

## **Who is Watching Our Children? Limited Background Checks, Training and Accountability For Visitation Monitors Lead to a False Sense of Security**

Professional visitation monitors provide a valuable service for parents who are undergoing some of the most emotionally challenging times in their lives - a divorce or a child custody situation. Child custody issues are inherently high-stress and often high conflict. Court ordered supervised visitations are put in place when a judge feels a child's safety and/or welfare could be jeopardized while in the care of one or both parents. A professional monitor is required to be at the visits to allow the child to maintain an ongoing relationship with their parent(s) while being in a safe setting. Monitors can also be responsible for transporting the children to and from visits and terminating a visit if they are concerned for the child's well-being.

While professional monitors are often given the difficult job of ensuring the safety of children in high-risk/high-conflict situations, little is done to make sure the monitor is not a risk to the child as well. No background checks are required to ensure that the professional monitor doesn't have a criminal past, nor are they reviewed to see if their name appears in the sex offender registry. Professional monitors simply self-report that they don't have a criminal history that would disqualify them as a monitor. These limited requirements leave parents with no way to know whether their children are safer in the monitor's care than they would be in a non-custodial parent's care.

Despite the reality that professional monitors are often put in high conflict environments, they have very limited and non-standardized training to prepare them to recognize behavior that could be a danger to the child or how to properly intervene if needed. The required 24 hours of training doesn't provide the monitors with the tools they need to adequately understand proper child development, to deal with challenging situations that frequently unfold during the visit or to understand how to properly record the activity during the visits for the courts.

Some instances that warrant restricted visitation are:

- Threat of parental kidnapping
- Non-custodial parent has a history of drug or alcohol abuse
- Threat of physical, mental, or sexual abuse
- Threatened parental suicide
- Conviction of a crime

Professional monitors are typically independent contractors that work for themselves or other small companies that have a dozen workers or less. Their pay ranges from \$25 to more than \$100 an hour, (plus intake and reporting fees). The job pressures and responsibilities of the professional monitors have increased with time, but the training and the oversight have not.

### **Less Background Review Than Daycare Workers or School Volunteers**

Professional visitation monitors are called on to ensure a safe environment for children already vulnerable and at-risk; however, they are not required to have the same background check as many school volunteers or daycare workers. Many school volunteers and all childcare providers must do a background check with LiveScan or be registered with TrustLine. People registered with Trustline have been cleared through a fingerprint check of records at the California Department of Justice and cleared of any criminal convictions or substantiated child abuse reports. Without these professional background checks there is not even a cross-reference to see if the provider is a registered sex-offender. So unless the provider self-reports that they have been convicted of a sex crime, parents looking to hire a professional monitor likely would not know.

### **No High School Diploma or Experience With Children: No Problem**

Even though professional supervised visitation monitors are often called in to make sure kids are safe in high-conflict and heightened risk cases, they have extremely limited training in how to spot risky behavior, much less how to deescalate it or deal with it effectively. In fact, even the veneer thin instruction the monitors receive, only a very small portion is spent on dealing with these risky behaviors. Even more disturbing, the monitors are only required to attend a total of 24 hours of instruction that doesn't require exposure to real life situations. Monitor candidates are not required to pass a test on the material covered during the instruction time to even see if they digest the information on any level. There is no verification that the aspiring monitor actually participated or even listened to the information presented. The certificate is essentially an attendance certificate. If the candidate simply shows up for the 24 hours of training or puts in the time online, they'll receive their certificate and can start working as a professional visitation monitor as soon as they file a declaration with the courts saying they've met the necessary requirements to be a professional monitor. In some instances, courts do not maintain referral lists and don't require the filing of this declaration at all. In these cases, the declaration is not submitted to anyone.

## **Ways to Receive Certificate of Attendance: Classes Not Required**

### **Buddy System**

Professional monitor candidates can spend 24 hours with a professional monitor who claims they covered the required course information with the candidate.

### **Online Training**

Professional monitor candidates can take the course online. The online option doesn't provide any real life training for the job. The online courses are not required to ensure the information they teach is valid or correct. The course must simply cover the required topics mandated by law. We've found under one online option (Visticom.net) the training was giving California candidates information on Florida law instead of California law. When it was brought to the company's attention, they didn't update the information with California law. Monitor candidates have reported asking basic questions from online companies regarding the material covered in the classes. In some instances, the company wasn't able to answer the questions or did not follow up to answer the questions at all.

The requirements for paid visitation monitors are spelled out in Family Code section 3200 and Standard 5.20 of the Unified Standards of Practice for Providers of Supervised Visitations. Qualifications of professional providers:

A "professional provider" is any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider must:

- (1) Be 21 years of age or older;
- (2) Have no record of conviction for driving under the influence (DUI) within the last 5 years;
- (3) Not have been on probation or parole for the last 10 years;
- (4) Have no record of a conviction for child molestation, child abuse, or other crimes against a person;
- (5) Have proof of automobile insurance if transporting the child;
- (6) Have no civil, criminal, or juvenile restraining orders within the last 10 years;
- (7) Have no current or past court order in which the provider is the person being supervised;
- (8) Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over the age of 18 who is able to do so;
- (9) Agree to adhere to and enforce the court order regarding supervised visitation;
- (10) Meet the training requirements stated in (f); and
- (11) Sign a declaration or *Declaration of Supervised Visitation Provider* (form FL-324) stating that all requirements to be a professional provider have been met.

### **No Requirements for Class Content Providers**

There is no standardization of the content provided to the monitor candidates. The people providing the information on the mandated topics are not required to have any formal or practical experience with the topic they are teaching to the candidates. The instructors can literally discuss the topic with invalid information or complete falsehoods and still fulfill the legislative requirements.

By the very nature of the business, professional monitors are dealing with a population of parents that even the most skilled therapist can have difficulty dealing with effectively (addiction issues, personality disorders and domestic abuse). With so little training how can professional monitors be expected to have the necessary skills?

### **False Sense of Security**

Most counties simply post the name and contact information of the companies listed as providing professional supervised visitation monitors. They maintain the list as a courtesy to litigants but expressly disclaim any oversight or verification of quality. Even if concerns have been voiced and/or lawsuits filed against the monitors their names and contact information are not removed from list of monitors on the court's website. Having the monitor's names listed on the website serves as a tacit endorsement even though the courts claim it is not an endorsement.

### **No Accountability**

In California, most of the county courts do not have a designated entity to take complaints much less provide any investigation into those complaints.

### **No Oversight**

Supervised visitation monitors are required to self-disclose any crimes committed within ten years of applying for the job (some courts require the self-disclosure when reports are filed). There is no oversight to see if crimes occur after the supervisor is on the job. So if a supervisor who is responsible for transporting the children for the visits receives a DUI, the parents would not be notified and the supervisor would not be in jeopardy of losing their job unless the monitor decides to report the criminal offense. There isn't even a means for monitors to self-report any crimes after they begin working as a professional monitor.

### **Lack of Oversight Harms the Good Monitors**

Conversely, the monitors do not have any place to turn if they are falsely accused by a vengeful parent or targeted by a malicious attorney. Monitors also have no official avenue to report concerns about misbehaving colleagues. Those who've reported trying to bring attention to bad actors say they have been threatened with legal action, so they relented. The current state of the profession is a free-for-all with monitors policing themselves and offering word-of-mouth updates on new laws and how they should be implemented in their job. Leading to decisions that have sweeping

repercussions such as the use of body cameras during visits and the use of drug testing not ordered by the court.

### **Limited Training + No Oversight = Less Safety for Children**

Putting poorly trained professional monitors in high-conflict situations can jeopardize the welfare and safety of the children as well as everyone else involved or in the vicinity of the visit. Tragic cases across the country illustrate this with sometimes, deadly consequence.

Also troubling are the day-to-day missteps by professional supervisors who aren't aware of developmentally appropriate behavior or aware of avenues that children in their care could be abused. The following examples show how a lack of awareness can jeopardize the safety of the child. Professional monitors have reported leaving young children at home alone in remote areas at the direction of the parent. Monitors have reported allowing a parent accused of molestation to sit on the parent's lap in a dark movie theater. Court cases reveal instances where a visitation monitor met the criminal history requirements for a professional monitor, however a background check revealed the monitor had multiple DUI's just outside of the allowed timeframe. While the monitor offers transportation services for the children, the parents were never notified of the prior history. Some monitors report accepting expensive meals, trips and lessons while on supervised visits but not disclosing the information in their reports. These instances indicate a real need for improved and standardized instruction by experts in the field.

### **Change Is In The Air: Best Practices Exist but Must be Mandated**

Some professional monitors realize the need for background checks and enhanced training. Some parents reportedly refuse to use a monitor without some sort of background check. So, currently some monitors are voluntarily fingerprinted and/or pay to have a background check done and register the results through Trustline. An unofficial survey shows more than 10% of professional monitors report online that they have passed a background check. Some companies have a policy of only working with monitors who have been fingerprinted while others require a more in-depth background check. In these cases, background checks are so ingrained in the process of some companies that the monitors thought background checks were already required by law.

Some courts realize the importance of background checks as well. Orange and Riverside County Courts only include providers on their list of professional monitors if the providers register with Trustline.

Additionally, some of the more reputable training programs realize that 24 hours of training is insufficient to provide monitors with the information and skills they need to be a successful provider. These programs require more than 24 hours of training and

some element of on-the-job training that increases the minimum training time up to 40 hours. Best practices do exist. But for the health and safety of our children, they must be implemented statewide.

In conclusion, the health and safety of our children must be a priority. If we are asking parents to put their children in the care of professional monitors, the parents should be able to at least be assured that the monitor does not have a disqualifying criminal record. Since the courts often order monitors to supervise visits, the courts should be reassured that the monitors have received sufficient training to safely and properly monitor the children as well as provide reliable reports to the courts. Professional monitors provide a valuable service but without the proper training and background checks, their reputations and reliance on their work is being undermined. When professional monitors receive their certificate it should mean they have the training they need to help keep our children safe and be respected for the skillset they bring to their job.