

Criminal Law: The Perils of Perjury  
By Brenda Silva

One of the more challenging things for an attorney is simply proving a witness is lying; however, that appears easy when compared to proving a witness is committing perjury and is knowingly lying in an attempt to defraud the court. When a witness tells a lie on the stand, an experienced attorney need only find proof that the opposite is true. In the case of perjury, finding proof of the intent to defraud behind their lie makes the attorney's work much more detailed and difficult.

"Witnesses often remember events inaccurately after the fact and even more inaccurately after long periods of time have passed. So are they committing perjury when they report these inaccuracies on the stand in court? No. Because they are not intentionally lying, nor are they attempting to defraud the court in most cases," said Andrew B. Metcalf, Partner at Green & Metcalf of Vero Beach, Florida.

Federal law defines two types of perjury – one that involves statements made under oath and another that involves unsworn statements. Both have many factors and require certain proof to be considered before the offender can be prosecuted for committing the crime knowingly.

"When someone makes a false statement about a very minor detail it's not as important as when someone makes a false statement that could have a major effect on the outcome of a court proceeding. That's the most important part of perjury – when it has an impact on a legal outcome – and those instances are the ones we have to be aware of at all times," Metcalf said.

Andrew B. Metcalf is a partner of Green & Metcalf, P.A. He has over 20 years of experience in the practice field of criminal defense. Metcalf is the Immediate Past President of the Florida Association of Criminal Defense Lawyers and Past President of both the Indian River Bar Association and the Indian River Association of Criminal Defense Lawyers. He has earned a Pre-eminent AV Peer Reviewed rating with Martindale Hubbell and has a perfect 10.0 rating with AVVO.

Special Child Support for Special Needs Children  
By Brenda Silva

In today's society, raising a child into young adulthood would keep any parents' hands full. But for a divorcing parent who is a special needs child's primary caregiver, the physical and financial demands can be almost too much to bear at times. In these situations, careful consideration is required by the court to see that the child's wellbeing is being addressed throughout the divorce proceeding. The court may also demand a much more detailed parenting agreement to ensure all of the child's special medical or educational needs are being met.

"When parents of a special needs child get divorced and will no longer be raising the child in the same household, part of the court's decision will include from who the child will receive financial support. The court will also take into consideration the limits of the child's disabilities, as well as any existing income benefits the child is already receiving," said Norman A. Green, Senior Partner at Green, Metcalf and Lazan P.A. of Vero Beach, FL.

In a typical child support scenario, a parent's court-ordered financial responsibility ends when the child turns 18. However, in a divorce where a special needs child is involved, the court may dictate that a parent's support obligation last beyond the age of 18, well after the child becomes an adult chronologically. In these cases, an amicable parenting agreement is so important to have to ensure both parents maintain the care of the special needs child, while also continuing to be a presence in their lives.

"Court-ordered child support is an important consideration in any divorce, and may be even more important in the lives of special needs children – regardless of the extent of their mental or physical disability. It not only helps reduce the financial anxiety of the parents, but it also allows the child's necessary care to continue in the future," Green said.

Norman A. Green is the founder and a partner of Green, Metcalf and Lazan P.A. He has over 40 years of experience in the practice field of family law (divorce, child custody, child support, paternity, modifications of existing orders, prenuptial agreements and alimony cases) and criminal defense.

## Spousal Support: Designated Dollars after Divorce

By Brenda Silva

When it comes to spousal support, neither divorcing person wants to be the one left responsible for paying any amount to the other. Unfortunately, the court can and does award spousal support in a divorce proceeding that often dictates that one spouse will be required to make pre-determined monetary payments to their ex for a set period of time. The purpose of awarding spousal support is often to create more equality between two people whose incomes may have been vastly different during the marriage. However, as logical as this seems, it's often of very little consolation to the person forced to write a check every month to their ex spouse.

"Spousal support is a very touchy subject for all parties involved in a divorce because both people want to get it from the other, but neither want to be legally forced to give it to the other person," said Norman Green, Senior Partner at Green & Metcalf of Vero Beach, FL.

In the past, spousal support was regarded as payments to ex-wives whose husbands provided for the couple (and any children) throughout the marriage. Since these wives did not typically work, regular spousal support was seen as a way for them to continue their lifestyle after divorce, as they reestablished themselves in society. However, with today's couples, it's common that they both work, which can lead to a situation where a higher-earning wife is required to make payments to her lower-earning husband instead or a similar instance with same-sex partners.

"Many factors determine if spousal support is warranted in a divorce, and if so, how much will be paid and for how long. Because the court has such discretion, we try to do as much as we can so our clients are as informed as they can be about all possible outcomes," Green said.

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Senior Citizen Divorce: Many Shades of Grey  
By Brenda Silva

When couples divorce in later years, they're faced with the same challenges as younger couples, but with much less time to adjust to their new way of life. In these situations, finances play a much greater role in daily living, with many older people forced to continue working in order to compensate for the lost income of an ex-spouse who may still be employed. In addition, once the division of assets is final, these same older people will be responsible for their own insurance, housing and other routine expenses that were previously shared with their spouse.

"With divorce later in life, many issues should be considered before proceeding in a dissolution of marriage. Things like retirement savings, home ownership and taxes all need to be discussed with an experienced divorce attorney so each spouse can be prepared," said Norman A. Green, Senior Partner at Green, Metcalf and Lazan P.A. of Vero Beach, FL.

The first suggested step for clients to be as prepared as possible is to create a list of their expenses – both necessary and discretionary – so they can decide how to afford what they need and adjust to not having what they don't need. This exercise can force clients to face their current and future finances, and prepare for the years to come.

"Spouses who divorce when they are older and after many years of marriage will need to consider spousal support/alimony, social security benefits and many other considerations that can sometimes find older couples staying together. For these couples, remaining married is financially preferable to the economics of divorce at their ages," Green said.

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## Criminal Law: Jail or Prison – Only Time Will Tell

By Brenda Silva

Ask anyone who has been in a holding cell even for the briefest amount of time and they will tell you it was not a pleasant experience, and certainly not one they want to repeat. However, there is a marked difference between being in jail and being in prison, the types of people that are sent to each and the kinds of crimes that determine where a person will reside for a specified amount of time. An experienced criminal law attorney can detail the differences, with the main one being that of short-term versus long-term incarceration.

“Simply put, suspects are held in a detention facility or jail until their court date and subsequent trial. If they are convicted of a misdemeanor, they may remain in the same facility for a short-term sentence. If they are convicted of a more serious charge, such as a felony, then they will be processed from the jail into the prison system usually a longer sentence,” said Andrew B. Metcalf, Partner at Green & Metcalf of Vero Beach, Florida.

Because both types of incarceration facilities are intended for different uses – i.e. short-term versus long-term residents – they are built and designed with this in mind. For jails, general population rooms with bunk beds can suffice for the transient population that comes through its doors while in prisons, the facility and furniture are designed with long-term residents in mind. This same thought extends to meal areas, exercise areas and classes for long-term study.

“The irony of the criminal justice system is that in order to get better accommodations, you have to commit a more serious crime. Unfortunately, this is something that many people find out the hard way as they work their way from committing petty crimes to becoming a career criminal,” Metcalf said.

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