

ESSENTIAL COMPONENTS OF CHILD CUSTODY FORENSIC EVALUATIONS

Identifying Best Practices When Generating
Ethical, and Objective Written Custody Reports

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AFCC Ohio
April 7, 2021

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Behavioral Learning Objectives

- Identifying best practices when generating ethical, and objective written custody reports.
- Critique strengths and weaknesses of a custody report as identified by family law professionals.
- Address impact of virtual sessions in custody evaluations.

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Outline

I. Identifying best practices when generating ethical, and objective Written custody reports.



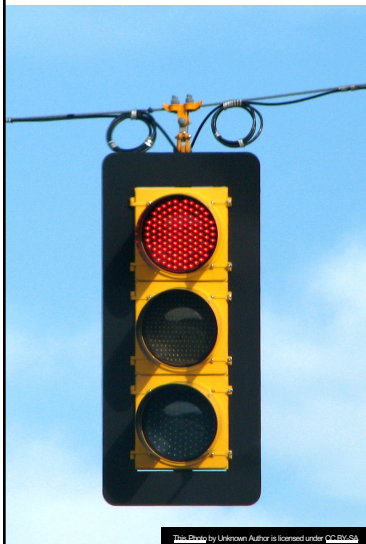
II. Recognizing strengths and weaknesses of a custody report as identified by family law professionals.

III. Lessons learned from Zoom and other Tele-Health options.

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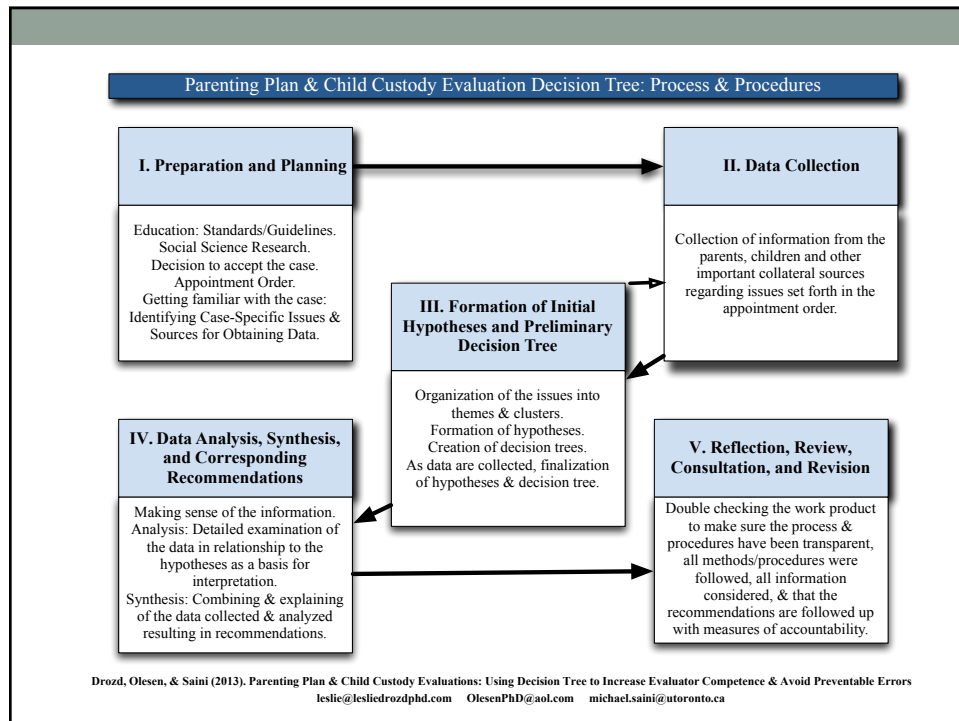
I. Identifying best practices when generating ethical, and objective written custody reports.



- How to compile useful data supporting the conclusions/ recommendations of a report.
- How to conform to recognizable professional guidelines, standards and professional parameters.

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Laws, Codes, Case Law, Standards & Guidelines


Ohio Code related to families including Best Interests
RC 3109.04, RC 3109.051

Case Law

Local Court Rules

Standards (floor) and Guidelines (ceiling/aspirational)

- i. Ohio Rule of Superintendence for Custody Evaluations (Sup.R.91.01-91.09)
- ii. Local Rules of Court – challenges, withdrawals, complaints.
- iii. AFCC Model Standards of Practice for Child Custody Evaluation (2006)
- iv. Guidelines for Examining Intimate Partner Violence: A Supplement to AFCC Model Standards of Practice for Child Custody Evaluation.(2016)
- v. AFCC Guidelines for Court-Involved Therapy (2010)
- vi. American Psychological Association Specialty Guidelines for Forensic Psychology (2013)
- vii. American Psychological Association Guidelines for Child Custody Evaluations in Family Law Proceedings (2010)
- viii. American Psychiatric Association Practice Guidelines
- ix. National Association of Social Workers Code of Ethics (2017)



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Standards and Guidelines

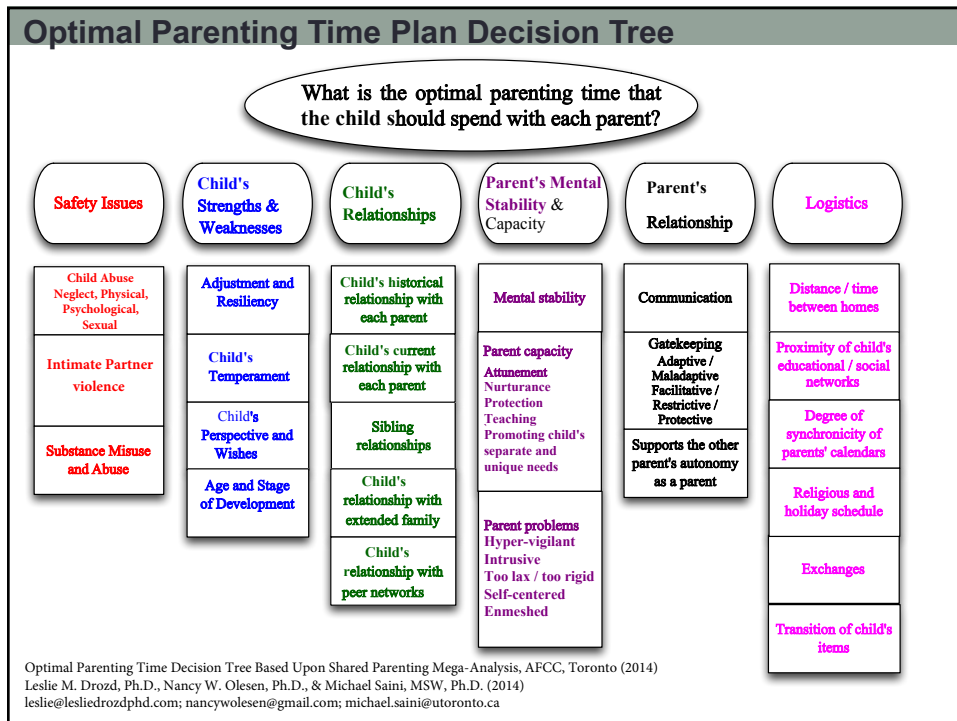
- i. Family Code and Local rules of court
- ii. Ohio Rule of Superintendence for Custody Evaluations
- iii. AFCC Model Standards of Practice for Child Custody Evaluation (2006)
<https://www.afccnet.org/Portals/0/ModelStdsChildCustodyEvalSept2006.pdf>
- iv. Guidelines for Examining Intimate Partner Violence: A Supplement to AFCC Model Standards of Practice for Child Custody Evaluation.(2016)
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- v. AFCC Guidelines for Court-Involved Therapy (2010)
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[ocialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English](https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English)

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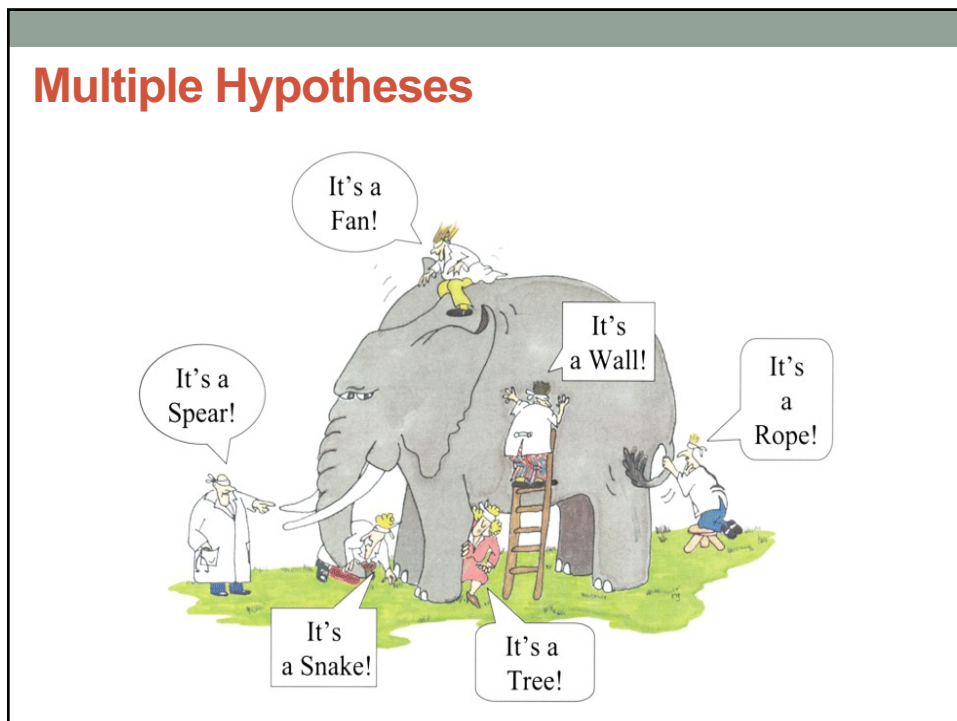
Standards and Guidelines

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- vii. American Psychological Association Guidelines for Child Custody Evaluations in Family Law Proceedings (2010)
<https://www.apa.org/practice/guidelines/child-custody>
- viii. American Psychiatric Association Practice Guidelines
<https://psychiatryonline.org/guidelines>
- ix. National Association of Social Workers Code of Ethics (2017)
<https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English>

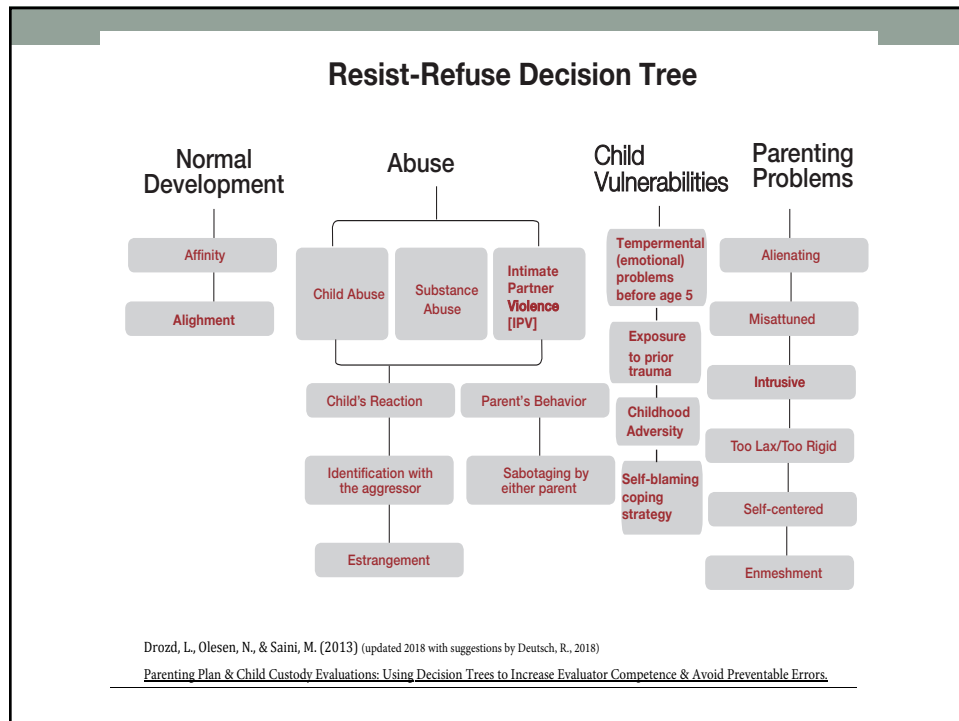
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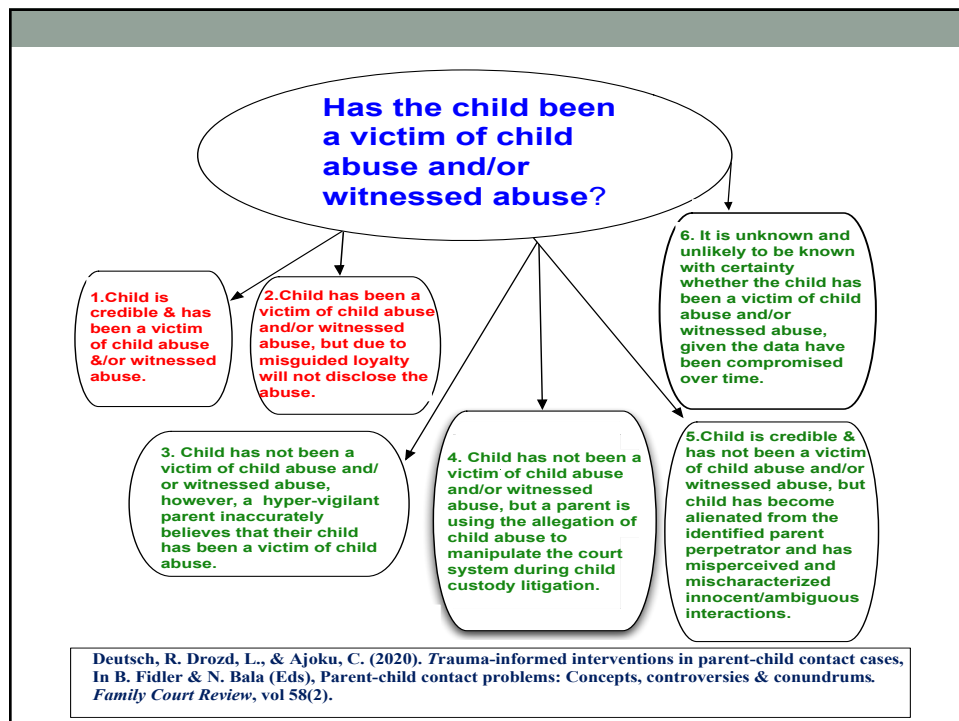
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Selective Attention Video

<https://youtu.be/vJG698U2Mvo>

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*“Sustaining doubt is harder work
than sliding into certainty.”*

Daniel Kahneman (2011)

Thinking fast & slow.

“In all social science research and all predication,
it is important that we be as explicit as possible
about the degree of uncertainty that accompanies
our prediction.”

King et al, 1994, p.212

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Three Types of Stress



POSITIVE



TOLERABLE

TOXIC

Brief increases in heart rate, mild elevations in stress hormone levels.

Serious, temporary stress responses, buffered by supportive relationships.

Prolonged activation of stress response systems in the absence of protective relationships.

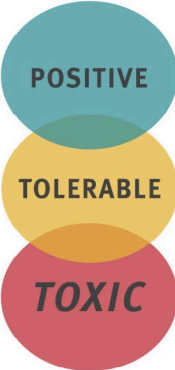



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Three Types of Stress



POSITIVE

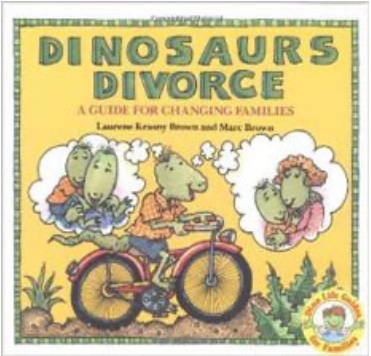
TOLERABLE

TOXIC

Brief increases in heart rate, mild elevations in stress hormone levels.

Serious, temporary stress responses, buffered by supportive relationships.

Prolonged activation of stress response systems in the absence of protective relationships.



Stress is not always bad.
Stress is not always traumatic.
Trauma can be stressful.

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Screen, Screen, Screen.....

Safety Issues

**Always Screen for IPV &
for Other Safety Issues**

**Consider Multiple
Hypotheses**



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**Association of Family
and Conciliation Courts**

Guidelines for Examining Intimate Partner Violence:

**A Supplement to the AFCC Model
Standards of Practice for Child
Custody Evaluation**

www.afccnet.org

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Screening






Screening for domestic or intimate partner violence, child abuse/neglect, & substance misuse/abuse should occur in every case.



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For Screening of IPV Consider....

BWJP* IPV Screening Guide (2017)
<https://www.bwjp.org/assets/ipv-screening-guide-3-28-17.pdf>

MASIC (2010).**
https://www.researchgate.net/publication/227667044_The_Mediator%27s_Assessment_of_Safety_Issues_and_Concerns_MASIC_A_Screening_Interview_for_Intimate_Partner_Violence_and_Abuse_Available_in_the_Public_Domain

Screening is an ongoing process.

*BWJP=Battered Women's Justice Project.

** MASIC=Mediator's Assessment of Safety Issues & Concerns

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Focus of the Assessment
1 of 4

- Whether the abuse &/or alienation/restrictive gatekeeping and/or other variables involve disagreements that have escalated into physical violence as the result of poor impulse control or poor conflict management skills;
- Whether the abuse &/or alienation/restrictive gatekeeping and/or other variables are associated with substance abuse and/or mental illness;
- Whether the abuse &/or alienation/restrictive gatekeeping and/or other variables is a reaction to the stress of separation or divorce without any history of abuse or propensity for abuse;

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Focus of the Assessment
2 of 4

- Whether the abuse &/or alienation/restrictive gatekeeping and/or other variables have been used to prevent or protect against real or perceived threats or risk of harm;
- Whether risk factors for lethality are present;
- The degree to which the responsibility for any abuse and/or alienation/restrictive gatekeeping, and/or other variables is primarily one parent's responsibility or shared;

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Focus of the Assessment

3 of 4

- Whether one partner has exercised power to intimidate, isolate, denigrate, control and subordinate the other partner, frequently resulting in significant fear, trauma, disempowerment, and/or entrapment;
- Whether shared parent-child anxiety is present;
- Whether other permutations are present;
- What, if any, tactics have been employed to restrict or promote the child's relationship with the other parent.
- Whether risk factors for lethality are present;

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Focus of the Assessment

4 of 4

- The degree to which the responsibility for any abuse and/or alienation/restrictive gatekeeping, and/or other variables is primarily one parent's responsibility or shared;
- Whether one partner has exercised power to intimidate, isolate, denigrate, control and subordinate the other partner, frequently resulting in significant fear, trauma, disempowerment, and/or entrapment;
- Whether shared parent-child anxiety is present;
- Whether other permutations are present;
- What, if any, tactics have been employed to restrict or promote the child's relationship with the other parent.

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The Balance



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Safety First

- Children, parents and families need to be safe.
- If there's been a situation that has occurred that might disturb, upset, or even traumatize a child, immediate assessment and treatment are indicated. Presence of a social support will prevent the level of stress from becoming toxic.



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Ongoing Contact

- It is best for children to have a safe, consistent, ongoing relationship with both of their parents.



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Resist/Refuse Treatment

The experiences of trauma are to be dealt within healing of individuals & the family as a whole (Trauma-Focused Model - TF).

Treatment should begin upon screening and assessment and can begin before “findings” by child protective services, an evaluator, and/or the court. Concentration should be on gaining coping skills and promoting resiliency.



CAUTION: Don't treat trauma without (a finding of) trauma.

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Matrix I

Leslie M. Drozd, Ph.D., Nancy W. Olesen, Ph.D., & Michael Saini, MSW, Ph.D. (2013)

Parenting Plan & Child Custody Evaluations: Using Decision Trees to Increase Evaluator Competence and Avoid Preventable Errors

Parenting Plan & Child Custody Evaluation Matrix I: Information Gathering

Source of Concern	Mother's Information	Father's Information	Child's Information	Collateral Information	Evaluator Observations
Intimate Partner or Domestic Violence					
Mother					
Father					
Child Abuse/Maltreatment and/or neglect					
Mother					
Father					
Substance Abuse					
Mother					
Father					
Mental Health					
Mother					
Father					
Child's adjustment					
Mother					
Father					
Child's Preferences					
Parenting Competency					
Mother					
Father					
Co-Parenting Capacity					
Mother					
Father					
Relocation					
Mother					
Father					
Other Issues Relevant to Situation					
Mother					
Father					

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Matrix II.

Leslie M. Drozd, Ph.D., Nancy W. Olesen, Ph.D., & Michael Saini, MSW, Ph.D. (2013)

Parenting Plan & Child Custody Evaluations: Using Decision Trees to Increase Evaluator Competence and Avoid Preventable Errors

Child Custody & Parenting Plan Evaluation Matrix II: Analysis

Source of Concern	Summary of Information	Analysis of Information: Reliability & Validity	Inferences: Safety, Access, Transitions, Decision-Making
Intimate Partner or Domestic Violence			
Mother			
Father			
Child Abuse/Maltreatment and/or Neglect			
Mother			
Father			
Substance Abuse			
Mother			
Father			
Mental Health			
Mother			
Father			
Child's adjustment			
Mother			
Father			
Child's Preferences			
Parenting Competency			
Mother			
Father			
Co-Parenting Capacity			
Mother			
Father			
Relocation			
Mother			
Father			
Other Issues			
Mother			
Father			

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Matrix III.

Leslie M. Drozd, Ph.D., Nancy W. Olesen, Ph.D., & Michael Saini, MSW, Ph.D. (2013)

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Parenting Plan & Child Custody Evaluation Matrix I: Information Gathering

Source of Concern	Mother's Information	Father's Information	Child's Information	Collateral Information	Evaluator Observations
Intimate Partner or Domestic Violence					
Mother					
Father					
Child Abuse/Maltreatment and/or neglect					
Mother					
Father					
Substance Abuse					
Mother					
Father					
Mental Health					
Mother					
Father					
Child's adjustment					
Mother					
Father					
Child's Preferences					
Parenting Competency					
Mother					
Father					
Co-Parenting Capacity					
Mother					
Father					
Relocation					
Mother					
Father					
Other Issues Relevant to Situation					
Mother					
Father					

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How Confident Are You?

- Did you collect sufficient reliable data to consider reasonable alternative explanations of the subject?
- What reasonable alternative explanations of the case facts and data that you collected did you consider?
- When during the evaluation/assessment process did you consider each reasonable alternative explanation of the data? While collecting the data? (preferable); After you collected the data? (vulnerable to confirmatory bias); As you wrote your report (especially vulnerable to confirmatory bias)?
- Why did you discard each reasonably alternative explanation that you did not accept?



Zervopoulos, J. *Psychology Law Brief*, July 21, 2020

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II. Recognizing strengths and weaknesses of a custody report as identified by family law professionals.



- a. How can mental health professionals ensure the referral (psycho-legal) questions are addressed?
- b. How do judicial officers determine weaknesses that could undermine the accuracy and helpfulness of a report?
- c. How do attorneys utilize information from a report to advocate for their client?

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III. Lessons Learned from Zoom & Other Telehealth Options.

a. Can we get useful data virtually?

b. Will we continue using virtual means as a protective mechanism to work with certain families such as DV victims?



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Should Telehealth be used in conducting an evaluation in a COVID world?

Should telehealth be used in conducting an evaluation in a COVID world?

SAFETY. Safety comes first. Can the procedure proposed be done safely? If so, continue. If you cannot safely conduct the procedure, you should not conduct the evaluation, so stop.

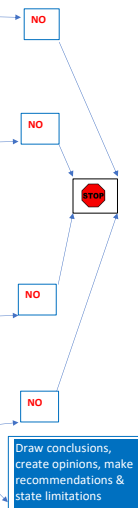
COVID-19 may make face-to-face unsafe.

COMPETENCE. The next question is competence (which is an ethical issue). Remember, one can qualify as an expert based upon knowledge, skill, experience, training OR education. The question is, "Do I have the skills or competence to conduct the procedure to be used?" (FRE 702 and Competence in Ethical Principles and APA Telehealth Guidelines). There is an expectation that competence requires an ability to adapt to differing situations. If yes (you can competently perform procedure), then continue. If not, stop.

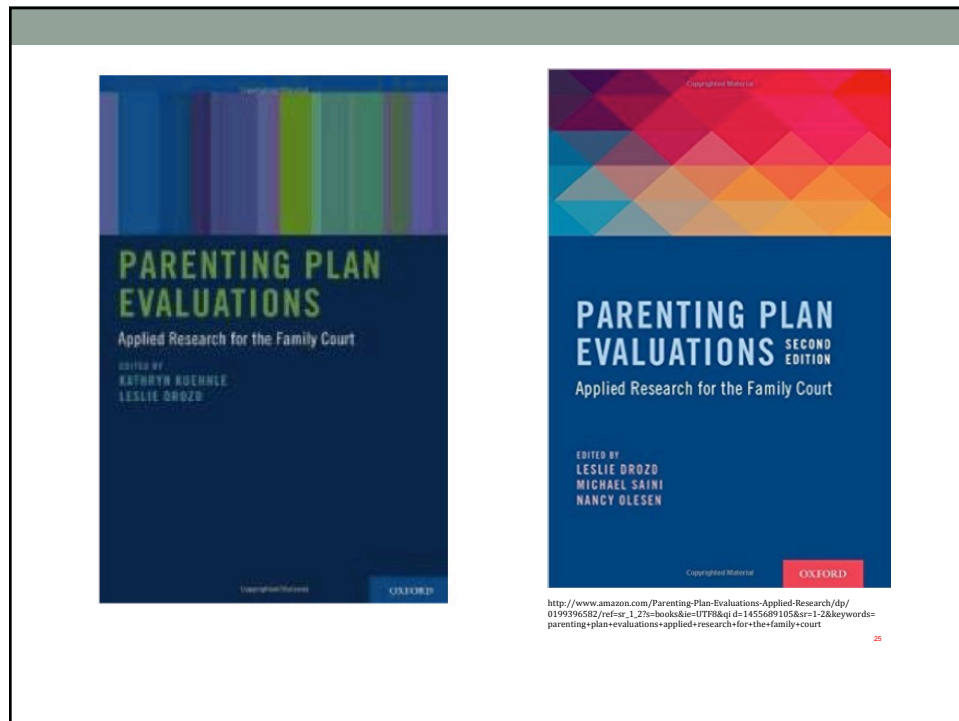
TRUSTWORTHY DATA. The next question concerns scientific acceptability of the procedure to be used in relation to the task. Have others validly and reliably used the procedure for tasks similar to the one under consideration? The procedure is one designed to collect data and facts sufficient to develop an opinion. The research from the telepsychology community may be helpful. Unfortunately, many forensic psychologists are better at distinguishing "forensic" from clinical than noting the similarities between clinical and forensic. Dale & Smith (2020) illustrate that the justifications for using VC in R-CCEs comes from cases and research in other areas of psychology. The Ethical Code allows one to use "novel" procedures as long as the ways in which the procedures are departures from standard procedures and any limitations are noted. If it is believed that the procedure will produce helpful, valid, reliable, and trustworthy data, continue. If not, stop.

ADMISSIBILITY. Are the data & facts collected a sufficient basis for conclusions/opinions/ recommendations? If yes, provide conclusions/opinions/recommendations while noting limitations, if any. If not, collect additional data or stop.

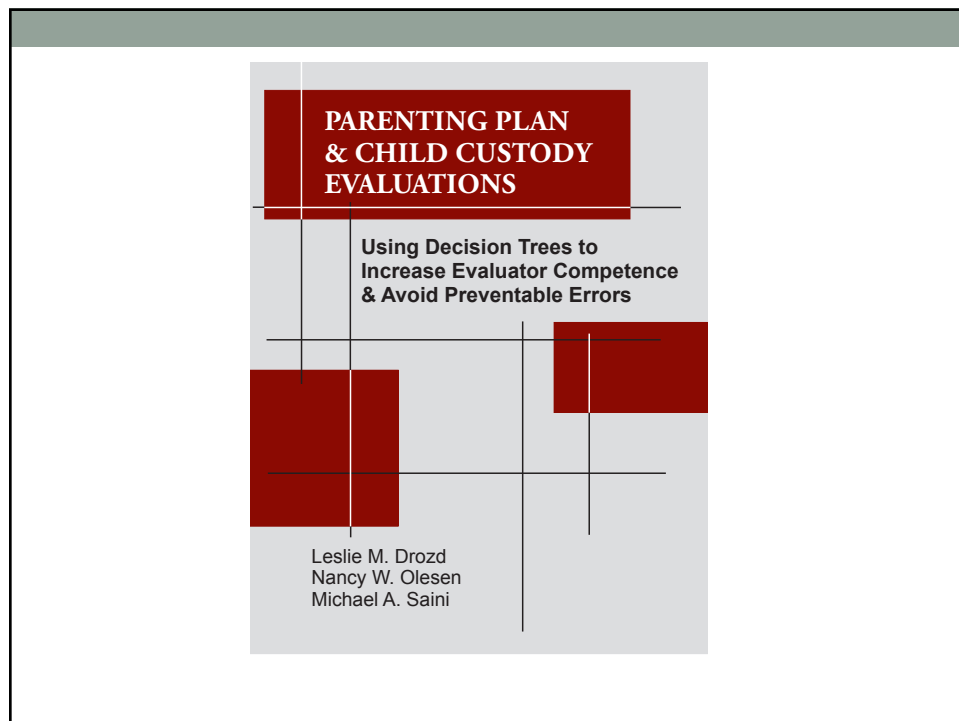
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 Milfred A. Dale, J.D., Ph.D. (drbustaleoutlook.com)
 August 2020



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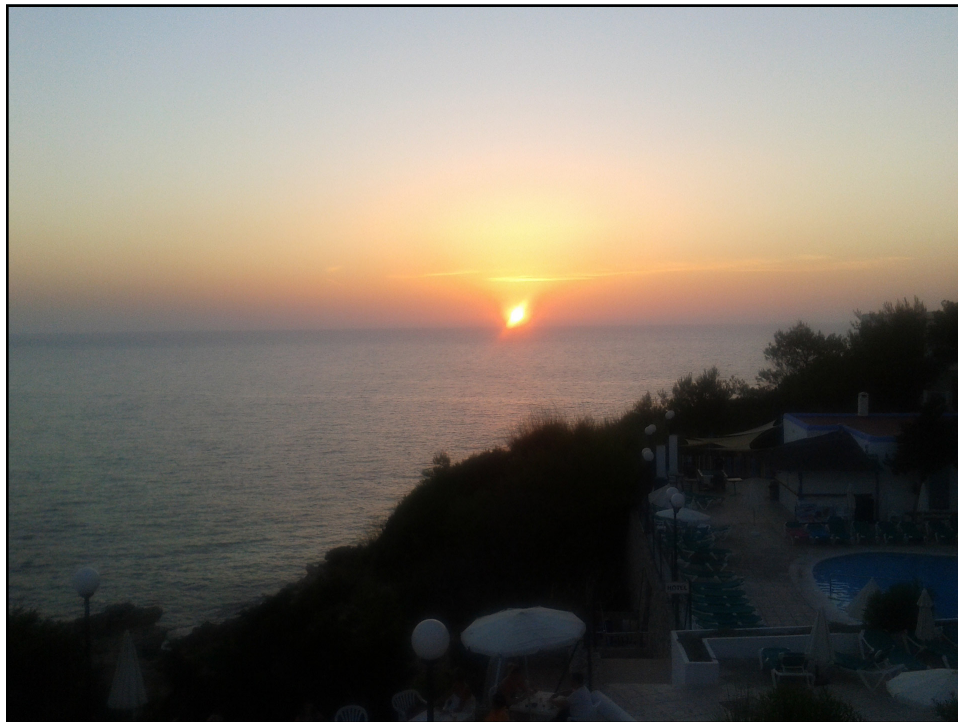
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Q & A



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