



## COURT ORDERED CHILD VISITATION DURING STOP MOVEMENT ORDER

**Purpose.** This Practice Advisory explains court ordered child visitation issues likely to arise from the Under Secretary of Defense Stop Movement Order (SMO) of 13 March 2020 (ref. (a)).

**Background.** MARADMIN 167/20 (ref. (b)) provides that service members will not travel outside the local area on leave or liberty unless a specific exception applies. These exceptions are 1) mission essential; 2) necessary humanitarian reasons; or 3) extreme hardship. The proper-level commander (normally the first General Officer or SES in the chain of command) may grant the exceptions. Although most state and local Shelter in Place orders exempt travel required by court order, service members still must comply with the SMO unless granted an exception to travel restrictions.

### **Discussion.**

1. Divorced or separated service members with court ordered child visitation schedules should be aware that the underlying court order is still in force during the COVID-10 SMO. After the period of visitation is over, the service member must return the child to the custodial parent in accordance with the court Order. Similarly, the other parent with visitation rights must return the child to the custodial service member. Absent extraordinary circumstances, a violation of the court Order may result in contempt of court and consequent sanctions. Judges will consider whether a parent willfully violated the Order, or whether he or she was prevented from complying after exhausting all other possible remedies. Service members should document all of their efforts to comply.

#### 2. Ways Ahead.

a. The optimal solution for both parents is to agree to temporarily modify existing visitation schedules during the SMO. Service members should document their agreement and their efforts to comply.

b. The service member should try to coordinate with family members and friends who are not subject to the SMO to transport the child to and from visitation locations. Ideally, this should be done with agreement from the other parent.

c. If the foregoing are not feasible, the service member should request permission from their command to travel outside their leave and liberty boundaries. He or she should document approval or denial and all efforts made to comply with the court Order.

3. ABA Military Pro Bono Program. (MPBP). Service members needing in-court legal representation for custody and visitation matters should immediately contact a legal assistance attorney who then may refer them to the MPBP. The ABA has been made aware that such requests may be forthcoming.

4. As appropriate, legal assistance attorneys should contact their local courts to ensure judges are aware of the SMO.

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- References.**
- a. DEPSECDEF MEMO OF 13 MARCH 2020 - DIRECTING STOP MOVEMENT FOR ALL DOMESTIC TRAVEL
  - b. MARADMIN 167/20 - UPDATE #3: U.S. MARINE CORPS DISEASE CONTAINMENT PREPAREDNESS PLANNING GUIDANCE FOR 2019 NOVEL CORONAVIRUS (COVID-19): STOP MOVEMENT.

***Point of Contact:*** Questions should be directed to Ms. Mary Hostetter, Head, Legal Assistance Branch (JLA), Judge Advocate Division (JAD), at [mary.hostetter@usmc.mil](mailto:mary.hostetter@usmc.mil) or (703) 692-7442.