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## President's Message

Michael A. Saini, PhD, MSW, RSW



Happy New Year, and All the Best in 2025!

As we enter the new year, I'm excited to reflect on our shared commitment to building solutions for families navigating complex transitions. My focus for 2025 will be on Framing, Reframing, and Depolarizing—three interconnected approaches that I believe can inspire innovation, collaboration, and transformation in family law practice. I hope you will join me in centralizing these themes in your work this year.

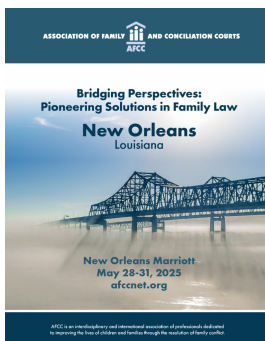
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## AFCC 62nd Annual Conference

*Bridging Perspectives: Pioneering Solutions in Family Law*

May 28-31, 2025 | New Orleans, Louisiana

[Register now](#) for the early-bird rates!



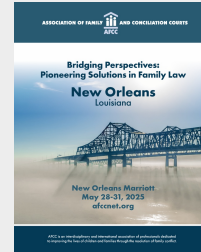
Join AFCC in New Orleans as we convene the world's leading experts to build bridges that span the gaps between professional approaches and priorities.

See the [conference brochure](#) for more detailed information on the keynote, plenary session, institutes, and 80 diverse engaging workshops.

January 2025  
Vol 20 No. 1

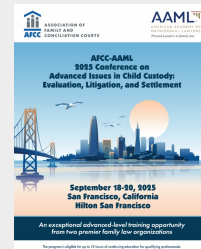
### AFCC 62nd Annual Conference

May 28-31, 2025  
New Orleans, LA



### AFCC-AAML 2025

September 18-20, 2025  
San Francisco, CA



### Conference Sponsors

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## Opening Keynote: From Refugee to Diplomat: Pioneering Solutions Through Transformative Leadership



In the spirit of this year's conference theme, Bridging Perspectives: Pioneering Solutions, participants are invited into the inspiring journey of Hamse Warfa, a Somali refugee, and his groundbreaking equity-driven contributions at the highest levels of government and organizational leadership. This distinguished author, public servant, and advocate for social equity, will illuminate how resilience and inclusivity can be harnessed to craft innovative solutions to complex problems in the face of adversity. This session promises to be a beacon of hope and practical insights for all seeking to advance the field through transformative leadership and empathy.

### 20.5 Hours of Continuing Education

20.5 hours of continuing education credits are available. See the [conference brochure](#) for details.

### Sponsor or Exhibit at this Conference!

Showcase your services to nearly 1,000 passionate family law professionals. Secure your exhibitor spot and **sign up by January 31 for the best rates!**

See the [exhibitor prospectus](#) for complete details and contact [Abby Rebholz](#) to sign up!

### Conference Scholarships

There are a limited number of conference scholarships available! Scholarships cover the cost of registration for one pre-conference institute and the full conference. The scholarship application can be found [here](#).

### Book Your Room!

New Orleans Marriot  
555 Canal Street, New Orleans, LA 70130  
504-581-1000 | [Book online!](#)

Registrants enjoy a special rate of \$215 per night until May 4th, 2025!

[Early-Bird Registration](#)



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### AFCC Online Training Programs

#### Fundamentals of Conducting Parenting Plan Evaluations

March 10-13 and  
March 17-19, 2025

### AFCC Chapter Conferences

#### AFCC Arizona Annual Conference

January 24-26, 2025  
Sedona, AZ

#### AFCC California Annual Conference

February 7-9, 2025  
Costa Mesa, CA

#### AFCC Alberta Annual Conference

March 13-14, 2025  
Edmonton, AB, Canada

#### AFCC North Carolina Annual Conference

March 21, 2025  
Chapel Hill, NC

#### AFCC Washington Annual Conference

April 25-26, 2025  
Seattle, WA

#### AFCC Colorado Spring Conference

April 25, 2025  
Save the Date

## Ask the Experts: Strategies for Gathering and Interpreting Electronically Stored Information (ESI)

*Chris Mulchay, PhD, ABPP and Sean Knuth, PhD*

Evaluations conducted within the context of child custody litigation can be among the most complex evaluations undertaken by mental health professionals. Data collection for these evaluations typically falls into one of several foundational categories: direct and collateral

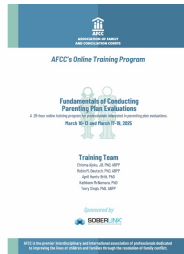
interviews, psychological testing, review of records, and observed interactions. Within the category of 'records,' data from emails, text messages, social networking site (SNS) posts, various cell, tablet, or computer applications, and other online sources of interpersonal communication can provide evaluators with information useful for their evaluation's purpose. We propose using the term Electronically Stored Information (ESI) to refer to this type of information. ESI is information created, manipulated, communicated, stored, and best utilized in digital form, requiring the use of computer hardware and software.

[Continue Reading](#)

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## Fundamentals of Conducting Parenting Plan Evaluations

March 10-13 and March 17-19, 2025



**28 Credit Hours | Two 2-Hour Sessions per Day | 7 Days**

This online training covers the essential aspects of parenting plan evaluations including the purpose and role of the parenting plan evaluator, implications of child maltreatment and intimate partner violence, cultural considerations, current research, and the development of parenting plans. If you are interested in expanding your practice into PPEs or simply want a refresher, you will not want to miss this online training program!

### Pricing:

- AFCC Member: \$375
- Non-member: \$550

### Expert Training Team:

- Chioma Ajoku, JD, PhD, ABPP
- Robin M. Deutsch, PhD, ABPP
- April Harris-Britt, PhD
- Kathleen McNamara, PhD
- Terry Singh, PhD, ABPP

[Register Now!](#)

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## Webinar Corner

### Better or for Worse? Arguments for and Against Codifying Coercive Control in the Family Law Context

Tracy Shoberg, JD & Anadelle M. Martinez-Mullen, JD

**February 12, 2025**

1:00pm – 2:00pm Eastern Time (US/Canada)

**Registration will close on February 11, 2025, at 9:00am Eastern Time US/Canada .**

There is an important conversation happening throughout the United States, as well as internationally, on the topic of coercive control. Practitioners like GALs, attorneys, advocates, and survivors are actively debating the topic – what it looks like in families, how it impacts children, and whether coercive control should be codified in the family laws of their state. Several jurisdictions across the U.S. have already codified coercive control. These jurisdictions are seeing both benefits to survivors and their families, as well as some unintended consequences. This webinar will walk participants through the pros and cons of codifying coercive control in the family law context and open conversation about how to best address the issue in their state.

**Tracy Shoberg, JD**, is the Deputy Director of the National Legal Center on Children and Domestic Violence with the Battered Women's Justice Project. In this role, she has trained thousands of legal practitioners to enhance their practice surrounding domestic violence, including how to effectively use the SAFeR approach. Tracy attended the University of Wisconsin-Madison, receiving BAs in English and Gender Studies, and the University of Minnesota Law School. She committed herself to this work starting in 2012 when she began her career at End Domestic Abuse Wisconsin.



**Anadelle M. Martinez-Mullen, JD**, has been working in the field of violence against women for more than 20 years. She began her work in this field as an advocate assisting victims of intimate partner violence. Upon graduating law school, she practiced family law. Before coming to BWJP, she represented victims of violence in civil protection order actions. Ms. Martinez-Mullen has also served as an Adjunct Professor at Florida Coastal School of Law.



### Registration

Members: \$15

Non-Members: \$50

### Certificate of Attendance

Members: \$15

Non-Members: \$20



[Register Now!](#)

## More Upcoming Webinars!

See below for a comprehensive list of upcoming webinars:

*AFCC's monthly webinars are eligible for one-hour of continuing education credits for qualifying professionals.*



### Effective Collaboration Between Attorneys and Parenting Coordinators in Custody Cases

Bettina Thomsen, LCSW & Jenifer J. Foley, JD

March 4, 2025



### Every Person Has a Story: The Importance of Narrative in Native American Culture (DE&I Series)

Hon. Abby Abinanti

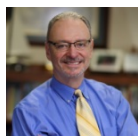
April 10, 2025



### Authenticity and Weight when Including Children's Voices in Court Processes

Lorri Yassenik, PhD & Jon Graham, LLB, BA

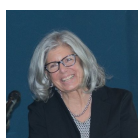
April 16, 2025



### How We Think as Evaluators and Clinicians: Update on Clinical Judgement Research

Jeffrey P. Wittmann, PhD

May 6, 2025



### Using Mediation/Arbitration to Resolve Parenting Disputes: Benefits, Challenges & Other Considerations

Barbara Fidler, PhD, CPsych

June 24, 2025

# Family Court Review

The Journal of the Association of Family and Conciliation Courts

Volume 63 Number 1

January 2025

*Leading dialogue in family court research, policy, and practice for more than half a century.*

## Family Court Review

Volume 63, Issue 1

The **January 2025 issue of Family Court Review** is set to be fully released soon. However, you can access articles that have already been published online in the FCR digital archives. [Visit the archives](#) to explore the content ahead of the full issue release and gain early insights into the topics and scholarship featured in this special issue.

This special issue focuses on the role of cultural awareness and diversity in family law. It emphasizes the need for family law professionals to understand and respect the unique cultural, individual, and familial differences that shape parenting beliefs, co-parenting dynamics, and parent–child relationships. The issue fosters cultural curiosity while highlighting the importance of moving away from a "one-size-fits-all" approach to culturally responsive and tailored recommendations that align with families' values while prioritizing child well-being and legal standards.

Key topics include:

- Supporting LGBTQ+ youth caught in the middle of parental conflict
- Incorporating the nuances of specific religious cultures into the training of family law professionals.
- Examining unique obstacles faced by veterans and military service members in custody disputes
- Exploring the relevance of ethnic-racial identity in multiracial and transracial families
- Reviewing the evolution of diversity considerations in past and present scholarship, and implications for future research.

Overall, the issue aims to increase awareness of diversity's role in family law practice, and encourage more equitable, informed, and respectful approaches to family law decisions.

[Explore this Issue](#)

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## AFCC Member News



After nearly five decades of dedicated service to the legal community, AFCC member, **Bill Howe** is embarking on a well-deserved retirement from the active practice of law—but not from making a difference. Since 1975, Bill has been a force in the legal field and, since 1995, he has devoted himself exclusively to family law with Gevurtz Menashe. His work has shaped the landscape of family law in Oregon and beyond. During his distinguished career, Bill served as chair of the Oregon Task Force on Family Law, whose efforts led to transformational changes in family law practices, including parenting plans, mandatory mediation, and the unified family court and as vice-chair of Oregon's Statewide Family Law Advisory Committee for over 20 years, working tirelessly to improve family law systems. He has held leadership roles with national and international organizations, including the Family Justice Initiative and the Association of Family and Conciliation Courts and has been the recipient of numerous honors, including the 2021 Wallace P. Carson Outstanding Achievement Award and recognition in *Best Lawyers in America* and *Super Lawyers*. Bill transitioned to "Active Pro Bono" status with the Oregon State Bar on January

1, 2025, where his commitment to service continues.



**Ron Silikovitz**, a psychologist and member of AFCC since 1998, retired on January 1, 2025, after 25 years of practice. Ron has attended almost every annual AFCC conference since that time. He was so inspired that he founded the New Jersey chapter upon his return home following his first conference, and he became the first president of the New Jersey Chapter. Ron has remained involved in chapter leadership, and the chair of

the chapter's 25th anniversary celebration committee. He is a recipient of the Phil Sobel award, named in honor of his co-founder. Ron has been an active member of the New Jersey Psychological Association, and is also the recipient of the New Jersey Psychological Association Lifetime Achievement Award and the Bonnie Brae Educational Center Lifetime Achievement Award. He recently was named president of the West Orange, New Jersey Chamber of Commerce, and plans to remain involved with AFCC through both the New Jersey chapter and parent organization. Ron has been married to Arlene for 60 years, with whom he shares 2 adult sons. Ron is a rabid fan of the Philadelphia Eagles and the Phillies. He and Arlene hope to enjoy retirement with continued involvement in local community activities and as patrons of the arts. Congratulations Ron!

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Have you recently received an award or celebrated an exciting achievement? We'd love to hear about it! Email AFCC's eNews Editor, [Ann Ordway](#), to share your story!

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## AFCC Chapter News

In November, Utah AFCC held its third Mediation Day event at the Matheson Courthouse in downtown Salt Lake City. This inspiring and fun event, which builds upon the success of the previous two Mediation Days, has now successfully mediated over 60 family law cases for low-resource families. The Mediation Day Program provides each case with a free AFCC mediator, two pro bono attorneys, a paralegal for document drafting, and, in most cases, an AFCC-informed mental health professional to assist with custody and parent-time issues. These efforts reflect Utah AFCC's commitment to providing valuable support for families in need and enhancing access to justice within the community. Utah AFCC was excited to see several local news outlets publish a story about Mediation Day, [including this one](#).

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## Board of Directors Nominations

The AFCC Nominating Committee is seeking nominations for individuals to serve on the AFCC Board of Directors. Recommended individuals must be AFCC members and have an interest in and knowledge of AFCC and its work. Nominations must be received by February 28, 2025, to be considered by the committee prior to the election at the AFCC 62nd Annual Conference. The term is three years, beginning July 1, 2025, and concluding June 30, 2028. If you or a member you know is interested, please send your/their contact information, resume, and a letter of interest to the AFCC Nominating Committee via email to [afcc@afccnet.org](mailto:afcc@afccnet.org).

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## Award Nominations

AFCC will be acknowledging the accomplishments of leaders in family law by presenting awards at the AFCC 62nd Annual Conference. We encourage you to recognize your colleagues by submitting a nomination. Nominations for the awards listed below will be accepted online through **March 18, 2025**.

**John E. VanDuzer Distinguished Service Award** recognizes outstanding contributions and/or achievements by AFCC members. [Nominate a colleague!](#)

**Stanley Cohen Distinguished Research Award** recognizes outstanding research and/or

research achievements in the field of family and divorce. [Submit your nomination now!](#)

**Irwin Cantor Innovative Program Award** recognizes innovation in court-connected or court-related programs created by AFCC members. [Nominate a program!](#)

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## AFCC eNEWS

The *AFCC eNEWS* is the monthly e-newsletter of the Association of Family and Conciliation Courts. The *eNEWS* provides up-to-date information for professionals including practice tips, international news, and the latest initiatives in family law and conflict resolution. The *AFCC eNEWS* is provided at no charge to you; anyone can [subscribe](#).

*AFCC members are free to share eNEWS content.*

### EDITOR:

[Ann Ordway, JD, PhD](#)

### ASSOCIATE EDITOR:

[Patrick Sommer, BS](#)

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## **AFCC President's Message**

January 2025

Vol 20 No. 01

*Michael A. Saini, PhD, MSW, RSW*

Happy New Year, and All the Best in 2025!

As we enter the new year, I'm excited to reflect on our shared commitment to building solutions for families navigating complex transitions. My focus for 2025 will be on Framing, Reframing, and Depolarizing—three interconnected approaches that I believe can inspire innovation, collaboration, and transformation in family law practice. I hope you will join me in centralizing these themes in your work this year.

### **Framing: Building Bridges**

Framing allows us to set the foundation for understanding and addressing the core challenges families face. It involves presenting issues, identifying shared goals, and ensuring our strategies are inclusive and evidence-informed. When we frame our work effectively, we create clarity—a shared understanding that enables professionals, families, and stakeholders to work together more effectively. This clarity builds bridges between disciplines, perspectives, and practices, helping us align our efforts toward solutions prioritizing children's well-being, safety, and stable parenting plan arrangements.

Framing also emphasizes the importance of understanding context. By framing issues focusing on the broader social, emotional, and cultural factors affecting families, we can design responsive and tailored interventions to their unique needs. This approach helps us identify common ground, even when stakeholders initially seem far apart in their views.

### **Reframing: Shifting Perspectives**

Reframing challenges us to reimagine how we approach persistent issues. By shifting perspectives, we unlock new pathways for addressing longstanding challenges. For instance, in discussions around coparenting children post-separation and divorce, reframing the problems away from blame towards shared responsibility for children's safety and well-being can allow the focus on solutions that minimize harm and promote children's adaptive adjustments.

Reframing also inspires creativity. When we view entrenched problems through a fresh lens, we often discover previously obscured opportunities for growth and collaboration. Initiatives like the AFCC Peace Talks have demonstrated the power of reframing by bringing together diverse perspectives to foster mutual understanding. By encouraging participants to shift from a



problem-focused to a solution-focused mindset, reframing enables us to move beyond polarization and achieve meaningful progress.

## **Depolarization: Bridging Divides**

Depolarization is the essential thread connecting framing and reframing. In a field where entrenched viewpoints can often create impasses, depolarization calls on us to seek common ground while respecting differences. This process requires intentionality: creating spaces where opposing perspectives are heard and valued as essential contributions to a richer, more nuanced understanding of the issues.

Depolarization does not ask us to erase differences; instead, it asks us to embrace them as opportunities for dialogue and collaboration. Depolarization attempts to connect the divide and build trust among professionals, families, and communities by fostering respect and openness. The AFCC Peace Talks exemplify this approach, demonstrating that when we prioritize shared goals—such as the safety and well-being of children—we can transcend polarization and work together toward sustainable solutions.

The interconnectedness of framing, reframing, and depolarizing makes these themes powerful. Framing gives us the structure to understand the issues; reframing helps us see them in new ways; and depolarization ensures that we can collaborate across differences to achieve our shared mission. Together, these approaches provide a roadmap for innovation and progress in family law.

## **Call to Action**

I invite you to consider how framing, reframing, and depolarizing can enhance your professional practice. How might a fresh perspective open doors to new possibilities in your work? How can you contribute to bridging divides and fostering collaboration in your community? Together, we can make 2025 a year of meaningful progress as we help families reimagine children's futures as we build toward brighter outcomes.

Let's work together to advance these themes and continue shaping the future of family law. I look forward to collaborating with you as we embrace the opportunities ahead.

Michael Saini, PhD, MSW, RSW  
AFCC President

## **Ask the Experts: Strategies for Gathering and Interpreting Electronically Stored Information (ESI)**

January 2025  
Vol 20 No. 01

*Chris Mulchay, PhD, ABPP and Sean Knuth, PhD*

Evaluations conducted within the context of child custody litigation can be among the most complex evaluations undertaken by mental health professionals. Data collection for these evaluations typically falls into one of several foundational categories: direct and collateral interviews, psychological testing, review of records, and observed interactions. Within the category of ‘records,’ data from emails, text messages, social networking site (SNS) posts, various cell, tablet, or computer applications, and other online sources of interpersonal communication can provide evaluators with information useful for their evaluation’s purpose. We propose using the term Electronically Stored Information (ESI) to refer to this type of information. ESI is information created, manipulated, communicated, stored, and best utilized in digital form, requiring the use of computer hardware and software.<sup>1</sup> Data from these sources can:

- Provide insight into how evaluatees communicate, both in general and with their once-and-future co-parent.
- Inform hypotheses regarding each evaluatee’s current and past functioning, the relationships between evaluatees, and the insight evaluatees have into their own contributions to conflict.
- Inform professional opinions on child functioning, including to what extent a child might be exposed to the conflict between parents.
- Help inform hypotheses regarding how and to what extent a parent monitors a child’s internet usage.

Collecting, considering, and archiving this data comes with its own challenges, above and beyond those presented by more traditional sources of records.

As mentioned, hypotheses regarding several areas of an individual’s functioning (as a parent or otherwise) can be informed through consideration of ESI. For example:

We can learn about how evaluatees communicate with others and how they interpret communication from others.

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<sup>1</sup> Withers, K. J. (2005). Electronically stored information: The December 2006 amendments to the federal rules of civil procedure. *Nw. J. Tech. & Intell. Prop.*, 4, 171.

Consider:

- Are messages from the opposite parent reported as antagonistic or patronizing but do not appear to be so?
- Is an evaluatee able to maintain a rational and calm style of communication in the face of clearly antagonistic behavior? Are the content and tone of the evaluatee's messages with others consistent with how they represent their communication style during the interview?
- Are the content and tone of the evaluatee's messages with others consistent with collaterals' reports of the evaluatee's content and tone?

We can learn whether evaluatees demonstrate insight into how their behavior potentially benefits or harms the relationship between the minor children and themselves, the minor children and the opposite parent, or even the minor children and their social circles.

Consider:

- Do they make public posts denigrating their ex?
- Are they public members of online communities that could directly or indirectly harm the opposite parent's relationships?
- Have concerns been raised about their online presence, and how, if at all, have they modified their online presence in response to these concerns?

We can learn how well an evaluatee understands social networking and technology. We can also learn whether they effectively monitor and control a minor child's access to information in an appropriate manner.

Does the evaluatee, for example:

- Understand the forever nature of online posts?
- Understand and make use of parental controls?
- Understand and make use of privacy controls?
- Monitor their child's internet usage?
- Understand that some apps required for school or other legitimate activities may provide access to unrestricted communication?

With these items in mind, here are some things to think about when gathering and interpreting ESI:

1. Understand the difference between authentication and forensic methodology.

As we have demonstrated during our AFCC presentations, ESI can be fabricated with computers and artificial intelligence. It has become quite easy to generate inauthentic emails, text messages, written documents such as court documents, SNS data, and audio recordings. Although much more difficult to do, it is even possible to generate fake video recordings.

ESI can be 'authenticated' by a forensic digital expert. To authenticate is to demonstrate or verify the authenticity. This type of authentication allows the expert to establish ESI as true, accurate, or unaltered to a mathematically-defined degree of certainty. The digital expert will likely need the device or devices the ESI was purportedly created on in order to do this.

However, the services of a forensic digital expert are not necessary to use ESI in a reliable manner as part of forensically appropriate psychological evaluations. Evaluators can apply forensic methodology to reliably request, receive, and review ESI as part of their evaluation. Then, an evaluator can use this data and data collected from other sources (e.g., other record requests or interviews of parents, collaterals, and children) to determine how much weight to place on that ESI. As we describe below, evaluators can 'bounce' the data back and forth between the parents to assess for completeness and reliability.

2. Learn about an evaluatee's use of Social Networking Sites (SNS), various cell phone or tablet applications, and other electronic communication.

When trying to elicit information about what SNS apps people use or how they communicate with others, it is important to keep in mind that there might not be consistency between how we all define various terms (e.g., 'app,' 'chat,' 'posts,' 'forum'). This makes it important to learn which terms evaluatees use. This can be done by crafting an interview around a series of (admittedly somewhat repetitive) queries.

For example, ask an evaluatee:

- With whom do you talk online?
- Do you use a tablet or a phone to talk to people? Do you use a computer?
- Do you communicate with people electronically other than through placing calls or through video chat?
- Do you have a particular app that you use?
- Do you solely use the phone?
- Do you message? (expand on this- text, messenger, etc.)
- Are there websites you go to in order to communicate with people you know?
- Are there websites you go to in order to communicate with strangers?
- Are you a part of any online communities?
- Do you read or post on any particular website, message board, or app?

While we do not believe it is appropriate for an evaluatee to show you the contents of their posts on their devices, don't be afraid to ask the evaluatee to show you what the icon looks like for the applications they use.

### 3. Listen to how parents describe their communication with others.

There's also a passive part of gathering this data. We can learn a lot by listening to how a parent describes communicating with the other parent, friends, family, and even teachers.

- When an evaluatee says, “I said to the teacher...” or “My neighbor told me...”, they might be referring to communication that has taken place via electronic communication such as text messaging or email. This is particularly true with teachers; it is less common for parents to talk to teachers directly as they are more likely to email. This leaves a record of communication that can be examined.
- If an evaluatee says, “My friend and I were talking about that the other night”, ask: “How were you talking about it?” Clarify if the communication was by telephone or text, a chat program, an app, etc. Ask them, "How did they tell you?" or, "How did you guys talk about it? Was the conversation in person? Was it by phone? Were you talking by text? Were you using an app like WhatsApp or another chat app, like Snapchat?"

By following up thusly, not only are you getting the information that you need but also training the interviewee to relate this type of information at the outset.

### 4. Ask an evaluatee for what they might know about privacy settings and parental controls.

Privacy settings and parental controls are two separate things: privacy settings help an individual control who has access to their information; parental controls allow a parent to monitor and limit portions of a child’s electronic interactions. Ask a parent to describe to you how privacy settings or parental controls work on the various programs their child uses. While we recommend against having a parent demonstrate these things using their own devices, you can explore their knowledge of the general concepts and some aspects of how to implement them on common applications such as Instagram and Facebook together.

Additionally, parents should be asked how they audit their children’s internet usage, if at all, and how often. Ask them what they require their children to do to facilitate such audits and how they explain the necessity of conducting audits to their children. In some situations, it might also be worth asking a parent to imagine their child started using a hypothetical new app or website and then explain how they would educate themselves about it.

### 5. Learn about children’s access to SNS and other online communication.

It is important to know if minor children have uncontrolled access to smartphones, tablets, and computers. Do they have their own device(s)? Do they share devices with their parents? If so, are the parents logging out of their email and other accounts before

allowing a child to use the device?

When there are concerns about a child or teenager's usage or behavior around screen time, evaluators should ask how parents are monitoring screen time. A common challenge for parents is that technology continues to advance. With new applications, there are new skills parents must adopt to appropriately monitor their children's usage.

While we have presented on many of the well-known applications, the applications are ever-evolving. An area of continued concern are innocuous apps that a child may need for school or other activities that appear safe yet allow children untethered access to the web.

During our interviews with children, particularly teenagers, they frequently acknowledged that they had access to their parents' cell phones, email, and social media accounts, almost always inadvertently and unbeknownst to the parents. This poses the question, "Are parents aware that when they hand their smartphones to their children, the children might look through their pictures, emails, or text messages?" What a child can find when they peruse a parent's cell phone can be a problem, let alone what notifications might pop up while the child is using the device for something innocuous. Don't forget to ask children what SNS their parents use, what kinds of things their parents might post on SNS, and, most importantly, how they know this information.

#### 6. Should you search for evaluatees on SNS?

We are almost always asked this question, and we understand the thought process behind this query. However, we recommend against it. Searching for evaluatees on SNS expands the data you collect, but it is extremely time-consuming and the quantity of data that such a search obligates an evaluator to archive can be problematic. Further, and most importantly, it's reasonable to assume that if there's SNS data that's meaningful, you'll learn about it through your regular data collection techniques, as meaningful SNS data will be presented by both sides. Some licensing boards may have regulations on this type of professional activity as well.

Also, consider the following: because of how the algorithms that govern search results work, results from future search queries are based, in part, on past search queries and even more so on past links that have been clicked on. Facebook knows whose profiles you see. Google knows whose names you're searching. If, for example, you do 150 searches for major league baseball players, Google is more than likely going to serve you up information related to major league baseball players after your next search. If you're looking at your evaluatees on Facebook, LinkedIn, Instagram, or anywhere, then Google, Facebook, LinkedIn, and Instagram notices that. The algorithms make note, adjust to those clicks, and make a connection, and this connection is not just linking the evaluatee to you, but you to the evaluatee. We could conduct a whole seminar to inform evaluators how to manage their own online presence to minimize risk. It is our recommendation that, rather than seek out SNS data independently, evaluators ask evaluatees and collaterals to

provide what they might think is meaningful.

#### 7. SNS and other data present a good opportunity to collect balanced data.

As forensic evaluators, we have interviewed evaluatees about conversations, only to learn later that, intentionally or inadvertently, the evaluatee did not disclose some key parts of their discussions or interactions. Whether we're talking about in-person discussions or email chains or any other ESI, it can be helpful to ensure you get both sides of the conversation. A convenient property of electronic communication is that all parties connected to the conversation have access to records, and you can request these records from more than one party. If you have concerns about authenticity or completeness, collecting this additional data allows you to check if records are complete and if conversations have been edited or presented out of context. And, as an aside, when we write "both parties to the conversation," we're not just talking about conversations between evaluatees but also conversations between evaluatees and a collateral source or even between collateral sources.

Related, did you know that all electronic communication can be fabricated? Emails, texts, Facebook or Twitter posts can all be mocked up in very convincing manners. In the [on-demand workshop](#) we recorded for the AFCC 58th Annual Conference, we demonstrated how an evaluatee could fabricate a text message exchange. In later presentations, we've demonstrated how an evaluatee could fabricate or alter audio recordings. The lesson here is to remember that it's always an option to ask the other party to the conversation about the information you've reviewed.

We also recommend asking people, evaluatees in particular, if there are any deleted messages or if there's any data that they have deleted that could have informed areas of discussion. The legal ramifications of spoliation aside, an evaluatee's decision to delete or withhold information can be informative. One can never know if an interviewee is telling the truth about this, yet their response may prove meaningful to the court.

#### 8. "Bouncing it back"

Take advantage of the fact that evaluations conducted within the context of child custody litigation feature two (or more) parties, each with pretty extensive knowledge of the other. Just like you might ask Parent A, "What are your parenting strengths?" and "What are Parent B's parenting strengths?", we think there can be good information in then asking, "When I ask Parent B what your parenting strengths are, what are they going to say?" Similarly, if you're interviewing Parent A, you ask Parent A about their ESI and SNS usage. A savvy evaluator also knows to ask Parent A about Parent B's SNS usage. Although this can get somewhat difficult to phrase or follow, we recommend taking this a step further and asking Parent A what Parent B would say about Parent A's ESI and SNS usage. We refer to this third line of inquiry as "bouncing it back" to the initial interviewee. ESI data should be gathered early in the evaluation process so that if it is relevant, evaluators can

incorporate it into interviews with parents, children, and collaterals.

We conclude with the following:

- ESI can be authenticated by a digital expert, or an evaluator can use forensic methodology.
- ESI can provide evaluators with a source of communication they can use to inform their evaluation.
- When you are provided with ESI data, it is likely something the parent or their attorney believes is important or illustrates a point.
- Like data from any other source, data from ESI can help an evaluator generate hypotheses for investigation and can provide an evaluator with data that lends support or argues against hypotheses.
- Data from ESI, like data from any other source, is rarely in and of itself dispositive.
- Data from ESI, like data from any other source, needs to be interpreted taking into account all other relevant collected data.



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