

**AFSA Executive Director Ian Houston:** Everyone, I would like to officially welcome you to the American Foreign Service Association Headquarters on this beautiful day. Thank you for being here. My name is Ian Houston and I am the Executive Director of AFSA so it's a real pleasure to have you here. Many of you may be members of AFSA, some not, but we nevertheless appreciate your participation in this event and your support of AFSA as well as we move forward with a variety of programs that we design both for our members and for the Foreign Service community and families as we try to be a topical resource and a compassionate organization to address the many needs that are out there amongst our members and within the Foreign Service.

So it is my pleasure to welcome all of you here, to this Panel Discussion on Divorce in the Foreign Service. This is the sixth installment of a series that AFSA has put together on federal benefits issues. So we're proud of a program now that has quite a history. All of these programs we record and place on our YouTube channel, so you may access them, and it will eventually be quite a resource with a library online for members. This being the sixth installment, we do record it, and I just remind our panelists that we do that for the Q&A period which we will have, also a reminder to the audience to speak loudly, not so much for the folks in this room, but that we properly get it on the camera as we record it.

So we hope this event really will be an opportunity for you to become a resource on this issue for colleagues at your post or in your bureau, who may go through such a life change and a challenge, or in the event that you yourself may be affected.

It is a pleasure for me to welcome our guests, principally Susan Frost, who is the director of the Family Liaison Office. Susan, thank you for being here. Susan will serve as our moderator

today. Among the panel of guests are my close and good friend Daniel Hirsch, who is a Management Officer and former AFSA Vice President at State Department for four years he served well on our governing board. Thank you for being here Daniel. We also have work-life specialist Elizabeth Royal, who is here with us today. Elizabeth, thank you for being here. Jacqueline Long, Jacqueline is a chief policy advisor at the Office of Retirement. And Sharon Zarozny, who is the founder of Brilliant Exits, a divorce consulting group, so thank you everyone for being here.

So, again, thank the panelists, and I will just turn it over to Susan. And I'd just like to remind everyone as we go through this first part of the session, that we will have a Q&A session towards the end. Thank you for being here.

**FLO Director Susan Frost:** Thank you Ian, and thank you to AFSA for organizing this very important event. I am Director of the Family Liaison Office and we obviously work with families and employees. And unfortunately one of the topics that we deal with all too often is that of divorce and separation. People often find their way to FLO when they're in some type of a family crisis, which is one of the areas we work with. We provide confidential support to families and family members who are experiencing a divorce or separation, as well as employees. I don't want to leave them out, because we support both the employees and the family members. We provide support, resources, and referrals to other places that may provide additional support to employees and family members. As part of her work with FLO, one of our employees, Dianna Reeves, said while she knew there was a lot of other people in the Department that had contacted us about this, so she had put together a lot of little pieces that had to do with divorce and thought it would be a great idea to get a working group together. That way, all these

people could link together, pool their resources, and get to really know what the Department had available for employees and family members during a divorce. So that happened in 2010, and the Divorce Working Group has been meeting since then for the different shareholders to collect together and network.

The offices that work in, and organizations since it is not merely offices, who work in the Divorce Working Group are of course AFSA, our hosts today, HR Retirement, with Jacqueline over there, HRAS, with Elizabeth, the Legal Office, the Medical Office of transportation, D/S, the Victim's Resource Advocacy Program, FSI, and the AAFSO. So there are a lot of different organizations and offices that come together to discuss the topic of divorce in the Foreign Service about three or four times a year. Since forming in 2010, the working group has produced a checklist for couples who are divorcing at post, has released a cable, the title is a bit strange, but it's "Requirement to Provide Adequately for Families Members During Separation and Divorce." We usually shorten that to call it the "Be Nice" cable. And that's going to be released again very soon; it's in the final clearance process. We like to send it out about once a year just to remind everybody of their responsibilities during a separation or divorce.

We have updated the Divorce in the Foreign Service booklet, and it's available on the FLO website on the Internet, and developed a list called "divide the rights of a divorcing spouse." This is something we always get asked, "What are my rights as a divorcing spouse?" so we've been trying to put together a checklist on that topic as well. So that's what the Working Group has been doing. I think this meeting today is a great opportunity to talk about some of the resources available, and to put this out on the live recording, for anyone who would like to view.

So the panelists we have today I've already introduced, but I would like to just say this again, that Daniel is a Management Counselor and is about to head to Tunis. He was born into a Foreign Service family, so he has been associated with the Foreign Service for a long time. I won't say how long. And he did serve as the State Vice President of AFSA, and in that role I certainly enjoyed working with him. After I do the introductions, I'm going to go ahead and turn it over to each panelist, so they each have a chance to say a few words about the topic. So Daniel, let's turn it over to you.

**Management Officer Daniel Hirsch:** Well, good afternoon. I actually have prepared some remarks. A few weeks ago when I wore the hat of State Vice President for AFSA, it was my annual duty to remind the Department that in terms of family-friendliness, the Department consistently scored extremely low on a government-wide survey of all federal agencies; it scored very high on "The Best Agency to Work For," and near the bottom on "Family Friendliness." As Management Office with some 30 years of experience, and knowing my role as a Management Officer, my first observation in today's forum is that the State Department is probably the most family-friendly of all government agencies. For most government agencies, family friendliness consists of providing the employee with more time to spend with their family, with teleworking opportunities, and some additional leave, and maybe daycare. The State Department actually picks up an employee's family and moves that family with the employees to wherever it is that they are about to serve, and provides them with housing, medical care, schools, recreational facilities, and employment where possible for family members. And it has entire offices, some of whom are represented here, the Family Liaison Office, the CLO at post, the Office of Overseas Schools, etc., whose sole function it is to address employees' families. For most of us, we

experience an overseas embassy community as our community, and as our small home. All of which, clouds an issue which becomes glaringly clear, and usually comes as a surprise when a couple overseas considers divorce.

In the most common scenario, the scenario that I will most primarily focus on, one partner in the marriage is an employee and the other is not. The Department has a legal relationship with the employee and the other person is a person whose mere presence at post is basically provided as a benefit for the employee. Caring for the employee's family and providing us with the trappings of a community overseas is a business decision based on the comparative value of having one's family with one, and on the moral, productivity, and ability of the Department to attract and retain talent on the one side, balanced against the costs and the possible negative effects of issues such as a messy divorce overseas. That might sound harsh and a bit oversimplistic, but it is important to understand that fact because many of the most common issues with a Foreign Service divorce overseas relate to the fact that one person in the divorce is an employee and the other is not. Other very serious issues arise when the divorcing couple, focusing on their own hurts, frustrations, angers, emotions in the moment, loses sight of the fact that in the business decision I just described, the Department will always protect its own interests.

Nearly all of the Department's legal obligations are to its employees, and unless a court becomes involved and there is a court order, nearly none of its obligations are to spouses; that doesn't mean that they don't provide services, but the legal obligations are to and through the employee in most cases. That's a very important issue that affects things like housing, separation of household effects, shipping of household effects, and transportation of the non-employee

spouse and family to his or her next destination. The reciprocal of that is also important, however, the employee's spouse has certain obligations to their employer, and those do not change when the couple goes through a divorce. Depending on the issues that lead to a separation or divorce and depending on how those issues are handled by the two people, this can affect things like security clearances, medical clearances, and the continued ability of the employee's spouse to continue working for the State Department or the U.S. government. Let me say this very clearly, it is very much in the interest of the employee that issues are resolved amicably and discreetly. This is much easier to do between assignments or a State-side assignment, than it is overseas. Obviously, if the couple is at tandem, both employees need to keep their obligations in mind. Even when only one spouse is a government employee, however, it is usually not in either party's interest to disrupt the employee's ability to make a living.

Last but not least is the important factor that the entire family is assigned overseas as diplomats representing the U.S. government. That means that in addition to the normal issues involved in any divorce, there are special issues posed by the employer relationship, as there are also U.S. government interests involved in making sure that the separation or divorce does not become scandalous, notorious, dangerous, or embarrassing, and that it does not hamper the overall efficiency of the Department's mission overseas. Dirty laundry such as extramarital affairs, substance abuse, domestic violence, unreported contacts, or dishonorable behavior, and Susan just mentioned the "Be Nice" cable, that's where this comes in, such as failure to financially support one's spouse or family members, can become fodder for disciplinary actions, security clearance revocations, and other penalties, should they find their way into the public sphere. That can involve Department officials as players in decisions that should be private, privately

made by a couple, and can actually make the Department's involvement a factor in a marriage that may or may not be salvageable. Robbing the couple of a certain amount of free will, imposing pressures that make it harder for a couple to reconcile, and potentially affecting careers, all of which are reasons for the couple to try to work their differences out privately, discreetly, and amicably; and if they decide to separate or divorce, to do so between overseas posts or to curtail from post if they can't wait for the end of their tour. If the issues are so serious that the couple cannot wait, it would be wise to explore curtailing early, I'm told that MED will support any request for compassionate curtailment based on the expected dissolution of a marriage. AFSA can also advocate for employees seeking curtailment if desired, and I know that FLO does as well. If a couple is unsure whether they wish to separate or not, it may be worthwhile to consider a State-side assignment, while they make up their minds. I am repeating because it bears repeating and stressing, that separation overseas is a much more complicated matter. At post, there will be obviously a loss of privacy and involvement of Department entities, and if the event becomes scandalous, hampers operations, or if abuse is alleged, the couple may be involuntarily curtailed in any event. Voluntary curtailment is always preferable to involuntary curtailment.

When a couple separates at post, the Department has several responsibilities and objectives. It has to respect its obligations to its employees. It has to enforce U.S. laws and government regulations, it has to comply with court orders, and it has to do what it can to prevent the matter from becoming scandalous, affecting operations, using an unreasonable amount of taxpayer resources, and ideally it has to be compassionate. Towards that end, post management will try to ensure that all parties know their rights and obligations, are informed about their options,

understand the consequences of certain actions, and inform the employee that he or she is expected to behave honorably. That includes ensuring that both the employee and the spouse have all the information they need, advising employees that they are expected to behave honorably, and providing means for the departing spouse or family members to sustain themselves. That might involve powers of attorney, arranging deposits in a state-side bank account, and other arrangements. The Department may have to intervene as a family advocacy officer, if there are any suspicions of violence or abuse. As part of its obligation to enforce U.S. laws, the Department is required to follow up on any allegations of violence or child abuse, and the consequences can include termination and criminal prosecution.

The separating couple in turn has a number of issues to consider: travel, separation of household effects, issues related to the disruptions in the education of their children, separation of finances, issues related to government benefits such as health insurance, life insurance, and ensuring entitlement to a portion of the employee's eventual pension. These can be complicated by a number of issues overseas. First, in the usual scenario, one spouse being a government employee and the other not, the employee's spouse enjoys an unreasonable degree of control, since the employee's consent is required for almost any transaction unless a court order is involved. Second, the distances involved can create the impression that in separating, one spouse is abandoning the household, which can have implications for child custody and alimony. Third, since information is usually channeled through the employee, a strong effort has to be made that the non-employee spouse has access to information, and if necessary, to a computer or other means of communication. Additional issues might include the possibility that the spouse is foreign-born, may never have resided in the U.S., and may have no other relatives

or support structures in the U.S. They might have limited credit history, no work history, and may be unfamiliar with their rights in general. In some cases, the foreign-born leaving spouse may wish to reside in a third country overseas, further complicating the separation of household effects, and aggravating the impression that the spouse may be abandoning their family. It is important that the leaving spouse be informed of sources of information, including information quests, which is administered by HR, and the employee consultation service, which is administered by MED; both the CLO at post and the CLO in Washington are excellent sources of information.

When a marriage separation or divorce is intended, travel by the employee spouse may be authorized to the employee's home leave or service separation address in the United States. Travel to a location other than the separation address would be on a cost-construct basis. Usually a separation agreement should exist. A separation agreement would outline the broad terms of the separation, note that the separation does not constitute abandonment, and might refer to powers of attorney or other issues. However, in the absence of such agreement, the chief of mission may nonetheless determine that advanced travel is warranted and he or she may initiate travel on their own authority. The reasons for authorizing advanced travel should be summarized in writing, and retained in both records. Return travel of an employee spouse may also be accomplished at the employee's expense, and the employee may be reimbursed later, at the time that the employee is authorized a normal departure from post. Advanced shipment of household effects may be authorized only if a legal property settlement exists, or if the employee otherwise agrees in writing and identifies those items that the departing spouse may

have access to. If HHE is shipped to an address other than the separation address, it should be done on a cost-construct basis.

Let me continue just to say that, typically, if a couple separates at post, various forms of documentation should be considered. One is a statement of mutual consent, to be signed before advance travel orders are issued. And again that should state that the separation is by mutual consent, and that one party is not deserting or abandoning the other. Another would be an authorization to receive what's shipped from post, which would allow the departing spouse to receive HHE. A legal property settlement, or list, should be prepared by the employee, specifically stating what items the departing spouse should have access to, and what items the spouse may remove from storage or post. A joint property statement would allow the spouse access to goods in storage, in other words you could have a statement that simply says "I authorize my spouse to have access to it."

Both FLO and AFSA have lists of attorneys, and I would strongly recommend anybody considering divorce overseas to seek the advice of an attorney in the state in which they plan to divorce. As long as the couple has not yet divorced and the spouse is on the employee's travel orders, the spouse is entitled to hold a diplomatic passport. The separating spouse however, is not eligible for SMA. A foreign-born spouse has the same rights as a U.S.-born spouse. And just to return to what I said earlier, if there is suspected abuse, by curtailing, the couple is more likely to reach a settlement. In other words, if the couple is not playing nice, the post management can curtail the employee's assignment, and simply decide to send everybody back to the United States. Last but not least, a Foreign Service employee cannot use an assignment abroad or a diplomatic status to avoid service of papers that may be involved. Sometimes, it may be possible

for a separating couple to reside both of them at post. This can obviously occur when there is a tandem couple, but it can also occur if post has housing available that will not incur any additional costs to the U.S. government, such as post owns the apartments, as is the case in Germany, houses on long-term lease that are vacant as some posts do. In that situation, it might be in the interest that the couple separates at post in order, usually, to allow children to end their school year at post. And typically that will be only until children end their school year at post and then the couple would normally separate. So that does conclude my prepared remarks. Thank you.

**Susan Frost:** Thank you, Daniel. Now let's go to Elizabeth Royal. Elizabeth is a Program Analyst in the Work-Life Division in the Office of Employee Relations. And before I went to FLO, she and I used to be colleagues because I used to work there as well. She is the Department's Emergency Visitation Travel Coordinator. She is the program manager for the Information Quest referral service, a great resource if you don't know about it, I'm sure Elizabeth will tell us about it. Also, the wellness coordinator for human resources, and a team lead on the HROCA crisis management support team. So, Elizabeth is a very busy person, and we're really glad that you came to join us today.

**Elizabeth Royal:** To talk a little bit about Information Quest, on all of your chairs I have placed a brochure to give you a little bit of overview for the service. It's a great service for the entire Department for anything that you possibly can think of, any question you may have about any type of life event and so forth. This service is for you, a free service to use. Typically, I like to equate it to Google, if you were to Google for a divorce attorney and everything under the sun would come up, this service would help you to narrow it down and really hone in on what you

need to know for your particular situation. This for sure just gives a general overview of the entire IQ program, but I'll also turn you to the sheets about coping with divorce specifically and how IQ can help with those situations. There is a sheet called coping with divorce, with which IQ information quests can help tell you a little bit more about what this can do. It is an Information Quest 24/7 service; they help you with personalized matches, support groups, mediators, childcare providers, and other resources to help you through this transition. Legal assistance includes free consultation with attorneys on up to three new legal topics per year, free preparation of a simple living will, and discounts on preparations for other legal documents and fees, which of course the topic today on divorce, to include wills and other legal documents that you may need to change in that situation. They offer free financial assistance including telephonic consultations to assist with credit and/or debt investment planning, preparation of family budget, and a \$75 discount of additional fee-based financial services. And again, in the situation of divorce, a lot of these other types of things to think about in addition to the actual paperwork to prepare for a divorce, the dissolution of a marriage.

There's articles and information on topics such as separation and divorce, mediation, coping, dividing your property, alimony, child support, and more. They also offer referrals for stress management including fitness centers, exercise programs, anger management, and other wellness programs. One other thing I'd like to mention here is that they offer free kits for all of these topics as well so if you'd like to connect with the service they'll send you a great kit with all kinds of free information, including brochures and so forth. And then also the employee consultation service, IQ can connect you with EMD, ECS or you can call the number that is directly listed on this brochure.

**Susan Frost:** Thank you, Elizabeth. And I should point out that we do have someone from MED ECS, Helen Jones is with us today, so she can cover questions when we go over into that area in a minute. Let's move onto Sharon Zarozny. Sharon went through a difficult divorce herself and became a certified life coach after that and launched a variety of programs and services to empower individuals and couples going through a similar situation. She has been featured in the Washington Post magazine, blogged for the Huffington Post, and is the founder of an organization called Brilliant Exits. My husband saw the advertising for this and said "oh that's such a great name for a group that deals with divorce." So you have his thumbs up. But in any event, Sharon we'd like you to tell us a little bit about the resources that you have for the Foreign Service community.

**Sharon Zarozny:** Thank you, and thank you all for having me here today, I really appreciate it. As you said, I went through a really difficult divorce. The one part in the Washington Post article that was supposed to be off-record was how much it cost, and she put that in. Over half a million dollars were spent fighting through the courts, dragged through everything. And I have the kids, and less access to money, so I spent \$60,000; so you can imagine the balance here and what was going on. Then after all that expense, we got a court document, a divorce document. Within a year he stopped working. He was a surgeon, and he just stopped, so I was faced with no support. So, I learned a lot of things going through the process. I sat down and thought about what it is I wish I had known when I was going through all of this, and that is how I came to create Brilliant Exits.

Our flagship program, which is called Second Saturday, happens except for August, literally the second Saturday of every month. Most people don't know what to do when they're hit by

divorce. They also don't even want to use the word a lot of times, so if you're helping someone going through that, first of all, it's going to take them a lot of courage to come into your office and say this is what is happening. I know people who have been divorced many years and haven't even told their coworkers and some extended family, because there still is a stigma about it, which really is not quite fair because divorce happens to good people. And one of the issues with divorce is, is that even really, good nice people can become ugly, and not be nice when they're going through this.

So, a large part of what I try to do is teach people, basically, about the process, because it is a legal process that doesn't really take into account the emotions of the situation. It is this emotional piece that causes a lot of these problems that requires you to follow these kinds of roles that you've set. With the monthly program I do, Second Saturday, which Dianne has been to a couple of times—she is a great employee, and has spent her Saturday mornings here checking it out. What I do is a four-hour seminar. I bring in, I'm always speaking and giving an overview, and I always bring in the same financial person, a person who doesn't sell a financial product, and has been an expert in courts for people going through separation and the financial aspect. So, she always speaks. Then, I always have an attorney, but I rotate those attorneys, because one of the things that I wish I had had, was an opportunity for a second opinion, if I had questions I wasn't sure about, or wanted to make sure the attorney was handling it correctly. Or, one of the biggest, most important things of course is choosing your attorney. So I do it this way so that people can come in and they can hear different attorneys. First time they come, they pay, it's about \$65, then they can come back as much as they want and it's only \$35, and I do offer scholarships. And I bring in people like, just coming up in September, I have, really really I

feel so fortunate to have this, I'll have a legal panel, which is a judge, she will talk to you, she's retired now. And I will have an attorney, I'll bring two attorneys, who will answer questions and give their perspectives.

A couple of things the judge has said, and I don't want to go over time, are just invaluable, like the system is not about punishing your spouse. What it is about is defining everything. You don't want to end up in court where I know nothing about your children, nothing about your family, and in a couple of hours, I'm going to decide the rest of your life. So, when people come to you, I highly encourage you to educate them about the system and that you really don't want to head towards court. You want to do the best you can in your circumstances, to communicate with your spouse and decide how you are going to divide things up. The less you involve attorneys, and the attorneys I have talked to who have been through divorce try not to use the legal system as much as they can because they realize it costs a fortune, so the less they rely on the legal system, and the more they can provide support on their own, the more money they are going to keep in the family's pocket. And that being said, there was a statistic out there, that when divorcing, the couples each lost about 75% of their assets, which is just, I was astounded. Then I sat and thought, in Virginia and many states, it is a 50/50 deal, you're dividing up the business aspect of your marriage. You get half your spouse gets half. That other 25% for each of them is what they spend on the court system, and attorneys.

So it is really important for people, rather than run to an attorney as their first step, unless there is abuse or some other extenuating circumstance, but most importantly, is for them to both get educated. And again, my program in September, and I do this four times a year, is co-ed. And we do get couples sometimes, some couples sit on opposite ends of the room, then we

get couples who sit next to each other and hold hands. So, it runs the gamut. But, it's an important program, because my belief is if you educate both spouses on what the system is and what they have control over and what their options are, you're going to get just a better divorce. And if there are children involved, you really want to make things as conflict-free as possible, because the more conflict there is in divorce, the harder it is going to be to co-parent. This is what hurts the kids the most, and parents worry about this, it's not the divorce itself, it's their exposure to conflict, and how their parents handle it. So if they have conflict while they stay together at post, if they divorce and children have at least one home or both homes where they don't have conflict, they just have a better run-down for life, it's much better for them. I want to just mention in addition to this monthly program, I also run, and this is free, what I call TLC meet-up group. That is the third Sunday of every month, and it is just a drop-in group. It is sort of like a peer-group, and it is co-ed. It is also great having it co-ed because the men give great advice to the women and the women give great perspective to the men, and they listen to each other; whereas, if I said the same thing, they might listen, they might not. It also lets them know all men aren't bad and all women aren't bad. So that is open on a drop-in basis. Also, I do coaching, what I call coaching/ consulting. Recently, I had a lovely young couple from the State Department come and see me and it was so sad. They were probably in their mid-twenties, they had pretty much decided how to divide everything, they didn't have much to divide, and he was heading overseas and she wasn't going to go with him. They only had one bank account and they had totally divided that, so I said to them—you've done everything wonderfully, I don't understand why you're here, why do you need my help? And they said, we're terrified, we don't want to divorce like our parents. The man said the first time that my parents talked was at my wedding, 10 years after the divorce. And the woman had a similar thing, and no matter what I

said to them, they had a hard time grasping that we get to choose the style we want a divorce, and they were already doing it the way they wanted to do it. So this is one thing to pass onto the people you work with, you do have a lot of choice over the process, and the more they understand it, the better the outcome will be.

Also, I want to mention on my website I have links to lots of really good, free resources. These are by the American Bar Association. One in particular though for all of you, is the ABA every year updates charts of divorce in all states in the United States, and the different rules, like grounds might be one way in one state and another way in another, child support, custody, or third-party dissertations. It's a great resource because your people are coming back and going to different state. Also, there are checklists like living separately under the same roof, which may not be an issue here. There are also sample co-parenting forms, so that you can get an idea of what's involved. There is also a sample property settlement, which they can download, and this is all free, so that they can get an idea of what the process is about. I also wanted to mention the co-parenting page. There are really good resources for kids under co-parenting, and also some really good resources from a non-profit called Kids Up to Parents. It's great, it's all free, and it has co-parenting information, exercises you can go through to help you. Their whole goal is to help parents communicate and do this in the best interest of their child. They also have a sister site, called While We Heal, and that is geared towards people who aren't sure. They may be separating, and things aren't going well, they're not sure if they are going to divorce, but they still have to deal with their kids and their families in a different situation, again that's free.

I also put some handouts in the back; one is sort of a four-pager on all aspects of divorce. It's a good guide for you if you're helping somebody. There is another flyer I did on the post I

wrote for Huffington on selecting an attorney, do you want a nasty one or a nice one? So, I would be happy to help and be a resource in any way I can. It's a difficult thing to go through but people can get through it, and they can have really good lives moving on. The State Department should be grateful they have people learning about this, and trying to understand how to make this as easy as possible. Thank you.

**Susan Frost:** Thank you, and thank you Sharon. I know you've been a tremendous help to all of our State Department folks, and we really appreciate everything you've done for all of them. Last, but certainly not least, we have Jacqueline Long, who is a Chief Policy Advisor in the Office of Retirement. She has worked for the State Department for 26 years, and she is the primary source of contact for spouses seeking benefits under the various kinds of retirement systems. I'm not too sure what they all are, but I'll let Jacqueline talk about it as the expert on the topic.

**Jacqueline Long:** Good afternoon. The Department of State is the final adjudicator for all Foreign Service divorces for employees, or annuitants, because we do it now for active-duty employees but also for retirees; even employees who have separated, and are going to be eligible for deferred retirement. So if they're covered by the Foreign Service Disability System, the Retirement Disability Offset System, or the new system which is called the Foreign Service Pension System, the Department of State is the sole authority in terms of adjudication for divorces in the Foreign Service. One thing that we ask all employees and annuitants to do is that if they find themselves in a divorce or about to go in a divorce, to let us know. A lot of times we look at these court orders, and we see that they are due for entitlement that might be paid to the former spouse. A lot of times, in divorce documents we see what is called border plate type language, whereby it specifically says that each party waives their entitlement to RA, to

retirement benefits, things like that. Under the Foreign Service Act of 1980, Section 814 for the old system FSRDS, or Section 861 for the new system, there is what is called default entitlements, meaning that if a former spouse was married to the employee during his credible service for at least 10 years, while there was service as credited in a computation of their annuity, they might be entitled to benefits. All that tends that only 5 years of that employee's career must have been a member of the Foreign Service. Also, if the former spouse did not remarry prior to age 55, that former spouse could have an entitlement or eligible for a portion of that retiree's Foreign Service annuity. Now, those are the default requirements, but a court order can always supersede the default requirements in the Act. We do look for the court documents in these circumstances to specifically state what they want to give to the former spouse. If we see a court document that does not clearly satisfy the requirements, we ask that it goes back to the court or that the parties get together and come up with an agreement. We're not mediators in divorces for anyone, not for the former spouse, or the employee or the annuitant; we do not tell the attorneys or their spouses (the retiree's), how to construct divorce documents. Our role in the Office of Retirement is to review the documents and see whether or not it meets our standards to award any type of benefit to the former spouse.

Having said that, the same recommendation for employees and retirees is also classified as well. Any party can provide us with the divorce documents, any party can contact us; we have information on our RNet webpage, I'll divvy my handout which is a topical view of the Foreign Service retiree divorce process, and how we do the adjudication on that. But we also have a handbook for Foreign Service divorces. But the key information on that for anyone to know is that if you have a divorce, do not wait until retirement to tell us about it. When do you do that,

and you're separated or divorced for several years, or 10-15 years, and that former spouse had an entitlement to benefit, we call it a default right—they will get that benefit. Excuses like you haven't seen them for years and things like that will not nullify their entitlement. So if you have a divorce, let us know, so that we can do determination letters to advise you and the former spouse of what those entitlements are, or provide you with options if you disagree with our determination on how to possibly correct that error. So the key thing for any type of Foreign Service divorce, when there is a potential benefit is to first notify us. It is hard when you see retirees at retirement, and when doing a final adjudication we find out that their former spouse that they have been divorced from for over 15 years, might have an entitlement to that benefit. They will be awarded that benefit, unless we disqualify them for other reasons. Okay, that's all.

**Susan Frost:** Thank you Jacqueline. I think we're ready to take questions now, so any questions from the floor?

**Audience Question:** I have a question about what you just said about entitlements to pension plans. If your spouse is stated their intention not to partake in your pension system because they have their own financial resources, does that need to be in the document, is there a special form, is there any way that they can document that so that it's legally acceptable for your office?

**Jacqueline Long:** What is required for that is that former spouses have to understand the right that they're waiving. So language in a divorce document that says that the former spouse or defendant or whatever they are in the court document, it has that they are expressly waiving their benefit under the Foreign Service retiree disability system or the Foreign Service pension system. If they're waiving their benefit, basically said, is it the survivor benefit that

they're waiving or the pension benefit? If we see a document that says that the former spouse is waiving their right to a survivor benefit, when we read that we're going to warn that former spouse that they are entitled to it, a pension benefit. A pension benefit is what the former spouse receives while the employee is alive. Ok, so for orders like that and if there is an intention to do a waiver, it has to specifically refer to that retirement system. General language will not be accepted. No, there is no specific form, but in our handbook we do give some type of wording that you can use, but there is no specific form. We can review draft documents for you and see whether or not it is acceptable or recommend a certain type of language, but that is really up to you to construct those divorce documents.

**Audience Question:** First of all I'd like to thank Sharon, I've actually been to her seminars on different Saturdays over several years. And my husband actually went as well. She (Sharon) is very humble, very modest, and these are the best things going, they're fabulous, the co-ed ones as well as the ones where it is just women. My question though is actually for Jacqueline again, I understand that if you have been in the Foreign Service for less than 10 years, there is no right to that benefit, but are you saying that you should nevertheless have something written in your divorce?

**Jacqueline Long:** If you've been married for less than 10 years?

**Audience Answer:** No, we've been married for 33, but it's second career for both of us at tandem, so for each of us, it's far less than 10 years.

**Jacqueline Long:** There is no default requirement, meaning that the Section 81461 will automatically award your benefit. But if you have less than 10 years of credible service when we

compute your annuity, then there is no default entitlement, but your court documents can override that. The court documents take precedent over the return of the law. So even if you have not been married for 10 years, it's a silent, you or your husband will not get any benefits. However, if you have a court document that says they're going to give that benefit regardless of the time of marriage, then that is what we are going to honor when we adjudicate the case.

**Audience Response:** But you don't have to put language in it?

**Jacqueline Long:** If you're married for less than 10 years, you do not have to put language in it because it's not meeting that default requirement. If you are married for at least 10 years, you should put some kind of language into it.

**Audience Question:** Have you ever seen an instance, where, in an amicable divorce, with young children still, the ex-spouse is allowed to stay on the orders and go back overseas to keep the family together or close?

**Susan Frost:** I don't think there would be a scenario where someone is who divorced would remain on work orders because on orders there is the, you fill out the OF126, which lists people who are legally dependent on, and that would be a spouse, a domestic partner now, or a child. And I think you have to be on the OF126 in order to be on orders. And being on the OF126, you're on it because you're a spouse, not because you're a divorced spouse. So I suppose there would be no way, or I suppose someone could go as a member of household, perhaps. But, I don't think you would be on orders being a divorced spouse. And I think any member of household is someone who accompanies the employee at their own expense, and is declared to the post as someone who is living in the residence, as a member of household, but I would see

no barring to declaring a divorced spouse as a member of household. But they would not be on orders, it would be at the employee's expense in terms of travel and the other benefits that would prove that a eligible family member would not include a member of household. This would include access to a medical unit, evacuation benefits, and mail in pouch, anything else? Am I covering it? In other words, there would be no bar in having someone as a member of household.

**Audience Question:** This one is related somewhat to custody. If you had a divorce and you were overseas and now you're back, and you have an ex who isn't comfortable anymore with the child going overseas; it's a disruption to the Foreign Service employee, because now they are bound to stay in the U.S., how long can they allow that to happen? Because it's almost like you're being held hostage by this person's ability to say, "well I no longer want my child to go overseas, and I won't be supportive of co-signing for a diplomatic passport or something like that."

**Daniel Hirsch:** This is a very common scenario actually, and it affects a lot of people. About a year ago, there was a case in which AFSA was asked to participate in a case where a spouse was alleging that it was dangerous to take the child overseas, and seeking a court order to prevent the other spouse from having custody because their career took them overseas; which we considered to be a very important issue which affects the entire Foreign Service obviously. The short answer is there is not a lot one can do. In most states there is what is called an age of consent, in Maryland I think it is 16 years old, in which a child can basically voice their own free will as to which parent they wish to reside with or both. I think most states have such an age, and the answer to your question is probably until that age, otherwise, you know short of getting

a court order to the contrary, there is not much one can do. Courts do appear reluctant, they tend to have the view that most places that are not the U.S. are not as good for the child as the United States.

**Sharon Zarozny:** I'll piggyback that, in Virginia, attorneys have said that, judges believe Virginia is a great state—why do you need to take your kids elsewhere? So even if you're not going overseas, you can get stuck in the state. And with custody, it is always modifiable, it is something you can always go in and change because children change as they develop.

**Audience Question:** I have a question related to that about the Foreign Service requirements, which is the 5-year rule, are there any exceptions to the 5-year rule related to custody? Where you are still required but you have to figure out what to do with your career as well?

**Daniel Hirsch:** The 5-year rule, well it is actually an 8-year rule, but the 5-8 rule is written into the Foreign Service Act, and it is possible to get waivers, a limited number of waivers to the rule. Limited numbers of waivers are granted sometimes in this sort of situation. But it is not unlimited. So one could get a year or two of waiver, quite conceivable, but not indefinitely.

**Audience Question:** If a Foreign Service officer retires, and their spouse is getting their share of the retirement benefit, if the Foreign Service officer goes back into the U.S. government, and the retirement benefit is cancelled for that moment, or put on hold, what happens with the spouse's share?

**Jacqueline Long:** If the former spouse is awarded benefit, it continues.

**Audience Response:** But does it continue from the government?

**Jacqueline Long:** The question is, if the retiree is back in the government, it continues for that former spouse. Now the payment for that would be deducted from the employee's salary of that reemployed annuitant. So there is no interruption in the divorce payment or the pension payment. Now, you could have a divorce document that says something different. But if it's based upon the general language in the Foreign Service Act, that former spouse's pension payment will continue even though that retiree is now a reemployed annuitant. Again, it is deducted from the employee's salary. They're still going to pay you from the Foreign Service retirement fund.

**Susan Frost:** Sharon did mention the emotional aspects to a divorce, and I think this might be a good chance to ask our representative from OCS, Helen Jones, about any way to assist in those circumstances.

**Helen Jones:** Thank you, in OCS, there are six of us social workers, but we practice independently, so we can provide counseling services. I've had several clients that I've worked with on divorce, issues about custody, dividing properties, things like that; and how we can deal with that in an open and healthier way. You know I've worked with couples who determine this marriage can be saved, so we provide some counseling services to couples and employees as well. We are currently located SA-1, over in Main State. Our services are confidential, and if you're concerned come see us. We also do work with family advocacy places, so if there are issues with that we can help negotiate the right path. And also if there is a need to ask for curtailment by means of waiver extension, we can also assist you with those issues as well. Contact us and let us know your situation and we will let you know how we can help. Helen

Milner, our lead social worker, facilitates our support group, once a month. In the back there is a sheet of paper that lists the other support groups that we also offer. Thank you.

**Susan Frost:** Do we have any other questions? I guess I will close the session. Thank you all for coming, and remember to be on the lookout for the next set of papers that we have on supporting family members going through separation and divorce. Thank you all.