

NOTEBOOK ON ETHICS, LEGAL ISSUES, AND STANDARDS IN COUNSELLING

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Custody Evaluations

***Counselling Practice Alert ***

It seems appropriate for the Canadian Counselling Association to issue occasional 'Practice Alerts' to its members. Such alerts originate with the CCA Ethics Committee and are based on its analysis and reflection of enquires it receives and/or complaints made against CCA members over a period of time. The alert is intended to focus the attention of members on some aspect of counselling practice including on the ethical challenges associated with practice in a particular area. This is our first alert! It concerns the area of child custody evaluations. These are evaluations typically used in legal disputes around a child's access, care and relationship with biological, foster and adoptive parent(s), and/or with any other legal guardian.

Child custody evaluations can be a high-risk practice area because they typically occur within an adversarial circumstance in which there is an increased probability that one or more parties will be dissatisfied by an evaluation report. Such dissatisfaction can lead to a disciplinary complaint. The CCA Ethics Committee has dealt with four such complaints against CCA members in the past 24 months. Although only one of these complaints led to a judgement of significant inappropriate conduct, in its investigation the Committee noted some procedural and reporting deficiencies with respect to two of the others. Regardless of whether complaints are warranted or the investigative outcome, complaints cause considerable stress and uncertainty for members.

Counsellors, therefore, are advised to consider the following before engaging in this practice area, and when conducting child custody evaluations.

- Before engaging in any new practice area, members are reminded of their ethical obligations as expressed in articles A3 Boundaries of Competence and A4 Supervision and Consultation of our Code of Ethics.
- Our draft of Standards with respect to Boundaries of Competence now states the following:
 - Counsellors should extend their professional services to any additional areas of expertise only after they have secured adequate supervision from supervisors with demonstrative expertise in the practice area.
 - Supervisors should have a high level of expertise in the area. Whenever possible preference should be given to supervisors whose area of expertise is verified by an independent process such as: certification, registration, or licensing.

The following guidelines should prove helpful:

- Always give priority to the best interests of the child in all custody evaluations.
- Ensure that you have no prior or current relationship with the children and the adults primarily involved in the custody evaluation other than that of evaluator.

- Counsellors must provide objective and impartial assessments that must not be compromised by the perspectives of the individuals or agency requesting the evaluation or paying for it. Ideally, custody evaluations should be court-ordered, or mutually agreed on by participants.
- Secure a signed agreement before beginning the evaluation which clarifies such aspect as:
 - financial arrangement
 - who will be seen
 - time frame
 - who will receive copies of the report
- The counsellor should obtain informed consent from the adults involved and from older children to the extent possible. This should include informing participants as to who will receive the report and the associated limits to confidentiality.
- When counsellors have reasonable grounds to suspect child abuse during the course of their custody evaluations they must adhere to their statutory obligations to report it to the appropriate authorities.
- Counsellors should keep complete records of the evaluation process.
- Counsellors should restrict comments and recommendations to those which can be substituted by the sources of data obtained and the integration of all available information,
- Other useful considerations include: avoid confusing therapeutic and assessment roles, seek to ensure at the outset of the assessment that you have offered equal opportunity for the disputing parties to present their views, ensure balanced access to the key parties, avoiding discussion of events, observations or conclusions until the report is completed and fastidiously record all contacts or events (who, duration, content, etc.).

The following references are helpful resources;

Bricklin. B. (1995). The Custody Evaluation Handbook. New York: Brunner/Mazel.

McHale, M. J.(1991). Family Law. In M. R. Uhlemann and D. Turner (Eds.) (1998), A Legal Handbook for the Helping Professional. Second Edition. Victoria, B.C.: Sedgewick Society for Consumer and Public Education, P140- 162.

Stahl, P.M. (1994) Conducting Child Custody Evaluations: A Comprehensive Guide. Thousand Oaks. Sage.

Halon, Robert L. (1990). "The comprehensive child custody evaluation". American Journal of Forensic Psychology, 8, 3, 19-46.

Kaplan, F K., Landau, Barbara L. and WcWhinney, Robert L.(1988). Custody/Access Assessment Guidelines. Toronto: Ontario Psychological Foundation.

