ETHICAL ISSUES IN COMPLEX FORENSIC CHILD CUSTODY EVALUATIONS

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OBJECTIVES
• Become familiar with ethical issues and standards of practice in child custody matters
• Learn about issues that increase the complexity of child custody evaluations
• Develop a framework for ethically sound decisions and practices in complex child custody cases

GUIDELINES/STANDARDS
Slide 4

ETHICAL/PRACTICE STANDARDS

• COMPETENCE

• CLARIFICATION OF ROLE

• ESTABLISHING SCOPE OF THE EVALUATION

• KNOWLEDGE OF PRIVACY ISSUES

Slide 5

ETHICAL/PRACTICE STANDARDS

• INFORMED CONSENT

• CULTURAL AWARENESS

• AVOIDANCE OF CONFLICTS OF INTEREST AND BIAS

• CONSULTATION/REFERRAL AS NEEDED

Slide 6

COMPETENCE

• Education and supervision

• Knowledge base
  – Child development
  – Family dynamics
  – Child and adult psychopathology
  – The short- and long-term impact of family dissolution on children and parents
Slide 7

COMPETENCE

• Knowledge base (cont'd)
  – The impact of different custody arrangements on children’s well-being
  – Legal standards governing determinations of custody at the time of the dissolution and when a modification is sought
  – Other laws relevant to custody
  – Influence of situational variables on test validity and clinical scores

Slide 8

COMPETENCE

• Knowledge base (cont'd)
  – Knowledge of, and sensitivity to, ethnic, socioeconomic, and cultural issues that impact parenting and test findings
  – Recognition of how one’s testimony reflects on the public’s perception of the profession, as well as having a profound impact on people’s lives

Slide 9

COMPETENCE

• Skill sets
  – Psychological testing
  – Assessment of children and families
  – Interviewing
  – Integration of large amounts of data
  – Ability to communicate in writing and orally with legal professionals and lay people
  – Willingness to consult with others
  – Maintenance of composure in adversity
Slide 10

COMPETENCE

- Do not forget about the ethical obligation to maintain competence

Slide 11

CLARIFICATION OF ROLE

- Therapist or evaluator
- Fact or expert witness
- Who is the client? To whom are duties owed?
- Advocate or impartial educator
- What is the referral question? What is the scope of the evaluation?

Slide 12

SCOPE OF EVALUATION

- Affirmative (ethical) duty of the evaluator to define
- Determined by the referral question(s)
- Determines what procedures can be used to adequately address the referral question(s)
- Conclusions and opinions must be supported by the data collected
Slide 13

KNOWLEDGE OF PRIVACY ISSUES

• Difference between privilege and confidentiality
• Difference between subpoena and Court order
• Limits on privilege and confidentiality in custody cases
• Personal access to records

Slide 14

INFORMED CONSENT

• Complex in child custody cases
• Includes:
  – Role of the evaluator
  – Purpose of the evaluation
  – Procedures that will be used
  – Responsibilities of the litigants
  – Fees and payment policies
  – Limits on privilege and confidentiality and who will have access to information

Slide 15

CULTURAL AWARENESS

• Ethical requirement of sensitivity to how culture and similar variables may affect parenting beliefs and practices and results of psychological tests
CONFLICTS OF INTEREST/BIAS
- Disclosure of history of relationships
- Balancing time (with parties and attorneys)
- Giving party opportunity to respond to allegations
- Citing all relevant data about both parties in report, including allegations and responses to them

CONSULTATION/REFERRALS
- Especially important if a special issue is involved about which professional may not have knowledge or experience; that is, the type of issue that occurs in complex cases

COMPLEX ISSUES IN CUSTODY CASES
- Allegations of sexual/physical/emotional abuse or neglect
- Alleged or known substance abuse
- Alleged or known pornography use or promiscuity
- Alleged or known domestic violence
- Child’s alleged hatred for, or rejection of, parent
Slide 19

**COMPLEX ISSUES IN CUSTODY CASES**

- Intrusiveness/over-involvement of extended family or third parties
- Threats by litigant against evaluator
- Serious mental illness in a litigant
- Exceptional needs of a child
- High conflict between parents

Slide 20

**FRAMEWORK FOR ETHICAL JUDGMENTS**

- Identify the issue and acknowledge its complexity
- Determine whether you have the knowledge and skills to address the issue
- If you believe you are competent, determine whether you need consultation
- Determine whether referral to another professional is necessary

Slide 21

**FRAMEWORK FOR ETHICAL JUDGMENTS**

- If you are making a referral, is it of the entire evaluation process or to address the complex issue?
- If the referral is for the assessment of a specific issue, what will your relationship be the other professional? How will those data be treated?
- Be mindful of the extra stress