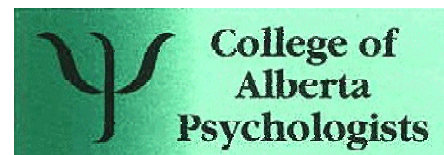


*Professional Guidelines for Psychologists*

# **CHILD CUSTODY ASSESSMENT**

*Adopted by PAA 1995  
Revised by CAP April, 2001  
Revised by CAP January 2002*



COLLEGE OF ALBERTA PSYCHOLOGISTS  
**CHILD CUSTODY ASSESSMENT GUIDELINES**

*INTRODUCTION*

The following guidelines were developed for psychologists who conduct assessments in child custody and access matters, and are based upon the *Canadian Code of Ethics for Psychologists* (CPA, Third Edition). The goal of these guidelines is to promote ethical and competent psychological practice in conducting child custody assessments.

Parental divorce requires a restructuring of parental rights and responsibilities but parents are sometimes unable to jointly reach such an agreement. In that event, psychologists may be ordered by the Court or contracted by parents or their legal counsel to undertake assessments regarding children's custody and access arrangements.

Particular competencies and knowledge are required on the part of psychologists conducting child custody assessments. This is a sensitive and potentially stressful area of practice in which psychologists may contribute significantly to decisions about children although the Court makes the ultimate decisions. Psychological data and opinions may provide additional information and perspectives about children's best interests not otherwise readily available to the Court.

Since psychologists may be requested to address a particular concern or perhaps several issues within a family unit, they should clarify at the assessment's outset whether the scope of the investigation is limited or comprehensive. A limited clinical evaluation of the functioning of a family member or members should be identified as such and not be considered to constitute a child custody assessment. On the other hand, a comprehensive assessment requires evaluation of a breadth of issues for both parents and child(ren) resulting in a recommendation about custody and access. Regardless, psychologists should adhere to the following guidelines for ethical and competent practice.

**PART I**  
**GENERAL PRINCIPLES**

**A The psychologist's primary purpose is to serve the best interests of the child.**

The "best interests of the child" remains the primary concern of psychologists regardless of the specific role they play, or the specific interests of the adult parties, who usually contract and pay for the assessment. The assessor must focus on identifying the psychological needs of the children to assist in decisions about restructuring parental responsibilities in relation to children's "best interests." The psychologist is an objective gatherer of information whose opinions are based on sound psychological knowledge.

A comprehensive child custody assessment typically requires an evaluation of the parenting capacities of parents, and their new partners, and an evaluation of the needs of the children, as well as observations of the interactions among them. Extensive sources of data help to provide information representative of families' and children's lives. An assessment of limited scope utilizes a more limited set of data that should be restricted in its use. If the parenting capacity of only one parent is evaluated, then no recommendations can be made favouring custody and access for one parent over the other parent. If only the psychological needs of a child are evaluated, then no recommendations can be made regarding custody and access.

**Reference: Canadian Code of Ethics for Psychologists, Standards II.1, II.21, II.30, II.38**

**B The psychologist obtains specialized competence in child custody assessment.**

The psychologist should possess extensive education and experience in the areas of child and family development; child, adult, and family psychopathology; and the impact of family conflict and divorce on children and adults. In addition, competence in performing psychological assessments of children, adults, and families is necessary, such as interview techniques, standardized protocol questions, psychometric testing, and preparation of psychological reports, as well as giving expert testimony in Court. Knowledge of relevant laws and procedures in the local jurisdiction is essential. In some custody assessments, allegations of child abuse, neglect, or family violence occur. Since these areas of particular expertise are not always within the scope of practice of all practitioners, psychologists should seek additional consultation, supervision, knowledge, and/or training to competently address these issues in assessments.

**Reference: Canadian Code of Ethics for Psychologists, Standards II.6, II.9, II.10, II.13, III.4, III.8**

**C Psychologists clarify their roles in child custody situations and avoid multiple relationships that may impair their professional objectivity.**

Psychologists in child custody situations must make clear role differentiations. They avoid mixing professional and personal relationships and they avoid multiple professional roles. Psychologists must clarify role expectations with parents and referring parties, as well as indicate their qualifications to conduct the assessment.

Dual relationships are occasionally unavoidable. Consequently, roles must be clarified and made known to all parties at the outset of an assessment to avoid both compromising the objectivity of the psychologist as well as the perception that objectivity has been compromised. Psychologists who accept more than one role must have carefully considered ethics and professional codes of conduct, engaged in a decision-making process to reach a sound rationale, and be able to defend their impartiality.

Following are some of the potential roles for the psychologist in the child custody situation, and examples of conflicted role situations that should be avoided.

**Assessor:** The psychologist may be contracted by attorneys or appointed by the Court to assess a family situation for the purposes of custody determination and to serve as an expert witness.

**Therapist:** The psychologist who is a therapist for a client shall not serve as a custody assessor because of the inherent conflict of interest between the two roles. A psychologist in a therapist role who is asked to testify regarding a client involved in a child custody case should be aware of the limitations and possible biases inherent in this role, as well as the possible impact on the ongoing therapeutic relationship. If a psychologist in a therapist role does testify regarding a client involved in a child custody case, he/she must not accept the role of an expert witness regarding custody issues.

**Consultant:** A psychologist who is hired by one or both parents to provide information on child development, children of divorce, and what to expect in divorce situations shall not serve as an assessor because the dual roles may jeopardize the psychologist's objectivity.

**Mediator:** A psychologist who is hired as a neutral facilitator to assist parents in decision making shall not be an assessor or make recommendations regarding custody.

**Arbitrator:** A psychologist may provide a non-binding arbitrated opinion following an abbreviated assessment only in circumstances where all parties, i.e. lawyers, parents, or relevant

others, request and consent to such a role for him or her. The psychologist should ensure any resulting opinion is not misconstrued as a recommendation arising from a comprehensive assessment, and that it is not advanced to the Court as a such. It may serve the purpose of an interim opinion and/or disposition, where required. However, once a psychologist embraces such a role, then another independent psychologist should perform any subsequent comprehensive assessment.

**Advisor:** A psychologist who is asked by a lawyer to critique the psychological report of another psychologist may advise on inquiries that can be advanced in Court. In such circumstances, the psychologist does not need to see any of the participants and must not make recommendations regarding custody of the children. A psychologist who makes a written critique of the first psychologist's report may provide a copy to that psychologist for the benefit of shared information and good inter-professional communication. Psychologists should avoid adversarial positions with other psychologists and shall neither suggest that they are incompetent nor that the second psychologist should conduct another evaluation of the same case. This does not preclude the second psychologist from asking questions about the content of the report.

**Expert Witness:** A psychologist may serve as an expert witness to present information in Court on child development without referring to the specific case under consideration. A psychologist may also serve as an expert witness in the presentation of his/her own findings from a child custody assessment.

**Reference: Canadian Code of Ethics for Psychologists, Standards III.33, III.35**

#### **D The psychologist acknowledges and strives to overcome unjust discrimination.**

The psychologist is acutely aware of how biases regarding age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, and socioeconomic status may interfere with objective assessments and recommendations. Issues of cultural/social/ethnic diversity need to be carefully considered. The psychologist strives to be non-discriminatory in making custody recommendations for the best interests of the child.

**Reference: Canadian Code of Ethics for Psychologists, Standards I.9, III.10**

#### **E The psychologist maintains professional objectivity and impartiality.**

The psychologist, in a balanced and impartial manner, informs and advises the Court and the respective custodians of relevant psychological factors pertaining to the custody issue. The psychologist, throughout what is often an emotionally charged scenario, is sufficiently aware of personal attitudes and biases to maintain professional objectivity. The psychologist is also aware of the potential for different roles with clients to compromise objective and balanced reporting. Consequently, they carefully avoid multiple relationships. In the event a psychologist recognizes that professional objectivity and impartiality is impossible or has become compromised, the psychologist should withdraw from the assessment process.

**Reference: Canadian Code of Ethics for Psychologists, Standards II.10, II.30**

## PART II PROCEDURAL GUIDELINES

### **A     The scope of the assessment is determined by the psychologist, based on discussion with referral sources about the nature of the referral question.**

The scope of the custody assessment is often determined by the nature of the comprehensiveness of opinion or recommendation requested of the psychologist. As well, issues may be raised by referring parties or the Court, or may be inherent in the particular situation. The psychologist should clarify any specific assessment expectations or limitations through discussion prior to commencement of the assessment. However, the scope of a particular assessment may be limited or broadened according to need, as determined by the professional judgment of the psychologist. The psychologist should communicate such changes to referral sources in a timely manner, and be prepared to justify such needed change.

### **B     The psychologist exercises professional judgment in the development of clear and logical procedures, and maintains patient records accordingly.**

All records in custody and access assessment are subject to professional review and Court proceedings, and are potentially within the public domain. They should therefore be well maintained and reflect the process of the assessment.

### **C     The psychologist clarifies the financial and retainer arrangements as well as feedback format prior to commencing a child custody assessment**

It is customary for psychologists to set and collect fees for their professional time spent in conducting a custody assessment. The fees would cover such services as interviewing, test administration, and interpretation; report preparation; Court time; travel; and other time spent in association with the assessment. Prior to the start of the assessment, the psychologist should indicate the costs (or estimation of costs) and the manner in which fees will be collected. An unambiguous fee agreement signed by all concerned parties is recommended. It is improper for reimbursement to be contingent on the "successful outcome" of the case. Fees collected prior to or at the time of initiation of services and/or prior to release of the report may help to safeguard the neutrality of the assessor.

**Reference: Canadian Code of Ethics for Psychologists, Standard III.14**

### **D     The psychologist obtains informed consent for participation from all participants.**

The psychologist ensures that each participant is aware of: 1) the purpose, nature, and method of evaluation, including limitations on confidentiality; 2) the scope of the assessment, including the presence of any limitations to assessment procedures, recommendations or use of the assessment; 3) who has requested the psychologist's services, 4) who will be paying the fees, 5) the estimated time required for completion of the assessment, and 6) how, when, and to whom, final conclusions and recommendations will be provided. The psychologist informs participants about the general nature of the assessment techniques and instruments, and about the potential uses of the data collected, i.e. how the data will be integrated and used to form conclusions and recommendations about the particular concerns in the assessment. The psychologist attempts to obtain informed consent of children to the extent of their capacity for understanding based on their developmental levels.

A psychologist should always obtain informed consent for participation from the parent who has legal custody of the child.

Occasionally a parent will individually or through legal counsel seek an independent assessment of the child with the request that the "other parent" not be informed, usually in situations where there is

suspicion of abuse or neglect. These suspicions should be referred to the proper authorities and the psychologist should not undertake such initial child protection investigations (see Part II, Section J).

**Reference: Canadian Code of Ethics for Psychologists, Standards I.19, I.26, I.27, III.14**

**E The psychologist informs participants about the limits of confidentiality.**

A psychologist conducting a child custody assessment informs the parties to the dispute of the limitations on confidentiality. In consenting to the assessment, the parties to the dispute are consenting to disclosure of the assessment's findings in the context of potential forthcoming litigation. Informed consent should be obtained in writing.

All participants, including collateral references, should be informed that their information is not privileged, that it may become part of the public record, and that they may be required to provide corroborative evidence in Court under oath.

**Reference: Canadian Code of Ethics for Psychologists, Standard I.45**

**F The psychologist uses multiple avenues of data collection as necessary to arrive at sound professional opinion.**

The psychologist strives to use the most appropriate methods for addressing the specific questions raised in a child custody assessment, utilizing multiple avenues of data gathering and developmentally sensitive assessment strategies with children in particular. Observation and psychological testing of children and parents may be an important component of the assessment. An overview of background events may be obtained from clinical history taking, intake questionnaires, affidavit materials and interviews with parent figures. Important facts that result in significant opinions and conclusions may need to be documented from more than one ancillary source. The psychologist may review potentially relevant reports, i.e., schools, health care providers, child care providers, protection agencies, and institutions are contacted when warranted in the psychologist's professional judgment. Psychologists may interview extended family, friends, and other significant individuals when the information may be relevant.

**G The psychologist seeks information that relates only to the scope and intent of the assessment, and to the best psychological interests of the child.**

All data sources used in assessment should be relevant to the questions at hand. Since the validity of a psychologist's opinion is enhanced by the use of multiple data sources, information obtained from collateral, anecdotal, or other data sources may be presented in a summative fashion, i.e., corroborated and integrated into an opinion. However, all collateral references should be informed that truly important or key information may need to be revealed in the written report (See II:E). In cases where assessment procedures differ between the parent figures, the assessor should be prepared to explain why this was deemed both appropriate and necessary.

**H The psychologist maintains clarity in use of the term "child custody assessment", thereby avoiding misrepresentation of the applicability of related clinical evaluations.**

Psychologists should avoid appending terms such as "mini-" or "focused-" to that of "child custody assessment" in order to avoid misrepresentation about limitations of data and forensic usefulness of a clinical evaluation. An evaluation focused on a specific issue should not be considered sufficiently comprehensive to warrant comment on custody or be presented to Court as if it was generated from a comprehensive child custody assessment. Such a report should not be considered a substitute for a child custody assessment, and this should be clearly stated at the beginning of any written report.

**I The psychologist aggregates data collected, integrating it into clinical impression/opinion in light of the scope and intent of the particular evaluation.**

The purpose of evaluation is to offer professional opinion about the most appropriate or least harmful arrangement to maintain the best interest of the child(ren). In so doing the psychologist refrains from inappropriately interpreting the data; conclusions are adequately supported by the data. The psychologist interprets data conservatively, appreciating issues of validity and reliability in clinical assessment generally, and in custody/access in particular. Conclusions, in the form of opinions and/or recommendations, typically address:

- 1) **parent factors:** psycho-social and adaptive functioning of adults, as they relate to parenting competency;
- 2) **child factors:** psychological functioning, developmental needs, and perceptions of child(ren) as they pertain children's best interests;
- 3) functional ability of the parent figures to meet the child's needs, including an evaluation of adult-child interactions; and
- 4) related situational variables that may affect the adults, children, or the family.

Professional opinion and recommendations may arise from, but are not limited to, the following considerations.

**Child-related factors:**

- the personality and character of the child
- the health and emotional well-being of the child, including any special needs for care and treatment
- the physical, psychological, social and economic needs of the child
- education and training for the child
- where appropriate, the views of the child
- positive emotional bonds that exist between the child and each person to whom the child's custody may be entrusted, each person to whom access to the child may be granted, and, where appropriate, each sibling of the child
- the role of extended family in the child's life
- the child's cultural and religious heritage
- the length of time each child has lived in a stable home environment
- the effect upon the child of any disruption of the child's sense of continuity

**Parent-related factors:**

- the ability and willingness of each parent figure to provide the child with guidance and education, the necessities of life, and attention to any special needs
- the capacity of each parent figure to exercise the rights and responsibilities associated with guardianship, custody, and access
- parenting history
- plans proposed by the parent figures for the child's care and upbringing
- the permanence and stability of the family unit of each parent figure
- the wishes of the father and mother

**Inter-parental factors:**

- the effect that designating custody or primary care of the child to one party would likely have on the other party's ability to exercise reasonable access to the child
- degree of support given by each parent figure to a healthy and ongoing relationship of the child with the other parent figures
- degree of inter-parental conflict

**Situational factors:**

- the relationship by blood or through an adoption order between the child and each person who is a party to the application
- the presence within the family of child abuse, domestic violence, substance abuse, or other child protection concerns
- mobility issues

**J The psychologist must consider the most appropriate course of action with allegations regarding child protection issues.**

In the course of conducting child custody assessments, allegations sometimes occur against one of the parent figures regarding child abuse, neglect, family violence, or other issues. If the psychologist has reasonable and probable grounds to believe that a child is in need of protection, the psychologist is required by law to report to the proper authorities, or to ensure that the parent figure advancing the allegation contacts appropriate protective services. At all times the psychologist is familiar with relevant laws addressing Child and Family Services concerns, and acts accordingly. The psychologist should consult with professional peers in the case of an ethical dilemma, carefully considering ethics and professional codes of conduct, and engaging in a decision-making process to reach a sound rationale that can be explicated as necessary. A psychologist may wish to obtain legal consultation in complex legal situations. If Child and Family Services conducts an investigation, the child custody assessment is temporarily suspended pending its outcome.

**K The psychologist neither gives professional opinions regarding the psychological functioning of, nor makes specific recommendations about, any individual who has not been personally evaluated.**

Only individuals who have been personally evaluated are specifically discussed with regard to their functioning or in recommendations. The psychologist may address theoretical issues or hypothetical questions when the limited basis of this information is acknowledged.

**L In both limited or comprehensive assessments, the psychologist prepares a report.**

The psychologist prepares a comprehensive report, as defined by the focus of the assessment, containing relevant information and, where required, the psychologist's recommendations. The report includes sufficient information and rationale for recommendations to assist in deciding parenting arrangements. Although sensitive material should be presented with discretion, such presentation must not mislead the Court.

The psychologist should generally incorporate the following components into a comprehensive assessment report.

- 1) Referral Sources and methodology: An outline of the type and sources of referral for the assessment, the scope and intent of the assessment, a citation of the sources of information for the information presented, and the methodology utilized to conduct the evaluation.
- 2) Family History: Relevant family history, that is, information pertaining to the objectives of the assessment.

- 3) Parent Figures: Information about the psychological, social, and parenting functioning of parent figures in light of their capacity to care for the children involved.
- 4) Children: A summary of the psychologist's perception of the children, including information and observations that are relevant to the objectives of the assessment.
- 5) Summary: A summary of relevant information with respect to restructuring the divorcing family.
- 6) Alternative Parenting Arrangement: A discussion of viable parenting options in light of the objectives of the assessment. The relative strengths and weaknesses of the alternatives may be presented.
- 7) Conclusion: A rationale for the psychologist's professional opinion by identifying the criteria used in formulating recommendations and summarizing key information with respect to each criterion.
- 8) Recommendation: The evaluator's specific recommendations about parenting arrangements and their implementation, including the involvement of other professions or agencies.

Recommendations as required are generated for the best psychological interests of the child. They should be based on clearly articulated assumptions, data, interpretations, and inferences arising from established professional and scientific standards. If the data do not support a clear psychological opinion and/or recommendation, the psychologist refrains from offering such or offers an opinion in the light of the limitations or conditions to the data or interpretations.

The assessment report is typically provided to both lawyers simultaneously with opportunity provided to both legal counsel and/or the parties involved to discuss the contents of the report with the psychologist. Such discussions should be held only in joint interview with the parties, with parameters established regarding the presence of legal counsel and/or scope of information to be addressed. Should the matter proceed to trial, the psychologist reviews the report and the case file in its entirety in order to be conversant with the data. The psychologist should also be conversant with the relevant current research fundamental to arriving at a recommendation.

### **PART III**

#### References

American Psychological Association. (1994). *Guidelines for Child Custody Evaluations in Divorce Proceedings*. Washington, D.C.

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Custody and Access Public Discussion Paper. (1993). *Provincial and Territorial Legislation Regulating Custody and, Access (Appendix C)*.