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**ETHICAL ISSUES
IN COMPLEX FORENSIC CHILD
CUSTODY EVALUATIONS**

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OBJECTIVES

- Become familiar with ethical issues and standards of practice in child custody matters
- Learn about issues that increase the complexity of child custody evaluations
- Develop a framework for ethically sound decisions and practices in complex child custody cases

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GUIDELINES/STANDARDS

- American Psychological Association. (2010). Guidelines for child custody evaluations in family law proceedings. *American Psychologist, 65*, 863-867.
- Association of Family and Conciliation Courts. (2006). Model standards of practice for child custody evaluation.
- (Available at www.afccnet.org)

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ETHICAL/PRACTICE STANDARDS

- COMPETENCE
- CLARIFICATION OF ROLE
- ESTABLISHING SCOPE OF THE EVALUATION
- KNOWLEDGE OF PRIVACY ISSUES

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ETHICAL/PRACTICE STANDARDS

- INFORMED CONSENT
- CULTURAL AWARENESS
- AVOIDANCE OF CONFLICTS OF INTEREST AND BIAS
- CONSULTATION/REFERRAL AS NEEDED

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COMPETENCE

- Education and supervision
- Knowledge base
 - Child development
 - Family dynamics
 - Child and adult psychopathology
 - The short- and long-term impact of family dissolution on children and parents

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COMPETENCE

- Knowledge base (cont'd)
 - The impact of different custody arrangements on children's well-being
 - Legal standards governing determinations of custody at the time of the dissolution and when a modification is sought
 - Other laws relevant to custody
 - Influence of situational variables on test validity and clinical scores

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COMPETENCE

- Knowledge base (cont'd)
 - Knowledge of, and sensitivity to, ethnic, socioeconomic, and cultural issues that impact parenting and test findings
 - Recognition of how one's testimony reflects on the public's perception of the profession, as well as having a profound impact on people's lives

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COMPETENCE

- Skill sets
 - Psychological testing
 - Assessment of children and families
 - Interviewing
 - Integration of large amounts of data
 - Ability to communicate in writing and orally with legal professionals and lay people
 - Willingness to consult with others
 - Maintenance of composure in adversity

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COMPETENCE

- Do not forget about the ethical obligation to *maintain* competence

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CLARIFICATION OF ROLE

- Therapist *or* evaluator
- Fact or expert witness
- Who is the client? To whom are duties owed?
- Advocate or impartial educator
- What is the referral question? What is the scope of the evaluation?

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SCOPE OF EVALUATION

- Affirmative (ethical) duty of the evaluator to define
- Determined by the referral question(s)
- Determines what procedures can be used to adequately address the referral question(s)
- Conclusions and opinions must be supported by the data collected

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KNOWLEDGE OF PRIVACY ISSUES

- Difference between privilege and confidentiality
- Difference between subpoena and Court order
- Limits on privilege and confidentiality in custody cases
- Personal access to records

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INFORMED CONSENT

- Complex in child custody cases
- Includes:
 - Role of the evaluator
 - Purpose of the evaluation
 - Procedures that will be used
 - Responsibilities of the litigants
 - Fees and payment policies
 - Limits on privilege and confidentiality and who will have access to information

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CULTURAL AWARENESS

- Ethical requirement of sensitivity to how culture and similar variables may affect parenting beliefs and practices and results of psychological tests

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CONFLICTS OF INTEREST/BIAS

- Disclosure of history of relationships
- Balancing time (with parties and attorneys)
- Giving party opportunity to respond to allegations
- Citing all relevant data about both parties in report, including allegations and responses to them

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CONSULTATION/REFERRALS

- Especially important if a special issue is involved about which professional may not have knowledge or experience; that is, the type of issue that occurs in complex cases

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COMPLEX ISSUES IN CUSTODY CASES

- Allegations of sexual/physical/emotional abuse or neglect
- Alleged or known substance abuse
- Alleged or known pornography use or promiscuity
- Alleged or known domestic violence
- Child's alleged hatred for, or rejection of, parent

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**COMPLEX ISSUES IN CUSTODY
CASES**

- Intrusiveness/over-involvement of extended family or third parties
- Threats by litigant against evaluator
- Serious mental illness in a litigant
- Exceptional needs of a child
- High conflict between parents

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**FRAMEWORK FOR ETHICAL
JUDGMENTS**

- Identify the issue and acknowledge its complexity
- Determine whether you have the knowledge and skills to address the issue
- If you believe you are competent, determine whether you need consultation
- Determine whether referral to another professional is necessary

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**FRAMEWORK FOR ETHICAL
JUDGMENTS**

- If you are making a referral, is it of the entire evaluation process or to address the complex issue?
- If the referral is for the assessment of a specific issue, what will your relationship be the other professional? How will those data be treated?
- Be mindful of the extra stress
