

CHILD CUSTODY EVALUATIONS, ATTACHMENT THEORY, AND AN ATTACHMENT MEASURE: THE SCIENCE REMAINS LIMITED

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Emery, Otto, and O'Donohue (2005) discussed the foundations of non-attachment-related child custody evaluations (CCEs) and concluded that they had a limited scientific basis. Other authors (e.g., Isaacs, George, & Marvin, 2009) have suggested the possibility of using attachment theory and attachment measures for CCE purposes. This paper reviews criticisms of attachment theory and research and discusses specific concerns about the use of an attachment measure, the Strange Situation Paradigm (SSP), for CCE work. The scientific support for this practice is quite weak, as there is no clear rationale for deriving a custody arrangement from a SSP result. CCE methods are in fact interventions and should be, but have not been, studied for their efficacy in producing desirable outcomes, rather than indirectly through the study of psychometric properties. Thus, it appears that the use of attachment-related assessments provides no improvement in the scientific foundation of child custody evaluation.

Keywords: child custody evaluation, attachment theory, attachment measures, Strange Situation Paradigm, efficacy.

Practice parameters for child custody evaluators have suggested that scientific procedures should be used for assessments on which custody recommendations will be based (American Academy of Child and Adolescent Psychiatry, 1997). Emery, Otto, and O'Donohue (2005) concluded that the scientific support for most such assessments was limited. However, recent publications have described some assessments as scientifically developed or evidence-based (Isaacs, George, & Marvin, 2009; Marvin & Schutz, 2009). In my personal experience, a child custody evaluator's report to the court described the evaluator's methods as "science-based". Have science-based procedures been used in custody evaluations? Does the recently-proposed use of attachment theory and attachment measures qualify as a scientific basis for child custody evaluation? This paper will examine some aspects of child custody decisions and will argue that the science of this work remains limited, even when attachment-related procedures and constructs are used. It is suggested that child custody decisions may be thought of as interventions that can be

tested through outcome research, but that little such work has yet been done.

HISTORICAL AND MODERN APPROACHES TO CHILD CUSTODY ISSUES

Through the 19th century, laws in Britain and in the United States gave custody of all minor children to their fathers when the parents divorced or separated. These laws followed property law in their assumptions about rights of ownership, and approached child custody issues as they would consider issues concerning possession of property, without attention to the needs or rights of the children involved. In the United States, the late 19th and early 20th centuries saw the beginning of legal concern about the connection between child well-being and custody decisions associated with divorce. The "tender years" doctrine held that mothers should have custody of infants and young children, with the rationale that mothers naturally had more ability to care for the very young. Although the "tender years" doctrine did not specifically refer to improved child outcomes as a goal for custody decisions, this approach implied that the impact of a decision on the child was a concern, and that children's needs, if not

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rights, might be an aspect of the decision process (Gould & Martindale, 2007).

Modern Child Custody Principles

In the second half of the 20th century, children's needs were increasingly considered in child custody decisions, although there was relatively little clarity about what those needs might be.

The best interests of the child. In the 1970s, a new custody principle, that of "the best interests of the child," was formulated (Goldstein, Freud, & Solnit, 1973, 1979). (Quotation marks are used with this term because it remains poorly defined and may in fact have different meanings for different children.) This principle focuses on the needs of children as the most important factor in custody decisions. In the course of "best interests" decisions, courts are to seek the custody situation that will be least detrimental to the child's well-being and development, and to seek this arrangement through the least detrimental procedures available. Three major guidelines were offered and are still emphasized: that custody decisions should consider children's need for continuity of relationships, that children's sense of time should be considered (especially with respect to the length of decision-making about very young children), and that relationships cannot necessarily be predicted over the long term, or supervised easily. One "best interests" concept is rarely mentioned today: that once custody is assigned, the custodial parent is the child's advocate and should be the one to make decisions about visitation with the noncustodial parent (Solnit, 1984). If this principle were applied, the importance of making the initial custody decision that is best for the child would clearly be maximized.

Psychological parenting (attachment). The "best interests" concept considers a variety of factors that could help determine a suitable custody arrangement for a given child; one of these came to prominence in the 1990s. Issues related to the emotional attachment of child to parent (cf. Bowlby, 1982) were introduced into family law under the term "psychological parenting" (Chenoweth, 1992). This principle emphasized the child's need for continuity of parenting, opposed abrupt changes of custody, and argued that biologically-unrelated caregivers might properly be considered suitable candidates for custody, if their relationships with the child justified this decision.

The approximation rule. A recently-suggested principle for child custody decisions, the approximation

rule (American Law Institute, 2002), holds that courts should establish custody and visitation schedules that give each parent a proportion of the child's time equivalent to the proportion of caregiving the parent carried out in the past. This approach has been argued to provide a simplified procedure with advantages such as gender-neutrality.

Recent Applications of Principles

For some years, custody decisions have commonly taken into account some aspects of the phenomenon called "psychological parenting" in some legal discussions, but referred to as "attachment" by mental health professionals and developmental psychologists. However, such decisions show many inconsistencies in the use of attachment concepts. For example, in one New Jersey case (*V.C. v. M.J.B.*, 1999; see Mercer, 2006, for more examples), it was suggested that three-year-olds are too young to have real attachments, contrary to well-established evidence that children from age one to three years are especially vulnerable to the effects of custody changes. The Appeals Court in this case made its decision by defining psychological parenting as a matter of past history rather than a relationship indicated by child attachment behavior. In addition, the Appeals court specifically noted that the parenting role could not be defined by predictions of future good or ill effects on the child; this line of reasoning blurred the concept of "the best interests of the child" by rejecting the importance of the developmental outcome. (For further discussion of the use of attachment concepts in custody decisions, see Mercer, 2006).

As more is learned about complex environmental effects on development, the evolution of new principles for child custody decisions seems desirable from a mental health perspective. However, more complex views of children's needs tend to trigger more complex evaluative efforts, and thus lengthier, more costly court proceedings. Simple solutions, dealing with fewer child and family factors, are attractive to attorneys, judges, and divorcing parents. The approximation rule, mentioned earlier in this paper, has some advantages over other principles. While simple to understand, however, this principle may be difficult to apply (Warshak, 2007). In addition, there is no clear reason to assume that approximation would yield results in children's best interests, a goal that may be vague but is still regularly appealed to.

It is notable that the approximation rule has been thought of as an accurate shortcut to consideration of attachment issues (Kelly & Ward, 2002; Rohrbaugh,

2008). According to Kelly and Ward, the approximation rule assumes that "there is a strong relationship between the amount of direct caretaking functions and the development of secure attachments" (p. 359). As Riggs (2005) has pointed out, however, this is far from a foregone conclusion. Empirical work by Ainsworth et al. (1978) and by Lamb, Frodi, Hwang, & Frodi (1983) indicated that even at a time when the average American father did little caregiving, toddlers showed secure attachments to their fathers as well as to their mothers. Studies of perinatal mood disorders have shown that depressed mothers are likely to give rise to insecure attachments in their children, even though the mothers do almost all the caregiving (McKay, Shaver-Hast, Sharnoff, Warren, & Wright, 2009). The argument that the approximation rule is an indirect use of attachment information is not well-supported by evidence.

Recent Concerns with Child Custody Evaluation Methods

Emery, Otto, and O'Donohue (2005) assessed methods of child custody evaluation in an article whose title reflected the conclusion that the methods were part of "a flawed system" based on "limited science". Emery et al. reviewed reports of psychological tests employed by child custody evaluators, noting the use of intelligence tests, the Thematic Apperception Test, the Children's Apperception Test, the Rorschach, MMPI, Bender-Gestalt, and other tests designed for clinical assessment. Forensic instruments, designed specifically for psycho-legal use (Heilbrun, Rogers, & Otto, 2002), were also discussed.

Emery et al. (2005) summarized the problematic scientific foundations of the clinical assessment instruments used by child custody evaluators. In addition, they firmly rejected the forensic assessment instruments, noting that these "measures assess ill-defined constructs, and they do so poorly, leaving no scientific justification for their use in child custody evaluations" (Emery et al., 2005, p. 7). Similar conclusions were reached by Erickson, Lilienfeld, and Vitacco, (2007).

Not long before these two papers were written, psychologists and other interested professionals were beginning to discuss the possibility of applying attachment theory and attachment measures to child custody evaluations (CCEs) and recommendations. Attachment-related constructs, which received little or no attention in the publications discussed so far, have now begun to be suggested as highly appropriate frameworks for custody discussion.

ATTACHMENT-BASED CHILD CUSTODY EVALUATIONS

Of the modes of CCE discussed earlier in this paper, those based on attachment concepts have the most acceptable empirical foundations. Thousands of studies have employed attachment concepts and helped to establish an evidence base connecting measures of attachment to probable outcomes. It has been argued that some measures of attachment might be considered for use in evaluating children's relationships with parents and thus for recommending appropriate custody and visitation schedules (Byrne, O'Connor, Marvin, & Whelan, 2005). Byrne et al. discussed the fact that practice parameters for child custody evaluations (e.g., American Academy of Child and Adolescent Psychiatry, 1997) recommend assessment of parent-child interactions and the fit between these interactions and the child's developmental needs, and suggest that scientific procedures should be used, but do not say what the scientific procedures might be (Byrne et al., 2005). Byrne et al. went on to comment that "measures of parental personality or child behavioral problems that have been validated in population and clinical samples may be subject to particularly strong parental report bias when used in child custody evaluation . . . measures that have been shown to be reliable and valid outside a custody evaluation may not be valid when used in a custody evaluation" (2005, p. 117). Commenting on the possibility that attachment measures might be helpful contributions to child custody decisions, Byrne et al. reached a measured conclusion, noting that "existing measures of attachment have not yet received scrutiny in the context of divorce and custody litigation. We do not yet know how robust the information gathered from the assessment is to the immediate stresses and conflicts occurring in the family" (2005, p. 121). Tippins and Wittman (2005) concurred, commenting that although the developmental literature allows reasonable conclusions about attachment patterns, "there is virtually no empirical literature that allows the clinician . . . to reliably suggest specific access plans. This is because we do not know how the effect of such patterns changes in the context of the enormously complex emotional life of the separating family" (p. 202).

Use of Attachment Measures in Child Custody Evaluations

The comments of Byrne et al. presented attachment theory and measures as potential foundations for effective child custody decisions, but as clearly stated these

authors have concerns that existing research does not provide the desired scientific basis for custody decisions. Nevertheless, Schmidt et al., writing in 2007, stated that attachment-based protocols were appropriate for assessment purposes in CCEs. In addition, the brochure for a conference of the Association of Family and Conciliation Courts (2009) contained the following workshop description: "This workshop will use a case study approach to demonstrate how incremental validity for child custody evaluations can be increased with the inclusion of attachment measures. . . . This venue breaks new ground by giving legal professionals access to what science and informed psychologists think is 'right' regarding attachment" (p.12). Isaacs, George, and Marvin (2009), the presenters at that workshop, published a case report of an evaluation that used attachment measures. How many other evaluators have argued this way is unknown.

As Byrne et al. (2005) concluded, there is no outcome research directly testing the use of attachment measures in child custody interventions, nor has empirical work answered other important questions about attachment measures and divorce. Marvin and Schutz (2009) have presented the argument that information about attachment measures is transportable from the standardization groups to children under evaluation, but acknowledged that further evidence of direct connections is needed. The next section of this paper discusses attachment theory and evidence about attachment measures, much of it involving the psychometric properties of the measures. Given this information, to what extent can it be argued that attachment theory or research can be generalized to provide a scientific foundation for custody recommendations based on attachment measures? Would the use of attachment measures mean that CCE can employ better science than Emery, Otto, and O'Donohue concluded? What, specifically, would be the effect of using the Strange Situation Paradigm (SSP), the most-researched method of attachment evaluation, the subject of great numbers of empirical studies since it was first described by Ainsworth et al. in 1978?

THEORETICAL AND EMPIRICAL WORK ON ATTACHMENT: GENERALIZATION TO CHILD CUSTODY DECISIONS

It is, of course, intuitively reasonable to turn to attachment theory when attempting to understand the impact of family dissolution on children. Concerns about separation and loss are at the heart of the divorce experience, and constructs belonging to attachment the-

ory are intended to deal with these issues. An examination of attachment theory and of evidence about measures of attachment can help determine whether these constructs or measures are appropriate for use in CCEs. There are thousands of articles on attachment-related topics in existence; those mentioned here are papers that critique attachment theory and measures in ways relevant to their use in custody decisions.

The Concept of Attachment

Textbooks usually provide a metaphorical definition of attachment as an emotional tie between parent and child. Although appealingly simple, this metaphor is a deceptive one. Considering attachment as a "tie" implies that adult and child are identically connected with each other, whereas in fact the thoughts, emotions, and behavior of adults toward children are rather different than those of children toward adults. Describing attachment as an "emotional" connection is an over-simplification, as cognitions and behavior are important parts of an attachment relationship. Even to emphasize the connection "between parent and child" is confusing, for much modern work examines attachment relationships as they occur between adults, as well as the influence of early attachment relationships on an adult's care of his or her own children.

I suggest that attachment is best thought of as an attitude, or readiness to behave, which at its simplest discriminates between familiar and unfamiliar persons, and which motivates the individual's tendency to seek proximity to familiar persons when a threat is perceived, as well as his or her response to others who are seeking proximity. The attachment attitude is initially apparent around the end of the first year of life and is shown in young children's distress when separated from familiar caregivers and their ability to use a familiar person as a secure base for exploration. Like other attitudes, attachment develops through maturation and experience and gradually becomes part of an internal working model of social relationships rather than an isolated tendency. The internal working model provides guides for a variety of relationship functions including coupling and parenting, and includes emotions, thoughts and beliefs about relationships, and behaviors (including some that will not be learned until adolescence or adulthood). This definition parallels to some extent the idea of attachment as an organizational construct composed of a number of developing systems relevant to attachment goals and needs (Sroufe & Waters, 1977).

Attachment Theory

Briefly stated, attachment theory describes and explains certain aspects of personality development, basing this explanation on attitudes typical of children in late infancy and toddlerhood. Children of this age are notable for their strong reactions to the presence or absence of familiar caregivers, and attachment theory stresses the importance of experiences of consistent care, as opposed to experiences of separation or loss. Attachment theory posits that human beings develop internal working models of social relationships that guide their later social emotions and behavior. These models are considered to be based to a considerable extent on experiences in early relationships. This theory contains elements suggesting the impact of family dissolution (or other losses) on young children, although it does not necessarily speak to effects on older children or adolescents.

Attachment theory and CCE. The use of attachment theory as a foundation for CCE work has a clear rationale. An important tenet of attachment theory is that early relationships shape personality development in ways that help determine social relationships in later life, including friendships, marital relationships, and parenthood. Healthy early relationships (as revealed by attachment behavior) are thought to be important factors in determining the individual's behavior in the family and the community, and their preservation is therefore a goal for society. According to this viewpoint, separations and other experiences resulting from divorce are considered to threaten the health of children's current and later social relationships, so it is in the best interests of the child as well as of the larger society to minimize their impact in ways derived from attachment theory. Attachment theory is thus seen as a guide to the formulation of child custody recommendations that will be in the best interests of the child, as those best interests are defined by the theory.

Evolving theory. Bowlby's (1982) formulation of attachment theory, which appeared at one time to be clearly established, has altered over the years and continues to evolve (Mercer, in press). Rutter (1995) pointed out revisions brought about by discussion and research. As Waters and Cummings (2000) noted,

[m]aintaining the coherence and empirical underpinnings of attachment theory is a continuous process of updating key ideas in light of advances in theory, data, and other areas of psychology, and subjecting the theory to severe tests, tests which, if not passed, would require us to reject the theory, or at least to make significant revisions, thereby influencing subsequent research (p. 164).

Attachment theory has been criticized for failure to keep up with related child development research. As Thompson (2000) commented, attachment theory has looked through the prism of Bowlby's original theorizing that has failed to be substantially updated by new knowledge of children's conceptual and psychological growth. . . . Unless new and updated theoretical insights can guide empirical inquiry into close relationships, we will continue to debate issues concerning mother-child relationships and social networks 20 years from now (p. 106).

Unintegrated information. Important evidence that remains unintegrated into attachment theory may be highly relevant to CCEs. For example, the work of Rutter (2002) on developmental outcomes for Romanian adoptees has stressed the interaction of multiple risk factors in determination of good or poor outcomes.

Current work on the issue of resilience (Kaufman, 2008) suggests the importance of individual differences in reactions to custody changes and similar experiences. Research on temperament (e.g., Laible, Panfile, & Makariev, 2008) focuses on individual differences that can contribute to attachment-related outcomes.

Work on assessment of attachment in adults and adolescents has emphasized cognitive factors such as coherence of reported memories in the Adult Attachment Interview (van IJzendoorn, 1995). Cognitive skills such as Theory of Mind performance have been related to attachment (Fonagy, Gergely, Jurist, & Target, 2002). However, there has been little integration into attachment theory of work on infant cognitive development, such as the functioning of time windows in memory (Rovee-Collier, 1995) as it applies to developing familiarity of caregivers, or the significance of mother-infant talk about mental states (Taumoepeau & Ruffman, 2006), as it applies to the development of an internal working model of social relationships.

Categories versus continuity. Although a taxonomy of attachment categories or statuses was not an essential part of the original attachment theory, such categorization has become part of the theory for all practical purposes, particularly when attachment measures are used. Critical discussion of this use of categories goes back to the development of the first attachment measure by Ainsworth, et al. (1978). Ainsworth herself queried the use of the attachment taxonomy, but decided that categories represented children's response patterns better than a dimensional system could. Other authors soon suggested the advantages of a structural equation modeling approach instead of the taxonomy (Connell & Goldsmith, 1982), and later investigators concluded that

a continuum of attachment security gave a better description than division into categories (Fraley & Spieker, 2003). However, these views remain largely unintegrated into attachment research, and few efforts have been made to apply the dimensional approach to existing work on attachment status as a predictor of attitudes or behavior.

No clear update, but popularization. Although some work has been done to connect attachment theory with more recent constructs such as mentalization (Fonagy et al., 2002), no clear statement of a modernized theory is available to guide child custody evaluators (Schoré's suggestions [Schoré & Schoré, 2008] not being adequate for this purpose; see Mercer, in press).

This is particularly the case for the theory as it is relevant to children, as much recent work has focused on the role of attachment constructs in adult personality. Unfortunately, in the absence of an updated form of attachment theory, there has developed a popularized version that construes "almost any behavior or relationship . . . as evidence of an attachment problem . . . [;] parents begin to frame all of their children's behavior as a result of their early experiences and not as [a result] of a process of ongoing adaptation that remains modifiable" (Nilsen, 2003, p. 303). Child custody evaluators and judges may be influenced in similar ways by popular forms of attachment theory. Ongoing criticisms of and gradual changes in attachment theory are essential to the refinement of this theory, like that of any other. However, the instability of some aspects of the theory at this point, the lack of integration of important evidence, and the influence of its popularized version tend to weaken its usefulness as a basis for legal decision-making.

Attachment theory and divorce. As the presently-preeminent theory of social and emotional relationships across the lifespan, attachment theory is a natural framework for the consideration of the effects of divorce on children. The theory's attention to the impact of separation from a familiar person upon anxiety and grief is of particular importance. As a theory which has stimulated many thousands of empirical investigations, attachment theory could be expected to have stimulated collection of much useful information about the impact of divorce. This is not the case, however. Most studies of the effects of divorce on children do not assess attachment; the reasons for this are probably the costliness of the assessment of young children, and the absence of useful measures for older children. A well-known paper by Hetherington, Bridges, and Insabella (1998), which formulated important issues in the study of children's reactions to marital transitions, did not even mention the

word "attachment". When the significance of divorce for attachment has been considered, divorce has generally been only one among a group of negative life events (see, for instance, Sroufe, 2005).

Attachment Measures

Of the various difficulties with the testing of hypotheses derived from attachment theory, one of the most serious is the challenge of measurement. Attachment theory posits an internal working model of social relationships that changes with age, and gives rise to attachment-related behaviors that also change with age. Any measure of the internal working model is indirect and based on relevant behaviors, which must be interpreted in the context of age differences as well as of social history, culture, environmental factors, and possibly, individual differences (Laible, Panfile, & Makariev, 2008). (However, researchers investigating genetic influences have concluded that attachment shows little or no heritability [Roisman & Fraley, 2008]).

Because there is no direct measure of attachment, and because developmental changes cause ongoing alterations in attachment behavior, it is difficult to determine the validity of attachment measures. However, extensive research has provided information about psychometric properties of a number of attachment measures, some designed for children and some for adults. The present paper examines the use of the Strange Situation Paradigm (SSP), the oldest and best-researched of the measures for children, and therefore the measure most likely to be involved in claims of science-based assessment.

The Strange Situation Paradigm. The best-known and most researched measure of children's emotional attachment to familiar adults is the Strange Situation Paradigm (SSP), a measure used by Isaacs, George, and Marvin (2009). This measure, first described in terms of research evidence by Ainsworth and her colleagues (1978), is a standardized observation of a toddler's behavior during a series of separations from and reunions with a familiar caregiver. The SSP was designed for use with children from 9 to 18 months of age and is organized in time frames appropriate for that age group. The procedure is carried out in a laboratory setting and takes about 20 minutes. Just over 100 children and their parents participated in the 1978 study.

Interpretation of the child's behavior in the SSP must take the child's age into account, as attachment behavior alters with developmental change. The evaluation methods designed by Ainsworth are not necessarily appropri-

ate for children even a few months older than 18 months, as developmental change is rapid at this period of life.

Ainsworth's method uses information about child behaviors (like proximity-seeking, contact-maintaining, avoidance, and resistance) to categorize a child as showing one of three patterns of attachment. These patterns are secure attachment (characteristic of about 65% of toddlers), insecure-avoidant (20%), and insecure-resistant or ambivalent attachment (15%) (Teti & Nakagawa, 1990). An additional category in use today, disorganized/disoriented attachment, was suggested by Main and Solomon (1986, 1990) and comprises only a small percentage of toddlers (Teti & Nakagawa, 1990), although it is more common among young children whose families are divorcing (Solomon & George, 2001).

High inter-rater reliabilities are reported for the SSP (Prior & Glaser, 2006). Some SSP assessments are also reported to correlate with later functioning. In a longitudinal study, the category disorganized/disoriented attachment in early childhood was the best single predictor of global pathology in the late teens (Sroufe, Egeland, Carlson, & Collins, 2005), while avoidant attachment showed a smaller but statistically significant correlation. Similarly, disorganized attachment shown on a shortened version of the SSP predicted questionnaire responses about school adjustment and behavior problems later, using a small group of children evaluated as disorganized (Smeekens, Riksen-Walraven, & Van Bakel, 2009). However, it should be noted that none of the SSP-based categories is diagnostic of current pathology, and that there is a diagnostic category, Reactive Attachment Disorder (American Psychiatric Association, 2000), which is not assessed with the SSP.

Measures for older age groups. The fact of rapid development in all domains during the toddler period suggests that an attachment measure suitable for a year-old child will not be suitable for older toddlers, preschool, or kindergarten children. In response to this concern, a Preschool Strange Situation (PSS) was developed by Cassidy, Marvin, and the MacArthur Working Group in the early 1990s. This procedure remains unpublished but was described by Prior and Glaser (2006). The PSS protocol is intended for 3- and 4-year-old children and uses either the SSP format or a modified method.

Children assessed with the PSS are categorized as secure, avoidant, ambivalent, or as controlling, a category that includes controlling-punitive (angry, rejecting behavior toward parent), controlling-caregiving (role reversal with parent), or controlling-general (other related behaviors, or a combination of the two).

High inter-rater reliabilities are reported and in fact

are required for certification on this test (Solomon & George, 1999). However, there is no mechanism for assuring that the test is used only by certified persons.

Main and Cassidy (1988) developed a classification method for 6-year-olds, which examines reunion behavior following an hour-long separation, used because the brief separations of the other protocols are not sufficiently stressful to bring about attachment behavior in a child this old. Children can be grouped as secure, insecure-avoidant, insecure-controlling, or insecure-unclassifiable. This assessment procedure was based on a sample of 83 middle-class children. Inter-rater reliability was high, although less so for the controlling categories. Test-retest reliability was reported in the form of 62% stability of category (i.e., classifications remained unchanged) over a period of one month.

School-age children. Attempts have been made to assess attachments of school-age children to their parents by means of methods like story stem interview techniques and questionnaires, but little useful information has resulted from these. One such study reported that no consistent relationship was found between the interview and questionnaire measures (Kerns, Abraham, Schlegelmilch, & Morgan, 2007). Separations such as those in the SSP are well-tolerated by school-age children and reveal little about their attachment relationships. As a result of these problems, assessment methods for attachment in older children are still very limited.

Stability of classification. Investigation of the stability of attachment categories is difficult, because children's attachment behavior changes rapidly and because memory of an earlier measurement procedure can affect the response to a later procedure. Research in this area has concentrated on correlations between earlier-assigned attachment categories and later behaviors that do not necessarily closely resemble the original behaviors. For example, avoidant or resistant toddlers have been reported as likely to become overcontrolled kindergarteners (Easterbrooks & Goldberg, 1990). Disorganized status in early life has been reported to correlate with behavior problems later, as noted earlier in this paper.

CRITICISMS OF THE STRANGE SITUATION PARADIGM

Past and present criticisms of the SSP and its modifications suggest, at the least, uncertainty about its role in legal decision-making and even in research. Connell and Goldsmith (1982) commented on problems inherent in dependence on the SSP measure: "Seldom has the

influence of a single laboratory procedure and its associated data-analytic technique been so pervasive in an important theoretical area" (p. 215). With respect to the use of SSP methods to test attachment theory itself, the same authors noted that

designs which attempt to identify large numbers of antecedents and consequences of a particular measure of a single construct [may be referred to] as 'hour glass' designs. The use of the hour glass design in attachment research, with the ABC [secure, avoidant, resistant categories] system at the narrow point, precludes any conclusion that other constructs are as central in infant behavioral development as the aspects of attachment captured in the ABC classification (p. 249).

Together with other criticisms about the use of categorization rather than dimensionality in evaluation (Fraley & Spieker, 2003), these remarks suggest caution about the use of the SSP for research purposes.

Similarly, some psychologists have questioned the usefulness of the SSP for clinical guidance:

the focus on classification has reified and oversimplified the meaning and dynamic functions of attachment processes. . . . Indeed, the nature and functioning of the attachment system, and particularly the dynamic significance of disruptions in attachment relationships, are aspects . . . that seem the least well understood by clinicians . . . (Slade, 2004, p. 272).

Such uncertainty raises questions about the assumption that this procedure is appropriately used for the evaluation of family relationships and the recommendation of custody and visitation plans, or that such use can legitimately be said to be based on scientific evidence. However, I do not intend for this paper to argue against the use of the SSP or other attachment measures for guidance in clinical work. Clinicians are in a position to repeat tests and to balance them against clinical observation and other sources of information. Treatment plans based on attachment measures can be fine-tuned or completely altered if they need to be. Custody decisions are a different matter, as once made, they can be changed but not deleted; their effects remain, for good or ill, and if they have been made on the basis of questionable constructs the effects may not be good.

Problems Relevant to Child Custody Evaluations

There are additional concerns about the use of the SSP for child custody evaluations. As noted earlier, SSP methods involve a rather short period of observation,

especially as compared to the more extensive home behavior sample of the Attachment Q-sort (Waters & Deane, 1985). It may be argued that the brief experience in the laboratory contributes to the mild stress expected to trigger attachment behavior, but a longer behavior sample would presumably provide a more valid measure.

The effect of family stressors. In most cases, CCEs are conducted following a period of family stress, often accompanied by separations and reunions between a child and one or both parents. An important question is whether SSP categories are strongly affected by a child's recent experiences of situations that are likely to activate attachment behavior. Do such family experiences alter a young child's responses to the mild separation stresses built into the SSP? It was Ainsworth's opinion that children who had been through recent separation experiences did respond to the SSP with intensified emotion and attachment behavior:

After a relatively brief separation—lasting a few days or even a few weeks—it is common to observe a great intensification of attachment behavior upon reunion. The child seeks to be in close bodily contact with his attachment figure and also seeks to maintain close proximity over much longer periods than was previously characteristic of him. It seems that separation has shaken his trust in the mother's accessibility and responsiveness, so that he scarcely dares to let her out of sight lest she disappear again. Furthermore, he may be more ambivalent toward her than previously. It seems that the angry feelings aroused during the separation, when he felt abandoned, are not altogether dissipated upon reunion, but mingle or alternate with his desire for renewed contact, so that he both rejects and seeks to be close to his attachment figure (Ainsworth et al., 1978, p. xii).

More recently, Ludolph (2009) noted the relevance of this issue to assessment of young children in divorcing families, commenting that such "children often have difficulty with the stresses of the separation and the relative unavailability of their parents. Attachment measures at this time could cause them to look insecurely attached when, a year before or a year later, they might well seem secure" (p. 19).

Stressors other than separation appear to influence attachment behavior in the SSP. In discussing an extensive longitudinal study of children of impoverished urban mothers, Sroufe (2005) noted twice as many toddlers classed as anxious/resistant than in the usual sample, and a far greater number classed as disorganized. Garber (2009) described the destabilizing effects on attachment of stressors such as loss and illness. He concluded that because "only the most acrimonious of divorces require a

best-psychological-interests custody evaluation, it is reasonable to suggest . . . that insecure and disorganized attachments may be much more common within this population than within others" (p. 46). In addition, Solomon and George (1999) suggested that disorganized attachment behavior in toddlers who are paying overnight visits to a parent may be indirectly caused by the impact of the situation itself on the custodial parent.

Reduction of stress by interventions that affect maternal attitudes and behavior has been shown to improve the security and organization of child attachment (Dozier, 2003; Forbes, Evans, Moran, & Pederson, 2007). Disorganized attachment behavior, in particular, appears to be the result of multiple factors in the current environment as well as of the child's social-emotional history.

Temperament issues. An important issue for the SSP is the absence of a temperament factor in attachment categorization. Temperament, a biologically-influenced personality pattern, can help to determine child reactions such as withdrawal from the unfamiliar or high or low adaptability to new situations. Relevantly, Marshal and Fox (2005) reported that infants who were temperamentally more negatively reactive in the early months were significantly less likely to receive a "secure" attachment classification as toddlers. This report suggests that SSP procedures may indicate constitutional characteristics of children as well as parent-child relationships, implying that the latter can be assessed only in the context of the former. Kochanska and Coy (2002) speculated that standard laboratory procedures might in fact assess temperamental individuality more than the parent-child relationship, a possibility that would bias custody decisions about children with certain temperaments.

Repeated measures. A particular problem of the SSP appears when the procedure is used for comparison of relationships with two parents, whether this is done for research purposes or for CCEs in which a recommendation might depend on differences between the attachment relationships. Byrne et al. (2005) referred to this repeated assessment as a "cumbersome procedure", and expressed concerns about "repeating the attachment assessment with the child for each parent (e.g., is the situation as 'strange' for the repeat assessment?) . . . although if the visits are conducted on different days (as is usual practice) this is not likely to be a major concern" (p. 121). In fact, however, the repeated procedure creates the problem known to perception researchers as an "order effect" and biases the comparison between the parent relationships by failing to control for familiarity differences that can influence the child's behavior.

Ainsworth and her colleagues (1978) were well

aware of this problem and commented on two types of order effects they expected.

Because it was anticipated that experience in each episode [that is, each separation or reunion event in the SSP] would affect behavior in the next episode, the instigation to attachment behavior expected to be the weakest was placed at the beginning and that expected to be strongest at the end. The expectations that these mild instigations would be cumulative in their effect were fulfilled" (p. xi).

This recognition of the cumulative effect of the episodes within one procedure also seems to imply the possibility of cumulative effects over repeated procedures.

Ainsworth specifically addressed the issue of repeated SSP tests:

If a short time elapses between 'test' and 'retest' it will surely be recognized the second time, and once recognized, there will be anticipation of what is scheduled to happen later, so that behavior, even in the early episodes [of the second procedure] may be affected by what previously happened in the later episodes [of the first test]. This might be especially likely to happen in a situation . . . in which behaviors in the later episodes are activated at high intensity. Second, if one allows a long time to elapse between 'test' and 'retest', in the hope that memory of the first session will have faded, developmental changes may have taken place (Ainsworth et al., 1978, p. 218).

In addition to the problem of familiarity, when the SSP is repeated, the "second" parent may be influenced by the child's report of what he or she did with the other parent, what kinds of toys there were, whether the child was scared, and so on. (Indeed, a parent hearing such a report is likely to respond with discussion that further influences the child's sense of familiarity.) In perception research and similar work, order effects are controlled by a counterbalanced design using multiple measurements. The same approach could theoretically be taken with the SSP, for example, by taking four measurements, the attachment to the father being assessed in the first and last, that to the mother in the middle two, thus equating the average degree of familiarity for the situations with the two parents. Practically speaking, however, this procedure is unlikely, as it would involve not only additional time but considerable additional expense for the coding of the SSP.

Age effects. An extremely challenging problem associated with the use of the SSP has to do with the child's age. As mentioned before, 9-to-18-month-olds are tested with a specific SSP format, 3- and 4-year-olds with the same or a modified procedure, and 6-year-olds with a different procedure. Both coding of behavior and assign-

ment to attachment classifications are done differently for each of these age groups. How, then, does one make choices of procedure, coding, and classification for children of ages other than the three age groups described? Is a 2-year-old similar to (and assessed like) an 18-month-old, or a 3-year-old? Is such a decision based on the child's chronological age, or on a developmental quotient that considers relevant issues such as language ability? There is presently no systematic evidence that would support one view over another, either with respect to research design or to the interpretation of the SSP in child custody evaluation. In fact, however, there is presently enough concern about this matter among researchers to produce suggestions of alternative approaches for slightly older toddlers. Forbes, et al. (2007) noted that although

the Strange Situation has been used with some success in older children . . . a number of its features raise questions regarding its suitability for assessing attachment classifications beyond the age of 18 months. A critical assumption of the Strange Situation is that exposure to a stranger and repeated separations will reliably elicit stress that is sufficient to activate the attachment system . . . such procedures may less reliably elicit stress in toddlers, who likely have had more experiences with both strangers and separations (p. 956).

These comments may be particularly applicable to children going through divorce, who have experienced multiple separations and in many cases have encountered numbers of strangers, in the shape of child care providers, parents' companions, and even child custody evaluators.

Although readers more accustomed to dealing with adult behavior may find the age issue of slight concern, it should be pointed out that there can be considerable differences in interpretation of specific behaviors within different age frameworks. For example, one behavior characteristic of 12-month-olds classified as disorganized/ disoriented (an unusual and worrisome attachment status) is turning the back on the mother as she re-enters the room after separation (Main & Hesse, 1990). These children may back up toward the mother as if avoiding looking at her facial expression, and it has been suggested that the mother is both frightening to and frightened of the child, an obviously undesirable situation. What, then, if a two-and-a-half-year-old goes to the returning mother, takes her hand, and turns away, pulling her behind him toward toys he wants her to join in play with? If this action is classified as turning the back and interpreted in the context proper for the younger children, this older child's relationship with the

mother will be categorized as a disturbing one. If the behavior is considered to be communicative ("Come over *here*, Mom!") and developmentally appropriate, the categorization (all other things being equal) will be quite different.

USE OF THE STRANGE SITUATION PARADIGM IN CUSTODY EVALUATION

The SSP has not only been proposed for use in a child custody evaluation, but has been used, as was reported by Isaacs, George, and Marvin (2009). I myself testified in a child custody case which closely resembled that reported by Isaacs et al., and which may have involved the same family. Rather than assume that the family was the same, however, I will refer to the Isaacs material by the authors' names and to my experience as the September, 2008 case, and will not discuss overlapping aspects of the descriptions.

Isaacs, who was the evaluator in her case, reported on her use of attachment and other measures, and on the coding of the attachment measures by highly experienced coders. My information about the September, 2008 case included depositions by the mother as well as other reports provided to me.

Multiple Measures

In their report, Isaacs, George, and Marvin emphasized the importance of using a variety of measures to yield the best possible picture of family relationships and child needs, as suggested in the APA guidelines for child custody evaluations in divorce proceedings (American Psychological Association, 1994). They implied concern with the problems that may arise in mono-operation situations like those discussed by Campbell and Stanley (1963). They reported the use of the following measures: MMPI-2, Rorschach, Adult Attachment Projective Picture System (AAP), Caregiving Interview, and Strange Situation Paradigm (SSP).

Although they stressed the multiple measure issue, Isaacs, George, and Marvin did not mention the previous work criticizing the use of projective techniques in child custody evaluations (Erickson, Lilienfeld, & Vitacco, 2007), nor previous discussions of the appropriateness of attachment measures for this purpose (e.g., Solomon & George, 2001). Presumably, the advantage of multiple measures exists only if all the measures used are reliable and valid in the given context.

SSP Issues: Scheduling

Isaacs, George, and Marvin commented on the importance of scheduling the SSP for a time period when the child's circumstances were not especially distressing. For example, it would be inappropriate to test a child who was just returning to the custodial home after a visit to the non-custodial parent. However, the mother's deposition in the September, 2008 situation stated that just prior to the SSP administration with her, she had brought the child by train from one major Eastern city to another. Immediately following the administration, she took the child by taxi to an aunt's house and dropped him off there while she returned for further assessment. These changes and separations, if anticipated by the child, would be as likely to influence the SSP as the situation exemplified by Isaacs et al.

A scheduling problem mentioned earlier in this paper, but not discussed by Isaacs et al., is the possibility of order effects when an assessment procedure is repeated. In theory, counterbalancing could be used to deal with the effect of test order on outcomes with each parent; for instance, a series of four assessments could test the child with the father first, with the mother second, with the mother third, and with the father fourth, thus averaging across parents the effects of learning, fatigue, and initial anxiety. This solution does not appear to have been used.

SSP Issues: Intervention Fidelity

Maintenance of perfect intervention fidelity is difficult to achieve with the SSP. Although the assessment involves well-defined periods of time, presence or absence of particular people, and general instructions to be given to the adult whose child is being assessed, the variable nature of young children's moods and behavior makes absolute fidelity most unlikely.

Ainsworth and her colleagues (1978), whose procedures are followed by evaluators using the SSP, even suggested changes that should be made under certain circumstances; for example, they advised cutting short certain episodes if the child seemed upset at the mother's absence. Ainsworth et al. did not provide specific instructions, but they did report that in their work, mothers were given a description of the planned episodes before they came in with their children.

The report published by Isaacs et al. did not mention what the parents were told about the SSP before they arrived on the days they were observed, nor were specific

instructions to the parent-child pairs noted. In the mother's deposition from the September, 2008 case, it was mentioned that the evaluator commented to the mother, before the observation, that the SSP had gone well with the father, who was observed the previous week. Such a statement would appear to emphasize to the mother what was at stake in this evaluation, raising her anxiety level and possibly altering her interaction with the child.

An important aspect of intervention fidelity lies in coding of the videotaped events during the SSP episodes. This is an area where the SSP is highly standardized, with training to a given standard of agreement necessary for certification as a coder. The Isaacs report noted that the SSP was administered by Isaacs, but as she was not certified as a coder, the videotapes were coded blind by individuals who have specialized in certain aspects of SSP coding. The same highly desirable coding situation was mentioned in materials from the September, 2008 case.

SSP Issues: Age-Related Coding Choices

As was noted earlier in this paper, the SSP procedure and coding method are different for children 12-18 months old and for 3-to-4-year-olds. The Isaacs report described the child as 3-years-old, while the September, 2008 case materials stated that the child in question was 2 years and 9-months-old at the time of the SSP. This difference, which may appear to be trivial to those accustomed to work with adults or even older children, is in fact equivalent to about 10% of the child's lifespan, at a time when developmental change is rapid.

The Isaacs paper did not discuss any issues related to the child's age and the choice of coding method. The September, 2008 case materials, which included assessments by the coders, appeared to have used the Ainsworth et al. method, with its specialization for 12-to-18-month-olds. If the SSP were indeed to be recommended as a useful aspect of CCE work, it would be essential for standards about age-appropriate coding to be developed.

SSP Issues: Relevant Relationships and Experiences

An essential assumption of the SSP is that an adult who is observed together with the child is a familiar caregiver whose relationship with the child is particularly important to the child. Ordinarily, it is assumed that the child's father and mother, or a caregiving family

member, will be the adults of most importance. The Isaacs report mentioned briefly the child's experience with a nanny who had had much responsibility for his care until he was about 15-months-old. The September, 2008 case materials described a nanny relationship that was important enough for the nanny's testimony to be sought. These materials also described a history in which the child had been moved to several different houses in a period of a year or two, had attended several child care centers, and had experienced alternating paternal and maternal care periods of about ten days to two weeks in duration for about a year before the assessment.

Both Ainsworth et al. (1978) and Solomon and George (2001) have noted the possible effect of separation experiences on the child's reactions to temporary separation as they are observed in the SSP. However, little information exists about the effects of separations from caregivers who have no legal standing, such as nannies and child care providers. The original Ainsworth work, which organized the present design and one coding method for the SSP, was based on observations of middle-class toddlers from stable two-parent families and did not include children who were undergoing temporary or long-term family instability. Despite the arguments Marvin and Schutz (2009) have offered in favor of transportability of evidence from one group to the other, the conservative conclusion seems to be that evaluation of children with extensive or recent experiences of separation may need to be done differently from evaluation after a stable history, until the time when empirical work shows otherwise.

CONCLUSIONS AND RECOMMENDATIONS

More than one author commenting on child custody issues has recently advocated the applicability of attachment constructs to decisions about families. For example, a 2007 paper commented that "attachment theory and research has a strong and well-established empirical basis that meets forensic standards for testimony in court and is highly suitable for decision-making in cases of young maltreated children" (Schmidt, Cuttress, Lang, Lewandowski, & Rawana, 2007, p. 254). However, as the present paper has shown, neither available research evidence about the SSP, nor the level of certainty about other attachment measures (see Ludolph, 2009), nor the beginning of inclusion of the SSP in evaluations, support the view that attachment constructs provide a clear scientific basis for evaluation of parent-child relationships.

For the sake of argument, however, let us suppose

that more satisfactory evidence justified the belief that the SSP is an excellent method for evaluating one child's relationships to each of his or her parents. If this were the case, would there be a clear pathway from attachment classification to custody and visitation recommendations? I argue that no such logical connection would be established by evidence about psychometric properties of the SSP. This issue is particularly important because it is by no means clear whether reported stability of attachment classification results from the power of early experience or from repeated and elaborated experience over many years of interaction with the same family.

No Rationale for Attachment-based Decisions

As Garber has pointed out, "Few firm guidelines have thus far been developed for applying particular attachment findings to custody and parenting time recommendations for specific [families]" (p. 47). The SSP (or any other measure of attachment) may or may not provide an excellent measure of a child's attachment relationship to a particular adult. Assuming that the measure is excellent, however, what conclusions can its results suggest about the most desirable custody or visitation plans for that child and that adult? If a child shows a secure attachment to one parent, and a resistant attachment to the other, is the implication that the child should spend most of her time with the first parent, and little with the second? Or should the resistant relationship be encouraged and guided so that it too becomes more secure? What if a child is disorganized in her relationships with both parents? Is there any information derivable from her attachment behavior that supports one custody decision or another? What if there is more than one child, and the children show different attachment behavior toward the parents, but are distressed by separation from each other? The only situation in which information from attachment measures might be helpful would be one in which the child showed no attachment behavior toward one parent.

Even in this case, though, the history behind the relationship (e.g., whether the parent had been physically ill or in prison for much of the child's life) would be essential to planning custody and visitation; a secure attachment relationship might be quite possible to achieve, and, once achieved, beneficial to all members of the family. These examples show that the process of custody recommendation is by no means built into or prescribed by assessments using the SSP.

When additional tests are added to the SSP, this may

well provide what Isaacs et al. called "incremental validity", but can do so only if all tests are reliable and valid and if there have been appropriate decisions about the weighting of test results. Failure to acknowledge these points seems to be an example of the "lack of open admission to the court of the degree to which . . . inferences rest on substantial uncertainty and on the subjective values of the individual clinician or the mental health profession at large" (Tippins & Wittman, 2005, p. 202).

Instead of using evidence about psychometric characteristics of the SSP or other assessment approaches, research needs to test the efficacy of attachment-based or other modes of custody decisions as we would test the efficacy of any other method. Few such outcome studies have been done on any aspect of custody decision-making, and when they have, they generally focus on the parents' satisfaction rather than the children's development (cf. Emery, Laumann-Billings, Waldron, Sbarra, & Dillon, 2001).

Custody Decisions as Interventions

Despite the continuing stress on ill-defined "best interests", custody decisions generally involve reasoning about specific principles, precedents, and procedures of decision-making. Except for some use of information about the effects of separation in early life, these decisions are less likely to use existing empirical evidence about outcomes, or to seek new evidence. Not surprisingly, following legal tradition, custody decisions have been regarded as a class of events of their own kind, based on established precedents, not as problems to be solved by generalizing from research evidence in order to predict outcomes.

The intervention perspective. From the research point of view, custody decisions, and their applications in the form of actual custody and visitation schedules, are more fruitfully seen as *interventions* than as applications of legal precedents. Judicial decisions about child custody are needed only for the small proportion of highly-conflicted families who cannot come to the necessary agreement; these decisions are thus interventions in response to family crisis. Outcome research methods applied to other forms of interventions can be applied to these interventions too, although not all child custody interventions are intended to achieve the same outcomes. Like other forms of intervention, child custody interventions are based on theoretical principles and on related reasoning. Like other forms of intervention, too, specific child custody recommendations can be designated in terms of theoretical or empirical backgrounds

(for example, attachment-based child custody interventions). I suggest the use of the term *child custody interventions* to refer to the creation and carrying out of child custody and visitation decisions.

Outcome research on child custody interventions. Although many disrupted families come to rough-and-ready decisions about child custody, about 10% of divorcing families do not manage this. In one study, judges decided custody in less than 2% of cases; in about 80% of cases, custody was either uncontested or negotiated; in about 10% of cases, a custody evaluation or a trial was followed by mandatory mediation that determined custody (Maccoby & Mnookin, 1992; Warshak, 2007). Parents of contesting families appear in court in profound disagreement about future contact with their children, and the court responds with an order which (according to the "best interests" principle) should result in the least detrimental effects possible on the child's future development. Outcome research could determine whether the least detrimental effects of family disruption are achieved by child custody interventions based on the psychological parenting or attachment perspective, on the approximation rule, or in some other way.

Outcomes to be examined. Outcome research on mental or physical health interventions stresses measurement of changes in the participants' conditions, but it also examines factors such as the expense of a treatment and whether or not training of practitioners can be done easily (Mercer & Pignotti, 2007). Similarly, outcome research on child custody interventions would look primarily at children's developmental progress, but would also examine issues such as the cost or time required for the decision and its application, as well as its impact on other family members.

Definition of the least detrimental effects requires consideration of a broad range of developmental indicators, the specific nature of which will alter with a child's age. For infants and toddlers, attachment behaviors would be of paramount concern, as they have been shown to be acceptable predictors of later social behavior. Language development would be an important outcome variable for infants, toddlers, and preschoolers. School achievement would be a useful measure of development for elementary school children and adolescents, as would measures of delinquent behavior. It is possible that parenting plans, as presented by each parent to the court, might contain the most important information to be used in a custody decision.

Effects of child custody interventions on the children, other family members, and the community could be measured through other outcome variables. The fol-

lowing list of possibilities is derived from Warshak's (2007) discussion of rationales offered for the approximation rule (discussed earlier in this paper). 1) One possible outcome variable would be the incidence of custody litigation, an event that probably exposes children to increased family conflict. 2) Another factor, less easy to measure, would be the effective gender-neutrality of decisions, balancing the rights of mothers and fathers in ways that may reduce conflict. 3) Child custody interventions could be examined for differences in speed, simplicity, and cost; where an intervention is complex, slow, and expensive, we might expect it to increase family stress and conflict, with related negative effects on children. 4) Child custody interventions could be examined for differences in the stability of children's lives, as measured by the number of changes in their family experiences during the divorce transition; the assumption would be that fewer changes support a better developmental trajectory. 5) A final outcome variable is one of political or ideological interest rather than one directly relevant to family or child outcomes; this factor is the reduction of governmental intrusion into the family, a matter which may be influenced by the child custody intervention employed.

Challenges of research on child custody interventions. At the present time, studies of child custody interventions have been recommended (Warshak, 2007) but never carried out. This is not surprising, considering some of the challenges presented by outcome research in general, as well as by any work in which developmental change is an essential factor. Adding to these problems the high level of emotionality connected with divorce and contested custody issues, and the importance of confidentiality in legal and family matters, we must question whether outcome research on child custody interventions is not only difficult, but is actually impracticable. Randomized controlled designs would appear to be out of the question, particularly as there are already concerns about the possibility that specific access plans are an invasion of judicial responsibility (Rotman, 2005). An additional problem is the simple fact that assessment of attachment becomes less important and less standardized as children grow older, so that comparison of attachment-based methods to other methods is meaningful only for the children in the range from late infancy to early school age (and is not meaningful in the same way for children aged less than 6 months).

Limited science. It is conceivable that for the near future we will be able to evaluate child custody interventions only in terms of empirical work that is indirectly related to child and family outcomes. Only a

limited scientific foundation for child custody interventions may be possible even after much work, whatever existing practice parameters may have advised. In any case, a limited scientific foundation appears to be what we have now, and this is just as much the case for attachment-related methods as for others. Candor on this point would seem to create the position of greatest professional integrity for those involved in child custody work. Although psychologists are understandably eager to "give psychology away", one professional responsibility (see Novotney, 2008) is to make sure that psychological test results are given their proper weight, no more and no less. If psychologists wish to use tests like the SSP in CCE work, there is no reason they should not do so, but they need to consider carefully how to weight such information, and they need to convey their reasoning to the court and to divorcing parents. In addition, they need to convey the known connections between measures like the SSP and other relevant factors such as maternal mood disorders (McKay et al., 2009). Where there is limited evidence, and where the rationale for conclusions is poorly defined, increased levels of transparency are needed to balance the presentation of information to courts; regrettably, increased transparency can also create vulnerability to hostile cross-examination, or even to the exasperation of judges.

Time for a Moratorium?

Some years ago, O'Donohue and Bradley (1999) proposed that a moratorium on psychologists' participation in CCE work was appropriate in the light of the poor evidence supporting various modes of assessment. Although the research program I have suggested will take many years to bear fruit and provide an evidence basis for custody decisions, I do not believe a moratorium on the use of attachment constructs and measures is desirable.

The reasoning behind this statement concerns the current state of affairs and the recent history of discussion of attachment constructs. This psychology has already been "given away" and has passed from our hands into those of inexperienced users who in many cases believe that there is far more evidence about attachment than actually exists (cf. Schmidt et al., 2007). There is clear evidence that over a period of many years some judicial decisions have been based on misunderstandings of attachment theory and research (Mercer, 2006). (In the September, 2008 case, discussed earlier in this paper, the judge's decision was contrary to that advised by the evaluator, but it is not known what his reasoning may have

been.) Having permitted attachment theory to become popularized and misunderstood, having failed to correct simplistic approaches to this complex aspect of development, psychologists cannot ethically abandon the field to await the arrival of the cavalry bearing research evidence.

The responsible choice for the field of psychology, and for individual psychologists, is to make sure CCE reports are based on a legitimate use of attachment constructs and measures, and that testimony in the courtroom reflects both certainties and uncertainties. Judges are said to prefer a one-armed psychologist, who cannot say "on the other hand", but our professional responsibility requires that we differentiate between levels of evidence for our statements and help others to do the same.

Psychologists and parenting plans. An important developing role for psychologists may involve guidance of parents in the formulation and assessment of individualized parenting plans. These plans, which include parental agreement on access to children and responsibilities for child care, are required by some states (Engel, 2009). States or individual courts may offer choices of pre-packaged plans allowing different levels of involvement for each parent. These prepared plans are less likely to be encouraged in families where safety considerations, such as those associated with domestic violence, are an issue. Psychologists who are knowledgeable in child development and related areas could be of great help in fine-tuning parenting plans, which are intended as interventions to prevent future conflict. When it appears that a child's attachment is genuinely problematic, this planning could well include some of the attachment-based interventions for which evidence bases are being developed (e.g., Marvin & Whelan, 2003).

In addition, self-created parenting plans, as offered by each parent, may provide a method of assessment as well as a means of intervention. Psychologists' evaluation of such documents, as they apply to specific children and family situations, could provide information about each parent's conceptions of children's needs and the efforts needed to meet them. Parenting plans could reveal the extent to which a parent is realistic or unrealistic, or child- or adult-centered, in thinking about parenting tasks. Little or no work has yet been done on methods for assessment of proposed parenting plans, but both the research and its applications are clearly tasks for psychologists.

Psychologists and neutrality. The once common arrangement by which mother and father would retain different evaluators, who would then "fight", has largely given way to the appointment of a neutral evaluator who is expected to provide unbiased assessments as one would expect of an ethical psychologist. However, I have in the

last year observed one case in which a mother who had been involved in parental alienation practices for years was permitted to choose an evaluator; one case in which the father's attorney put forward the name of an evaluator he had worked with; and one case in which the evaluator, chosen by the father, accidentally included in a report an e-mail assuring the father that he would get custody.

What is the responsibility of psychologists when their neutrality is questionable? The answer to this question remains far from clear. In urban settings, where many evaluators may be available, it would seem to be the psychologist's responsibility to avoid even the appearance of possible bias; in rural settings, of course, such problems are much more difficult to handle.

A Broader Issue

The questionable use of terms like "evidence-based" and "science-based" to describe the use of attachment measures in CCEs appears to be a part of a broader tendency. Essentially, "evidence-based" is a fashionable term used to mean that the intervention or method is desirable, not to describe the actual empirical foundations of the practice. For example, methods that involve one or a few pieces of empirical support, along with other material, may be described as "evidence-based"; Powell and Dunlap (2009) described a program as "evidence-based" even though not all the components had been replicated across investigators or had shown evidence of intervention fidelity, and did so without any discussion of levels of evidence as shown by randomized trials or other designs.

Does one drop of science in a bucket of nonscience produce a bucket of science? One would think not, nor does one evidence-based component make an entire program eligible to be called evidence-based. However, the movement toward weakening the concept of evidence-based treatment is now characterized by drops in buckets, as well as by the more obvious strategy of insisting that the most responsible action is to integrate empirical research results with (unassessed) clinical experience (for example, Fridhandler, 2008). The occurrence of both these practices in CCE work is only part of a wider problem but is an issue of great concern because of its potential influence on children's development.

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