EXPANDING FORENSICALLY INFORMED EVALUATIONS AND THERAPEUTIC INTERVENTIONS IN FAMILY COURT

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As the field of forensic family law has become more empirical and in need of novel behavioral health services, it has become necessary to broaden the duties of practitioners, to clarify forensic roles, and to develop more comprehensive court orders. This article introduces the application of Forensically Informed Evaluations and Therapeutic Interventions in family court; a constellation of evaluations and interventions developed to better meet the needs of children and families during and after dissolution or reconstitution. These family court appointments also meet the growing demands of the court and contribute to the trend toward discriminative application of empirically informed behavioral health services in forensic family law.

Keywords: *psychologist*; *forensic*; *therapeutic*; *intervention*; *evaluation*; *family*; *court*

FORENSICALLY INFORMED EVALUATIONS AND THERAPEUTIC INTERVENTIONS IN FAMILY COURT

The application of psychology to forensic family law has grown so rapidly that new levels of professional practice are needed. More advanced knowledge, a better understanding of the needs of the court, and more discriminatory use of behavioral health evaluations and interventions are required. As child custody cases and other family-related issues have become more complex, the field of psychology has not advanced in its ability to tailor services to the changing needs of the family law system. Comprehensive child custody evaluations, alternative dispute resolution, and mediation have appropriately met the needs of some family law cases, but not all. Cases involving issues such as family reconstitution, modification, relocation, infant overnight access, paternity, domestic violence, child abuse allegations, and normal postdivorce concerns require more multifaceted, empirically informed services.

THE CURRENT STATE OF AFFAIRS

Each year, the family court refers thousands of family law cases to behavioral health professionals for assessment and intervention. The most common referrals are those for comprehensive child custody evaluations that involve assessment of family members in order to assist the judge in making child custody and parenting-time decisions.

We present this article as a step toward a greater integration between the judiciary and forensic psychologists. We hope that you will consider implementing that which you find helpful and contact us with additional suggestions. The original version of this article was a bench book which included sample court orders, reading, and website resources. The article is an expansion of Kenney & Vigil (1996).

FAMILY COURT REVIEW, Vol. 43 No. 3, July 2005 466–480

It is our opinion that referrals for comprehensive custody evaluations should be the exception, not the rule. We posit that comprehensive child custody evaluations are the norm because initial training 20 years ago focused on this service and the field has been slow in evolving into more modern-day, more appropriate pathways of referral. In many jurisdictions, child custody evaluations are still the only psychology-based service available in family law cases. This results in inadequate care for families pre- and postdivorce. In many cases, families of divorce are being comprehensively assessed and then left to their own devices after court decisions regarding custody and parenting time are made, with little or no provisions for behavioral health follow-up.

The problem is twofold: evaluations are frequently overinclusive and therapeutic interventions are underutilized. Comprehensive evaluations were designed to assess the best interests of the child in an all-inclusive manner. Not all family challenges necessitate an exhaustive assessment. Assessments that focus on specific issues typically are sufficient for the court's needs.

Historically, much of the family law forensic practitioner's work has focused on assessment. Evaluation has been narrowly defined as data collection and opinion generation. Intervention has been ignored and treatment in family law cases has been discouraged, as unknowing and forensically inexperienced clinicians have mixed the roles of evaluation and treatment, and have appropriately faced ethical scrutiny (Greenberg & Gould, 2001; Greenberg & Shuman, 1997; Kenney & Vigil, 1996). But done separately, evaluation, treatment, and intervention are certainly appropriate. Moreover, when conducted by forensically-informed clinicians, they can provide superior methods of intervening in family law cases. With that said, we cannot emphasize enough that we are not talking about the application of traditional psychotherapy to forensic family law cases. In fact, traditional psychotherapy may not be helpful to some families with divorce-related issues (Lebow, 2003). This article supports the inclusion within family law cases of forensically-informed evaluations and therapeutic interventions, thoughtfully-derived, conceptually-based methods designed to make necessary shifts and improvements in families with divorce-related issues.

This article also aims to solve some serious problems with the appointments of behavioral health professionals in forensic family law cases. By defining the evaluations and interventions, clarifying our roles, delineating our scope of authority, and creating a common understanding of roles and responsibilities for judges, attorneys, and behavioral health professionals, this article seeks to improve the application of psychology to family law.

DEFINING FORENSICALLY INFORMED THERAPEUTIC INTERVENTIONS

Forensically informed therapeutic interventions are a constellation of clinical interventions developed for use in family court. Interventions vary enough to address a broad range of referral issues such as reunification, relocation, estrangement, child maltreatment, parental substance abuse, and are specific enough to answer one or two pressing legal questions.

The inception of therapeutic interventions came when clinicians noticed that judges and attorneys were frequently reaching into traditional psychotherapy in order to gather information for use in forensic contexts. Judges would seek information from therapists relevant to legal matters in a case. Sometimes, clinicians unknowingly made the mistake of responding to the requests for information. Over time, therapists increasingly supplied information to

the courts and the boundaries between therapy and the forensic arena were muddled. Therapists lost their credibility and families felt betrayed.

With improvements in education regarding the forensic domain and clarification of the differences between clinical and forensic roles, standards of practice began to grow regarding the role of therapists in forensic cases. Still underdeveloped was the need for the therapists' forensically informed assistance in these cases. Therapeutic Interventions grew out of this need. Forensically informed interventionists were appointed as experts with hybrid forensic-clinical responsibilities, to treat and manage cases with a specific scope of authority and prescribed duties.

The following section of this article defines the roles clinicians play as therapeutic interventionists. A word of caution is appropriate as we propose increased and more detailed roles for practitioners. With increased responsibilities, comes a need for improved training. As evaluators spread their wings into new areas, it is ethically incumbent to avail themselves of training in the different forensic areas. Mentored or supervised experience in the various roles is recommended.

When Therapeutic Interventions were first introduced in 1996, judges were confused about the differences between evaluation and intervention. Therefore, we distinguished between various roles and defined them. Over time, the definitions were improved and expanded with experience. The expanded roles include:

Methods of evaluation in family court: Comprehensive Evaluation, Problem-Focused Evaluation, Dispute Assessment, Child Developmental Evaluation, Child Forensic Interview, and Emergency Case Stabilization (ECS).

Methods of intervention in family court: Therapeutic Reunification, Therapeutic Re-contact, and Forensically Informed Treatment (FIT).

Astute readers might wonder why Special Masters, Family Court Advisors, and Parenting Coordinators are not included in this article. We regard these quasi-judicial roles as different from both evaluation and intervention, as they are more decision-making case management positions. Further, the scope of authority of these quasi-judicial roles vary so much from state to state, that we regard them as a third category—Forensic Case Management. Therefore, we have not included them as interventions and regard them as roles outside of the scope of this article.

DEFINITIONS AND APPLICATIONS

EVALUATIONS

Comprehensive Evaluation

A comprehensive evaluation is broad in scope and methodology. A licensed psychologist, psychiatrist, or certified/licensed behavioral health practitioner, with or without adjunctive support, often conducts this level of evaluation. The comprehensive evaluation is requested when the court is faced with complex behavioral health issues or high risk factors. The comprehensive evaluation is comprised of various components including clinical interviews, psychological testing, home visits, parent-child observations, and collateral interviews (Ackerman & Ackerman, 1997; Bow & Quinnell, 2001). The components employed depend on the case parameters, referral questions, and allegations.

The comprehensive evaluation usually lasts from two to four months (but could be longer in complex cases) and can be quite costly (Ackerman & Ackerman, 1997; Bow &

Quinnell, 2001).[1] It may involve sequential monitoring of behavior over time, referral for other modes of assessment, and in-depth analysis of allegations and other parental and systemic concerns. The report often contains comprehensive summaries of mental status issues, psychiatric symptoms, academic/learning issues, developmental issues, and statutory issues, such as abuse or violence, as well as an analysis of the degree to which data are consistent or inconsistent with specific allegations, collateral reports, or other case concerns.

A comprehensive evaluation is recommended when there are identified high-risk factors in a case, such as domestic violence, substance abuse, serious mental illness, contentious parents, or child abuse. Complex cases in which there are allegations of a history of abduction, severe parental polarization, estrangement, or incompetence may require that the evaluation be conducted over time by several clinicians serving in independent roles on the case. The court or the child custody evaluator may identify different clinicians to play different roles within the same court order. For example, different clinicians may be appointed as the child developmental evaluator, therapeutic interventionist, or forensically-informed treating clinician. Two or more clinicians may even conduct a team evaluation, with one court-appointed expert as the primary and directing expert on the case. The other team members may serve to conduct forensic interviews, child developmental assessments, substance use assessments, parental competency assessments, and the like.

There are some children who require psychological treatment, medication, or therapeutic reunification during the course of a contentious comprehensive child custody evaluation. A separate court-ordered professional is best to reduce the tendency to split professional alliances for this purpose and ensure the clinicians work in concert.

Problem-Focused Evaluation

A problem-focused evaluation is a mid-level evaluation. It is designed to answer one or two pressing issues in a case that involves a more thorough degree of inquiry and data analysis than does a dispute assessment. It is not, however, as complete in scope as a comprehensive evaluation. It is appropriate when a specific question, issue, or problem requires examination and a well-founded expert opinion. Examples include divorcing parents who are in disagreement over academic placement of a gifted child; who are in conflict over the role of a parent's new partner; or parents who have already gone through a divorce and wish to update their parenting plan, but are in disagreement about time sharing as their child approaches his or her teen years.

A problem-focused evaluation may be more appropriate than a comprehensive evaluation when the number of points of agreement are high between the couple (they agree to most of the parenting plan), there are no identified high-risk factors (no current substance use, mental health, domestic violence, safety, or child maltreatment issues), and there are minimal pressing issues of concern.

The licensed behavioral health professional conducting the problem-focused evaluation draws from the same components in the menu for the comprehensive evaluation, but administration of the number of components is less exhaustive, as the best interests of the child may be assessed at a medium level of scrutiny.

The problem-focused evaluation may be appropriate postdivorce, when review of previously collected data is needed, in light of current circumstances, to update a case. These evaluations are utilized when re-visiting previously evaluated issues, when there are

modifications without new allegations, when the parents are in a low to medium risk category with regard to chronic hostility, and when the parents understand the needs of the child, and have the ability to put aside their own needs and wishes when it comes to the best interests of the child. Problem-focused evaluations are also useful when the previously-established parenting plan needs to be revised due to the changing developmental needs of the child.

Dispute Assessment

A dispute assessment is a quality brief evaluation emphasizing family factors reflective of statutory issues in the case. Unlike a problem-focused evaluation in which the court identifies one or two issues to be assessed, a dispute assessment considers statutory issues in general and applies them to the case at hand.

There are a number of assessment issues set forth in state statutes.[2] The assessments are completed in a relatively brief period and they are less costly than other evaluations. Dispute assessments serve the purpose of illuminating issues relevant to the best interests of the child in a timely and concise manner. The methodology includes evaluating the family and collecting educational, psychosocial, medical, psychological, legal, and collateral data relevant to the needs of the child.

Dispute assessments often require less than ten face-to-face clinical interview hours, with additional time spent reviewing documentation. Data collection is less exhaustive and some questions might be identified, but left unanswered. In a dispute assessment, a problem list can be generated with a goal list and an action plan embodied in the report for optimal utilization of informative data. For practical purposes, the dispute assessment report primarily consists of minimal recommendations without the detailed psycho-social summary often found in more exhaustive reports. Dispute assessments can be exceptionally useful when time is of the essence and the court needs an action plan in short order to make decisions relevant to the best interests of a child.

Child Developmental Evaluation

A Child Developmental Evaluation is a child-centered evaluation emphasizing the relationship between the child's needs and custody/parenting-time decisions. The Child Developmental Evaluation is conducted by a court-appointed developmental expert who examines the child's cognitive, developmental, behavioral, physical, academic, social, athletic, and temperamental skills. The purpose is to directly inform the parents, counsel, and/or the court of information to assist them in making child-centered custody and parenting-time decisions.

These evaluations are conducted with higher-functioning parents who have concerns about how to talk with their child about the divorce, how to enhance a child's ability to cope with anticipated changes and transitions, how to write access plans in a family with each individual child's needs as a central consideration, and how to develop co-parenting and reconstitution styles to best meet the child's growing needs. In addition to being a child of divorce, when children with special needs or developmental disabilities have concerned and mature parents, the Child Developmental Evaluation is a very useful option. After Child Developmental Evaluations are completed, they are often utilized in settlement conferences with parents who are unlikely to litigate, to assist in the development of child-centered access and parenting plans.

Child Forensic Interview

The Child Forensic Interview is typically a videotaped interview aimed at collecting salient data for the judge. It is important to remember that the child being interviewed in a divorce dispute may feel very responsible for the outcome. Training in interview techniques is imperative to gather useful information to the legal process (Chasin & Grunebaum, 1981; Fivush & Hudson, 1990; Goodman & Bottoms, 1993).[3]

An experienced child interviewer, upon order of the Court, conducts the Child Forensic Interview. The court specifies the issues of concern and may even provide questions it wishes to be answered. The interviewer provides thorough informed consent to the child being interviewed, explaining that the judge would like to best help the child and is interested in the child's viewpoint, experiences, and opinions on certain subjects related to the divorce. Of course, the age of the child has an impact on the presentation and questions asked. Examples of issues that may be addressed are child sexual abuse and a child's preference for residential household. This is extremely useful when the court feels it needs to hear from the child, but does not want to expose the child to the adversarial court system.

Emergency Case Stabilization (ECS)

Emergency Case Stabilization (ECS) is an intervention aimed at stabilizing potentially dangerous circumstances and making referrals for acute treatment.

ECS is designed to manage families in acute crisis when the court feels that it needs a rapid assessment of very serious issues prior to writing temporary orders in a case. ECS is often an appropriate response to serious allegations raised in an emergency hearing, so that the court can conduct measured, thoughtful, and informed decision-making. ECS is initiated when the court issues an order for an experienced forensic behavioral health professional (stabilization expert) to evaluate the child and the family within a short period of time. The professional then writes a thorough report with clear recommendations regarding further evaluation, intervention, or treatment. A referral for ECS may be issued with temporary orders. These orders may be revised upon receipt of the report. This differs from a custody evaluation because the stabilization expert's primary function is to provide emergency services to the family, as well as to make temporary recommendations to the court in the very preliminary stages of the case.

A typical ECS scenario is one in which there is chaos in the family. One parent might be a substance abuser, one child might be failing out of school, another child might have recently been arrested, and all the while, the parents are litigating over custody or parenting-time.

THERAPEUTIC INTERVENTIONS

THERAPEUTIC REUNIFICATION

Therapeutic Reunification is an intervention aimed at supporting a renewed relationship, usually between a parent or caretaker and a child. The intervention is typically designed for cases of polarization or estrangement, yet it is useful in a broad array of family law circumstances.

Therapeutic Reunification generally consists of progressive interaction between a child and parent or sibling that begins in the office of a behavioral health professional and proceeds

with step-wise approximations to the custody/parenting-time order at a rate that supports the well-being of the child.

In Therapeutic Reunification cases, the court has usually rendered findings of fact and conclusions of law that the reunifying parent does not pose a substantial danger to the child and that unsupervised access is scheduled to resume. In these cases, it is typical for one parent to wish for reunification and for another parent to oppose it. When there is a ruling that reunification and unsupervised access will take place, it allows the family to move from a stalled position, to one in which impasses can be addressed with a court-appointed Therapeutic Reunification clinician.

It is best when the court establishes a reunification plan prior to the initiation of the intervention. This is done so that the clinician is not in the position of being lobbied by the parents regarding the schedule itself. If the parents believe that the clinician has the power to determine access, the intervention falters. While every case varies on its own merit, typically, the court orders four to eight weekly sessions in the office of the expert with a progressive out-of-office access schedule to follow. A typical course of intervention is twenty to fifty-two weeks. In most cases, the intervention begins weekly, moves to bi-weekly, and then to monthly, as parenting-time increases. In some cases, resistance remains throughout the intervention and weekly appointments are needed to stabilize the family before parenting-time with the non-preferred parent can take place.

Since Therapeutic Reunification is dissimilar and more specific compared to areas discussed thus far, sample wording to be included in the order of appointment of the Therapeutic Reunification clinician follows:

> The family is referred for twenty-four (24) weeks of Therapeutic Reunification, with additional sessions to be ordered, as needed, at a review hearing set for <*date*>. The family is to meet in the office of the clinician in any combination of persons the clinician directs. Initially, [Father and Son] shall meet in the office of the clinician for a minimum of eight weekly one-hour sessions after which time; six weeks of four-hour parenting periods shall take place on Saturdays from 9 a.m. to 1 p.m. After six weeks of half-day visits, six weeks of full-day parenting periods shall ensue from 9 a.m. to 4 p.m. on Saturdays. After twelve weeks of day visits, in approximately the twentieth week of the intervention, overnight parenting-time shall ensue from Friday at 5 p.m. to Saturday at noon for the following eight weeks. One fifteen-minute return hearing will be scheduled by the Court in weeks twelve and twenty of the therapeutic intervention. The schedule will be reviewed and further orders will be issued at the completion of the court-ordered reunification process.

THERAPEUTIC RE-CONTACT

Therapeutic Re-contact is an intervention that occurs in a more closely monitored and restrictive environment than reunification. This intervention is typically designed for cases with documented neglect or abuse, incapacitating mental illness in a parent, impaired parents, and substance abusing parents. As examples, Therapeutic Re-contact has been used when substance abusers who, despite court-orders to refrain from substance use, test positive on random drug screens, with parents who have been known to psychologically abuse their children during access, and parents who remain psychologically or characterologically unstable, despite substantial treatment or intervention.

Therapeutic Re-contact is generally employed after another level of evaluation, intervention, and/or treatment has taken place and recommendations have been made for re-contact. Therapeutic Re-contact is most appropriate in cases where a parent is known to have

committed child abuse, domestic violence, or a criminal act such as driving under the influence, endangering the child, etc. Re-contact is not ordered until the offender has participated in successful treatment and the Court has issued findings of fact and conclusions of law that the parent does not currently pose a substantial risk to the child.

Therapeutic Re-contact often takes longer than Therapeutic Reunification because the alleged offender and the alleged victim often have been separated for a protracted period of time and significant rehabilitation was needed on the part of the offending parent. Often, the non-offending parent and child have also been in individual counseling prior to re-contact.

The Therapeutic Re-contact clinician is a licensed behavioral health professional who likely has training and experience in child and adult maltreatment, child and adolescent trauma, adult psychopathology, substance abuse, psychopathy, offender dynamics, and family therapy. The clinician assists the family in re-establishing contact (not necessarily unsupervised contact) between caretakers, siblings, and children after protracted separation.

FORENSICALLY INFORMED TREATMENT

Forensically Informed Treatment is court-ordered therapy with an eye toward forensic issues.[4] Divorce cases involve unique ethical and legal issues related to all aspects of service provision. Common policies related to the right to consent for treatment, the right to seek services, defining who is the client, releasing information, and communicating with third parties require thoughtful inspection, thorough documentation, and consistency, often unique to the legal arena. Thus, practice policies and procedures for competent management of treatment cases in the forensic arena are essential. Such procedures incorporate ethical, legal, and good practice guidelines. These thoughtful policies and procedures are the foundation for Forensically Informed Treatment, the provision of psychotherapy at the intersection of law and psychology.

IMPLEMENTING REFERRALS

When making referrals for evaluation or intervention, judges consider many factors including results of past evaluations or interventions, compliance with court orders, compliance with treatment, and behavioral history. When faced with complex cases, usually in short timeframes, judges may also refer to a variety of risk factors to help determine the type of evaluation or intervention appropriate in each case. These risk factors may include, but are not limited to: (1) imminent risk of harm, (2) threats of psychological harm, (3) threats of physical harm, (4) psychiatric or behavioral health problems, (5) criminal behavior, (6) behavioral history, (7) substance use history, (8) parental competency, (9) special needs in the children, (10) current aggravating circumstances, (11) current stabilizing factors, and (12) developmental, educational, temperamental, and behavioral issues in the child or family.

Other factors to consider when making the referral include: (1) who brought the action, (2) presence or absence of allegations, (3) previous history of utilization of behavioral health professionals in the case, (4) manipulation or coercion in the case, (5) domestic violence, (6) secondary gain by third parties, and (7) what is motivating the current legal action.

In determining which evaluation or intervention is most appropriate, judges may ask themselves: (1) is this an emergency and why?, (2) what were the last written orders in this

case?, (3) what level of evaluation or intervention has been implemented in the past?, (4) what were the outcomes of the evaluations or interventions?, (5) what level of intervention does the case need now?, and (6) what questions still need to be answered for this case to proceed?

METHODOLOGY FOR REFERRALS IN FAMILY COURT

The following risk factors are identified to assist the judge with the referral process. They are neither exhaustive nor inflexible. Every single case needs to be evaluated on its own merits and risk factors need to be thoughtfully reviewed in light of other case factors. Timeframes are provided to distinguish between acute and chronic issues; they are not definitive, as data varies from case to case. Thoughtful decision-making entails considering a broad database, including risk factors, as well as other issues as described in this article. General risk factors will be examined in a more focused manner in the following section.

When a judge decides a referral is necessary, the seriousness of the situation must be assessed to determine the appropriate type of referral. The particular issues brought to the court should be considered on a case-by-case basis in determining the level of gravity. Traditionally, most cases have been considered acute enough to necessitate a comprehensive evaluation by a forensic evaluator. Realistically, all cases do not require an in-depth review. Of course, there will be a percentage of cases that require comprehensive evaluations and perhaps, simultaneously, another form of evaluation or intervention. In an effort to provide the court and practitioners with guidance regarding when to apply what type of evaluation or intervention, we have separated cases into three levels based on the severity of the presenting problems. Consistent with a medical triage approach, level one cases are complex and require the most intensive and comprehensive forms of evaluation and intervention. Level one cases require in-depth analysis and often long-term monitoring.

Level one referral issues are sent for one of the following types of evaluation or intervention; comprehensive evaluation, emergency case stabilization, therapeutic reunification, or therapeutic re-contact. Examples of case issues that may reach this level are cases involving violence, neglect, criminal histories, estranging and polarizing behaviors, substance abuse, psychiatric hospitalizations, special needs children, prior non-compliance with recommendations, and a history of unfounded ethical complaints by a party against mental heath professionals.

Level two cases are mid-level interventions, usually calling for problem-focused child custody evaluations, therapeutic reunification, or forensically-informed treatment. Examples of these cases include a non-violent criminal history, chronic parental conflict, and a child disclosure of sexual abuse with no supporting documentation.

Level three cases are customarily referred for a dispute assessment, child developmental evaluation, mediation, forensically-informed treatment, or a co-parenting consultation prior to considering referral for a problem-focused or comprehensive child custody evaluation. Examples of these cases are pro per litigants who do not agree about the parenting plan, a parental disagreement about the need for psychological intervention for a child, and parents who need assistance in writing a parenting plan.

To view complete sample orders that professionals may download and edit to suit each individual case, go directly to http://www.fcande.com.

LANGUAGE WITHIN THE COURT ORDERS

With the expansion of different roles for the forensic practitioner comes the need to have more informed court orders. We have provided some verbiage that may be considered for court orders in any jurisdiction. We have included examples from a court order for a therapeutic interventionist appointment. These particular pieces can be extrapolated and tailored toward (1) the particular role the Court is asking the appointee to serve, (2) the rules of the jurisdiction, and (3) the specific needs of the case. As a result of these distinguishing case factors judges need to employ flexibility, creativity, and ingenuity.

ROLE OF THE INTERVENTIONIST

Each evaluation should be explicit regarding the role that the mental health interventionist is being asked to perform. Due to ethical restrictions for the mental health professional and clarity for the court, litigants, and the professional, it is imperative to identify whether the appointee is to act as an evaluator, interventionist, or forensically-informed treating clinician. In addition to the specific appointment, the court may choose to describe some of the specific duties. A sample clause follows:

> The Therapeutic Interventionist shall serve pursuant to applicable case law, rules of court, local rules, domestic relations rules, rules of civil procedure, uniform rules, and with behavior consistent with the Ethical Standards of the American Psychological Association.
>
> It is understood that Therapeutic Reunification is an intervention aimed at supporting a renewed relationship, usually between a parent or caretaker and a child. The intervention is typically designed for cases of polarization or estrangement, yet is useful in a broad array of family law circumstances. In this case, the purpose of the intervention is to rehabilitate one or more family relationships.
>
> There is a fine line between standardizing procedures and making minimal recommendations for preferred methodology. The Court should give some indication of expectations; yet avoid requiring specific procedures that would cross ethical boundaries (e.g., telling the mental health professional which tests to administer). When appointing a therapeutic interventionist, clarify the specific duties of the role. An example follows:
>
> In this role, the interventionist may serve as follows:
>
> 1. Provide rehabilitation of a relationship between identified family members.
> 2. Identify, establish and communicate clear boundaries, behavioral expectations, and rules, in order to enhance safety and health in the family.
> 3. Make referrals for therapy as appropriate for containment of psychological or behavioral issues regarding the parents or children, as needed.
> 4. Report child maltreatment pursuant to applicable child abuse reporting statutes.
> 5. Facilitate the development of, or implement a court-ordered, child-focused schedule for access.
> 6. Facilitate conflict resolution.
> 7. Provide education and support to obviate re-litigation.
> 8. Assist family members in establishing:
>   a. Rules for healthy interaction with each other;
>   b. Rules for safe touch;
>   c. Rules for appropriate child discipline;
>   d. Rules for establishing appropriate behavioral limits;
>   e. Rules for family boundaries;
>   f. Rules for what is discussed in telephone contacts between parents and children;

g. Rules for behavior at exchanges;
h. Rules regarding who is present at exchanges and denying access.

SCOPE OF AUTHORITY

The scope of authority in the court order cites specific statutory authority or case law allowing for the appointment of the interventionist. An example from the State of Arizona follows:

Upon stipulation of the parties, a Therapeutic Interventionist (TI) is appointed pursuant to Arizona Revised Statutes Section 25–405—Interviews by court; professional assistance:

A. The court may interview the child in chambers to ascertain the child's wishes as to his custodian and as to visitation.
B. The court may seek the advice of professional personnel, whether or not employed by the court on a regular basis. The advice given shall be in writing and shall be made available by the court to counsel, upon request, under such terms as the court determines. Counsel may examine as a witness any professional personnel consulted by the court, unless such right is waived.

The Therapeutic Interventionist shall serve pursuant to applicable case law, rules of court, local rules, domestic relations rules, rules of civil procedure, uniform rules, and with behavior consistent with the Ethical Standards of the American Psychological Association.

TIMELINESS

Some orders should identify the court's expectations as to when the duties of the interventionist begin and end. There should also be some discussion as to who is responsible for starting the process. If the appointee has reason to believe the duties cannot be fulfilled in a timely manner, the court should be informed immediately. The following is an example from a minute entry appointing a therapeutic interventionist.

> The Court appoints <*name and address of appointee*> to serve as the Court's expert in the role of therapeutic interventionist. Counsel for the parties, or the parties themselves, if pro per, shall make the initial contact with the interventionist through joint conference or conference call within ten days of receipt of this order and thereafter shall arrange for the appointments for the person(s) named in this order.
>
> The acceptance of this appointment by the interventionist indicates the availability of the interventionist for a term of twelve months. If the appointee cannot comply with the appointment parameters, he or she shall notify counsel or the court immediately upon receipt of this minute entry.

TERM OF THE APPOINTMENT

The term of the appointment should be clearly spelled out by the court. This element is different from the timeliness feature in that some appointments may be long-term and may not require ongoing reports to the court. An example follows:

> The Therapeutic Interventionist is appointed for a term of twelve months subject to (l) reappointment at the expiration thereof upon the court's own motion, the request of the

Therapeutic Interventionist or motion of either party; or (2) earlier removal by court order based upon motion showing good cause, stipulation of the parties, or resignation by the Therapeutic Interventionist. Sixty (60) days prior to the expiration of this appointment, the Therapeutic Interventionist shall submit to the court and parties or their counsel, if represented, a summary of the history of the services rendered, compliance by the parties, recommendations made, and any recommendations for future involvement of the Therapeutic Interventionist or another Court appointed expert.

COMPLAINT PROCESS AND IMMUNITY

Due to the increasing concerns regarding board complaints and civil suits involving forensic appointees, especially in family law cases (Kirkland & Kirkland, 2001), courts are encouraged to craft court orders that reflect state law regarding immunity for the appointee and the complaint process. An example of a proposed immunity clause from the appointment of a therapeutic interventionist in our jurisdiction, Arizona, follows:

The Therapeutic Interventionist shall act in the capacity of a special master in his/her capacity pursuant to this Order, and as such, the Therapeutic Interventionist is cloaked with applicable judicial immunity consistent with Arizona case law applicable to quasi-judicial officers of the court as to all actions undertaken pursuant to the court-appointment and this Order. Any alleged impropriety or unethical conduct by the Therapeutic Interventionist shall be brought to the attention of the court in writing, prior to the submission of such complaints to any administrative bodies. Professional conduct within the scope of this court order shall only be assessed by this court and not by any administrative body without further direction from this court.

ACCESS TO RECORDS AND COLLATERALS

It is important that forensic appointees have access to the same information, as would the court. To accomplish this goal, the court should order that the litigants provide this information as requested by the appointee. The following language may be included in the appointment of a therapeutic interventionist:

The Therapeutic Interventionist shall be provided copies of all minute entries, orders, and pleadings filed in this case.

The Therapeutic Interventionist shall have access to:

[i] All therapists of the children and parties;
[ii] All school and medical records of the children and parties;
[iii] Any and all psychological testing or evaluations performed on the children or the parties (if the Therapeutic Interventionist is qualified in test interpretation);
[iv] Any and all teachers/child care providers for the children;
[v] Any and all records from Child Protective Services; and
[vi] Any and all additional records the Therapeutic Interventionist deems necessary and relevant to the evaluation.

At the request of the Therapeutic Interventionist, each party shall execute any and all releases or consents necessary so as to authorize the Therapeutic Interventionist's access to the information contemplated herein above.

The Therapeutic Interventionist may seek information and records that are the result of a privileged relationship. The Therapeutic Interventionist shall request only the records and

information that are necessary and pertinent to further the purpose of this case stabilization. The possessor of the records and information will release relevant information in an effort to retain the integrity of the privileged relationship, yet cooperate with the needs of the Therapeutic Interventionist for this case stabilization.

The Therapeutic Interventionist is authorized to interview and treat the parties or child in any combination, whether initiated by the Therapeutic Interventionist or either party. If either party provides data to the Therapeutic Interventionist, the giving party shall provide the documentation or writing given to the Therapeutic Interventionist to the opposing party and counsel (if any) simultaneous to providing it to the Therapeutic Interventionist.

PAYMENT

It is important that the court define how the appointee's fees are to be split by the litigants. It is also important that the court recognize that each appointee may have a different fee structure. Thus, orders should represent a general statement recognizing varying payment plans. An example follows:

IT IS FURTHER ORDERED the _____ shall be responsible for and pay _____ % of the Therapeutic Interventionist's fees and the _____ shall be responsible for and pay _____ % of the Therapeutic Interventionist's fees, until further order of the court. All fees shall be paid in advance as determined by the Therapeutic Interventionist. The Therapeutic Interventionist shall keep accurate records of services rendered and fees paid by each party.

If the Therapeutic Interventionist's fee policies include the payment of a retainer, said retainer should be paid by responsible party/parties prior to the first appointment. Payment thereafter should be made in accordance with the Therapeutic Interventionist's fee procedures. If at any point a party has not abided by the Therapeutic Interventionist's payment procedures, the Therapeutic Interventionist may contact the court and request that the non-paying party be directed to pay in order to continue the treatment in a timely fashion.

Should the Therapeutic Interventionist determine that one of the parties is using his/her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the Therapeutic Interventionist may recommend to the court a different allocation for payment of fees.

The fees ordered to be paid to the Therapeutic Interventionist hereunder are considered to be in the nature of and enforceable as child support and are endorsed as an adjustment within the guidelines as more clearly set forth in the parent's worksheet for child support.

CONFIDENTIALITY RESTRICTIONS

Due to the nature of forensic work, it is important that the court and the appointee inform the litigants that the content of the work is distinct from normal therapy practice. First and foremost, in this distinction are the limits to confidentiality in forensic work. Litigants should always be informed about who the client is as well as the purpose of the appointment. For example:

There is **no confidentiality** relating to the parties' communications with/to the Therapeutic Interventionist or concerning the Therapeutic Interventionist's activities, treatment, referrals, data collection, or recommendations. This court order constitutes a complete waiver of doctor-patient privilege, as the Therapeutic Interventionist is appointed as the court's expert. The court may order additional rules applicable to the Therapeutic Interventionist from time to time.

ROLES OF THE PARTIES

Some orders may include an explanation of what the parties are expected to do throughout the appointment. This ensures a smoother process and reduces conflict in an otherwise-litigious atmosphere. An example of such a clause:

The parties shall be responsible for the following:

1. Keeping the Therapeutic Interventionist informed of concerns;
2. Meeting the behavioral expectations outlined in the court order;
3. Meeting the behavioral expectations outlined by the Therapeutic Interventionist during the course of the work;
4. Promoting a healthy relationship between their children and the other parent;
5. Working toward fostering healthy familial relationships;
6. Providing the Therapeutic Interventionist with any legal, medical, scholastic and psychological records relevant to the case, upon request of the Therapeutic Interventionist;
7. Providing the clinician with notice of all judicial proceedings affecting the children of the intervention process.

The parties shall keep the Therapeutic Interventionist advised of their and the child(ren)'s addresses, telephone numbers for home, work and school, mailing address if different than the living address, as well as any other pertinent information. This information shall be immediately communicated in writing to the Therapeutic Interventionist.

Specificity of the court orders is the variable the authors believe to be the most correlated with successful intervention outcome. In an adversarial situation, good court orders provide the foundation to which the appointee refers when one party is unhappy with the process. Specific court orders clarify for the behavioral health professional the scope of authority, the parameters of his or her appointment, and what to do when things go wrong. Rather than relying on interpretation or being forced to spend time seeking guidance from the court, the appointee proceeds with the word of the court behind his or her appointment.

CONCLUSION

Thousands of families would benefit from evaluations and interventions in family court each year. While the findings of quality evaluations are crucial to the judge, some family law issues are better addressed through therapeutic interventions that provide for education, therapeutic change, long-term monitoring, and treatment.

This article is written as a stepping-stone toward a redefinition of behavioral health services provided in family court. When the scope of services is broadened, the needs of more families are met. Further, judges are provided an opportunity to gather timely data relevant to specific psycho-legal issues. They are also better able to manage and monitor difficult cases.

Employing a bevy of Forensically-Informed Therapeutic Evaluations and Interventions addresses family law issues, as they presently exist. Interventions are suitable to a broad array of family challenges and they address problems on a more individualized basis than do standard evaluations. Simpler evaluations and problem-focused assessments would eliminate some of the burden that exists in the family court and cases could be followed more efficiently if families were referred for therapeutic interventions should follow-up, monitoring, or reparation of relationships be needed. Many issues require behavioral health specialists to perform duties beyond evaluation. Reconstitution, step-parenting, co-parenting, estrangement,

relocation, single parenting, never married parents, domestic violence, teenage parents, substance abuse, and child maltreatment are issues that require intervention, not just evaluation. By broadening available duties, behavioral health specialists can better assist the court, ultimately improving the many roles for the family law forensic specialist.

NOTES

1. Ackerman and Ackerman (1997) found "[t]he average cost of a custody evaluation was $2,645.96" (p. 140). Four years later, Bow and Quinnell (2001) found "the average cost of a child custody evaluation was $3,335 . . . [and] the average time frame required to complete a custody evaluation from beginning to end was 9.27 weeks" (p. 263).

2. For example, in Arizona, Arizona Revised Statutes § 25–403 addresses areas such as: wishes of the child, wishes of the parents, use of coercion, willingness to allow frequent and continual access, mental and physical health, interaction, primary caretaker, and adjustment of the child to his/her community and home.

3. For a discussion of forensic examinations of children, see Asquith and Lichtenstein (1998).

4. For a discussion of treatment in a forensic context as opposed to a traditional psychotherapy context, see Greenberg and Gould (2001).

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