

The Good Enough Family Forensic Evaluation

May 11, 2018 Conference – Presentation Descriptions

MORNING PRESENTATIONS

Honorable Sondra Miller

How a Good Enough Family Forensic Evaluation Can Be Critical to the Court's Determination of Best Interests of the Child and Parental Custody

From Hon. Sondra Miller's perspective, the central focus of the good enough family forensic evaluation is the best interests of the child after clinical assessments of the parents and the child, assuming that the Court has requested an opinion from the forensic in regard to custody. The forensic evaluation is critical to the Court's responsibility to determine the best interests of the child, namely: 1) assessment of the parent-child relationship; 2) how capable each parent is in offering emotional support, guidance and making sound decisions regarding the child in all areas of the child's life; 3) any serious emotional incapacities of either or both parents and how these impact on parenting; and 4) whether animosities between the parents are controllable. The power of the appellate court is as broad as that of the trial court (In re Michael B. v Lillian B.). However, the appellate court must defer to the trial court's fact-finding and credibility assessments. Judge Miller will provide an update regarding the forensic legislation currently pending in Albany.

Ellen B. Holtzman, Esq.

What Every Forensic Evaluator Should Know About Current Custody Law in New York State

A Court's determination of custody and parenting time is based on "the best interests of the child." Reports prepared by custody evaluators are written for the purpose of furnishing information to the Court to assist them in making this determination. An understanding of the requirements set forth in New York State Domestic Relations Law and the Family Court Act as well as the cases which have amplified the statutory parameters are prerequisites to the preparation of a Forensic Report. This presentation will address both the statutory requirements and the current case law. In light of the Marriage Equality Act, the definition of parent and "the presumption of legitimacy of a child born during the marriage" will be examined. An overview of the factors considered by the Courts in making their determination will be reviewed, and the importance the Court places on such factors as the "voice of the child" and when the child's wishes should be considered; the willingness of each parent to foster the relationship with the other parent; the impact of domestic violence on an award of custody and parental access; and geographic relocation by the custodial parent will be discussed.

Peter Wolf, PhD

The Good Enough Evaluator: Humans Understanding Humans

This slight shift of emphasis from the title of the conference- moving from evaluation to evaluator, from the what to the who- is meant to emphasize that what we bring to the table- our capacity for empathic attunement; our background awareness of personality theory and developmental processes; and our self-awareness- is as critical to our effectiveness as evaluators as what areas we cover in our report. I will contrast this clinical approach, using our inter-human capacities, with the approach labeled "empirically based," (for example, the work of Tippins and Wittmann). While the hard science people may cringe at such words as wisdom and insight, I will attempt to demonstrate that such capacities are foundational for understanding persons and their interaction, without which "data" has little meaning. I will illustrate the moment to moment processes I/we go through in the psychological detective work called the family forensic evaluation.

Marc Mednick, PhD

Toxic Personality Styles Clashing in Child Custody Cases:

The Case of John and Jenna, and How They Coached their Kids and Created a Psychological Disaster

Evaluators in child custody cases are faced with several prominent personality disorders, often seen in combinations that are particularly toxic. One such combination is an obsessive/authoritarian personality, paired with a borderline/histrionic personality. In this case presentation, we will explore how each personality style drives the worst aspects of the other, creating a perfect storm, enhancing conflict at the expense of the children. Specifically, the following will be addressed: 1) How these personality styles create a synergy of cognitive/affective distortion; 2) How these styles affect parenting and coparenting; 3) How the styles contribute to how children are coached, influenced, and directed in the context of the child custody evaluation; 4) The existential experience of children with these parents; and 5) How these styles are perceived by the Court, their attorneys, and their therapists.

Mark Rand, PhD

Speaking of Mental Illness in Family Forensics

One challenge faced by the family forensic evaluator in a case in which severe mental illness is an issue is how the Court will react when a parent has a documented history of severe psychiatric disorder. How does this history impact on the final outcome of the case? On occasion, a Court does articulate its thinking and, in the process, lays out criteria which serve as guidelines for future evaluations involving mental illness. This presentation derives from such an articulation of an Appellate Division's analysis of the issue of mental illness

in one of my recent cases. The presentation will include: 1) discussion of the forensic psychological literature which addresses severe mental illness in custody cases; 2) past Court decisions addressing this issue; and 3) the recent Appellate Division decision in New York that addresses this matter in some detail. The forensic has some control over how mental illness is identified in a case; how it relates to parenting; how it is discussed in the report; and how it is spoken about on the witness stand. This presentation will address each of these aspects and how they were addressed in the Appellate Division decision in which the presenter conducted the family forensic evaluation.

AFTERNOON PRESENTATIONS

Steven Demby, PhD

High Conflict or Entrenched Interparental Hatred: What Does the Difference Mean for the Child Custody Evaluator?

The term "high-conflict" oversimplifies the nature of destructive family dynamics found in the group of separated parents who remain deeply enmeshed in legal battles and parental acrimony years after the separation. This presentation explores entrenched interparental hatred as a key dynamic motivating the behavior of some in this group. Entrenched interparental hatred is conceptualized as an important reason why rationally-informed attempts to mediate, negotiate, or educate parents often fail. The roots of entrenched interparental hatred lie in an interaction between a parental history of childhood relational deficits and a marital break-up experienced by at least one partner as traumatic. In making recommendations regarding residential arrangements, decision-making authority, and predictions about levels of future conflict between the parents, it is important for the forensic evaluator to assess the presence of entrenched interparental hatred.

Linda Gunsberg, PhD

Assessment of Domestic Violence, PTSD, Parental Alienation and Their Interrelationship Is Critical to the Good Enough Family Forensic Evaluation

The good enough family forensic evaluator must have extensive training in the assessment of Domestic Violence, PTSD and Parental Alienation as well as the interrelationship between these factors. The relationship between the perpetrator and the victim severely compromises the parenting capacity of each parent since the drama between the parents consumes their energy and attention. Children are exposed to the Domestic Violence often because either or both parents want their children exposed to the fighting, denigration and abuse. As a result, the child often perceives one parent as powerful and feared and the other parent as denigrated, worthless, and needing to be punished. Children are forced to take sides, often aligning with the perpetrator. Some of these children express wishes to live with the perpetrator and are encouraged to cut off contact with the victimized parent. A forensic evaluation will be offered as an example in which understanding the above factors and their interrelationship is critical to the challenge of presenting the Court with nuanced information regarding the family. Vicarious traumatization and its impact on the forensic evaluator, will be explored when conducting an evaluation with a family that exhibits these dynamics.

Kelly Sykes, PhD

**The Parent Capacity Exam in Child Protection:
Evaluation of Parenting after Infants and Toddlers Have Been Removed**

Through the use of case examples, this presentation will focus on how to conduct a Parent Capacity exam after an infant or toddler has been removed or has never lived with the birth parent. The laws governing termination of parental rights will be reviewed as well as the stages at which a mental health expert can assist attorneys who represent birth families in child protection cases.

William Salton, PhD

Evaluation and Advocacy for Political Asylum Seekers: The Arrival of the Fittest

This presentation addresses writing psychological affidavits and testifying in Court for immigrants who are seeking political asylum in the United States. For the past 5 years, I have been teaching psychology graduate students how to write these psychological affidavits and how to testify to defend these affidavits in Immigration Court. These evaluations involve much more than providing a diagnosis. Rather, it is important to convince the court that the asylum seeker has gone through a combination of trauma and resilience, resulting in the presentation of a survivor who manifests the symptoms of PTSD, depression, anxiety, or some other DSM-V diagnosis. My presentation will address how to present this person to the courts, taking into account such variables as the aftereffects of trauma, being separated from their families, multicultural considerations, and the propensity to under or over report symptoms (and even lie). Finally, I will describe some of the common countertransferences that we have experienced in the undertaking of these evaluations, both towards the asylum seekers themselves and the legal system.