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APPLICATIONS FOR LEGAL PRACTICE

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CUSTODY EVALUATIONS: SHOULD PSYCHOLOGISTS MAKE CUSTODY RECOMMENDATIONS?

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Determining child custody, where custody is disputed, is the sole responsibility of the judge as the trier of fact in divorce litigation. Determining child custody is a legal, financial, social/cultural, and psychological issue, a determination whose defining element is always what is in the child's best interest. A judge utilizes many sources of information in the formulation of a custody *decision* and relies upon his or her accumulated experience over time, knowledge of the law and consideration of information presented at trial, among other factors. Information from a child custody evaluation can be one source of information presented at trial and contributes to only one component of the Court's process in determining custody.

Child custody *recommendations* are those made by a neutral and independent mental health professional who, by virtue of a court appointment, provides information to assist the court with the decision making process. These recommendations are based upon data collected in support of *psychological* explana-

tions which speak to the needs of the child and the abilities of the adults to meet those needs. An evaluator's *recommendation* is not the same as the Court's *decision*.

Recommendations from the independent evaluator are necessary in a comprehensive and complete custody evaluation so that the relationship between findings and conclusions is specifically stated rather than inferred. Where conclusions and recommendations are not clearly stated, the decision maker, particularly one who may be inexperienced or overexposed to the methods of one or two experts, is forced to guess at the recommendations and conclusions the evaluator intended.

The absence of specific recommendations for custody can lead to a misuse of the findings by decision makers who may allow stereotypical or prejudicial thinking to enter into the decision making process, i.e., only mothers can be custodial parents of young children or, one who has a psychological disorder is always too disabled to parent in a custo-

dial role. There is also a higher risk that facts will be successfully obscured at trial if the custody evaluator does not establish a direct connection between findings and recommendations.

Psychological explanations are very relevant as a basis for recommendations about *physical custody and visitation*. Information derived from a custody evaluation is not always the most relevant source of information from which to make recommendations about *legal custody*. It is appropriate for a custody evaluator to utilize evaluation findings to comment upon the potential success or failure of joint or sole decision making about the child. Psychological findings, however, may not be the basis upon which to develop a recommendation about legal custody.

Decisions about legal custody may require information about factors which are not necessarily a focus of a custody evaluation such as a parent's personal financial history and decision making, work history, criminal history,

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Custody Evaluations: Should Psychologists Make Custody Recommendations?

Dr. Eabon is a clinical psychologist licensed by the Virginia and D.C. Boards of Psychology. In practice since 1987, she specializes in psychological evaluations for custody and visitation issues, juvenile offenders, educational litigation, learning disabilities, psychological problems, disability determination, and some toddler or young child personal injury. Although her practice is primarily consultation and evaluation, she does have a small psychotherapy practice for older adolescent and adult clients struggling with maturity or phase of life issues, depression, anxiety, or parent-child conflict. She also provides supportive therapy for clients of all ages who have siblings with special needs, including disability and illness.

Clinical Psychology Insights is published by Michelle F. Eabon, Ph.D., a clinical psychologist in practice in Fairfax, Virginia. This newsletter covers topics which may be of interest to judges and attorneys who work with divorcing parents, juvenile offenders, or other special needs children, adolescents and adults. If you know of someone who would like to receive this newsletter or, you find you do not wish to receive a copy, please communicate this by fax or e-mail. Also convey your interest to DrEabon@DrEabon.net if you would like to receive an e-mail format of this newsletter (requires Adobe Reader).

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past problem solving history and issues of character such as those which may become evident from a review of the marital financial history, including money management. These factors may be outside of the scope of a custody evaluation or from facts not typically made available to a custody evaluator so that a custody evaluator has little basis upon which to formulate a recommendation for legal custody.

Information from a custody evaluation has a direct application for the formulation of recommendations for physical custody and visitation. A child's needs, strengths and limitations can be evaluated and described thoroughly as can descriptions of parent-child interactions. Evaluation results do lend themselves to a comparative description of each parent's abilities to meet these needs as well as a description of their willingness and abilities to

support the other parent's parenting. Evaluation results will also provide information about a child's resilience and abilities to tolerate change or atypical custody arrangements.



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Next Issue: The Use of Traditional Psychological Tests in Custody Evaluations.