authority. Post management considers the best outcome for the family, whenever feasible. The EFM/spouse/partner may receive travel orders and a ticket for return to the U.S., and is eligible for HHE and air freight shipments. The HHE and air freight should be shipped from post in the EFM/spouse/partner's name. The weight of the advance shipment is then subtracted from the total weight allowed at the employee's next transfer. Air freight is authorized per person traveling.

The separating EFM/spouse/partner is not eligible for Separate Maintenance Allowance. This allowance is not intended for situations of marital separation or divorce (DSSR 263.3). As long as the couple has not yet divorced and the EFM/spouse/partner is on the employee's travel orders for the post where the employee is assigned, the EFM/spouse/partner is entitled to hold a diplomatic passport. EFMs who are not U.S. citizens may not have a U.S. passport, diplomatic or tourist (Title 22, CFR Section 51.3).

A former spouse/partner states:

"Please make sure to remind any spouse/partner who leaves post early because of separation or divorce that they should not go on their own dime; advance travel orders can cover their departure. Also, they shouldn't leave without signing a statement of mutual consent, which is notarized. I was so glad we did this so my ex couldn't accuse me of abandoning him later, though he was the one who had insisted I go."
~ Mary

The Statement of Mutual Consent

Sign a Statement of Mutual Consent before Departure

Regardless of whether you are asked to leave post or you decide to leave (possibly in order to fulfill residency requirements for filing for divorce in the U.S.), it is important to have a simple statement drawn up, signed by both parties, indicating that this separation is by mutual consent and that neither of you is abandoning or deserting the other. A U.S. Consular Officer should witness any such statement signed overseas. Check with an attorney in the state where the divorce will occur before signing the statement to make sure that it corresponds with what would be valid or acceptable in that state. You should not leave post until a statement of mutual consent has been signed and travel orders issued.

The Separation Agreement

Check with an Attorney First

A separation agreement is a legal document drawn up by parties to the marriage and witnessed, usually by a notary public. It can be general or specific and address either some or all of the divisions that occur during a separation. Before writing and signing an extensive separation agreement, which divides property and addresses child custody, be sure to consult an attorney.

Scenario

"I heard that sometimes the employee won't let the spouse/partner do things like leave, take the children, take certain items, etc. unless the spouse/partner signs a waiver to future benefits, etc. How can I protect myself and my children?"

Use Extreme Caution Before Agreeing to Sign Waivers!

Carefully review any document you sign that could possibly jeopardize future annuity, survivor annuity (separate from annuity), or Federal Employees Health Benefits (FEHB) for yourself or your children. You may want to consult an attorney before you sign any such document.

Advance Return of Family Travel

Authorized by employee, post management, or head of agency at post, according to 14 FAM 532.8 "Return travel of an employee's spouse/partner may be authorized to the employee's service separation address in the United States (see definition of "United States" in 14 FAM 511.3) or any other location in the United States on a cost-constructive basis from the employee's post of origin to the employee's separation address when a permanent marital separation or divorce is intended. Generally, a separation agreement should exist, but in the absence of an agreement, the Chief of Mission or head of agency's establishment abroad may determine that such travel is warranted and may initiate authorization action. The circumstances on which this determination is based should be summarized in writing and retained at post in accordance with 5 FAH-4, Records Management Handbook."

Important Note: *If you are considering divorce, do not wait until PCS orders are cut as you may not qualify for separate HHE shipments; you need to access Advance Travel in order to have USG cover the shipping costs to the employee's separation address.*

How is Advance Travel Paid For?

Advance return travel to the service separation address may be included in the first travel authorization issued to the employee authorizing travel of the family after an agreement to separate or divorce is reached (14 FAM 532.8-b). Before any expenses are incurred for the return travel of the EFM spouse/partner, the spouse/partner must sign an agreement stating that he/she understands that travel back to the same post will not be authorized at USG expense and that the agreement is signed voluntarily (14 FAM 532.8-d). The employee has to sign a repayment agreement (14 FAM 532.3-4) agreeing to pay back the cost of the ticket in case the employee does not complete the service period required to become eligible for travel at USG expense.

The employee may also pay personally for the return travel of the separating EFM spouse/partner. Later when the employee has been issued travel orders for his/her next departure, he/she may claim reimbursement for the ticket purchased for the departing EFM spouse/partner. The reimbursement amount will be limited to the amount the USG would have paid for the spouse/partner if the spouse/partner had departed with the employee on orders to the employee's next post of assignment.

Scenario:

We have decided that we need some time apart before we can make a decision whether to divorce or not. I will be returning to the States with our young child and we will be living with my folks for the next 6 months. Can we receive VSMA?

What If We Separate But We Do Not Divorce, Can I Qualify For VSMA?

This scenario addresses the one-change rule, since sometimes informal trial separations may occur in which Voluntary SMA is involved. Be advised as per DSSR 263 “Circumstances Not Warranting SMA,” that SMA is not authorized when a member of family would not normally reside with the employee. Only EFM’s (eligible family member) listed on the OF-126 may qualify for VSMA.

At the time of assignment an employee must elect (1) to have a family member included on the employee's travel orders or (2) not placed on the travel orders and instead be placed on VSMA. After this initial election, the employee may request that VSMA either commence or terminate, depending on the initial election, only once for each member of family during a tour. However, this change cannot occur during the employee's first or last 90 days at post (for exceptions, see 262.4a).

Note: *Section 264.2 (2) states that placing a family member who traveled to an overseas post on orders on SMA during an overseas assignment constitutes the “one change” allowed and the family member(s) may not be put back on orders and transported back to post at USG expense. In addition, the family member(s) will not be eligible for any allowances (including education allowance—at post or away from post school tuition, travel of children of separated parents, rest and recuperation travel, housing, access to the post medical facilities, etc.) at post even if the family member(s) are brought back to post at the employee’s expense. In the instance of a family member who began the tour on Separate Maintenance, and now wishes to be added to travel orders and brought to post, this constitutes the “one change” authorized under Subsection 264.2 of the Standardized Regulations. The family member(s) will not be able to return to voluntary SMA status during this tour of duty.*

What If Things Improve, We Reconcile and We Agree I Could Go Back to Post?

Only one-way transportation to return to the service separation address is authorized in connection with separation, dissolution, or divorce (14 FAM 532.8-c). If the employee later requests travel of the spouse/partner at U.S. government expense back to the same or a subsequent post where the employee is assigned, and the total cost of this return and subsequent travel is greater than the employee’s authorized travel, the employee will have to pay the difference.

The employee should keep his/her OF-126 up to date because allowances, entitlements and status in country flow from that form.

Scenario:

I can’t believe it! Tom has told me to leave but I can’t take the children!! They are my children as much as his! I am the one who takes care of them while he works long hours, weekends and is away on TDY. What are my rights? What are the children’s rights in this case?”

Does Advance Travel Cover the Travel of the Children?

It is important to note that travel of dependent children of an employee may be authorized under this provision only if a legal custody agreement exists or the employee otherwise agrees in writing to permit the children to leave the post permanently with the spouse/partner (14 FAM 532.8-e). This is true regardless of whether it is the employee or the spouse/partner who initiates the separation. Travel entitlements, like most others, go to the employee. When the employee agrees that the children may leave post under advance travel he/she must also submit a revised Form OF-126 "Residence and Dependency Report," to declare as a loss those children for whom return travel is requested under this provision. Absent the authorization of the employee, the spouse/partner may choose to seek a court order which may enable them to leave post.

How Do I Obtain HHE from Post and Storage?

Scenario

"If necessary, I am going to get a lawyer and a court order so I can bring the kids back to the States. Then, of course, we will need their things from post and I will have to get furniture out of storage to set up a house. We need their computers and as many of their things as possible to try to make them feel as comfortable as possible. This is really tough on all of us."

The Transportation Division of the employee's agency requires the following for the spouse/partner to arrange for a delivery of HHE from either an overseas shipment or storage:

- 1) Travel orders; and
- 2) Employee's consent (power of attorney or joint property authorization) or valid court order for property in the United States Agency's authorization based on the orders.

Important Note: *HHE can be removed from an overseas location or from storage (if stored at U.S. Government expense) only with the employee's consent or a valid court order.*

Employee Cooperation is Necessary

The employee has to request advance travel and advance shipment of household effects (HHE) on behalf of his or her family members. This must be supported by an approved justification. Post Management may also authorize the family member travel in lieu of the employee request (14 FAM 532.3). For State Department employees, the request is sent from post to HR/CDA; for employees from other agencies the request is sent to the appropriate bureau of their agency. When approved, the travel orders are issued in Washington, D.C. by the employee's agency; if travel occurs before these orders are issued the employee must pay the expenses and request reimbursement.

Before leaving post, take steps to ensure that HHE shipped from post can be delivered, if the employee cannot be present.

Advanced travel orders, which include the HHE addressed to the spouse/partner, are sufficient for the Transportation Division to release and deliver the goods. The employee also may send Transportation an e-mail authorizing these actions. However, to increase the imperative to send the

goods, the departing spouse/partner may wish to obtain a notarized statement from the employee, before leaving post, which provides authorization to receive goods shipped from post.

Important Note: *If the employee will not cooperate in requesting this advance travel/shipment, contact the Crisis Management and Support Officer in the Family Liaison Office for guidance. In May 2012, the Director General sent UNCLAS STATE 046852 to all posts entitled “Providing Adequately for Spouse, Partner, and Children Due to Separation and/or Impending Dissolution of Marriage or Domestic Partnership.” It states that “failure to adequately arrange for a spouse/partner or children’s transition from post can reflect adversely upon the U.S. government. Moreover, the Chief of Mission (COM) and the Department have a legitimate concern in the welfare of family members accompanying employees to post.”*

Once the advance orders are approved, the weight of the advance shipment is then subtracted from the total weight allowed at the employee’s next transfer. Air freight is authorized per person traveling. (14 FAM 618.c)

Sample Authorization to Receive Goods Shipped From Post:

I declare that the property being shipped from (name of post) _____

to (destination)_____

Under travel authorization # _____

May be delivered to (destination): _____

(Name) _____

Employee signature: _____ Date: _____

Also, before leaving post, ensure that HHE in storage can be accessed.

The Transportation Division requires authorization for a spouse/partner to access HHE in storage that is under the employee’s name. They will accept a notarized Joint Property Statement (JPS), which the spouse/partner can obtain before departing post or authorization by e-mail for the spouse/partner to remove items from the employee’s storage goods.

The employee (or spouse/partner) must pay all costs associated with access and removal, before the regularly authorized time of removal, which is generally when transfer orders are approved and issued for the employee’s onward assignment. These costs can be claimed against the employee’s future orders. Transportation will then contact the storage company to authorize access for the spouse/partner. (See sample below.)

Sample Joint Property Statement:

We declare that the property being stored at government expense is the joint property of:

_____ and _____ and either

party may have access to these effects.

Date: _____

Signature: _____

Date: _____

Signature: _____

Date: _____

Name of Storage Company: _____

Address: _____

Date Entered into Storage: _____

Invoice No.: _____

Notarized by: _____

Date: _____

Scenario

“Wow, where should I consider living in the United States, with the children. . . . to stay with my parents in Iowa? The kids and my parents adore each other and they would get plenty of support from the community in Ames but.... What about moving back to D.C. where we were before? The kids know the schools, Beth could get back into her gymnastics program, I could get help from FLO with my job search... But, then I would have to use the special “Foreign Service clause” to oust our tenants who have been so good about keeping things up. Then, there is our official separation address in Florida that we have kept all these years. That may be where the divorce is filed and one of us at least has to live there for six months.”

Take a deep breath and be as practical as possible because you are going to need to maintain a clear head. Your first instinct may be to choose a location where you would find emotional support, perhaps where there are family and friends. Jurisdiction considerations, where either party would be filing for divorce, should also be included in your relocation decision. In some cases you may have married overseas, not have property in the States, and believe it would be easier to divorce overseas as well. However, this divorce might not be recognized in your legal residence in the U.S. should you return.

State Residency

To get a divorce in the United States, one of the parties must be a resident of one of the U.S. states or possessions. This is true even if you are assigned overseas at the time. No matter where you are living, you are considered to have a residence in the United States.

“Residence” has two meanings:

- Place of Abode—where you are both physically present and currently living; and
- Domicile—where you are considered to reside for tax purposes.

Some states refer to “domiciled residents” and “domiciled nonresidents.” For example, a family posted to Kenya has two residences: their place of abode is Kenya and their domicile is their home leave state or the state to which they pay income taxes.

Jurisdiction to grant a divorce is usually based on domicile. Most states require that only one of the parties be domiciled in the state in order to file for divorce. Some states, such as Virginia, require physical presence for a certain period of time, in addition to domicile. So it would be necessary to return and live in Virginia for that time before you or your partner would be able to file.

Important Note: *Anyone contemplating divorce should consult an attorney practicing in their state of domicile to determine that state’s requirement for initiating a divorce action, including possible residency requirements. Also, it may be important to learn early on if the state where the divorce will be filed is a communal property (where all property is divided 50-50%) or an “equitable distribution” state. This basic information may be obtained free during initial consultation with an attorney, through IQ: Information Quest for Department of State employees or through equivalent WorkLife programs for other agencies.*

Foreign Divorces**Scenario**

“You know, I wonder if it wouldn’t be easier if we just got divorced overseas where we are. We might as well just get it over with and then the kids and I could start fresh when we get back home, wherever we decide that will be.”

Before pursuing a foreign divorce (divorce overseas), consult an attorney in your U.S. state of domicile to ensure that the foreign divorce decree will be enforceable in that state. If it is not, the other spouse/partner may be able to file for divorce in that state also, and receive a conflicting judgment. Keep in mind that the divorce (marriage dissolution) is separate from division of property, custody, etc.

Divorce can be obtained in many countries with relative ease and short residency periods. However:

- 1) Some U.S. courts may not recognize a foreign divorce decree, and it may be difficult to have the terms enforced in the United States even though it is a valid termination of a marriage contract. This is because most courts in the United States will not recognize a divorce when neither party was “domiciled” in the jurisdiction where it was obtained.
- 2) There may be concern regarding whether each party had adequate notice of the pending action and an opportunity to participate fully in discussion and decisions related to the resolution, child support, alimony, custody, and property settlements.
- 3) A foreign court may hold certain biases based on the culture and society of that country. Custody, support agreements, retirement annuity eligibility, or health benefits may not be treated as they would in a U.S. court.

Chapter 3

Support and Jurisdictional Consideration

What about Diplomatic Immunity?

Foreign Service employees and spouses posted abroad should consult with post management, and if needed L/DL, to determine if a waiver of diplomatic immunity is necessary before obtaining a divorce in the country of assignment. Generally, if you are accredited as a diplomatic agent (usually, if you have a diplomatic title) or are married to somebody who is, the Department would need to waive your immunity before you could file or appear before a local court. Diplomatic immunity exists for the benefit of the U.S. Government and can be waived only with Department of State consent; the individual does not control his or her own immunity. Guidelines for the waiver of immunity in divorce cases are in the Foreign Affairs Manual 2 FAM 221.5. All requests for waivers of immunity and questions concerning these waivers should be sent to:

Office of Assistant Legal Advisor for Diplomatic Law and Litigation (L/DL), Room 5420, Department of State, Washington, D.C. 20520; Tel: (202) 647-1074; Email: elegal-dl-dl@state.gov

The 2 FAM 222.5 covers guidelines pertaining to some, but not all, domestic relations cases. These include divorce, separation, maintenance, child custody, and child support.

Requests for waivers of immunity may be considered:

- 1) If both parties consent and the action is pursued in the United States;
- 2) If one party is in the U.S. and the other is at post, for the purpose of allowing service of process on the party at post, if that person consents;
- 3) If one party is in the U.S. and the other at post, to allow services on the person at post, without that party's consent, ONLY if the waiver is necessary to prevent undue hardship on that party or family members seeking service, AND if the action will be pursued in the U.S.; and
- 4) To allow a domestic relations action to be pursued in the host country if both parties consent and the prosecution of the action will not adversely affect the interests of the U.S. Government.

Service of Papers Abroad

Scenario

"What happens if we get back to the U.S. and I stop hearing from him? I have heard about other spouses who didn't know how to get the papers served when the employee is overseas. It would be good to know how that works, just in case. Who knows, he may go to Iraq or Afghanistan next and it could be difficult to reach him."

The plaintiff (party initiating the divorce action) serves papers on the defendant (the other party). State laws, including court rules of procedure, govern service of papers. It is easier to serve papers on a spouse physically present in the state of domicile than on a spouse who is serving overseas. Because state laws differ on these procedures, it is important for you to seek legal advice. If you retain an attorney, he or she will usually arrange for the service of papers.

There are various methods of serving legal papers, some of which are listed below. Again, it is important that you seek competent legal advice on issues regarding proper service. Otherwise, service could be invalid and you may be wasting your time and money.

Two Important Points:

- 1) Foreign Service employees should not use an overseas assignment to avoid service of process (22CFR 172.2(d)). Such behavior reflects adversely on the U.S. Government. Post management, preferably the Deputy Chief of Mission, should counsel and encourage employees to accept service of process. The Department may waive any relevant immunity of employees who refuse this service of process if it is determined to be in the best interests of the U.S. government. If the individual continues to evade legitimate attempts at service, it may result in the employee's curtailment from post and/or possible disciplinary action.
- 2) Department of State regulations (22 CFR 92.85) prohibit Foreign Service officers from serving process or legal papers or appointing others to do so except when directed by the Department of State.

Methods of Serving Papers:

- 1) If the state permits the service of papers by registered mail (a) a registered letter may be sent to a post with an APO/FPO address; or if not (b) the papers may be sent via international registered mail.
- 2) If the country is party to the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters, papers can be served by the central authority which is generally the Ministry of Justice. The Bureau of Consular Affairs, Office of American Citizen Services, can tell you which countries have signed the Hague Convention and how to transmit a request to the foreign central authority for this service.
- 3) The Inter-American Convention on Letters Rogatory and Additional Protocol is another multilateral treaty on service of documents in force in many countries. Check the Consular home page: <http://travel.state.gov>, under Judicial Assistance for up-to-date information.
- 4) In countries not covered by the Hague Convention, it is possible to hire a local attorney, or an attorney's agent, to serve the documents. (See Chapter 4 "Legal Assistance," on "Choosing a Lawyer," and CA's information brochure "Retaining a Foreign Attorney" on: http://travel.state.gov/law/retain/retain_714.html).
- 5) Letters rogatory can also serve as formal requests for service of process in countries that prohibit service of foreign court papers. A letter rogatory is a request from a U.S. court to a court in a foreign country requesting international judicial assistance. This often takes a great deal of time and may not be practical. It is not possible if the defendant has diplomatic immunity. The Bureau of Consular Affairs has information on the preparation of these letters: http://travel.state.gov/law/judicial/judicial_683.html.

Chapter 4

Legal Assistance

Scenario

"I have a friend who divorced recently and really liked her lawyer. Her case was very different from ours though. I need to ask around and do some research on legal assistance. I understand that you can do a lot of this online but I really want to speak to a person. I don't want to make mistakes. I can imagine that there must be other Foreign Service families going through this. I can't be the first one."

"My husband and I are separating. He wasn't interested in the jobs available overseas and doesn't want to be the 'trailing spouse' anymore. I am wondering if I need to bid on a domestic assignment next as we work this through with the lawyers. I want to make sure I get full custody of the kids, or if it is joint custody that they remain on my orders. There are so many things to think about." ~ Amy

Lawyers

Good legal advice is essential in divorce cases. As mentioned earlier, if the couple is overseas and considering separation, it is very important that each spouse/partner consult an attorney in the state where the divorce action may be filed to learn about specific laws that may have an impact on the case. The spouse should call the attorney before leaving post as he/she can:

- 1) Give specific guidance on separation agreements and the types of documents that should or should not be signed before departure;
- 2) Advise the party about actions that may protect him/her against charges of desertion; and
- 3) Assist in temporary child-custody issues.

Choosing a Lawyer

It is important that the lawyer be familiar with the Foreign Service Act of 1980, as amended, which provides pension benefits to certain Foreign Service spouses. FLO has a short list of some of these lawyers in the Washington, D.C., area (the list is for information purposes only and is not a recommendation), and the American Foreign Service Association (AFSA) has a list of lawyers with this experience as well. If you choose a lawyer who is not familiar with this Act, you may want to suggest that the lawyer calls someone on one of these lists to provide him/her with background information. For an initial, free, basic legal consultation on separation/divorce in the state of jurisdiction from an attorney practicing in that area, you can also contact IQ: Information Quest. You will need an attorney at some point regardless of whether you choose litigation (in the courts), mediation, or arbitration for your case.

To locate a lawyer in the United States, even if both spouses are overseas:

- 1) Get personal references from trusted family members, friends, and clergy or business associates. This is often the best way to find a competent attorney. The attorney selected must be practicing in the jurisdiction where the divorce action was filed;

- 2) Research the lawyer and information service in your city on the city website or through the county or city government offices;
- 3) Check the Martindale-Hubbell Law Directory for members of the U.S. and Canadian bar associations; it provides a biographical sketch of many lawyers and the legal specialties of the firms. Visit their website at: www.Martindale.com;
- 4) Contact the American Academy of Matrimonial Lawyers at: office@aaml.org, or visit them online at: <http://www.aaml.org>. They publish a list of certified fellows; these lawyers are listed by state for easy reference; or
- 5) Visit the American Bar Association website at: <http://www.abanet.org>.

Retaining a Foreign Attorney

Some couples consider foreign divorces. Foreign marriages and divorces, however, may not always be recognized in the U.S. courts. Also, the DOS may not recognize provisions for former spouse/partner benefits that may be included in a foreign divorce decree (Title 22, Part 19, Section 19.2 (f)). Should you decide to pursue a divorce overseas, the Consular Section of the U.S. Embassy or Consulate can provide you with a list of foreign attorneys with which post is familiar (the list is maintained for information purposes and is not a recommendation). You should contact several of them and describe the type of services you are seeking. Be sure to request a written schedule of fees charged for the necessary service and ask about his/her fluency in English. Check with the foreign bar association or similar body regarding the attorney's education and licensing. It is important that you feel confident that the attorney understands your situation and has agreed to handle the case before you decide to turn over documents or funds. If you are not satisfied with your association with the attorney, a U.S. consular officer can contact the attorney on your behalf to try to improve your mutual communication. Complaints against foreign counsel on the Consular list can result in removal of their names.

Important Note: *For employees who will be filing for divorce in the courts of another country, there may be immunity considerations in play; L/DL would need to be involved in that situation. If that is the course you wish to pursue, they will need to know whether you are accredited, and if so how, or if you enjoy immunities via a bilateral treaty, and if so, which one. Post management will be able to assist with answering these questions. As per , 2 FAM 221.5, Waiver of Immunity covers how they would need to be involved in order to waive any relevant immunity you might enjoy in a foreign territory. Such a waiver of immunity would not be necessary if you were to file in the United States.*

Other Types of Legal Counsel Overseas:

- 1) **Legal Aid Associations**-- Some countries have facilities for low cost or free legal services. The Consular list may include information on these legal aid associations. Otherwise check with the local bar association or the Ministry of Justice.
- 2) **Barristers and Solicitors** -- In some foreign cities (or districts or provinces) you may need the services of both a "solicitor" and a "barrister." Barristers may appear in court, including superior and courts of appeal. Solicitors are allowed to advise clients, represent them in lower courts, and prepare cases for barristers to try in the higher courts.
- 3) **Notaries Public, "Notaires", and "Huissiers"**-- In certain foreign countries the "notaires" and "huissiers" can perform many of the functions performed by attorneys in the U.S. They can draft instruments, wills, and conveyances. In some countries, a notary is a public official appointed by the Ministry of Justice; their functions include not only the preparation of documents, but also

the administration and settlement of estates. These notaries may serve as repositories for wills and can serve legal documents. Huissiers serve documents in some countries.

Note: *Notaries, “notaires”, and “huissiers” are specialized members of the legal profession. However, they are not lawyers and may not plead cases in court.*

How to Deal With a Foreign Attorney

The American Citizen Services in the Bureau of Consular Affairs suggest that you:

- 1) Find out the attorney’s qualifications and experience;
- 2) Find out how the attorney plans to represent you. Ask specific questions and expect the attorney to explain legal activities in language that you can understand;
- 3) Ask what fees are charged and how the attorney expects to be paid. “Notaires” and “huissiers” are usually government officials who must charge government-established fees. Some attorneys may expect to be paid in advance; some may demand payment after each action taken on your behalf, refusing to take further action until they are paid; and, some may take the case on a percentage basis, collecting a prearranged percentage of the monies awarded to you by the foreign court;
- 4) Ask your attorney to keep you informed of the progress of the case according to a predetermined schedule. Remember that most foreign courts work rather slowly. You may request that the attorney send you monthly reports, even though no real developments have ensued, simply to satisfy your doubts about the progress of the case;
- 5) Have your attorney analyze your case, giving you the positive and negative aspects and probable outcome;
- 6) Do not expect your attorney to give a simple answer to a complex legal problem. Be sure that you understand the technical language in any legal document prepared by your attorney before you sign it;
- 7) Keep your attorney fully informed of any new developments in the case;
- 8) Consider having complex or technical documents translated into the country’s native language before you provide them to your attorney. Remember, an elementary knowledge of English may not be enough to enable the attorney to understand the documents you provide;
- 9) Be honest with your attorney. Tell the attorney every relevant fact in order to get the best representation of your interests;
- 10) Find out how much time the attorney anticipates the case may take to complete. In some countries the courts recess for a period of several months. In addition, even if the case is resolved, currency control laws, in the foreign country may delay the transferring of funds awarded to you for an indefinite period of time; and
- 11) Request copies of all letters and documents prepared on your behalf.

The Lawyer-Client Relationship

Whether you hire an American or a foreign attorney, it is important to remember that you are in control and that the lawyer works for you. During your first conversation, gauge how you feel talking to the attorney about the details of your case, and listen to his or her responses to you. It is essential to communicate easily and effectively with the lawyer, and to have confidence and trust that your interests will be well served.

Remember that you are paying for the expertise of the lawyer to properly advise you in the legal implications of the divorce action. Your lawyer should have a definite understanding of the courts in the jurisdiction and a thorough working knowledge of possible rulings in your particular case. If you are not satisfied with your initial conversations, continue your search until you find an acceptable lawyer—one who meets your criteria. Careful attention to the selection of a lawyer should serve to eliminate serious client-lawyer controversy later.

The lawyer-client relationship is extremely important. The client must trust the attorney and feel comfortable following the advice given. To ensure a more effective relationship:

- 1) Be absolutely truthful with the attorney, even if the facts appear to be detrimental to your case;
- 2) Ask effective questions if choices are presented or advice is not understood;
- 3) Organize your questions and all materials to be presented to the attorney;
- 4) Distinguish between poor legal representation and correct, but distasteful, advice;
- 5) Recognize that you are paying for legal advice, not for therapy; and
- 6) Do not make major decisions without first consulting your attorney.

The initial interview with the attorney of your choice is extremely important, and you should be thoroughly prepared for it. The attorney will need information about your case; the nature and extent of your property, other assets, and debts acquired during the marriage; and, the relationship of both spouses to any children. You will have specific questions to ask the attorney and doing your homework before this meeting will give the attorney a clearer picture of your particular circumstances.

To help you organize your papers, it may be useful to label sections in a binder or file folder for: general information, home information, bank and investment folder, retirement, income taxes, and insurances. The following information, which may not be available at post, is useful, but not essential, for the initial contact with an attorney. However, you will eventually need:

- 1) Information on gross salary of each spouse, rank, identification of income from other sources (a copy of a recent earnings statement will be very useful);
- 2) Annuity payments;
- 3) Copies of recent income tax returns (at least two years) and other business returns, if applicable;
- 4) Information on all joint or individually held bank accounts, certificates of deposit, money market accounts, treasury bills or notes, etc., including types of accounts, balances, and account numbers;
- 5) List of all debts, such as credit cards and outstanding loans. Include account numbers, balance due, and monthly payment schedule;

- 6) List of stocks and bonds: name and number of shares, cost, date purchased, where located, and titleholder;
- 7) Copies of insurance policies including life, homeowner's or renter's, auto, health or major medical, and others indicating the policy number, parties insured, amount of the premiums, and the owner and beneficiary for each policy. Some insurance policies may be purchased through an employer; there may also be supplemental policies which should be considered;
- 8) Inventory of household furnishings, appliances, and other acquired personal property with description of item, when and by whom acquired, cost at purchase, current value, and current location of property;
- 9) List of real estate holdings including address and description of property, date of purchase, cost at purchase date, current appraisal, mortgage balance, and titleholder;
- 10) Descriptions of all vehicles and boats including date purchased, cost at purchase, current market value, titleholder, and loan balance, if any;
- 11) Location and contents of joint safe deposit boxes; and
- 12) Knowledge of location and contents of will, living will, living trusts, and powers of attorney.

Average Monthly Living Expenses:

- 1) Rent/mortgage, taxes, and insurance on the residence;
- 2) Utilities: heat, air conditioning, water, electricity, gas, and telephone;
- 3) Food and sundry items;
- 4) Automobile: gas, oil, maintenance, license, and insurance;
- 5) Clothing (separate estimates for self and children);
- 6) Medical: doctors, dentists, drugs, and insurance;
- 7) Education: tuition, books, activities, camps, uniforms, and lunches; and
- 8) Other miscellaneous expenses, as appropriate.

Property (or Marital) Settlement Agreement

Scenario

"What areas should I be sure to include when we are thinking about the property settlement agreement?"

"When my husband and I were talking about who would get what in the property settlement, he said that I could have the house if I agreed to sign a waiver on receiving part of his annuity. It sounded okay as it would provide a roof and stability for the kids but in the end it was such a mistake. I had to continue to pay the mortgage, taxes, upkeep etc. so there wasn't much left over for living expenses... and, of course, I had lost the possibility of receiving part of his annuity. Each case may be different but this was not wise for us." ~ Sally

The five key areas for a property settlement agreement are: (a) spousal support; (b) child support; (c) child custody; (d) a division of assets; and (e) the situation of the house. The preliminary property settlement may be informal. Both parties may decide on it together, it can be decided between the attorneys hired by the parties, or a judge can make the decision. When considering the property settlement it is important to remain practical, and manage the emotions you are feeling. What do you need to survive and take care of yourself, the children (and pets)? It is important to write out your

preliminary property settlement, review it a few days later, and if you agree you are ready to bring it to the attorneys, sign it before a notary.

Three methods to arrive at a property settlement are:

- Mediation;
- Negotiation (attorneys discuss a case around a table, most common when parties prefer not to face each other); and
- Litigation (before a judge, less than 5 percent of cases, most expensive).

Regardless of which method you choose, you may need an attorney to:

- File for the divorce;
- Prepare the final decree; and
- Prepare any division of retirement.

Mediation

If both parties to the divorce are in the United States, they may wish to use the formal process of mediation. Family mediation is designed to help couples involved in separation and divorce reach a fair and realistic agreement. For mediation to succeed it is important that both parties in the divorce trust each other. Mediation offers couples a non-adversarial means of settling the issues raised by their separation and can help reorder the couple's lives into separate ones. Couples are assisted by an impartial professional who is trained in conflict resolution and is knowledgeable about the legal, personal, and practical aspects of separation and divorce. The mediator encourages communication between the parties in resolving property division, financial support, and child custody issues.

Scenario

"I heard that mediation may not be the best way to go if the divorce is complicated. Is that true?"

Actually, mediation can help resolve issues that a judge has no jurisdiction to order. For example, regarding what happens to the house if one party wants to remain there and cannot afford to buy the other party out. With mediation you might be able to remain in the house, keep the other party on the mortgage for a few years until you sell it, and you would both be able to share the equity. If the case had gone to court, the judge may have ordered you to buy out your spouse in six months, remove that person from the mortgage (which would make it more expensive for you to make the payments), or sell the house immediately. In the case of spousal support, if the case had been decided in court and the person providing the support died, the spousal support payments may end. However, under mediation it may be possible to restructure the payment plan so that the support would continue for a longer period of time.

Mediation can be helpful at any stage of the dissolution of a relationship to provide either a preliminary separation agreement or a final comprehensive settlement. It is important to consult your attorney before signing the final mediation agreement, however.

After a divorce is finalized, mediation may also be useful in negotiating remaining problems or new issues that arise. (The services of a mediator are generally less expensive than that of negotiators and litigators). Good mediation may enable a couple to achieve the following:

- 1) Less bitterness and hostility during and after divorce (and sometimes a sense of empowerment and mutual respect by communicating);
- 2) A more constructive way of resolving future conflicts; and
- 3) A settlement that creates the best possible ongoing parent-child relationship.

The Mediation Process

At the beginning of the mediation process, both parties should meet with their attorneys to be informed of their legal rights. The process may go more smoothly if both attorneys are familiar with and supportive of the mediation process, but mediation can still be a good idea even if they are not. If both spouses agree to mediation, they attend an orientation session to explain the mediation process. Under the guidance of the mediator, the couple negotiates and resolves the specific issues (e.g., child custody, property division, financial support). The mediator helps the parties to assess the practicality of their proposals and to anticipate future situations. With mediation both parties can make a decision on an issue, give themselves time to think it over and if one or both change their minds, they can renegotiate before coming to an agreement.

Before your first meeting with a mediator, write down:

- Your Goals;
- Your Concerns; and
- Emergency issues (i.e. outstanding debt).

Mediators can answer questions about the law in general, about the law in the state where they are practicing and the divorce is filed, and about their experience in court. You will need your attorney to review any documents (before you sign them) related to commitments, obligations, benefits, and what you have decided to concede. The mediator may offer alternate approaches to facilitate agreement. Mediators may meet both jointly and individually with the parties.

Once an agreement has been reached, the mediator will prepare a memorandum of the resolution of issues. Both parties should review the agreement with their attorneys who may make additional suggestions before signing. Do not sign an agreement and then be surprised that it did not contain what you are looking for, for example, no survivor benefits. It is helpful to work with attorneys who are “mediation friendly.”

The Mediator’s Role

The mediator’s role is to:

- 1) Ensure that both parties have access to the same financial information;
- 2) Prevent either party from dominating the other in negotiations;
- 3) Assure that decisions are made willingly; and
- 4) Promote an equitable agreement.

Mediation is a fairly new profession, and clients should inquire carefully about the mediator's qualifications. Some information you may want to find out are the mediator's:

- 1) Number of years of mediation experience;
- 2) Training in mediation and conflict resolution techniques;
- 3) Expertise in family dynamics, parenting issues, and the divorce process; and
- 4) Knowledge of family finances, property, and tax issues.

The Association for Family and Conciliation Courts in Madison, Wisconsin (Tel: (608) 251-4001 or www.afccnet.org) has directories of private and public mediators. Contact them directly for their directories. This site has a list of mediators by state www.divorcehq.com/mediatordir.html. The list is not comprehensive and is for information purposes only and is not a recommendation. Also, The Women's Center of Vienna, VA, is one of the centers in the Washington, D.C. area, with mediators with extensive experience.

Chapter 5

Children and Divorce

Scenario

“My wife and I are a tandem couple and we have decided to call it quits. We tried to keep our family together until the children finished school, but they are just in the 6th and 7th grades and we are having a hard time hiding the tension we feel already. Custody is going to be a big issue for us. We each have a different idea of what is best for the children. How do we talk to the kids about all of this?” ~ Charles

Talking to Your Children about Divorce

Once you have made the decision to divorce, it is important for both of you to talk to your children. If you have more than one child, try to explain it to all of them at the same time so that they have a feeling of support from each other. Reassure them regularly that you both still love them and that the divorce is not their fault. Explain how the divorce will work, allow plenty of time for questions, and make it clear that the decision to divorce is final.

Divorce affects each child differently, but there are some common childhood reactions to stressful family events you should look out for which include: (1) disorganization (following directions, solving problems, using good judgment); (2) regression (bedwetting, baby talk, being clingy); (3) acting out (irritable or defiant); (4) physical symptoms (headaches, stomachaches, muscle cramps or changes in eating, sleeping or toileting habits).

To help them, be understanding and provide extra love and attention, regardless of how you may be feeling at the time. If this behavior continues, consult your pediatrician or the medical providers at your post including the RMO, RMO/P, and Nurse Practitioner. Many employers offer an Employee Assistance Program (EAP) that provides free emotional support for these and other issues. Ask your Human Resources (HR) representative if EAP services are available to you through your agency. You can also contact the clinical social workers at the Department of State’s Employee Consultation Service (ECS) on (202) 663-1815 or Email: MedECS@state.gov.

Tips to Help Your Children Cope

Infants and Toddlers:

- Keep your children’s daily routine as consistent as possible;
- Make sure both parents maintain regular contact with the child(ren);
- Be aware of how conflict in your household is affecting their moods and sleeping patterns;
- Spend more time with your children including cuddling, reading or listening to music to ensure that they feel safe and secure; and
- Keep all caregivers apprised of your family situation and ask them to let you know if your children are acting differently.

Preschoolers:

- Communicate openly with your children about the divorce and encourage them to be honest about their feelings (they are likely to believe it is their fault);
- Look for changes in their behavior such as aggression, anger, and sadness;
- Maintain consistency and predictability in your children's care arrangements and inform the caregivers of your family situation so they can be sensitive to changes in their behavior; and
- Seek help from your children's medical provider (or MED at post, or the ECS) if they maintain changes in behavior or mood.

School-Aged Children:

- Make sure children maintain frequent contact with their noncustodial parent;
- Monitor your children's schoolwork carefully and inform their teachers about the situation;
- Discuss custody arrangements with your children;
- Listen carefully to your children and encourage them to talk to you about how they are feeling;
- Don't force the children to take sides;
- Watch for signs of aggression, anger or sadness; and
- Have them speak to a professional if their grief continues for an extended period.

Pre-Teen and Teens:

- Talk to your teens about the divorce as chances are they suspect problems in the family;
- Keep your children actively involved in custody decisions;
- Be alert for at risk behaviors, especially alcohol and drugs;
- Watch for changes in their school performance; and
- Seek help if necessary from a professional counselor.

Custody Considerations**Scenario**

"What type of custody should I be thinking about, considering the fact that my spouse will be moving in and out of the U.S. every few years? Should I go for sole custody or would the kids benefit more from joint custody? There are such great private schools overseas, the special education allowance is adequate (they have a better chance of getting into college, I hear, if they apply from overseas) and yet, I would probably be able to devote more time and attention to them. I know I would miss them terribly but I am trying to keep their best interests in mind."

Making child custody arrangements may be the most difficult aspect of the divorce. Unless one parent is considered unfit or dangerous to the children, custody arrangements should include frequent contact between the children and both parents, when possible. Generally it is important to keep the custody schedule as predictable as possible, avoid placing the children in the center of any disputes, and encourage your children to maintain contact with your ex-spouse. Allow older children to have a say about when they will see their other parent, within the rules of any legal custody arrangement, as they often adapt better when they feel they have some control.

If you have difficulty reaching a mutually agreed upon arrangement, you may want to consult a mediator who can help both of you work through your conflicts. Some counties and states offer assistance through a family court, which explains procedures but **cannot** tell you what you should do or give you legal advice. Consult with an attorney and work towards a custody agreement that is in the best interests of the children.

The Foreign Service employee's frequent moves and overseas assignments must be taken into consideration in any discussion of child custody. Traditional interpretations of sole or joint custody with frequent or equal visitation rights become even more difficult, when the divorced parents live half a world apart. This is further complicated when a tandem couple divorces and wants to share joint custody. Tandem couples may decide to keep the children on one of the spouse's orders for consistency, or make changes depending on the schools available at post, security and health factors, etc. Again, it is very important to consult with an attorney.

Unaccompanied tours pose special challenges when it comes to child custody. Children will not be able to go to an unaccompanied post; they will not be on the parent's travel orders during this period. They will be able to see their parent when the parent comes home to visit them, and can also meet the parent at a midway point under the Children of Separated Families travel regulations (3 FAM 3750). (See below). The cost of an accompanying parent is not covered under 3 FAM 3750. Questions related to support for families experiencing an unaccompanied tour can be sent to: FLOASKUT@state.gov.

Important Note: *Children of divorced employees, spouses, or domestic partners cannot be listed on travel orders unless a copy of the divorce decree establishing that the employee/spouse has joint or sole physical custody (or the equivalent) of the children is on file in the appropriate personnel (HR/EX) office. In joint custody cases, a notarized statement from the former spouse authorizing the child to reside abroad also is required (see Instructions on the OF-126). Requests for exceptions to this policy will be reviewed on a case-by-case basis.*

Important Note: *A student cannot receive an education allowance to attend school in the United States if the nonemployee parent resides in the United States, except where the employee establishes that the parent residing in the U.S. is divested of custody of the child, is mentally or physically unfit to care for the child, or in the case of a step-parent, is estranged from the employee. (DSSR 276.3)*

The Emotional Effects of Divorce on Children

Marriage difficulties can be very hard on children. They may not readily show their distress or even realize the implications that a separation or divorce may have for them. Parents need to explain to children in an age appropriate way what is happening and why. Over time, children will bring up new questions concerning the breakup that will also need to be addressed. Children need to feel that they are unconditionally loved by both parents, and that this love will continue throughout their lives, even if the parents are divorced or no longer living together. No matter how much distress there may be between spouses, the children love both parents and should be allowed to continue to be with both of them without guilt.

When working out a visitation schedule, keep in mind that in most cases, children desperately want to have a meaningful relationship with both parents. Thus, each party should try to maintain objectivity, allow frequent and flexible visitation rights, and not erect barriers between parent and child. Severe

restrictions may generate hostility, anger, and guilt within a child. Understanding behavior by both parents during a divorce can teach children to be self-assured even under life's most trying and adverse circumstances.

Raising a Child on Your Own

Whether you have sole or joint custody, you may be spending some time raising the child(ren) on your own. Try to allow yourself, and your children, enough time to adjust to being a single parent. Allow your children to be children, and keep in mind that every problem your child has is not because you are a single parent. Boost your child's self-esteem; let him/her know that the absent parent is not rejecting him/her and that you will not abandon him/her. Encourage your child to share his/her feelings and allow him/her to have his/her memories, but not live in the past. Try not to lean too much on your child for support. Maintain a sense of continuity as much as possible. Try to spend quality time with your child, provide a sense of security, respect your child, and be consistent with rules and discipline. You are the primary role model for your child, so try to live the values you want him/her to learn. Being positive is important but don't worry about trying to be a super parent, both father and mother.

Travel of Children of Separated Families

The Foreign Affairs Manual (3 FAM 3750), outlines the yearly travel benefit for children of a Foreign Service employee stationed overseas. This regulation provides for payment of one round trip per year for an unmarried child under the age of 21 to visit either of the child's parents, subject to certain criteria. The benefit can be used for the employee's natural, adoptive, stepchildren and children under legal guardianship or comparable permanent custody arrangement. Travel can be approved from post to another overseas point, but it is computed on a cost-constructive basis. Travel authorization should be obtained at post. The employee must sign a statement that this travel is not inconsistent with any applicable court order and/or separation agreement.

Cost construction involves a comparison of two amounts: (1) the cost to the USG for travel or sending goods as prescribed in the travel authorization; and (2) the cost for the employee to travel or send goods in a way that is dictated by personal preference. Only in cases where the second cost is more than the first does the employee pay the difference personally.

The child may travel to visit the Foreign Service parent abroad if the child does not regularly reside with that parent, and if the Foreign Service parent is not receiving an educational allowance, educational travel allowance, or separate maintenance allowance for the child. The child may travel to visit the non-Foreign Service parent if that parent resides in a country other than the country to which the Foreign Service parent is assigned, and the child regularly resides with the Foreign Service parent and does not regularly attend school in the country in which the other parent resides (3 FAM 3752). When both parents are foreign affairs agency employees, the noncustodial parent should apply for the travel of children of separated families' benefit (3 FAM 3753.2).

Child Support and Alimony Enforcement

The salary or pension of a Federal employee, including members of the U.S. Armed Forces, may be garnished for the purpose of enforcing a legal obligation to provide child support or alimony (see 42 USC 659). The party requesting garnishment must provide evidence of the legal obligation such as a court

order or custody/ divorce decree in accordance with 5 CFR Part 581. For information on how to have a Foreign Service employee's wages or annuity garnished, see Chapter 7: Financial and Privacy Act Considerations. The Office of the General Counsel, Department of Defense, Washington, D.C. 20301, may be able to offer further assistance regarding garnishment of salary or pension of military personnel.

The Department expects its employees to fulfill their financial obligations. As per 3 FAM 4139.9, which governs financial responsibility, states, in part, that an agency may take disciplinary action for financially irresponsible behavior. Specifically, "disciplinary action may be warranted where an employee's failure to pay financial obligations will result in embarrassment and/or discredit to the agency or Government."

Any individual who is certified by Health and Human Services as owing over \$2,500 in child support is prohibited by public law from receiving a U.S. passport. This prohibition, as stated in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), was amended in October 2006 to reduce the amount triggering the statutory bar from \$5,000 to \$2,500. The prohibition includes diplomatic and official passports, both new issuances and renewals. The Department has no authority to waive this statutory requirement. For more information about the owing child support, being in arrears, and the issuance of diplomatic passports, contact:

U.S. Department of State
Passport Services
Special Issuance Agency
1111 19th Street N.W., Suite 200
Washington, DC 20036
Tel: (202) 955-0198

Child support cases with a passport hold (also known as child support arrearage) should be referred to the relevant State CSE (Child Support Enforcement) Office. In addition, if the person is a dual national, the travel information should be sent to the appropriate office in CA/OCS/ACS.

Public requests for general information regarding the denial of passports for non-payment of child support may be handled at post. If inquirers want specific action or information, there is a list of contact information for state child support offices in State 252326. For more information on Department of State policy on the issuance of passport and law enforcement in regards to child support cases please contact:

Office of Passport Legal Affairs & Law Enforcement Liaison
2100 Penn Ave. NW, 3rd Floor
Washington, D.C. 20037
Tel: (202) 663-2662
Fax: (202) 663-2654

The Office of Passport Legal Affairs and Law Enforcement Liaison is responsible for legal oversight of issues pertaining to business operations, citizenship/nationality, budget, procurement, Privacy Act and Freedom of Information Act compliance, litigation, data sharing, fraud, regulatory drafting and compliance. They provide law enforcement liaison with local, state, and federal enforcement agencies.

“The Personal Responsibility and Work Opportunity Reconciliation Act” should also include provisions regarding international child support enforcement. Section 371, Section 659A and Section 654 (32) of the Act provide for a declaration by the Secretary of State, with the concurrence of the Secretary of Health and Human Services, that a foreign country has procedures in place for child support enforcement owed to persons who are residents of the United States.

The Department of State has undertaken bilateral discussions with many countries and formal arrangements are now in place for specific foreign countries on the subject. For information about international child support enforcement developments, see the Bureau of Consular Affairs’ web page at: http://travel.state.gov/law/family_issues/support_issues/support_issues_582.html.

Parental Child Abduction

The International Parental Kidnapping Crime Act of 1993 (IPKCA) made child abduction from the United States a federal crime. Also the Hague convention on the Civil Aspects of International Child Abduction, to which the United States became party in 1988, is currently in force between the U.S. and certain other countries. The Hague Convention provides a legal mechanism for the return of internationally abducted children to their country of habitual residence. A court order of custody is not necessary to violate IPKCA or for an abduction to occur under the Hague Convention. Most criminal abductions under IPKCA, and most abductions under the Hague Convention, happen before any court order of custody is issued. However, a well-written custody decree is an important line of defense against parental child abduction. The National Center for Missing and Exploited Children (NCMEC) has developed recommendations for writing custody decrees to help prevent the abduction of a child. Their addresses may be found in Chapter 9: Resources. The parent with custody should obtain several certified copies of the custody decree, which can be used in the following ways to prevent abduction:

- 1) Give a certified copy to the child’s school. This will give the school a basis for refusing to release a child to a non-custodial parent and for notifying both the custodial parent and the police if a problem should arise.
- 2) To prevent the issuance of a U.S. passport for the child, a copy of the custody decree and a written request that the child not be issued passport must be sent to:

Office of Children’s Issues (CA/OCS/CI)
 Department of State Washington
 DC 20520
 FAX: (202) 663-2674
 Website: www.travel.state.gov

Either parent can request the Office of Children’s Issues to notify them if the other parent applies for a passport for the child.

Important Note: *A passport already issued to your child will not be revoked if it was issued appropriately, but a court of competent jurisdiction can order that it be turned over to the Department or another person.*

- Both parents **must** provide consent authorizing passport issuance for a minor under the age of 16. Please follow the guidance at:
http://travel.state.gov/passport/get/minors/minors_834.html.
- The request for passport notification or denial should include the child's full name, date and place of birth, the requesting parent's address and phone numbers, and must be signed by the requesting parent. If a court order is sent, it should be the entire order.
- To prevent the issuance of a foreign passport or a foreign visa for the child, a certified copy of the custody decree and a written request that a passport/visa not be issued to the child must be sent to the foreign embassy. In your letter, inform them that you are sending a copy of this request to the Department of State. No international law requires compliance with such request, but many countries will comply voluntarily.

The Bureau of Consular Affairs has published a booklet, *International Parental Child Abduction*, which contains useful information and a checklist for parents. For more information, write to:

U.S. Department of State
Overseas Citizen Services, Office of Children's Issues
Attn: Children's Passport Issuance Alert Program
2201 "C" Street NW, Washington, DC, 20520
Tel: 1-888-407-4747
Fax: (202) 736-9133
Email: PreventAbduction@state.gov

Chapter 6

Retirement and Health Benefits

A former spouse states:

“I thought at the time that I should accept the annuity benefits but decided to waive the survivor benefits, in case my wife decided to marry again. It seemed reasonable at the time. I didn’t realize what a mistake I was making.” ~ George

Pension and Survivor Benefits

Scenario

“We have been married for 20 years. Most of that time I was home taking care of the children and being the flexible partner, re-inventing myself over and over at each post. This divorce has come as a shock. I hadn’t planned on being on my own at this stage. I heard something about being entitled to annuity benefits. How does that work? What about continuing my health coverage?”

Under sections 814 and 861 of the Foreign Service Act of 1980, as amended, unless otherwise expressly provided for by any spousal agreement or court order, a former spouse who was married to a Foreign Service officer during at least 10 years of his or her creditable federal service (five while a member of the Foreign Service), is entitled to both pension and survivor benefits unless those benefits are waived. A former spouse is entitled to these benefits if he/she was divorced after February 15, 1981, and there is no court order or notarized spousal agreement that provides otherwise. A former spouse annuity ends if he/she remarries before becoming 55 years of age.

The pension benefit is a pro rata share of up to 50 percent of the Foreign Service pension and the survivor benefit is a pro rata share of the regular survivor annuity. This comes to 55 percent of the annuity under the old retirement Foreign Service Retirement and Disability System (FSRDS) and 50 percent under the new Foreign Service Pension System (FSPS). A pro rata share reflects the percentage of time the former spouse was married to the officer during his or her years of creditable service. For example, if married during all of the officer’s creditable years of service, the former spouse is entitled to 50 percent of the pension. If married for half of the years of creditable service, the spouse is entitled to 25 percent of the pension.

To "expressly" waive benefits, any spousal agreement or court order must sufficiently identify the retirement system involved. To leave no room for doubt, the words Foreign Service, FSRDS, or FSPS must appear in the document.

Scenario

“But I don’t quite qualify exactly under these regulations. Are there any other provisions?”

A former spouse who does not meet the eligibility requirements for pension or survivor benefits under Section 814 of the Act, may still be entitled to receive a portion of the member’s annuity, if this is provided for in a valid court order (Section 820(b)(2)). In addition, P.L. 100-238 of January 8, 1988, extended eligibility for survivor benefits to former spouses married to Foreign Service members

between 9 months and 10 years, provided that the survivor benefit is either elected by the employee or ordered by the court.

A former spouse divorced before 1981 may have entitlement to a pro rata share of pension and survivor benefits in accordance with the provision of P.L. 100-204, December 22, 1987, and P.L. 100-238, January 8, 1988. While application for these benefits expired June 22, 1990, HR/RET will review any requests for waiver of this deadline on a case-by-case basis.

Important Note: *An employee who remarries should review his/her designations for annuity and survivor benefits.*

Scenario

“My husband was married previously. Does that make any difference to the survivor benefits I am entitled to?”

The maximum possible combined total of all current and former spouse survivor annuities is 55 percent of an FSRDS annuity and 50 percent of an FSFS annuity. As a result, a court order awarding a survivor annuity to a former spouse may reduce the amount that can be paid to the spouse married to the annuitant at the time of death.

In the case of the death of a spouse or former spouse who is entitled to a survivor annuity, if there is no surviving spouse, the department will restore the retiree’s annuity to its full amount. In the event there is a surviving spouse eligible for a survivor annuity, there is no adjustment.

Health Benefits

A former spouse’s federal health benefits (FEHB) as a family member end on the day of divorce, subject to a temporary 31-day extension of coverage and conversion privilege to convert to a non-group contract with the same health carrier. In order to maintain continuity of FEHB coverage, the former spouse must submit FEHB application or a letter within 31 days of the date of divorce. Alternatively, a former spouse may apply for spouse equity FEHB health plan enrollment within 60 days of the date of divorce or 60 days of the HR/RET notification letter of eligibility if he or she:

- Was covered as a family member during 18 months prior to the divorce;
- Has a current or future entitlement to an FSRDS or FSFS pension, survivor benefit, or apportionment payable;
- Has not remarried prior to becoming 55; and
- Divorced on or after May 7, 1985.

A former spouse who is not eligible for this enrollment may be eligible for temporary continuation of health benefits coverage for 36 months.

Assets/Liabilities

Scenario

“I have no idea where to start gathering our financial information, or how to organize it to get it ready for the lawyer. I don’t know how much my spouse makes, as he always does the taxes. I know this can take a lot of the lawyer’s time which can get really expensive!”

A former spouse states:

“I came to the D.C. area when we separated at post. I really felt adrift and had few financial resources to live on or work with. I came back on advance travel orders but that was the only cost that was covered. I relied on support sent from family and friends. I needed legal help from someone who was patient, understanding, and willing to help someone in my situation, but while at the same time experienced, skillful and with a record of success. It was a lot to ask but I found it in spades at a local Women’s Center. The team of people they suggested, which included a divorce and financial planner, helped me to get my financial picture organized which was a great help. Eventually, my spouse and I were able to work with the planner and a mediator for most of what we needed to resolve. Sure, we needed a lawyer for certain things but this helped reduce what would have been huge costs to a manageable amount. Plus, we both came out of it empowered. From my experience, I highly recommend the outstanding professional financial planners, mediators, and lawyers connected with The Women’s Center. It is especially great if you can get a team who often work together. I am sure there are similar centers, which are excellent as well.” ~ Jennifer

As mentioned in the above individual’s story, one option to help you organize your financial picture—especially if you have already returned to the United States—is to check with your city/county (or IQ: Information Quest) for a list of reputable investment advisory representatives who are divorce and financial planners. The hourly rate may be one-third to one-half that of an attorney. They can provide you with a sample property agreement (check your country/state website to see if a sample is available online) and work with you until it is completed and ready to present. (See contact information under Chapter 8 Resources.)

The Foreign Service Act of 1980, as amended, provides annuity and survivor annuity benefits. Within 60 days after the dissolution of the marriage, the former spouse must enroll in an approved health benefits plan as an individual or self and family. The former spouse must pay the full subscription charge of the enrollment (both the government and self-share). The spouse is free to choose any of the companies under the FEHB, and the Office of Retirement will provide information on the costs of the different policies.

The spouse is entitled to remain as a family member on the employee’s coverage until the divorce is final. Regardless of custody, the child(ren) can remain as a family member on the employee’s coverage. However, it is important to note that, in this case, the insurance companies will reimburse payment for medical bills to the employee, even if the spouse has incurred the expense. It is sometimes possible for the spouse to make arrangements with the insurance carrier to have the company reimburse the parent who makes the payment. This issue should be addressed in advance by both parties in the divorce.

FEHB Temporary Continuation of Coverage

Former spouses who do not have an entitlement to a pro rata share or court ordered share of the employee's retirement annuity have an alternate way of retaining government health benefits. On January 1, 1990, a new law (P.L.100-654) went into effect that will temporarily continue coverage under the FEHBP for certain former spouses.

A former spouse may be eligible to continue FEHB coverage if he or she was enrolled in a regular FEHB plan as a family member at the time of the divorce or annulment (on or after January 1, 1990). The former spouse may choose self only enrollment or a family enrollment that will cover the former spouse and children of that spouse and the Federal employee. Coverage will continue for a maximum of 36 months, or until covered by other health insurance, whichever comes first. The cost of FEHB enrollment will be the full premium (the self and government shares) plus a two percent administrative charge. Either the employee or the former spouse should notify the employee's agency within 60 days after the divorce or annulment is finalized to apply for these health benefits. Further information on the FEHB TCC Program for former spouses is available from the post HR office or the State Department Retirement Office:

HR/RET, H620 SA1
Department of State
Washington, DC 20520
Tel: (202) 261-8960
RETServices@state.gov

For USAID, the employee or former spouse must contact the Office of Human Resources, Employee and Labor Relations (OHR/ELR), in writing:

OHR/ELR
1300 Pennsylvania Avenue N.W.
Room 2.07 RRB
Washington, DC 20523
Attn: Cynthia Andrews (A-L), Tel: (202) 712-1557, Email: cyandrews@usaid.gov
Attn: April Rich (M-Z), Tel: (202) 712-5699, Email: arich@usaid.gov

Important Note: *An employee who remarries should review his/her designations for annuity and survivor benefits.*

Chapter 7

Financial and Privacy Considerations

Garnishment of Wages/Annuity

Wages of an employee or pension of a retiree can be garnished for child support or alimony payment if the ex-spouse presents a court order for debt garnishment to the Office of Legislation and General Management at the Department of State (DOS), or to their agency. (5 U.S.C., 5520a (j)(2)). The former spouse must contact his or her lawyer or the court to have a writ of garnishment issued. If the writ does not state that it is for child support or alimony, an original or certified copy of the divorce decree must be attached to the writ. Garnishment may be for back or ongoing support. The original or a certified copy of the writ is sent to the appropriate office.

For State:

US Department of State
Office of the Executive Director
Office of the Legal Adviser (L/EX)
2201 C St NW Room 5519
Washington, DC 20520

For USAID:

Office of General Counsel (GC)
Room 6.06-124 RRB
1300 Pennsylvania Avenue N.W.
Washington DC 20523
Attn: Idris Diaz, Tel: (202) 712-0900, Fax: (202) 216-3023/3058, Email: idi@usaid.gov

Access to Employee Information

During the separation and divorce process, both employee and spouse should be aware that certain information about former and present Federal employees is available to the public. **The following information regarding an employee is not protected by the Privacy Act:** grade, salary, present position title and duty station, past government position titles and duty stations, and awards. This information may be released without obtaining the employee's consent or complying with a Privacy Act condition of disclosure. If you have questions or concerns regarding Privacy Act matters, please contact HR/EX/RIM: Room H-804, SA1, Tel: (202) 663-1897. For guidance, see: <http://www.state.gov/m/a/ips/c36405.htm>.

Requesting Department of State Records

Access procedures, guidelines for the availability of Department of State records and information available to the public are recorded in [22 Code of Federal Regulations \(CFR\) 171](#)(pdf). As a guide for requesting U.S. Department of State records you may wish to view a [Sample Letter](#), (<http://foia.state.gov/foiareg/FOIASampleLetter.pdf>).

The portion of the employee's performance appraisal pertaining to spouses (pre-1971) or any of the information listed above can be requested by writing to one of the following addresses:

For State:

Office of Information Resource Management Programs and Services (A/RPS/IPS), SA-2, Room 6001, Washington, DC 20522-6001

In addition, a written request for an estimate of pro rata pension share can be requested from the Office of Retirement. When the spouse makes a written request for this information, it will then be sent to the employee as well. A written request for the name and number of the health benefits policy for family members can also be requested from the Office of Retirement: (202) 261-8960.

Important Note: *Other personal information regarding employees, spouses, or dependents covered by the Privacy Act can only be released with the consent of the individual concerned or for other specified "routine uses," as published in the Federal Register (<http://www.gpoaccess.gov/fr/index.html>) pursuant to the Privacy Act, or pursuant to a court order, or pursuant to another specific statutory exception of the Privacy Act.*

Credit Union Membership

A divorced spouse can have an account at either the State Department Federal Credit Union (SDFCU) or the Lafayette Federal Credit Union (USAID) if she or he:

- Has an account in his or her own name prior to the divorce; or
- Has a blood relative (such as a child) with an account.

For more information, contact:

State Department Federal Credit Union
1630 King Street
Alexandria, VA 22314-2745
Tel: (703) 706-5000 (Washington metropolitan area)
Tel: (800) 296-8882 (continental United States)

Lafayette Federal Credit Union
3535 University Boulevard-West
Kensington, MD 20895
Tel: (301) 929-7990, (800) 888-6560

Chapter 8

Victims Advocacy

Scenario

"I am afraid to go back to the states and then have my ex come after me and the kids... what if I need to put a restraining order on my ex, where do I go?"

The Bureau of Diplomatic Security (DS) is dedicated to thoroughly and transparently investigating allegations of domestic violence and child abuse occurring within the Chief of Mission (COM) community abroad. DS encourages all victims of domestic violence and child abuse to report these incidents to the Regional Security Officer (RSO), who will then notify the DS Special Investigations Division (SID). SID is staffed with investigators who are specially trained and experienced in investigating domestic violence and child abuse incidents.

DS created the Victims' Resource Advocacy Program (VRAP) in September of 2010 to empower of victim of crimes that have been or are currently under investigation by DS. The VRAP is committed to assisting aggrieved individuals in overcoming difficulties that result from victimization by providing resources to deal with the realities that follow traumatic experiences and an understanding of the judicial processes surrounding criminal offenses. For Information, please contact: vraps@state.gov.

Regardless of post location, foreign or domestic, domestic violence and stalking can be of concern to an employee. Domestic violence, stalking or harassment can cause the victim's work habits to suffer and be detrimental to their mental health. It's important to know that there are resources and people to help. For example, the U.S. Department of State's Office of Civil Rights (S/OCR; SOOCRWeb@state.gov) and the Wendt Center ((202) 624-0010), offer individual counseling for harassment and stalking victims.

The American Foreign Service Association (AFSA), like FLO, MED and DS, are trying to provide information and resources to help families or employees divorcing in the U.S., an employee divorcing a non-employee spouse overseas, or a tandem couple divorcing overseas. AFSA, which advocates for Foreign Service employees and families, realizes that the core relationship between employer and employee gives one spouse considerably more ability to leverage direct contact throughout the Department than would normally be the case with a non-Foreign Service divorce. Not all reports of violence and abuse are substantiated. For employees who are victims of false accusations made by a divorcing spouse intent on improperly initiating a disciplinary or security clearance process to punish their ex-spouse, AFSA can help.

Family Advocacy Team

The Family Advocacy Team (FAT) at post consists generally of the DCM, MED, and the RSO. The FAT is convened whenever a suspicion of child abuse, child neglect or domestic violence comes to the attention of the mission. The FAT will generally conduct an initial inquiry into the incident or allegation and then use this information to determine a course of action regarding the well-being of the family in question. Generally, the RSO sends a report of the alleged incident to SID, and the medical officer may send a report into MED. These records are not entered into a medical file precisely to prevent unfounded allegations from being entered into a permanent medical record.

There is a five-year statute of limitations for domestic violence and child physical abuse, but there is no statute of limitations for child sexual abuse. If DS determines that a crime has been committed, DS will pursue the criminal offense independently from the FAT. If medical evaluation or treatment is recommended, MED independently offers that recommendation and a VRAP representative may work with the victim to advocate for support resources and explain upcoming proceedings.

If treatment occurs, those records are eventually entered into the medical record at the end of a medevac (if one occurred as a result of the FAC investigation) or at the time that a medical clearance next needs to be renewed. Files developed by MED for the FAC are maintained and destroyed in accordance with established record disposition schedule.

Housing issues at Post

Scenario

“My spouse and I can no longer cohabitate here at post. I don’t want to leave post right now, and I need some time and space to sort things out before I leave. Can post get me another apartment or house to stay while we work out the details of my departure?”

When post has a vacancy in the housing pool, they may be compelled to let a spouse/partner (and children) move in (for a limited time) so they can get organized to leave post, or until the end of a school semester or year when a month or two remains. This is to try to minimize the disruption to the children’s education (this is where the Family Advocacy Team at post and MED can play a role). The post is not required to provide separate housing, nor does State have money to fund non-employees’ separate housing at post.

In cases where tandem couples request separate housing, the only way for post to assign separate housing is for the employee and/or employees to provide the Single Real Property Manager (SRPM) at post – this is often the MGMT Officer -- with a copy of legal separation papers/documents, the copies should be notarized. In some case you may need to send copies to the Inter-Agency Housing Board at post (IAHB).

You should consult with the Management Officer about the possibility of obtaining temporary housing. You may be able to stay in such housing until you have had an opportunity to make basic plans and, if you have children enrolled in a school at post, possibly until the end of the school year.

Misconduct

Scenario

“I am the victim of spousal abuse, and I don’t want to jeopardize my soon to be ex’s career, but I am so confused. Where else can I get information about spousal abuse, and who is in charge of the Department’s policy on bad conduct?”

HR/ER/CSD, a division of the Office of Employee Relations, administers and develops policies regarding the Department's suitability and disciplinary programs for Foreign Service and Civil Service employees, both overseas and domestic. It analyzes cases based on performance and/or conduct, including security violations and appeals. The division also provides advisory services to employees,

supervisors and managers regarding employee-related issues, and it performs suitability adjudication on employees and applicants.

The Special Investigations Division (SID) investigates allegations of misconduct against COM employees and contractors abroad and Department of State employees and contractors domestically. Investigations range from administrative issues such as misuse of a credit card or serious security violations, to criminal cases such as child and spousal abuse. If you suspect employee misconduct, or have an issue you would like to discuss with a DS/SID special agent, contact SID via the DS Command Center at: (571) 345-3146.

DS Special Agents and Department medical professionals serving at overseas posts report any potential child abuse, child neglect, and domestic violence allegations to their respective RSO, who will then be responsible for notifying DS/ICI/SID according to provisions contained in 3 FAM 1810.

Regulations on conduct

Scenario

"I know someone who received a dishonorable discharge from the military for taking a jeep out of the motor pool without permission. My spouse has done similar things and worse, can they be separated from the service and what is the policy on bad conduct?"

3 FAM 4130 sets forth guidelines for deciding an applicant's suitability for the Foreign Service and for taking disciplinary action against a Foreign Service employee. The regulation requires employees to maintain the highest standards of conduct at all times--during and after working hours, when on leave or in travel status. Accordingly, many of the offenses listed in 3 FAM 4130 under "Conduct on the Job" would still be punishable, even if committed after work hours, if the conduct negatively impacts the ability of the individual or the agency to carry out its foreign policy responsibilities or mission. Employees in violation of 3 FAM 4130 can lose their clearance, be curtailed and/or separated for cause.

The Secretary of State encourages everyone to behave honorably to promote healthy work environments and avoid conduct demonstrating untrustworthiness, unreliability or use of poor judgment. Divorce is a civil matter, but the behavior of Foreign Service employees reflects on the entire Foreign Service and bears scrutiny. There are many resources within HR/ER, FLO, MED, and DS that can assist post and employee/spouses (partners) whenever a divorce is imminent.

The regulations found in 3 FAM 4138, Standards of Conduct, apply to all Foreign Service Employees. These standards maintain the efficiency of the Service, and while not all inclusive, may constitute grounds for taking disciplinary or separation action against an employee, or disqualifying an applicant after due consideration of the factors in 3 FAM 4137.

Chapter 9

Resources

Legal Referral Services:

Alexandria Bar Association

Tel: (703) 548-1105

Website: www.alexandriabarva.org/

The American Academy of Matrimonial Lawyers

Tel: (312) 263-6477

Website: <http://www.aaml.org>

Arlington County Bar Association

Tel: (703) 228-3390

Website: www.arlingtonbar.org

Bar Association of District of Columbia

Tel: (202) 296-7845

Website: www.dcbbar.org

Bar Association of Montgomery County

Tel: (301) 279-9100

Website: www.montbar.org

Fairfax Bar Association

Tel: (703) 246-3780

Website: www.fairfaxbar.org

AVVO.com

This is a great on-line resource where you can research legal issues, get free legal advice, find a lawyer or ask a question. AVVO can help you locate a lawyer outside of the D.C. metro area.

Website: www.avvo.com

Information Quest

This is the Department's comprehensive and confidential resource and referral service that offers support to employees searching for ways to balance the demands of their professional and personal lives. They have a wealth of information on divorce including 30 minutes of free consultation with a lawyer. To request customized research and referrals, email a Specialist directly at:

Specialist@LifeCare.com. Specialists are available any time of the day or night, every day of the year.

For assistance logging on to the web site, contact the Help Desk at: Help@LifeCare.com or by phone at: 1-888-604-9565.

American Foreign Service Association

AFSA has a list of attorneys who have successfully represented Foreign Service employees or who have experience dealing with divorce and other legal issues.

Website: http://www.afsa.org/attorney_list.aspx

The Family Liaison Office

FLO's Crisis Management team maintains a list of DC metro area divorce lawyers who have either handled Foreign Service divorce cases or who are familiar with divorces in the Foreign Service context. This listing does not constitute an endorsement of these lawyers. Contact FLO for more information.

Tel: (202) 647-1076

Website: www.state.gov/m/dghr/flo

Department of State Resources

The Employee Consultation Service (ECS)

ECS, an office of the Department of State, provides short-term counseling and referrals for State Department and USAID employees and family members. This is a confidential, free service staffed by licensed clinical social workers. ECS also runs a monthly Divorce Support Group. They are located in: Room H246, Columbia Plaza.

Tel: (202) 663-1815.

Fax: (202) 663-1456

Email: medecs@state.gov

The Family Liaison Office

FLO serves U.S. government direct-hire employees and their family members, including Members of Household, serving overseas and in the U.S. FLO's mission is to improve their quality of life through advocacy and, programs and services online, in Washington, and at over 200 posts worldwide.

Department of State

2201 C Street, NW, Room 1239, Washington, DC 20520

Tel: (202) 647-1076

Website: www.state.gov/m/dghr/flo

Email: FLOAskSupportServices@state.gov

Information Quest

This is the Department's comprehensive and confidential resource and referral service that offers support to employees searching for ways to balance the demands of their professional and personal lives. To request **customized research and referrals**, email a Specialist directly at:

Specialist@LifeCare.com. Specialists are available any time of the day or night, every day of the year.

For assistance logging on to the web site, contact the Help Desk at: Help@LifeCare.com, or by phone at: 1-888-604-9565.

Office of the Legal Advisor

For issues related to Garnishment of Wages contact:

Office of the Executive Director

Office of the Legal Advisor (L/EX)

Room 5519, Department of State, Washington, DC 20520

Office of Retirement

Former spouses of Foreign Service employees are entitled to a number of pension, survivor and health benefits. Since there are specific time limitations to qualify for some former spouse benefits, it is important to submit your divorce decree and property settlement documents promptly to HR/RET (State Department employees) or your agency HR office.

Tel: (202) 261-8960

Website: <http://www.rnet.state.gov/index.cfm?pg=dfs>

Email: HRSC@state.gov

Transportation and Travel Management

For issues related to transportation, HHE or removing items from storage, contact your management officer at post or transportation counselor in D.C.

Email: transportationquery@state.gov

Victims' Resource Advocacy Program

VRAP's primary responsibility is to provide advocacy and on-going support domestically and overseas during investigations and judicial processes of Diplomatic Security cases. This includes domestic violence and child abuse cases.

Tel: (571) 345-9832

Email: vrap@state.gov

Advocacy Resources in the Washington D.C. Area

***Note:** The following list of advocacy resources has been collected by the Family Liaison Office (FLO). Inclusion on the list does not constitute an endorsement or a recommendation of any of these organizations by FLO or the Department of State. A number of the women's organizations, including The Women's Center in Vienna, Virginia, have extensive experience with men and couples as clients as well.*

The American Domestic Violence Crisis Line (866-USWOMEN)

An organization and hot-line that helps U.S. women and their children escape domestic abuse overseas. They provide domestic violence and child abuse advocacy, resources and tools to help navigate challenging jurisdictional, legal and social international situations, so that these women and children can live their lives free of abuse in the foreign country or back in the United States. The international toll free crisis line operates 24/7.

Contact Information: From overseas, contact the regional AT&T operator to be connected toll free to 866-USWOMEN (866-879-6636). From Canada and the U.S., dial 1-866-USWOMEN.

Ask the Divorced Guy!

Dean Hughson is the founder of the DIVORCE HOMEPAGE. He has talked to thousands of people contemplating divorce, going through divorce, or the chaos afterwards and gives referrals, support, and friendly advice. He resides in Nevada, the state with the highest divorce rate in the U.S.

Website: <http://www.divorcesupport.com/search/men.shtml>

The Associates of the American Foreign Service Worldwide (AAFSW)

AAFSW provides support for employees and family members who are going through a separation or divorce.

Tel: (703) 820-5420

Website: <http://www.aafsw.org/about/other-services-2/for-divorced-spouses/>

Email: office@aafsw.org or divorce@aafsw.org

AVVO.com

This is a great on-line resource where you can research legal issues, get free legal advice, find a lawyer or ask a question.

Website: www.avvo.com

Brilliant Exits

The mission of Brilliant Exits is to help couples separate and divorce wisely. It offers educational programs, support groups and coaching to help people turn the chaos into smart steps to a bright, new future. Coaching is done by phone or in-person.

Tel: (703) 658-2060

Website: www.brilliantexits.com

Dads at a Distance

The Dads at a Distance web site is designed to help fathers who have to be away from their children maintain and strengthen the relationships they have with their children while they are away.

Website: <http://www.daads.com/>

Divorcenet.com

The D.C. divorce page includes a directory of divorce lawyers, mediators and other professionals, and family law articles on child support, alimony, custody, and property division. They also provide links to local resources.

Website: http://www.divorcenet.com/states/district_of_columbia

National Center for Missing and Exploited Children

Tel: (703) 235-3900; (703) 274-3900; 1-888-246-2632

Website: <http://www.missingkids.com>

New Beginnings

NEW BEGINNINGS® is a support group for separated and divorced men and women in the DC metro area (MD, DC and VA). Established in 1979, they are the oldest and only group in the metro area that deals strictly with separation/divorce and is open to people without children.

Tel: (301) 924-4101

Website: <http://www.newbeginningsusa.org/nbtest/about.html>

Northern Virginia Family Service

Northern Virginia Family Service was established by volunteers in 1924 and is a private, non-profit organization staffed by professionals trained in counseling, social work and community outreach. Its mission is to empower individuals and families to improve their quality of life, and to promote community cooperation and support in responding to family needs.

Tel: (703) 385-3267

Email: info@nvfs.org

Website: <http://www.nvfs.org/>

Northern Virginia Mediation Service

NVMS is a non-profit affiliate of George Mason University's School for Conflict Analysis and Resolution. Their mission is to provide accessible, affordable and appropriate conflict education, engagement and resolutions services. NVMS helps people improve communication and work together more effectively to create mutually satisfying solutions to difficult issues.

Tel: (703) 865-7272

Website: www.nvms.us

The Women's Center

This group (for men and women) has workshops on the financial and legal aspects of separation and divorce in Virginia and has a volunteer lawyer who will answer questions by telephone. In addition there are counselors, financial analysts, mediators and lawyers who are associated with the Center. Fees are reasonable, and may be negotiated in some cases.

Address: 133 Park Street, NE Vienna VA 22180

Tel: (703) 281-2657

Web site: <http://www.thewomenscenter.org>