

## **The Psychological Scientist-Practitioner Model in the Forensic Context: Application to Child Custody and Relocation Disputes**

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The scientist-practitioner model for clinical psychology training and practice has a deep tradition (Beutler et al., 1995) and came to be known as the “Boulder model” that was reviewed after 50 years of being a frame of reference for psychologist clinicians (Baker & Benjamin, 2000; see *American Psychologist* issue, 2000). It seems to be generally accepted in the field that there should be a scientific basis for treatment of mental health problems. Treatment planning should reflect to the extent possible a scientific understanding of human behavior even though the day-to-day delivery of services may seem to stem mostly from clinical experience and impressions. It seems to be accepted that there are both art and science components to clinical experience.

When psychologists enter the forensic arena to conduct evaluations and offer expert testimony they face legal standards derived from case law and rules of evidence that require a scientific foundation for their testimony (People v. Shreck, 2001). Clinical impressions should be insufficient to offer expert testimony because they are notoriously unreliable. In Colorado, it now is no longer enough for the expert to formulate an opinion “to a reasonable degree of medical certainty.” The emphasis in case law is on the reliability and validity of the methodology (People v. Ramirez, 2007). Courts tend to give mental health experts great leeway. They are not presenting DNA evidence. But the more robust the methodology appears to the court it is more likely the court will see the expert as credible and give more weight to the testimony.

Psychologists sometimes provide expert testimony in the form of general testimony where theory and research is described and applied to a problem before the court. The expert would not provide opinions about any party involved in the case before the court, but might give opinions about substantive research that is relevant to the issues. Examples could include testimony research on eye witnesses or interviewing children when sexual abuse is suspected. In the area of child custody disputes (called parental responsibility in Colorado) this author has given this type of general testimony in a number of different states on the effects of relocation on children and how to anticipate how they would adjust to a long distance move with one of the parents and also on forensic models for assessing intimate partner violence in the context of a child custody dispute (Austin, 2000a; 2001). This type of testimony summarizes relevant research and also presents forensic models for organizing the data in the case.

It is by more often the case that psychologists are appointed to conduct evaluations. One school of thought strongly advocates that evaluators' methods and approach be as scientifically-grounded as possible (Gould & Martindale, 2007). This approach or perspective has been referred to as the Forensic Model (Martindale & Gould, 2004) and also as the scientist-practitioner approach (Kuehnle, 1998; Austin & Kirkpatrick, 2004). As with other types of forensic mental health evaluations, the emphasis is on a multi-hypothetical and multi-source perspective (Heilbrun, 2001). The issues for the case can be cast as alternative hypotheses and divergent data sources are used to try to derive convergent validity on the issue. The multitrait-multimethod schema that we all learned in our graduate training (Campbell & Fisk, 1959) has been incorporated into the forensic arena (Heilbrun, 2001; Austin, 2002) so data sources and methods consist of interviews, observations, testing, and third party information.

How truly scientific the methodology of custody evaluations is open for debate (Emery, Otto & O'Donohue, 2005), but the same issue applies to all areas of forensic mental health evaluation. The forensic practitioner has a vast literature of theory and research on divorce, child development, and other areas to draw upon. There is a substantive literature on content regarding issues that is very scientifically-grounded. The literature provides a basis for formulating research hypotheses for the family on the salient issues. The scientific quality of the data gathering methods are more in debate, but usually a large amount of data is collected in a custody evaluation so that it becomes like an individual research study of a child and family. Courts do not seem prepared to reject evaluations on the grounds they are not sufficiently scientific. Occasionally, use of an unreliable method will lessen the overall credibility. The recent criminal case of *Masters* drew attention to the false positive opinion of a very famous forensic psychologist who relied on the interpretation of violent drawings by a teenager. We know drawings are not sufficiently reliable for expert testimony. DNA evidence resulted in the release of the person after many years in prison.

One way psychologist custody evaluators can improve the degree of scientific foundation in their approach and methodology is to try to take a systematic approach to special issues and to use forensic models for evaluation when they are available. This should lead to more accurate measurement of relevant variables/factors (i.e., internal validity) and more accurate predictions on how well the child will adjust to a recommended parenting plan (i.e., external validity). This psychologist has presented systematic approaches or models for approaching intimate partner violence (Austin, 2000a; 2001) and how to use third party information in custody evaluations (Austin, 2002). These models are designed to improve the efficiency and accuracy of the evaluator's predictions for the court about the child's long-term developmental outcomes by

providing a vehicle for systematic organization and presentation of the data. Expert opinions in child custody evaluations can be viewed as making predictions for the court with the possibility of false positive or false negative conclusions (Austin, 2000b). The role of the expert in custody evaluations is to “get it right” for the court.

The scientist-practitioner approach fits well with child custody evaluation. There is a large body of research to draw upon. It is possible for evaluator’s to be more research-based or scientifically-grounded than psychologist evaluators generally realize. The problem of relocation disputes was particularly well-suited for this type of analysis. This type of case presents courts with one of the most challenging situations when a child’s separation from one parents looms large. A parent’s constitutional right to travel is recognized along with parents’ right to have access to their child. This is a very mobile society where parents need to move to pursue opportunities: job, education, or remarriage. Census data show divorced parents and with young children are the most mobile of all groups. Courts recognize the legitimacy of parents’ motivation to move to improve their life even though it may not seem fair to the nonmoving parent (*In re Marriage of Ciesluk*, 2005).

This psychologist developed a forensic psychology model of risk assessment to assist evaluators and courts to address the relocation case. It is a research-based actuarial model. The legal standard for evaluators and courts is to respectively predict and determine what custodial-parenting time arrangement will be the child’s best interests. The alternative and compatible analytical lens is to examine the least detriment for the child. A large research literature from demography shows that relocation or residential mobility is a general risk factor for children of divorce just as divorce itself is a general risk factor. The research allows for the estimation of a base rate of harm associated with moving for children of divorce (Austin, 2008b). The

Relocation Risk Assessment model was developed. It is consistent with other risk assessment models that have been developed in forensic psychology for violence risk assessment or child sexual abuse. The large research literature on the effects of relocation and divorce created the research basis for the model. The publications on this forensic model can be obtained from the author (Austin, 2000b, 2000c; 2008a; 2008b). The risk assessment approach identifies both risk and protective factors for relocation concerning the child's adjustment to a move and resulting separation from one parent vs. the court denying relocation and possibly ordering a change in the primary residence for the child. Risk factors consist of that age of the child; geographical distance; temperament/resiliency of the child; degree of involvement by the non-moving parent; psychological stability/resources of the moving parent; degree of parent conflict and if there was partner violence; and how recent the marital separation has been for the child. These factors allow the evaluator to better organize the data and describe the relative advantages and disadvantages associated with moving or if the court would deny the relocation. All custody reports should present the court with a type of psychological cost/benefit analysis concerning the child and recommended parenting arrangements. The actuarial model is always combined with careful investigation of the specifics of the case. The Relocation risk assessment approach is one example of how to organize the data analysis for an evaluation and to communicate with the court about one of the most complex type of cases. It embodies the scientist-practitioner tradition within psychology as applied in a forensic context. This forensic model is widely used across the country. In using the model, the evaluator's analysis reflects a mindset to produce a work product (report) that appears more scientifically-grounded. The research basis guides the data collection or the "clinical" side to forensic work. The result is a merging of the art and science side to forensic mental health practice.

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