

custody evaluations and, more importantly, shows the problems that can arise under the regime of vague custody laws and vague professional and ethical standards for custody evaluators.

The Deer-Doe Case: Dr. Hagan's Custody Report

Dr. Hagan wrote a 35-page report summarizing his evaluation of the Deer-Doe family. The report contained precise details of the results of the various standardized tests, but the lawyers were only really interested in the final paragraphs under the heading, *Summary and Recommendations*.

"In summary, substantial evidence points to Ms. Deer-Doe's longstanding depression, her intense, repressed hostility toward Mr. Deer-Doe, and her alienation of the children against their father. In contrast, Mr. Deer-Doe appears to be well adjusted, is eager to promote the children's relationship with their mother, and is able and interested in being a full-time father. It therefore is recommended that, in order to promote his best interests, Carlos Deer-Doe be shifted immediately to his father's custody with regular visits with his mother, provided that she enters into individual psychotherapy.

"Although Isabella's intense anger at her father is largely a product of alienation, no change in custody is recommended for her at this point in time, because she is closely allied with her mother and is likely to continue to reject and rebel against her father's care. Instead, individual psychotherapy and family therapy with her father is recommended for Isabella, with further evaluation in 3 to 6 months depending upon the recommendations of Isabella's therapists and her mother's therapist, if relevant. A key consideration at that time will be whether Isabella's stated wish to live with her mother, if she continues to voice this preference, is a result of alienation."

When he read the evaluation, John Deer-Doe was jubilant. He felt vindicated, eager to be a full-time father again, and excited about the prospect of starting his new family. He vowed he was now going to get remarried "the day after my divorce is final." His lawyer, who also was encouraged by Dr. Hagan's report and recommendations, told John that the evaluation was not only a victory for him but for all fathers. "Sometimes the system really does work," she offered.

Jane Deer-Doe's reactions were understandably quite different. Shocked and panicked, she became emotionally distraught in her lawyer's office. He eventually helped Jane calm down by telling her that he had learned only recently that Dr. Hagan, who used to be fair and evenhanded, had become notoriously biased in favor of fathers as a result of losing custody in his own, bitter divorce. If he had known this a few months ago, Jane's lawyer told her, he never would have agreed to Dr. Hagan as the court-appointed evaluator.

Ms. Deer-Doe's attorney went on to offer that he would postpone the pending hearing in order to get a second evaluation by another mental health professional and have Dr. Hagan's evaluation reviewed by a third professional so as to identify any important limitations or weaknesses. If the court refused to appoint a more objective, neutral evaluator, then he would hire an expert who would do the job right. In any case, the postponement meant that, at a minimum, no changes in custody would take place for 6 to 9 months given the congested court calendar. In the meantime, he

urged Ms. Deer-Doe to cheer up, continue to be a wonderful mother, and to be on her very best behavior so as not to give her soon-to-be-ex-husband any ammunition in his campaign against her and motherhood.

A Bigger Problem: The Legal and Emotional Context of Custody Disputes

We could conclude our monograph here with this summary: There is essentially no psychological science to support the measures and constructs designed specifically for the assessment of child custody arrangements for individual children. Moreover, established measures of clinical constructs must be used with caution due to threats to their validity and questions about the relevance in the custody context of the constructs they assess. We also could conclude that the state of psychological science is too limited to reach clear conclusions about controversial issues such as children's wishes, overnight visits, or even PAS, and remind the reader that the burden of proof falls on proponents of a particular hypothesis or recommendation. To these three points, we could add questions about ethics and professional practice—for example, potential concerns about systematic bias on the part of evaluators, questions about whether evaluators should address the "ultimate issue" (i.e., recommend specific custody arrangements), and worries about a battle of experts when each side hires its own evaluator.

However, we believe there are bigger problems in custody evaluations than shoddy science, and we also believe that consideration of these broader issues points the way to some promising solutions for custody evaluations, children, and families. Thus, we turn now to examine the more general literature on children's adjustment to their parents' separation and divorce. After this, we outline three general recommendations that we consider in light of psychological research, legal analysis, and professional responsibilities including various issues we raised about Dr. Hagan's custody evaluation.

AVERAGE EFFECTS AND VARIATION IN THE WELL-BEING OF CHILDREN FROM DIVORCED FAMILIES

There is a large, sophisticated, multidisciplinary research literature on how children are affected by parental separation and divorce. We cannot review many original sources from this literature in this limited space, although we have done so elsewhere (Emery, 1999b). In the following section, we offer an overview of the major conclusions researchers have drawn. After this, we consider what factors predict children's more or less adequate adjustment. For present purposes, research on the average well-being of children from divorced families is of interest primarily as a starting point for examining predictions of individual differences in outcome, one of the main goals of a custody evaluation. Thus, we review this extensive literature only briefly.

On average, parental divorce is associated with an increased risk for a variety of psychological problems among children

(Emery, 1999b; Hetherington & Kelly, 2002; McLanahan & Sandefur, 1994). In a meta-analysis of 92 studies, Amato and Keith (1991) found an average effect size of .14 standard deviation units when comparing children from divorced versus married families across all child outcomes. Another meta-analysis of studies in the 1990s found that the average effect size was somewhat larger than this earlier estimate, ranging from a low of .12 standard deviation units for measures of self-concept to a high of .22 standard deviation units for conduct problems (Amato, 2001).

While the effect sizes suggest a modest, average increase in psychological problems, it is important to underscore the variability in the psychological adjustment of children whose parents separate and divorce. Most children are resilient despite their parents' divorce, as indexed by measures of psychological maladjustment that do not differentiate them from children whose parents remain continuously married (Emery, 1999a; Emery & Forehand, 1994). Still, depending on the outcome, parental separation or divorce is linked with a 25% to 100% (a doubling) increase in the risk for psychological difficulties at the extremes of the distribution (Hetherington & Kelly, 2002; Zill, Morrison, & Coiro, 1993). Given the high prevalence of separation and divorce, even a modest increase in risk translates into an important societal concern.

Nonrandom Selection Into Divorce

Still, at least some of the putative "effects" of parental divorce on children, perhaps as much as 50% of the variance, are due to nonrandom selection into divorce. Many of the problems found among children from divorced families actually are present before the parents separate (Cherlin et al., 1991) and therefore cannot be consequences of parental divorce, although this selection effect seems to be stronger in accounting for the psychological difficulties of children than for those of young adults (Cherlin, Chase-Lansdale, & McRae, 1998). Behavior geneticists have raised the strongest selection argument, suggesting that children's risk in divorce may be fully or partially attributable to the passive gene-environment correlation, because genetic factors influence divorce and may also affect children's behavior (McGue & Lykken, 1992). Despite this important concern, in one adoption study (O'Connor, Caspi, DeFries, & Plomin, 2000) and one twin study (D'Onofrio et al., in press), divorce still was associated with a diminished but increased risk for psychological problems, particularly externalizing problems, among children.

Different Risks for Different Outcomes

Externalizing difficulties are the child emotional problems most strongly linked to parental separation and divorce (Amato, 2001; Amato & Keith, 1991; Emery, 1982, 1999b). Other emotional difficulties less strongly tied to parental marital status include depression; anxiety; poor school behavior and per-

formance; and difficulties in romantic relationships, including an increased risk for divorce among offspring (e.g., McLanahan & Bumpass, 1988). A significantly increased risk for troubled family relationships, especially between children and their fathers, also accompanies divorce. One national study found that fully 65% of young adults between the ages of 18 and 22 whose parents were divorced had poor relationships with their fathers; only 29% of those whose parents were married had poor relationships with their fathers (Zill et al., 1993).

Scientific research notwithstanding, some clinical investigators point to case studies indicating that the adverse consequences of divorce for children are unexpectedly large (e.g., Wallerstein, Lewis, & Blakeslee, 2000). We believe that this conclusion, and much of the debate about it, is due to confusion of psychopathology with what one of us has termed psychological distress or "pain" (Laumann-Billings & Emery, 2000). Even resilient, well-functioning young people whose parents divorce report considerable distress in regard to their memories of their childhood ("I had a harder childhood than most people"), feelings about their current family relationships ("Sometimes I wonder if my father even loves me"), and concern over events where both of their parents will be present ("I worry about big events like graduations or weddings where both of my parents will have to come"; Laumann-Billings & Emery, 2000). Thus, even if resilience—as defined by the absence of mental health problems—is the normative outcome of divorce for children, children's resilience often is colored by painful memories of the past, difficult ongoing feelings about family members, and concerns about future family interactions. There is increasing agreement that making this distress-versus-disorder distinction may help clear up much of the controversy about the consequences of divorce for children (Kelly & Emery, 2003; Wallerstein, 2003).

PREDICTORS OF CHILDREN'S PSYCHOLOGICAL ADJUSTMENT TO DIVORCE

Average outcomes are an important backdrop to our discussion, but the prediction of individual differences in children's psychological well-being is more directly relevant to custody evaluations. In the following sections, we review research on different risk factors, relying primarily on secondary versus original sources because of space limitations and the large number of studies.

Parental Conflict

A large body of research demonstrates that conflict between parents is associated with an increased risk for psychological problems among children in all families, whether the parents are married, separated, or divorced (Ahrns & Miller, 1993; Ahrns & Tanner, 2003; Amato & Keith, 1991; Emery, 1982; Johnston & Roseby, 1997; Otto, Buffington-Vollum, & Edens, 2003). Although non-