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STRENGTHENING STANDARDS AND PRACTICE IN CUSTODY EVALUATIONS¹

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Criticisms of PRE/CFI assessments have intensified in recent years (Tippins & Wittmann, 2005; Emery, Otto & O'Donohue, 2005). Primary criticisms include: unsupported "best parent" recommendations, the lack of scientific support for the best interest of children's standard (BIC), poor integration of research findings in PRE/CFI reports, and concerns about the admissibility of "limited science" expert testimony as part of a flawed psycho-legal system (Emery, Otto & O'Donohue, 2005). These criticisms have led to recommendations concerning a moratorium on "ultimate issue" (parental responsibility) recommendations in PRE/CFI matters as well as a blanket rejection of PRE/CFI as having little of the scientific foundation necessary to provide testimony.

Critics of PRE/CFI focus on these two areas: BIC recommendations and a rejection of PRE/CFI processes altogether. But competent evaluators use systemic data collection procedures and divorce related research data as starting points for generating hypotheses about a specific family. While Tippins and Wittmann site limitations in our data inference ability, they do not recommend the prohibition of evaluations in divorce conflicts. Other professional writers defend the use of psychological constructs in making appropriate recommendations (Stahl, 2005; Kelly & Johnson, 2005).

In their text *The Art and Science of Child Custody Evaluations* (2007), Gould and Martindale state: "A well-researched and well-written report is an important step in helping the family understand how to rehabilitate itself and how to assist specific family members in gaining the management skills and emotional competencies needed to move children toward their psychological potential" (Gould and Martindale, 2007, page 8).

In short, competent evaluators can assist the courts in understanding the relative goodness of fit of both parents in the areas of child management skills and emotional competence in raising healthy children. Parental capacity can be defined as those skills needed to move children towards their psychological potential. Essentially, determining psychological best interests of children involves an investigation of what family situation will likely assist children in achieving competence. Teaching competence can be viewed as the over-arching parenting factor which includes regulated, goal driven conduct, academic achievement and social relatedness.

Increased attention to the scientific foundation of evaluative procedures has led to the development of practice standards by various interest groups: the American Psychological Association (APA), The Association of Family and Conciliation Courts (AFCC), and the American Psychiatric Association (ApA). Guidelines from these groups include the AFCC Model Standards of Practice for Child Custody Evaluations (2007), the AFCC Guidelines for Brief Focused Assessment (2009), the APA Guidelines for Child Custody Evaluations in Family Law Proceedings (2009), the APA Ethical Principles for Psychologist and Code of Conduct (2002), the APA Specialty Guidelines for Forensic Psychology (draft 9/08) and the American Academy of Child and Adolescent Psychiatry Parameters for Child Custody Evaluations (1997).

¹ Hereafter referred to as Parental Responsibility Evaluations (PRE) and Child and Family Investigations (CFI) as practiced in Colorado.

In addition to the development of practice guidelines, researchers have studied the impact of such standards on how custody evaluations are conducted. Problem areas have been identified as was recently discussed at the AFCC Regional Training Conference (November 2009) in Reno Nevada by Dr's. Mark J. Ackerman, Ph.D., and James M. Bow, Ph.D., ABPP. I attended their presentation *Defining Standards of Practice in Child Custody Evaluations*. Dr's. Ackerman and Bow presented an overview and critique of current guidelines and summarized research on PRE/CFI evaluations as practiced in the United States. Gaps in evaluator knowledge are being targeted with increasing frequency. For example, the use of the Millon Clinical Multiaxial Inventory-III (MCMI III) in PRE/CFI is clearly problematic in PRE/CFI. In one study, only 60% of evaluators understood that the Base Rate (BR) cut off is seventy-five percent for clinical interpretation on the MCMI-III. In addition, only 42% of evaluators knew of the MCMI-III gender bias problems.

In April 2009 the husband-wife team of Robert Kelly and Sarah Ramsey published a seminal paper calling for systems level outcome research of PRE/CFI (Kelly and Ramsey, 2009). While Kelly and Ramsey applaud efforts such as the Gould and Martindale focus on scientific foundation as well as the increased attention to professional standards for evaluators, they note that little outcome research has been done at a systems level concerning the "human service" of PRE/CFI. In short, we do not know the intended or unintended consequences of such assessment procedures.

Kelly and Ramsey proposed seven hypotheses for consideration if we are to better understand the value of PRE/CFI. These hypotheses are broken into four groups: court, parent, child, and systems related areas of predicted positive outcomes when competent PRE/CFI are conducted in high conflict divorce cases. Court related hypotheses include tracking information in regards to predicted increases in pre-trial settlements, judge satisfaction, and speed of adjudication. Parent related hypotheses could involve the tracking of adherence to a parenting plan and conflict reduction, as measured by a predicted decrease in re-litigation, and parent satisfaction ratings of PRE/CFI. A child related positive outcome should involve the measurement of child well-being over time. Finally, a systems related hypotheses could look at the comparative efficacy of institutional (state funded) vs. private pay PRE/CFI.

Defining competent PRE/CFI and measuring child well-being are key measurement issues. Continued refinement of best practice standards remains a task to be completed by those interested in the further development of PRE/CFI service delivery. Also of importance, is needed work on defining the "multidimensional measurement systems for gauging child well-being" (Kelly & Ramsey, 2009, p.297).

Kelly and Ramsey recommend three research designs: a randomized field experiment, matched group and a quasi-experimental longitudinal survey. Each of these specific designs would be implemented to control for the many confounding and intervening variables related to PRE/CFI outcomes. Austin (April, 2009) supported Kelly and Ramsey's model but questioned whether a randomized approach is realistic given the complexity of PRE/CFI cases.

Austin noted that other areas of Forensic Mental Health Evaluation (FMHE) are less of a target for criticism most likely because PRE/CFI's are so widely used and difficult to do. But those who deliver FMHE and the district courts that use custody reports should welcome the opportunity to appraise the process and make improvements.

Clearly efforts are under way to improve not only the quality of PRE/CFI but to better understand efficacy. Our task as providers of this service should be to arrive at state-wide goals to improve the quality and, in CFI cases, the efficiency of our assessment methodology. We should create a fair and transparent system of best defined practices coupled with efficient and sufficient outcome data collection procedures in this important human service.

References

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