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Child Custody and Access:
The Views and Practices of Psychologists and Lawyers

by

Barbara J. Jameson
B.A. University of Saskatchewan, 1977
B.A. University of Victoria, 1990
M.A. University of Victoria, 1993

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to the required standard

Dr. Marion F. Ehrenberg, Supervisor (Department of Psychology)

Dr. Michael A. Hunter, Departmental Member (Department of Psychology)

Dr. Marsha G. Runtz, Departmental Member (Department of Psychology)

Dr. Frances A. S. Ricks, Outside Member (School of Child and Youth Care)

Dr. Andrea M. Kowaz, External Examiner (Registrar, College of Psychologists of British Columbia)

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University of Victoria

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Supervisor: Dr. Marion F. Ehrenberg

ABSTRACT

This study examined the views and professional practices of 52 psychologists, 26 from Alberta and 26 from British Columbia, and 53 family lawyers, 21 from Alberta and 32 from British Columbia, who have current or past experience in the area of child custody and access. Participants completed a survey designed to explore issues in custody and access (CA) practice that were relevant for each professional group. The survey also asked respondents to complete the revised Best Interests of the Child Questionnaire (BICQ-R) in which participants rated the extent to which 77 specific Best Interests of the Child criteria should be considered in determining custody. These items were presented in three areas of assessment relevant to custody and access evaluations: (a) relational assessment, (b) needs of the child assessment, and (c) abilities of the parents assessment.

With regards to practice issues, differences for psychologists between the two provinces tended to appear on those questions regarding issues of training and competency rather than in questions that delved into the actual CA evaluation process. There were few differences for lawyers between the two provinces. Forty-nine of the lawyers answered four optional questions regarding ethical dilemmas in their child custody and access practice. On average, these lawyers reported feeling caught 23% of the time between their professional responsibility to their client and their personal beliefs about what would be in the best interests of the children involved in the custody dispute.

The majority of psychologists and lawyers agreed that psychologists should continue to gather information and make recommendations in their role as CA evaluators. Psychologists tended to believe that lawyers' provided more litigation support to their clients than lawyers reported providing. Psychologists also believed that case conferences should be held significantly more often than lawyers would prefer. Psychologists and lawyers generally agreed on the main ways in which each profession was helpful or harmful to the resolution of child custody and access disputes, and there was also some consensus regarding the stresses and rewards of practicing in this area. The effects of personal child custody and access experience on professionals practicing in this area was also explored, and a personal CA experience by professional group interaction was revealed for male practitioners.

The data for the BICQ-R were transformed to correct for potential response biases from the psychologists and the lawyers. Results indicated that the means for the three assessment areas were significantly different: both psychologists and lawyers rated the relational assessment area the highest, followed by the needs of the child assessment area, followed by the abilities of the parents

assessment area. There was a significant gender difference for the needs of the child assessment area mean.

Multivariate analyses of variance with number of years of experience as a covariate revealed significant professional group differences for the relational and needs of the child assessment areas. A significant gender difference on the abilities of the parents assessment area was also found with male practitioners rating the items as being relatively more important. Significant differences between psychologists and lawyers on various specific BIC criteria are reviewed, and the implications of these findings in the context of current empirical research are discussed.

The study concluded that, in general, psychologists and lawyers rated the relative importance of various aspects of the BIC criterion in a similar manner, and that this consensus could form the foundation for developing a consistent and uniform understanding of the BIC criterion across professional boundaries. The limitations of the current study are outlined, and future research directions are suggested.

Examiners:

Dr. Marion F. Ehrenberg, Supervisor (Department of Psychology)

Dr. Michael A. Hunter, Departmental Member (Department of Psychology)

Dr. Marsha G. Runtz, Departmental Member (Department of Psychology)

Dr. Frances A. S. Ricks, Outside Member (School of Child and Youth Care)

Dr. Andrea M. Kowaz, External Examiner (Registrar, College of Psychologists of British Columbia)

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my father, Stan Jameson

my sister, Katherine Jameson

and my cousin Valerie Young

INTRODUCTION

At present, judicial decisions regarding child custody and access are based on the legal definitions of the Best Interests of the Child (BIC) standard that tend to provide only skeletal outlines of which factors are to be considered (Buehler & Gerard, 1995). Given the far-reaching psychological consequences for children and their divorcing parents, judges are turning to mental health professionals, asking them to use their expertise to conduct child custody and access assessments and, ultimately, to make recommendations regarding custody and access to the court (Buehler & Gerard, 1995; Reidy, Silver, & Carlson, 1989). Originally, the participation of mental health “experts” was greeted with some skepticism by the legal community. Mental health professionals, hired as expert witnesses, were often viewed as “hired guns” who worked for a specific lawyer’s client rather than representing the best interests of the child. In recent years, as mental health professionals have developed ethical guidelines for conducting child custody and access evaluations, family lawyers have become more aware of the potential benefits of child custody and access assessment in helping their clients negotiate an understanding that is acceptable to all parties. However, the recommendations provided by mental health professionals are still offered within the context of an adversarial arena, and lawyers are required to challenge the methodology and rationale employed during the custody and access assessment if the findings do not support their client’s case (Gould, 1998). As a result, it may appear that lawyers and mental health professionals approach child custody and access, and therefore the best interests of the child standard, from different perspectives. However, there does not appear to have been any empirical comparisons of the views of these professionals regarding various aspects of the BIC criterion. The purpose of this research is to explore how psychologists and lawyers rate the relative importance of the (BIC) criterion in order to uncover professional similarities and differences, and to create new opportunities for cross-disciplinary communication and education.

Divorce: A Brief History of the North American Judicial Context

Although there are many potential frameworks for exploring the evolution of divorce, this brief overview will focus on the evolution of divorce from its earliest common form to religious edict to the current North American judicial process. Prior to the tenth century, divorce in Europe was a straightforward process. Men could obtain a divorce simply by saying that they wanted one. Women, whose lives were largely determined by fathers and husbands, could also obtain a divorce as long as the husband agreed. However, with the rise of the Church

of Rome, divorce was denounced as immoral and seldom justified. In spite of this moral imperative, there were, theoretically, three routes to the dissolution of a marriage. A physical separation, “a mensa et thoro” (without freedom to remarry), was granted only in extreme circumstances, and a divorce “a vinculo” (absolute dissolution of marriage) was quite literally unattainable. The third alternative was for the church to declare the marital union invalid. However, annulments were rarely sanctioned and were prohibitively expensive and time-consuming. As a result, divorce was extremely difficult for the wealthy and impossible for the poor. Desertion of spouse and children became the poor person’s alternative to an authorized divorce (Irving & Benjamin, 1987). This absolute authority of the church to determine divorce remained essentially unchallenged until the sixteenth century.

In the 1500s, The Protestant Reformation led to the creation of ecclesiastical courts that served as the forerunners of both the modern court structure and the adversarial system. Marriage was still essentially indissoluble, but the church now established provisos upon which a divorce would be granted if the grounds for divorce could be proven to the court’s satisfaction. The clergy of the ecclesiastical courts were overwhelmed with divorce petitions. Finally, during the 1700s, the church sanctioned the establishment of secular courts that could authenticate divorces according to church provisos. For example, a husband who obtained an ecclesiastical order of separation based on adultery and who successfully prosecuted his wife’s lover in civil court could be granted a divorce “a vinculo” (absolute dissolution of marriage) by parliament. Although still exceedingly difficult and costly to obtain, divorce was at least more of a possibility for those with financial means. By the early 1800s, three key attributes of judicial divorce procedures were in place in Europe and England: (1) Civil courts, as opposed to church authorities, now had jurisdiction over divorce; (2) the principal of marital offenses, or “fault”, as the basis for divorce had been firmly established; and (3) the adversarial nature of the proceedings was beginning to emerge as one spouse now needed to prove the other at fault in order to obtain a divorce.

The shift from ecclesiastical to the secular was somewhat easier in North America. Early British settlers, who were mostly Protestant, were not enamored of church authority and they chose to make marriage a civil matter. In Canada, the British North America Act of 1867 gave the federal government exclusive jurisdiction over the subject of divorce (Davies, 1994). However, provinces with divorce laws prior to joining the Dominion were allowed to establish their own civil courts to hear divorce petitions. Those provinces without such laws (Ontario, Quebec) were required to follow the British system and process divorce cases through

parliament in Ottawa. In the United States, individual state legislatures drew up grounds for divorce based on their unique cultures and histories that were then processed through the judicial system. However, the procedure for divorce in North America, that is the principal of marital fault, remained similar to Europe and England.

Although the notion of fault played an important role in divorce procedure, there were quite different standards of fault for men and women. These differential standards prevailed until quite recently. For example, in England the Matrimonial Causes Act of 1857 codified these differences: Men could petition on the grounds of adultery alone, but women had to prove adultery and at least one additional ground (Davies, 1994; McKie, Prentice, & Reed, 1983). In 1925, these differential grounds were abolished and adultery was accepted as the universal standard for divorce.

Dissatisfaction with the notion of “fault” in a divorce began to gain momentum in the English-speaking world during the 1960s. This led to a revision in Canada’s Divorce Act (1968) which broadened the grounds for divorce by including a “no-fault” provision. This provision stipulated that couples who had lived separate and apart for at least three years could obtain a divorce without resorting to adversarial claims of marital misconduct. However, the assignment of fault was still the most efficient channel to a divorce. In 1986 the Divorce Act was further amended to reduce the waiting period for a no-fault divorce to one year (Davies, 1994).

By legal definition, the process of obtaining a divorce has essentially returned to its earliest form. Irrespective of the reason and without gender bias, either party in a marriage can choose to terminate the relationship. However, the notion of fault, and even “sinfulness,” is deeply entrenched within the judicial system, and fault is still included as grounds for a divorce in most regions of Canada and the United States. Divorce, when enacted through the adversarial process, is often seen as a morality play in which there appear to be winners and losers (Landau, Bartoletti, & Mesbur, 1987). This especially holds true for divorces involving child custody disputes that essentially pit one parent against the other. These cases, entrenched in a system of fault-finding, parental rights, and ownership, represent some of the most complex and highly contested cases seen in today’s courts. However, it was not that long ago that child custody determination in divorce was simply not an issue.

The Evolution of Child Custody

As with the overview of divorce, this section is also presented within the context of the evolution of the North American judicial system and should be considered in that light. Given that framework, childhood, as a unique phase of life with special concerns, considerations, and rights, is a relatively recent phenomenon. In ancient Rome, mothers and children were considered property over whom the father had complete control, and this status remained unchanged well into the 14th century and the onset of feudalism (Irving & Benjamin, 1987; Repucci, 1984). Children were seen as miniature adults and were often removed from their homes before the age of seven to become indentured apprentices. Learning was secondary to labour. It was not until the Elizabethan period of the 16th century that this view of children began to change. As the family differentiated from the community, an increased awareness of its social, rather than merely economic, importance took shape. Children began to gain some privileges, particularly concerning care and education, and mothers were seen as playing a special role in their children's development (Derdeyn, 1976; Irving & Benjamin, 1987).

Following on these social developments, the legal doctrine of "parens patriae" or "parent to the country," which still underlies judicial thinking regarding child custody and access, began to evolve into a protective judicial arm for children. Originating in the 1300s with the sovereign's feudal obligation to protect the persons and property of his subjects, particularly those unable to protect themselves (Graham, 1994), the parens patriae jurisdiction was transferred from the royal household to the chancellor's court in the mid 1600s (Derdeyn, 1976; Irving & Benjamin, 1987; Sorenson & Goldman, 1990). In essence, the court, rather than the crown, became responsible for determining the care and custody of persons, and the estates of persons, found to be of unsound mind. Concurrently, the Court of Wards and Liveries administered the wardship of children, a property right associated with feudal tenures. Basically the purpose of this court was to protect the rights of the child's guardian (Graham, 1994). When tenures and the Court of Wards and Liveries were abolished, the wardship of children was also undertaken by the chancellor's court. However, the judicial aim shifted from protecting property rights (i.e., the rights of the guardian) to assuming the role of parens patriae to protect the ward. Gradually, the judicial doctrine of parens patriae was accepted and integrated into British common law, and the court acquired the authority to intervene in the relationship between parents and child (Derdeyn, 1976; Repucci, 1984).

However, the dominance of paternal rights remained virtually unchallenged throughout the 1700s in Europe and North America (Mason & Quirk, 1997). It was rationalized that since

it was the father's duty to care for and support his children, and since the father alone could own and manage property, it was also his right to own and control his children (Carbone, 1995; Marafioti, 1987). Under English and French common law, mothers had no such rights and were in no position to make a competing claim for custody of the children. Given this context, it is not surprising that children are rarely mentioned in eighteenth century divorce decrees (Mason, 1994). Furthermore, if the mother removed the children from the matrimonial home, the father was immediately absolved of all responsibilities for his "errant" wife and for his children (Irving & Benjamin, 1987; Sorenson & Goldman, 1990).

Child custody continued to evolve through the massive social changes wrought by the Industrial Revolution of the 1800s. Increasingly, fathers were required to work away from their homes leaving mothers to mind their children (Landau et al., 1987). As this role segregation persisted, the notion of a natural bond between mother and child gained social acceptance (Irving & Benjamin, 1987). As early as 1813 in England and 1830 in the United States, courts were giving custody of children to the mother based on the notion that a child under the age of seven required a mother's care. This notion was firmly established in Britain under the Talfourd Act of 1839 which gave the courts the power to determine the custody of infants under the age of seven thus laying the groundwork for the presumption of maternal custody (Derdeyn, 1976; Irving & Benjamin, 1987). However, it should also be noted that, at this time, children were usually returned to their father for "moral" training following their seventh birthday (Derdeyn, 1976; Repucci, 1984).

As the industrial revolution progressed, societal pressures were increasingly brought to bear on the issue of child custody. The psychoanalytic movement of the late 19th and early 20th century stressed the importance of early childhood experiences and the crucial nature of the mother-child bond. This increased society's interest in the notion of childhood and contributed to the evolution of child labour laws that restricted the working hours of children. In addition, public education of children was being recognized as an important aspect of their development. The status of women also began to change rapidly as they gained the right to vote, to own property, and to be gainfully employed in the work force (Folberg, 1991; Mason & Quirk, 1997). These changes gradually eroded social acceptance of paternal dominance and were reflected in the evolution of common law. By the early 1900s, the concept of a father having financial responsibility for children outside his care began to appear in case law (Derdeyn, 1976; Repucci, 1984) and this eventually led to the breakdown of financial constraints in determining custody.

In 1925 these factors culminated in a landmark court decision, the Tender Years Presumption, which stated that the mother was the natural custodian of a child under the age of seven. That same year, the courts ruled that mothers and fathers were equal with respect to seeking custody of their children (Derdeyn, 1976; Fidler, Saunders, Freeman, & Hood, 1989; Mason & Quirk, 1997). In reality, by this time, mothers were not only equal to fathers in claiming custody, they were often regarded as having a superior claim. The pendulum had swung from paternal dominance to maternal preference in child custody decisions.

Since both parents were now considered in law to be equal, it became necessary for the courts to find new criteria upon which to base custody decisions. First enunciated in 1881 (Repucci, 1984), judicial precedent had already established the notion of “best interests of the child” into English common law by the 1920s (Mason & Quirk, 1997). For example, in *Finlay v. Finlay*, a decision rendered in 1925, the judge ruled that in custody cases a decision should not be reached based on the notion that one parent has a case against the other. Instead, the judge should act as *parens patriae* and do what is best for the interest of the child (Derdeyn, 1976; Marafiotte, 1987; Repucci, 1984). Although these decisions reflected an enhanced awareness of the child’s needs, they did little to alleviate the adversarial nature of the process. As there were no specified standards to determine “best interests,” it became standard practice to accommodate this notion by awarding custody to the parent who was either not at fault for the divorce or who was deemed to be the most “fit” to raise the child (Marafiotte, 1987; Repucci, 1984).

The past 30 years have seen many changes in divorce and custody laws as the roles of men and women have continued to shift and evolve (Wallerstein, 1985). With more women working outside of the home, increasing emphasis on fathers’ rights (particularly in custody cases), increasing awareness of the role of the father in child development, and the emergence of no-fault divorce, the courts have been faced with abandoning the presumption of maternal preference in custody and working towards creating greater equality in adjudicating the claims of mothers and fathers (Carbone, 1995; Landau et al., 1987; Lyman & Roberts, 1985; Repucci, 1984). As a result, almost all jurisdictions in the United States and Canada maintain a Best Interests of the Child standard with no clear preference for either parent.

Best Interests of the Child Criterion

Early decisions making reference to the best interests of the child in awarding custody set the groundwork for what has become the cornerstone of most custody statutes in Canada

(Turner & Uhlemann, 1991) and the United States (Folberg, 1991; Mason & Quirk, 1997; Repucci, 1984). More recent case law and statutes have attempted to define the child's best interests by listing specific factors judges are to consider in rendering custody decisions (Folberg, 1991). However, the language of these statutes varies widely, "offering a laundry list to guide judges, who ultimately are given vast discretion to make their own decisions" (Mason & Quirk, 1997, p. 221).

Some jurisdictions in Canada, such as British Columbia and Ontario, have attempted to provide additional clarification of what is to be considered in the best interests of the child. For example, the Children's Law Reform Act (1980) in Ontario provides relatively detailed criteria for determining custody and assumes that stability and continuity of the child's relationships and environment are in the child's best interests:

"...In determining the best interests of the child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the needs and circumstances of the child including: (a) the love, affection and emotional ties between the child and, (i) each person entitled to or claiming custody of or access to the child, (ii) other members of the child's family who reside with the child, and (iii) persons involved in the care and upbringing of the child; (b) the views and preferences of the child, where such views and preferences can be reasonably ascertained; (c) the length of time the child has lived in a stable home environment; (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child; (e) any plans proposed for the care and upbringing of the child; (f) permanence and stability of the family unit with which it is proposed that the child will live; (g) the relationship by blood or through an adoption order between the child and each person who is party to the application..."

(Children's Law Reform Act, 1980, c.20, §1)

In other jurisdictions, such as Alberta, pertinent legislation contains only a passing reference to the best interests standard (e.g., "any orders or decisions made by the court under this Part must take into consideration the best interests of the child." Alberta's Family Law Statutes Amendment 1999, §61.4). However, it is understood that the *Divorce Act*, with its reference to the best interests of the child, sets the standard for all provincial and territorial jurisdictions.

Despite the BIC standard, matrimonial misconduct and its implications for parental fitness may still play a role in the determination of custody (Repucci, 1984; Marafiotte, 1987).

Under Canada's *Divorce Act* (1986), the personal behaviour of the marital partners is not to have any bearing on determining parental fitness unless that behaviour directly interferes with their parenting ability. However, once again, there are no clear guidelines for deciding when, or if, a parent's behaviour presents a danger to the child, is a hindrance to the proper care of the child (Marafiotte, 1987) or is relevant in terms of parenting capabilities. The only exception is when a history of domestic violence is present in the family. A review of Canadian case law reveals that the Canadian judiciary are taking issues of spousal abuse into consideration in custody cases even though they are not, for the most part, required to do so by law (Clark, 1991, Kerr & Jaffe, 1999). In fact, only Newfoundland's *Children's Law Act* (1988) specifically references domestic violence as a factor to be considered by the court when determining the child's best interests (Kerr & Jaffe, 1999).

As noted above, custody statutes often provide a general outline of the factors to be considered in custody decisions. However, there is no guidance about how information relevant to each factor can be obtained, how terms such as "the health and emotional well-being of the child" are to be understood and measured, or how multiple data sources are to be integrated. Therefore the discretion of the court, and the influence of precedent in common law jurisdictions, can have a profound influence on which issues are considered relevant to determining the best interests of the child.

Indeterminacy in Best Interests of the Child Statutes

In Canada the federal *Divorce Act* (1986) lists the best interests of the child as the sole criterion upon which decisions about child custody and access can be based. However, best interests is not defined in the *Divorce Act* and the only assistance given regarding its interpretation is set out in two sections providing for the following: (a) the court will not take into consideration the past conduct of any person applying for custody or access unless the conduct is relevant to the ability of that person to act as a parent; and (b) consideration of the "friendly parent" rule (Cossman & Mykitiuk, 1998). Provincial and territorial jurisdictions have been left to develop statutes that, at best, are only slightly more specific in defining the best interests of the child.

What some term "vagueness" others label "flexibility" and this difference in connotation is at the heart of the dispute over the merits and limitations of the BIC standard. Proponents of the standard claim that the open-ended nature of the statutes respects the individual situation of each child and allows for due process in the consideration of a variety of

factors (Buehler & Gerard, 1995). Legal experts argue that the “best-fit” for the child can only be obtained when the judicial process is characterized by a high degree of flexibility in the criteria used in reaching a decision of the final custody arrangement (Cossman & Mykitiuk, 1998; Bala & Miklas, 1993).

Critics who use the term vague and indeterminate when describing the BIC standard argue that the statutes allow judges too much discretion in reaching custody decisions thus increasing the likelihood of judicial bias based on personal, moral, or religious views (Buehler & Gerard, 1995; Cossman & Mykitiuk, 1998). Without clear, objective criteria, the BIC standard places increased demands on an already overburdened judiciary and increased stresses on divorcing families, particularly as disappointed parents appeal their case. Predictability, a cornerstone of common law, is lost (Sorenson, Goldman, Sheeber, Albanese, Ward, Williamson, & McDanal, 1997).

This debate is reflected in a recent decision, *Gordon V. Goertz* (1996), rendered by the Supreme Court of Canada. Madame Justice McLachlin, writing for the majority, emphasized that each case of child custody and access must be determined according to the best interests of the child and must turn on its own unique circumstances. In a separate and dissenting opinion, Madame Justice L’Heureux-Dubé expressed her preference for presumptions (specifically for a presumption in favor of the custodial parent’s decision making authority) which might produce greater certainty and predictability and less litigation and ongoing parental conflict (Cossman & Mykitiuk, 1998). Unfortunately, there is little agreement about which preferences or presumptions might serve the best interests of the child.

Proposed Legal Presumptions to Augment the BIC Standard

Several intermediate rules have been championed that, if applied to the BIC standard, could carry presumptive weight in the decision-making process. It has been suggested that a series of presumptions tied to the BIC standard might help limit litigation as the potential outcome of a contested custody case might be perceived as being more apparent (Cossman & Mykitiuk, 1998). However, it must be remembered that presumptions do not necessarily replace judicial discretion. Instead they may serve as rebuttable presumptions which should be given significant but not determinative weight. Thus the application of presumptions to the BIC standard would not necessarily improve the predictability of the process. Currently there are five presumptions or preferences under general consideration in various jurisdictions: (1) the

joint custody preference; (2) the psychological parent preference; (3) the primary caregiver preference; (4) the child's preference; and (5) the friendly parent rule.

The *joint custody preference* has its roots in the social equality movement of the 1970s (Buehler & Gerard, 1995). The intent of this preference was to encourage frequent and continuing contact with both parents, to encourage parents to share the rights and responsibilities of childrearing, and to reduce the adversarial nature of contested custody by allowing for a presumption of continued parenting by both parties (Buehler & Gerard, 1995; Repucci, 1987). In a study completed in 1994, Buehler and Gerard found that 19 states had enacted statutes that included a presumption or preference for joint custody.¹ In eleven of these states, the joint custody presumption is applied only when both parents agree on a joint custodial arrangement. However, in five jurisdictions, judges have the authority to order joint custody over the objections of one or both parents. Empirical research indicates that joint custody arrangements, legal or physical, are best suited for parents who have a reasonable level of communication, who are able to cooperate, and who are committed to making joint custody work (Buehler & Gerard, 1995). Given that the custody and access cases that come before the courts tend to involve parents who have been unable to negotiate an agreement and who are often deeply entrenched in adversarial positions, it is not surprising that joint custody, as a panacea for solving custody disputes, has lost some its lustre in recent years. At least one state, California, has revoked its statute requiring a presumption of joint custody.

The *psychological parent preference* orders courts to award custody to the parent with whom the child has the strongest psychological bond or attachment (Buehler & Gerard, 1995; Repucci, 1984). This preference, based on the writings of Goldstein, Freud, and Solnit (1973), has its foundation in psychoanalytic theory and was not challenged by the scientific community for many years. For the judiciary, seeking to replace the Tender Years Presumption, the concept of "psychological parent" was the perfect substitute (Bala & Miklas, 1993; Lyman & Roberts, 1985). It supported the traditional practice of sole custody and, though it was not meant to singularly promote awarding custody to the mother, the Court often interpreted the notion of emotional attachment in this light. Therefore, to a large degree, the courts were able to maintain the previous status quo. However, over the past 15 years, the concept of

¹ It is interesting to note that the Canadian judiciary did not take to the notion of joint custody with the same gusto as some of their American counterparts. The presumption of joint custody was debated in Canada but ultimately not accepted in Canadian jurisdictions (Cossman & Mykitiuk, 1998). However, joint custody arrangements are a judicial option in Canada.

psychological parent, as defined by Goldstein, Freud, and Solnit, has been seriously criticized for ignoring the child's need for an ongoing relationship with both parents (Kelly, 1993; Lyman & Roberts, 1985). It is now widely accepted that children may have more than one "psychological parent", and that the determination of a primary psychological parent can be difficult (Bray, 1991). It has also been suggested that a preference for the "psychological parent" requires a prediction of the quality of parent-child relationships in the future and that these types of predictions tend to be imprecise and unreliable (Buehler & Gerard, 1995). Although the term psychological parent is still used in some custody decisions, it no longer appears to carry the weight of a presumption in law.

The *primary caregiver preference* directs the court to award sole legal and physical custody to the parent who was the child's primary caregiver during the marriage, subject to the non-custodial parent's visitation rights (Bruch, 1992; Cossman & Mykitiuk, 1998). Whereas the psychological parent preference focuses attention on the emotional and psychological ties between a parent and child, the primary caregiver preference focuses on behavioural patterns of daily caretaking. Advantages of this preference include that it is determinative, relatively easy to establish, it is based on past rather than future oriented predictions of behaviour (Bala & Miklas, 1993; Emery, 1994), and, theoretically it is gender neutral. One major disadvantage of this preference is that it does not take into account the variability in the roles enacted by the secondary caretaker. Caretakers who have done 40% of the childrearing would be treated the same as caretakers who have done 10%. In practice, this preference could lead to less involvement of divorced fathers with their children as most decisions would likely favour maternal custody.

The *child's preference* directs the court to follow the child's wishes as to the assignment of physical custody (Bala & Miklas, 1993; Buehler & Gerard, 1995). This preference appears to apply only to older children, although children as young as nine and ten have been consulted as to their wishes (Repucci, 1984). Some American states have a presumption of child choice if the youth is 14 or older (Buehler & Gerard, 1995). Although most North American jurisdictions do not consider the child's wishes determinative, research has shown that judges (Buehler & Gerard, 1995; Reidy, Silver, & Carlson, 1989) and mental health professionals (Ackerman & Ackerman, 1997; Jameson, Ehrenberg, & Hunter, 1997; Keilin & Bloom, 1986; LaFortune & Carpenter, 1998) involved in the custody and access process report they seriously consider the preferences of older children. A major criticism of this preference is the potential for the child to experience intense loyalty conflicts and to

become further entangled in the parental conflict as each parent attempts to “win” the child (Repucci, 1984).

The *friendly parent preference*, as provided for in Canada’s *Divorce Act* (1986), assumes that the needs and interests of the child post-divorce will usually be best met when the child is able to maintain significant contact with both parents. This legislation has been interpreted as signaling that determinations about the custodial parent will be strongly affected by each parent’s respective willingness to facilitate contact with the other parent (Cossman & Mykitiuk, 1998). Interpreted in this light, this legislation has been criticized for increasing the pressure on a parent to demonstrate willingness to facilitate contact, regardless of the family context. Parents may be afraid to raise concerns regarding access by the other parent due to the possibility that they will be viewed as an “unfriendly parent” and thus forfeit their chance of obtaining custody (Cossman & Mykitiuk, 1998). In addition, the friendly parent preference has been criticized for placing a legally enforceable obligation on the custodial parent to facilitate the child’s contact with the other parent while not sanctioning the other parent when they fail to honour their responsibilities of parenting.

There is, however, general agreement that it is in the best interests of the child to have frequent and predictable contact with both parents, unless it can be shown that such contact poses a significant risk to the child’s physical or emotional well being. However, rather than legislate sanctions against parents who fail to live up to their individual responsibilities, such contact might be encouraged by legally acknowledging the enduring nature of “parenthood” and by focusing on involving both parents in some way in the decision-making process (Bala & Miklas, 1993). Reforms to custody and access legislation, particularly in the language used to describe child custody and access, have already occurred in several jurisdictions around the world, most notably in Britain, Australia, and Washington State. Similar reforms to Canadian legislation are currently being considered.

Divorce and Its Implications for Children

Divorce was a relatively rare event in North America prior to 1960 (McKie et al., 1983). However, with modifications to the Canadian Divorce Act (1968; 1985), the divorce rate rose dramatically, finally peaking in 1987 (Statistics Canada, 1997). Since that time, Canadian divorce rates have shown an overall decline and have leveled off to a rate similar to that of the early 1980s (Statistics Canada, 1997). However there are still approximately 75,000 divorces in Canada each year (Statistics Canada, 1997) involving as many as 100,000 children (Stamps

& Kunen, 1996). In the United States, one half of marriages end in divorce and 1,000,000 children experience their parents divorce each year (Bahr, Howe, Mann, & Bahr, 1994; Hetherington, Bridges, & Insabella, 1998). Therefore, every year in North America, a significant number of children must cope with the dissolution of their family.

The majority of these children bear the stresses of divorce with remarkable resilience (Kelly, 1993). Others have significantly more short-term and long-term adjustment problems than children from intact families, although there may be substantial variability in children's responses to divorce (Amato & Keith, 1991; Hetherington & Stanley-Hagan, 1999). Overall, research has indicated that divorce has a relatively small, although still significant, impact on numerous aspects of children's functioning (Amato, 2000; Forehand, Armistead, & David, 1997). It has been reported that children of divorce may exhibit behavioural and emotional effects of their parents' separation and divorce such as guilt, anger, anxiety, and depression. They may possess low self-esteem and experience difficulties in school and social environs long after the divorce has been finalized (see Hetherington et al., 1998 for a review). However, in one study of chronically litigating, high-conflict post-divorce families, the overall mean adjustment scores of the majority of children fell within the normal range on the Child Behaviour Checklist, while 16% of the children scored in the clinical range of disturbance (Johnston, Kline, & Tschann, 1989). What is different about this minority of children or their environments that leads to ongoing adjustment problems after their parents' divorce? There are several hypotheses.

In a recent article, Hetherington, Bridges, and Insabella (1998) summarized five perspectives on the association between divorce and children's adjustment: (1) individual vulnerability and risk; (2) family composition; (3) stress, including socioeconomic disadvantage; (4) parental distress; and (5) disrupted family process. The authors concluded that all of these factors are implicated in children's post-divorce adjustment, but that they should be explored as multiple trajectories of interacting risk and protective factors rather than as independent variables.

The individual vulnerability and risk perspective proposes that characteristics of the children may serve to make them more vulnerable to, or protect them from, the adverse consequences of their parents' divorce (Hetherington et al., 1998). A number of variables falling under this heading have been empirically studied including pre-divorce adjustment, temperament, age, gender, and parental adjustment.

Recently, it has been hypothesized that the negative effects on children that are attributed to divorce may exist prior to the marital disruption (Forehand, Armistead, & David, 1997). However, studies addressing this question have produced mixed results. Elliot and Richards (1991) and Cherlin et al. (1991) concluded that children whose parents subsequently divorced were already having adjustment difficulties (e.g., behaviour problems, poor achievement) prior to the divorce. The results of studies by Block, Block, and Gjerde (1986) and Baydar (1988) were consistent with these findings. However, research by Morrison and Cherlin (1995) and Forehand, Armistead and David (1997) did not support this hypothesis. When pre-divorce characteristics were controlled, Morrison and Cherlin (1995) did not see a reduction in the negative effects of divorce on post-divorce adjustment in children. Similarly, Forehand, Armistead and David (1997) found no differences between soon to-be-divorced adolescents and the remain-intact group of adolescents. However, significant differences in all areas of adolescent functioning (i.e., cognitive and social competence; internalizing and externalizing problems) were found when the soon to-be-divorced adolescent group was compared with the already divorced adolescent group with the latter group displaying poorer functioning. Further research is needed to clarify the role of pre-divorce problems on post-divorce outcomes for children.

It has also been suggested that children who have easy temperaments; who are intelligent, socially mature, and responsible; and who exhibit few behavioral problems are better able to cope with their parents' divorce (Hetherington et al., 1998). These children are more likely to possess good social skills and thus elicit positive responses and support from family members and other support systems. Children with difficult temperaments or behaviour problems may elicit more negative responses from their parents who are already stressed by the divorce process. These children may also be less adept at accessing outside social support (Hetherington, 1989; Rutter, 1987).

The probability of adjustment difficulties also appears to be correlated with the age and developmental stage of the child at the time of the divorce (Wallerstein, 1991). For example, there appear to be advantages and disadvantages to being a young child when your parents divorce. On the negative side, young children are more apt to blame themselves for the divorce, to fear being abandoned by the custodial parent (Hetherington & Stanley-Hagan, 1999), to misunderstand the emotions and behaviours of the parents, and to fantasize about parental reconciliation (Wallerstein, 1991). On the plus side, this same egocentricity and cognitive immaturity at the time of the divorce seems to result in young children carrying forward fewer

memories of parental conflict or their own fears (Wallerstein & Blakeslee, 1989). Although this research indicated that approximately one third of young children still experience anger and depression over the unavailability of the noncustodial parent ten years after the divorce (Wallerstein & Blakeslee, 1989), the greater vulnerability of younger children to divorce has not been reported in other studies (Amato & Keith, 1991).

Being an adolescent at the time of your parents' divorce may be even more problematic. Wallerstein's (1989) ten year follow-up study of 60 divorcing families indicated that children who were adolescents during the divorce retained a more vivid recollection of the family break-up and continued to regard their parents' divorce as a major formative experience. A significant number of these young men and women were fearful of failing in both the personal and the professional arenas. Adolescents from divorced families also show higher rates of conduct disorders and depression (Amato & Keith, 1991; Hetherington, 1993), and they are more likely to become teenage parents than adolescents from intact families (Hetherington et al., 1998). A fifteen-year follow-up of adolescents from divorced families revealed that they were still dealing with the aftermath of their parents' divorce well into their third decade, particularly with regards to intimate relationships (Wallerstein, 1991).

Gender may also play a role in post-divorce adjustment (Kalter, Kloner, Schreiser, & Okla, 1989; Kelly, 1993). Earlier studies reported that boys suffered more severe and enduring problems than girls (Kelly, 1993). However, Wallerstein (1991) concluded that although boys initially displayed greater difficulties in adjusting to divorce, girls were more likely to experience "sleepers" effects in later years. Recent studies have reported that gender differences in divorce are less pronounced and consistent than previously thought (Amato & Keith, 1991). It has been suggested that some of this inconsistency may be due to an increase in the involvement of both custodial and noncustodial fathers with their children post-divorce, although this involvement may be more important for boys than for girls (Amato, 2000; Clarke-Stewart & Hayward, 1996).

Characteristics of the parents, particularly parental adjustment, may also play a role in determining children's adjustment after divorce (Hetherington et al., 1998; Kelly, 1993). Important predictors of healthy adjustment in children were the parents' psychological functioning and the quality of the parent-child relationships. In particular, custodial parents who were anxious and depressed and those who suffered from emotional or personality disturbances were more likely to have children with poor post-divorce adjustment (Johnston, 1995; Kalter et al., 1989; Kline, Tschann, Johnston, & Wallerstein, 1989). Poor parental

adjustment may interfere with parenting competence and may also serve to undermine the closeness of the parent-child relationship.

The family composition or parental absence perspective proposes that children from homes where one parent is absent have significantly more problems with academic achievement and socioeconomic attainment, and they tend to display more conduct disorders than children from intact families (Amato & Keith, 1991). This hypothesis also suggests that contact with the noncustodial mother or father promotes children's well-being (Hetherington et al., 1998), and there is some evidence that under conditions of low interparental conflict, contact with a competent, supportive noncustodial parent can be beneficial for the children (Amato, 2000; Hetherington et al., 1998).

The stress perspective hypothesizes that children experience post-divorce adjustment difficulties as a result of the increased stresses experienced by divorcing families. Custodial mothers and fathers find themselves juggling household, child-care, and financial responsibilities that are usually handled by two parents (Hetherington & Stanley-Hagan, 1997). Meanwhile, noncustodial parents are faced with establishing new residences and social networks, the loss of the children, problems with visitation, and ongoing difficulties with their ex-spouse (Hetherington, 1989; Hoffman, 1995). One particular stressor, a decline in income post-divorce, has long been cited as a major factor in post-divorce difficulties for children and parents, particularly custodial mothers. There is no doubt that divorced single-parent families do face increased financial hardship. A recent review reported that most custodial mothers in the United States still experience the loss of one quarter to one half of their predivorce income compared to only ten percent of custodial fathers following divorce (Bianchi, Subaiya, & Kahn, 1997). However, when income is controlled as a variable in post-divorce adjustment, children in divorced families still show more problems than children in intact families (Amato & Keith, 1991; Clarke-Stewart & Hayward, 1996). This finding suggests that the effects of income on children's post-divorce adjustment may be largely indirect, and the same appears to hold true for the impact of other life stresses.

However, these variables may play a role in the parental distress perspective which takes the view that it is the parents' responses to the stress, rather than the stress itself, that is most relevant to children's post-divorce adjustment. Parental distress, such as depression, anger, anxiety, loneliness, impulsivity, and emotional lability, may increase immediately following the divorce. Unfortunately, such disruptions in the parents' physical and psychological functioning may interfere with their ability to provide support and supervision to

their children during a critical period of adjustment when the children may also be feeling angry, confused, and anxious (Hetherington et al., 1998).

The concept of disrupted parenting leads to the final hypothesis proposed by Hetherington, Bridges, and Insabella (1998) regarding divorce and children's adjustment – the family process perspective. This perspective focuses on alterations in family roles and functioning, with a particular emphasis on relationships. Thus, proponents of this perspective emphasize the importance of the relationship of custodial and non-custodial parents with their children. In general, dysfunctional family processes, such as conflict, lack of support and nonauthoritative parenting are thought to increase the probability of post-divorce adjustment difficulties in children (Hetherington et al., 1998). Marital conflict, in particular, appears to play a role in creating poor outcomes for children (Amato, 2000; Buchanan, Maccoby, & Dornbusch, 1991). However, the relationship between child adjustment and parental conflict may not be as direct as once thought. The likelihood of long-term problems developing appears to increase significantly with the level and content of parental hostility (Buchanan et al., 1991; Hetherington et al., 1998). However, Buchanan, Maccoby, and Dornbusch (1991) found that high conflict did not cause adjustment problems unless the child reported feeling caught up in it by one or both parents. If parents refrained from behaviours that made the child feel caught, if they did not make the children the focus of their conflict, and if they did not express their conflict in front of the children, then conflict did not play a significant role in post-divorce adjustment. It appears that how parents choose to express their conflict may be more relevant to childrens' post-divorce adjustment than just the level or frequency of conflict in the parental relationship.

If parents are able to adjust to the divorce and reduce or control their animosity, they are more likely to be able to cooperate in parenting decisions. This cooperation allows the parents to give competent care, guidance and support to the child, thereby providing continuity in effective parenting (Kalter et al., 1989). Research indicates that the physical and emotional availability of the parent(s) contributes significantly to the overall adjustment and healthy development of children post-divorce (Amato, 2000; Hetherington et al., 1998; Kalter, et al., 1989). This contribution may be mediated by improved parent-child relationships that appear to be critical in alleviating some of the possibly deleterious effects of divorce.

It is also possible that the way children respond to parental conflict may play a role in their adjustment (Kelly, 1993). Some children attempt to placate their parents or to serve as a mediator in parental disputes while others cope by withdrawing or forming an alignment with

one parent while rejecting the other. In addition, the child's age and psychological adjustment may also play a role in how they respond to ongoing conflict between their parents.

As Hetherington, Bridges, and Insabella (1998) suggest, the post-divorce adjustment of children depends on numerous interacting risk and protective factors that may vary from family to family. When these complex issues are explored within the judicial arena, the fact-finding and decision-making process generally expected in judicial due process becomes very difficult.

Custody and Access Determinations: The Judicial System

While a thorough review of current judicial practice in child custody and access is beyond the scope of this paper, a brief overview of related research and the status of practice will provide additional context for this research.

Although the current legal standard for deciding child custody and access is the Best Interests of the Child guideline, approximately 70 to 80% of child custody cases are awarded to the mother (Cochrane, 1999; Leving, 1997; Statistics Canada, 1997). It seems unlikely that these decisions are being based solely on child-focused criteria. Evidence has been presented that indicates some of these decisions are being made by judges based on their personal attitudes, biases, and intuitions about what is in the child's best interests (Kunin, Ebbesen, & Konecni, 1992; Lowery, 1985; Marafiotte, 1987; Reidy, Silver, & Carlson, 1989; Richards, 1988). Judicial decision-making has been explored by directly surveying the judges serving in family court (e.g., Lowery, 1981; Reidy, Silver & Carlson, 1989; Stamps, Kunen & Lawyer, 1996; Stamps, Kunen, & Rock-Faucheux, 1997) and by examining court records to determine the factors influencing the final custody and access decision (Settle & Lowery, 1982; Sorenson et al., 1997). However, relatively little is known about the decision-making process, particularly in those cases that do not appear to utilize the BIC standard. Given the social, psychological, and legal complexity of child custody and access, it is not surprising that contested custody and access cases present many judges with judicial, if not ethical, dilemmas. Unfortunately, the judicial context tends to exacerbate the difficulties encountered by judges, lawyers, mental health professionals, and, of course, the families attempting to resolve child custody and access issues (Bala & Miklas, 1993).

The judicial system places heavy emphasis on discovering the facts in any given case, and there is little doubt that this format does not lend itself to sorting through the emotionally coloured "truths" found in divorce and custody hearings (Irving & Benjamin, 1987). In any given custody and access case, the "facts" or the "truth" may be subject to each parent's

individual perception and bias, particularly given the complex emotions and the high stakes at hand. As a result of their legal training, judges may be more comfortable rendering custodial decisions based upon objective data rather than the subjective evidence often found in custody assessments (Charnas, 1981). Therefore, common sense would indicate that it might be less complicated to render a decision based upon a presumption such as the Tender Years presumption than on the ambiguous guidelines of the BIC standard.

Three recent books on divorce and family law highlight the perceived state of judicial decision making in child custody and access cases in Canada. Payne and Payne (1994) suggested that, in custody and access cases where all else is equal, there are three factors given special weight in rendering a decision: (1) preservation of the status quo if the children are in a stable home environment; (2) a strong inclination to grant custody to the mother if she has been the primary caregiver; and (3) a disinclination to separate siblings. Kronby (1997) put it more succinctly, "he who has custody, gets custody" and advised readers that interim custody orders are rarely altered in the final disposition. One author (Leving, 1997) advised fathers not to move out of the home and suggested that they should maintain custody of the children while offering to pay for accommodation for their spouse so she can "take a break." If these are the perceptions of legal experts regarding the current state of child custody and access in Canada, it is easy to see how parents who have sought legal counsel regarding child custody and access could be drawn into assuming an adversarial posture with their spouse.

The adversarial system also functions with the implicit assumption that there is an end to conflict when litigation is complete (Jacobs, 1986; Repucci, 1987). In the context of most legal disputes, respondents do not usually continue to have a personal relationship past the legal determination. The case is won or lost, appealed or not appealed, but the parties involved have the choice of terminating contact with each other. Custody decisions, however, are an attempt to legislate the "how, when, and where" of continuing interaction. These decisions attempt to predict the future behaviour of the parties involved based on past and present behaviours. Furthermore, it is impossible to predict how the decision itself may change these behaviours, perhaps creating new unexpected conflicts that may ultimately lead to relitigation (Jacobs, 1986).

The judicial system also tends to assume that parents in a custody dispute have divergent interests that are best represented by independent counsel (Irving & Benjamin, 1999). The theoretical fairness of this system is based on the notion that if both parties are equally well-represented, then a reasonable determination can be made by the judge of the truth of the

situation and its just disposition (Jacobs, 1986). However, litigation may have negative unintended consequences, particularly for children (Irving & Benjamin, 1999; Wolman & Taylor, 1991). According to Irving and Benjamin (1999), litigation undermines child welfare by creating “winners” and “losers”, by promoting conflict between the parents, by exacerbating parental emotional distress, and by inadvertently reinforcing extreme parental solutions that often make it impossible for the noncustodial parent to participate fully in parenting. However, little is understood about what aspects of the legal process contribute to these negative outcomes for parents and, ultimately, their children (Pruett & Jackson, 1999).

Citing these problems, many researchers urge a move to mediation as the primary means of custody and access dispute resolution (Dillon & Emery, 1996; Irving & Benjamin, 1999). Research has indicated that couples who mediate rather than litigate their agreements report less conflict during the divorce, more communication, more non-custodial parent-child interaction, and a more positive attitude toward the ex-spouse two years after the agreement (Dillon & Emery, 1996; Kelly, 1993). On the negative side, concerns have been raised as to whether mediation can adequately protect the rights of all parties in those cases characterized by intense bitterness and hostility or with a history of abuse (Bruch, 1992; Cossman & Mykitiuk, 1998).

The Role of Lawyers in Child Custody and Access Cases

A conflicting set of responsibilities and rules governing the behaviour of family lawyers may contribute some of the problems inherent in dealing with child custody and access actions in the judicial setting. Not unlike mental health professionals involved in custody and access evaluations, family lawyers are similarly required to take into account the Best Interests of the Child legal criterion. However, the rules of professional conduct for lawyers representing a parent involved in a child custody and access dispute also demand that the lawyer

“act fearlessly to raise every issue, advance every argument, and ask every question, however distasteful, which he thinks will help his client’s (i.e., the parent’s) case and to endeavour to obtain for his client the benefit of any and every remedy and defense authorized by law”.

(Rule 8, Commentary 1, Rules of Professional Conduct, Law Society of Upper Canada).

Although these rules may be appropriate for a criminal defence, they may not lend themselves to representing parents involved in conflicts with their child’s other parent. Furthermore, it is the lawyer’s duty and responsibility to represent, defend, and advocate for the best interests of

their client even if these interests do not serve the best interests of the children (Felner, Terre, Goldfarb, Farber, Primavera, Bishop, & Aber, 1985). It is left to the judge to represent the best interests of the child in his position as *parens patriae*, and it is the lawyer's obligation to do whatever is necessary to sway the final recommendation in favour of their client (Felner, Rowlison, Farber, Primavera, & Bishop 1987). However, is it truly possible for a lawyer to pursue the best interests of their client without considering the best interests of the children involved?

Without a doubt, the lawyer's basic responsibility to the client is complicated in divorce actions by the parents' conflicting need for both aggressive representation and the sustenance of family relationships after the legal process is completed (Pruett & Jackson, 1999). Given current legal standards of conduct, the lawyer's ultimate responsibility seems clear. However these guidelines appear to be in direct opposition to the legal statutes governing child custody and access that stipulate that the process consider only the best interests of the children involved. Ultimately, family lawyers may be faced with a serious dilemma that is not only not covered in their professional guidelines for conduct, but is partially created by these guidelines. In addition to this legal dilemma, family lawyers who handle child custody and access disputes may also experience subtle personal dilemmas as they struggle with their own beliefs about who should take precedence. This raises some provocative questions: Do lawyers who handle child custody and access disputes feel caught in the middle – either between professional obligations or between professional and personal values? Do lawyers feel forced to choose between their duty to their client (i.e., the parent) and the law or between professional conduct and personal values? If so, how do lawyers reconcile these legal and personal dilemmas? Do lawyers place the burden of the law strictly on the shoulders of the judge, thus leaving themselves free to aggressively advocate for their client? Currently, there does not appear to have been any research addressing these ethical, legal, and personal dilemmas. And yet the manner in which a lawyer executes their professional obligation while adhering to the law may have profound consequences in this particular arena of practice, particularly for members of the divorcing families being represented.

Psychologists' Contributions to Custody and Access Determinations

Over the past decade, judges have begun to rely on the expertise of court appointed mental health professionals (e.g., psychologists, psychiatrists, social workers) to inform the decision-making process in child custody and access cases. However, these professionals

continue to struggle to find a comprehensive system of defining what variables, psychological or otherwise, are to be evaluated in child custody and access assessments. In an effort to guide practice in this complex area, some professional associations have developed custody evaluation guidelines and standards (e.g., American Psychological Association, 1994; College of Psychologists of British Columbia Custody and Access Assessment Standards, 1998). Although these documents are consistent in emphasizing children's best interests and outlining general principles for approaching custody evaluations, they generally do not articulate specific, empirically based criteria that may be used to translate the legal statutes that define the BIC standard into psychological terms and elements to be evaluated (Jameson, Ehrenberg, & Hunter, 1997).

Professional psychologists who are asked to assist the courts in making decisions regarding custody arrangements tend to (a) highlight the children's needs in the context of each parent's strengths and weaknesses, (b) explore the nature of each child's relationships with family members and peers; (c) provide a developmental focus that is based on the ages of the children involved (Jameson, Ehrenberg, & Hunter, 1997). The empirical literature regarding family transitions provides a knowledge base from which psychologists may draw relevant information when assessing individual custody and access cases (for a review, see Amato, 2000; Hetherington et al., 1998; Hetherington & Stanley-Hagan, 1999; Guttman, 1993; Kelly, 1993; Wallerstein, 1991). Although the empirical literature can provide guidance in child custody and access evaluation, there are no absolutes, and psychologists who tackle these evaluations may face ethical complaints or even lawsuits (Bow & Quinlan, 2001). In order to mitigate some of these liabilities, psychologists review more background materials, incorporate test results, cross-check information, and consider multiple variables when formulating recommendations for custody and access arrangements.

There is, however, ongoing controversy about the role of psychologists in determining child custody and access arrangements. In one study (Jameson, 1993), psychologists were asked what role they believed psychologists should play in the custody and access process. Sixty-one percent responded that psychologists should continue making recommendations to the court regarding custody but leave the final decision making in judicial hands. Thirty-one percent of the respondents stated that psychologists should restrict their participation to gathering information and should not be making recommendations regarding custody and access determinations (Jameson, 1993). It would appear that psychologists are not eager to cast themselves into the role of decision-maker and final arbiter of child custody and access issues.

However, it has been noted in the literature that from 60% to 90% of all custody trials are decided on the basis of the assessment report (Kunin, Ebbesen, & Konecni, 1992; McCarthy, 1997). Therefore, it would seem that psychologists and other mental health professionals might already be the de facto decision-maker (Gindes, 1995). Furthermore, the number of lawsuits and malpractice suits arising from custody and access evaluations, estimated to represent seven to ten percent of all ethics complaints (Glassman, 1998), serves notice that parents and their lawyers are only too aware of the weight given such evaluations in court.

The Use of Psychological Tests in Custody and Access Evaluations

The use of psychological tests in child custody and access assessments has become relatively standard over the past decade. Such tests can be used to validate or disconfirm clinical impressions of parents as well as of children, and to suggest working hypotheses that can be verified in the context of information obtained by other methods (Brodzinsky, 1993; Heilbrun, 1995; Roseby, 1995). Recent critiques of the use of psychological testing caution against the misinterpretation of these tests in child custody and access assessment (Brodzinsky, 1993; Clark, 1995; Gould, 1998; Heilbrun, 1995; Heinze & Grisso, 1996; Roseby, 1995). Practitioners are reminded that many of the tests used in custody and access evaluation (e.g., MCMI-III; Rorschach; Thematic Apperception Test; Children's Apperception Test) were designed primarily to address clinical questions, particularly those related to clinical diagnosis and treatment (Brodzinsky, 1993). As a result, there is relatively little data as to how valid these tests are in addressing those issues of primary concern to the Court, such as whether the child will adjust better in a sole or joint custody arrangement. That is not to say that these tests should not be used in child custody and access cases. However, their use must be tempered by a solid understanding of their psychometric properties and of the limits of these tests within this context.

One of the most commonly used psychological tests in child custody and access assessment for adult participants has been the Minnesota Multiphasic Personality Inventory (MMPI) (Keilin & Bloom, 1986) and, more recently, the MMPI-2 (Ackerman & Ackerman, 1997). Until recently, normative data for the use of the MMPI-2 with child custody litigants was not available. However, over the past three years, studies reporting normative data for the use of the MMPI-2 with custody litigants have been completed (e.g., Bathurst, Gottfried, & Gottfried, 1997). As a result, practitioners who utilize the MMPI-2 for child custody evaluations

are now be able to interpret test results by comparing them to both the standardization sample and the litigants' reference norms.

Relatively few instruments have been developed specifically for the purposes of child custody evaluation, and many of the tests in use have yet to be psychometrically proven. For example, the Bricklin scales (i.e., Bricklin Perceptual Scales, Parent Perception of Child Profile, Perception of Relationships test, Parent Awareness Skills Survey), which measure various behaviours and attitudes of the parent and children that are relevant to child custody, have been criticized for providing limited information regarding their reliability and validity, and it does not appear that norms for these instruments have been established (Ackerman, 1995; Heinze & Grisso, 1996; Otto and Butcher, 1995). The Ackerman-Schoendorf Scales for Parent Evaluation of Custody (ASPECT), a rating instrument designed to assess parent fitness in custody evaluations, has also been criticized for sparse information regarding validity (Brodzinsky, 1993; Otto & Butcher, 1995). However, despite these limitations, these and other self-report questionnaires do serve a purpose. As long as the information gleaned from such instruments is corroborated by information from other sources, they can provide case-relevant information to the court (Brodzinsky, 1993). Perhaps more importantly, instruments developed specifically to address child custody and access issues shift the focus from traditional clinical assessment to a functional analysis of each parent's competency within the context of the BIC standard.

Previous Research

Previous research into the BIC standard has explored the various aspects of the practices of mental health professionals (Ackerman & Ackerman, 1997; Jameson, Ehrenberg, & Hunter, 1997; Keilin & Bloom, 1986; LaFortune & Carpenter, 1998; Lowery, 1985), judges (Settle & Lowery, 1982; Reidy, Silver, & Carlson, 1989; Sorenson et al., 1997; Stamps & Kunen, 1996; Stamps, Kunen, & Rock-Faucheux, 1997), and lawyers (Felner et al., 1985; Lee, Beauregard, & Hunsley, 1998) involved in custody and access cases. However, research in this area is still markedly sparse, and, when mental health professionals have been compared to the judiciary, judges have formed the comparison group (Lowery, 1985). To date, there does not appear to be any published psychological or legal research that compares the relative importance assigned to the BIC criteria by psychologists and lawyers. The main purpose of this study was to bridge this gap by beginning to explore how these two participants in contested

child custody and access cases view the legal and psychological criteria that comprise the BIC standard, and to explore how issues surrounding private practice may impact on these views.

Keilin and Bloom (1986) and Lowery (1985) published their groundbreaking research on child custody evaluation practices by mental health professionals 15 years ago. Recent studies (Ackerman & Ackerman, 1996, 1997; Jameson, Ehrenberg, & Hunter, 1997; LaFortune & Carpenter, 1998) have continued this exploration of the custody evaluation practices of psychologists. In 1997, Ackerman and Ackerman replicated and expanded Keilin and Bloom's original survey to study the custody evaluation practices of 338 experienced psychologists. They included the 70 original items from Keilin and Bloom's research and added 42 new items they believed have become part of child custody evaluation practices over the past decade. Ackerman and Ackerman found that psychologists have become both more sophisticated and more careful in their approach to custody evaluations. Today psychologists review more background materials, incorporate more results from tests developed to specifically assess divorce-related questions, and consider more variables when formulating recommendations for joint, sole, or other custody arrangements (Ackerman & Ackerman, 1997).

The research by Jameson (1993) and Jameson, Ehrenberg, and Hunter (1997) was influenced by the work of Lowery (1985) as well as Keilin and Bloom (1986) and focused on psychologists' evaluations of proposed BIC assessment criteria. Jameson, Ehrenberg, and Hunter (1997) were interested in three issues: (1) identifying relevant BIC criteria and organizing them into an a priori assessment model that would provide a manageable, coherent, and flexible framework for considering the relative importance of the BIC assessment criteria; (2) exploring the internal factor structure of the hypothesized areas of assessment; and (3) evaluating the relative importance assigned to the BIC assessment criteria by psychologists. These criteria were drawn from empirical studies of the well-being of children in divorcing families (e.g., Bray, 1991; Buchanan, et al., 1991; Clingempeel & Reppuci, 1982; Hodges, 1986; Johnston & Campbell, 1988; Zaslow, 1988) and from the legal statutes related to child custody (e.g., Family Relations Act of British Columbia, 1979; Children's Law Reform Act of 1980; Lyman & Roberts, 1985; Turner & Uhleman, 1991). Using these sources, a list of 60 specific items relevant to the BIC was developed. These items were designed to break the legal generalizations of the BIC standard (e.g., stability) into their constituent parts (e.g., attending the same school; ongoing contact with both parents; ongoing contact with peers, etc.).

A Best Interests of the Child Assessment (BICA) model around which to organize the BIC evaluative criteria was developed (Jameson, Ehrenberg, & Hunter, 1997) using the

structural, developmental and functional perspectives from family systems theory (see Freeman, 1981; Gorall & Olson, 1995; Kaslow & Schwartz, 1987; Minuchin, 1974). These three perspectives were considered to be assessment domains, or first-order factors, reflecting a higher order construct called the BIC criterion. Using these perspectives, the 60 criteria were sorted a priori into one of three areas of assessment: (a) items dealing with the parent-parent and parent-child subsystems (relational assessment); (b) items dealing with developmental issues of the children (needs of the child assessment); and (c) items dealing with the functional abilities of each parent to meet the child's needs (abilities of the parents assessment). It is important to note that this assessment model was designed to serve as an assessment framework for conceptualizing and guiding custody and access evaluations, rather than as a specific assessment tool. As such, the framework provided a focus for conducting child custody and access assessments, while allowing for variability among individual assessment cases (Jameson, Ehrenberg, & Hunter, 1997).

Although the small sample size prohibited an overall exploratory factor analysis of all 60 criteria, exploratory principal-components analysis with varimax rotation was conducted on each of the four a priori areas of assessment (parent-parent scale and parent-child scale in relational assessment; needs of the child assessment; abilities of the parents assessment). The parent-parent scale from the relational area of assessment reduced to two factors accounting for 52% of the total variance: willingness to share parenting and conflict-cooperation. The parent-child scale of the relational area of assessment formed a two-factor structure accounting for 47% of the total variance: quality of the parent-child relationship and parental commitment to the child. The needs of the child assessment area retained two factors that accounted for 55% of the total variance: developmental issues and basic needs, and the abilities of the parents reduced to three factors accounting for 52% of the total variance: stability, parental history, and parenting skills.

This project also shed light on the relative importance psychologists assigned to various elements of the BIC criteria. For example, within the relational area, the Quality of the Child-Parent Relationship was rated as being the most important area of concern. By contrast, Conflict-Cooperation and Willingness to Share Parenting from the Parent-Parent scale were ranked third and sixth respectively. The high rating of the Quality of the Child-Parent relationship was understood as being at least partly attributable to the overwhelmingly consistent endorsement by psychologists of sexual and physical abuse of the child by a parent as being extremely important in child custody and access assessment. However, the authors were

surprised by the relatively low endorsement given to three other items drawn from the Parent-Parent and Parent-Child scales: (a) the level of conflict between parents (ranked 16th); (b) the parents' ability to cooperate with each other on parenting matters (ranked 25th); and (c) parental pressure on the child to "choose" one parent (ranked 44th but had the largest standard deviation of any item on the questionnaire) (Jameson, Ehrenberg, & Hunter, 1997).

Research has identified parental conflict and the parents' ability to cooperate on parenting matters as two of the key indicators in post-divorce adjustment for children. In essence this research states that highly cooperative communication between parents, combined with low discord, greatly reduces loyalty conflicts for children and that may have long-term repercussions for post-divorce adjustment in children and adolescents (Amato, 2000; Buchanan et al., 1991; Hetherington et al., 1998; Tschann, Johnston, Kline, & Wallerstein, 1989). Cooperation and low levels of conflict between the parents leads to more effective parenting by allowing both parents to be more available, physically and emotionally, for the child. This availability, in turn, contributes to the overall post-divorce adjustment and healthy development of the child (Hetherington et al., 1998; Kalter et al., 1989). Given these findings, it was unclear why the psychologists surveyed did not rate the three items related to conflict and cooperation as being more important in child custody and access evaluation.

These results raised the possibility that practicing professionals may not be keeping abreast of current empirical research. It is also possible that these findings reflect differences in the training received by some CA evaluation practitioners. Currently, psychologists declare their areas of competence and there is no licensing body for child CA evaluation. Although registration as a psychologist guarantees a certain level of general knowledge and a certain amount of supervised clinical experience, it does not guarantee competency to practice in such a specialized complex area as child custody and access.

No significant differences in the relative importance assigned to the BIC criteria were found as a result of age, education, area of degree, level of experience, years of clinical practice, or theoretical orientation. There was, however, a significant main effect for gender differences, particularly on the conflict-cooperation factor of the parent-parent scales ($p < .005$). This scale considered items dealing with the level of conflict and physical violence in the parents' relationship, the parents' ability to cooperate on parenting matters, and the extent to which new partners contributed to parenting. Female psychologists consistently rated these items as being more important than the ratings given by male psychologists, although these differences only reached the significance level on the conflict-cooperation factor. However, gender differences

also approached significant levels on three other factors (parental commitment $p < .07$; parenting skills $p < .06$; and needs of the child $p < .09$) (Jameson, 1993). In general, female psychologists ranked the relational variables higher while male psychologists showed a slight preference for items that might be considered more concrete (e.g., specific parental abilities; specific needs of the child). Jameson (1993) suggested that further research is needed to explore the potential impact of gender on custody and access evaluations.

Jameson, Ehrenberg, and Hunter (1997) concluded that the BICA model might help to clarify some of the vagueness traditionally associated with the BIC criterion without sacrificing the flexibility to deal with each case on an individual level. Although this model will not tell psychologists what is most important in a particular custody and access assessment, nor how to integrate all the information these criteria would generate, it might encourage thoroughness and protect against clinician bias by reminding the assessor to attend to all the possibly relevant issues. In addition, it was proposed that the BICA model might ultimately allow for the development of a consistent and uniform understanding of the BIC criterion among psychologists and other professionals who assist the courts in reaching custody and access determinations (Jameson, Ehrenberg, & Hunter, 1997).

The Current Study

The current study, an extension of the previous research, focused specifically on the relative importance psychologists and lawyers assign to the BIC criteria, and on related private practice issues. Since research comparing these two professional groups on child custody and access issues appears to be lacking in the psychological and legal literature, this study was exploratory in nature. This research utilized the Best Interests of the Child questionnaire (BICQ), developed from previous research, with modifications to the BIC criteria to reflect current empirical research. Five central questions were explored: (1) Can the Best Interests of the Child criterion be understood as a three dimensional model (i.e., relational assessment; needs of the child assessment; abilities of the parents assessment); (2) is there consistency in the relative importance assigned to the BIC criteria within each profession and do individual differences (e.g., age, gender, level of experience, training in divorce mediation) influence this interpretation; and (3) is there consistency in the relative importance assigned to the BIC criteria across the two professions and do group differences (e.g., professional training) influence this interpretation; (4) what do psychologists do within their private practice (e.g., custody and access evaluation procedures, the role of psychologists in custody and access assessment, the

use of psychological testing) and (5) what do lawyers do within their practice, what do they believe about the involvement of mental health professionals in child custody and access assessment (e.g., which mental health professional they prefer to work with, the role of psychologists in custody access and assessment), and what, if any, ethical concerns do they have regarding their role in the custody and access process?

Hypotheses

This study investigated five central hypotheses:

(1) It was hypothesized that psychologists' and lawyers' ratings of the importance of the Best interests of the Child Criterion might be understood as forming a Best Interests of the Child Assessment model based on systems' theory consisting of three areas of assessment:

- (a) relational assessment (parent-parent and parent-child relationships),
- (b) needs of the child assessment, and
- (c) abilities of the parents assessment.

The first assessment area included the parent-parent and the parent-child relationships. It reflected research findings indicating that the nature of these relationships may mediate the impact of divorce on children's adjustment and should, therefore, be considered when interpreting the best interests of the children. Items included under the needs of the child assessment area were drawn from statutes and research relating to the best interests of the child with a focus on basic physical needs and developmentally appropriate psychological and emotional needs. The final assessment area, the abilities of the parents, was perhaps the most pragmatic area in that it dealt specifically with each parent's ability to meet the needs of the child and to mediate the impact of the divorce. In this sense, it was a natural outgrowth of the other two assessment areas (Jameson, 1993).

(2) It was hypothesized that psychologists and lawyers would rate the relative importance of the three assessment areas differently as a function of their professional training. Lawyers, whose legal training emphasizes the presentation of facts and the pursuit of truth, might rate items that are more objective and transparent as being more important. They might also have a preference for those items that can be directly tied to the law. Since objective criteria tended to appear more frequently on the abilities of the parents assessment area, and since this assessment area contained several items related to maintaining stability and continuity for the child – a cornerstone of many legal statutes outlining the best interests of the child – it was hypothesized that lawyers would rate this assessment area as being relatively more

important than the relationship and needs of the child assessment areas. However, psychologists might view the criteria with a different set of priorities. It is recommended that psychologists involved in custody and access have a background in the psychological assessment of adults and children, family psychology, developmental psychology, psychopathology, as well as an understanding of current empirical research and practice on divorce and child custody and access (Gindes, 1995). Given this background, it was hypothesized that psychologists would rate the relational assessment area and the needs of the child assessment area as being relatively more important than the abilities-of-the parents assessment area.

(3) It was hypothesized that female psychologists and lawyers would rate the relative importance of the three assessment areas differently than their male counterparts. Previous research with the BICA model revealed a trend for female psychologists to rate relational variables as being relatively more important while male psychologists showed a slight preference for items that might be considered more individually oriented (e.g., specific parental abilities; specific needs of the child) (Jameson, 1993). Although exploratory in nature, it was hypothesized that there would be a significant gender effect with females rating the relational area of assessment as being the most important and males rating either the needs of the child or the abilities of the parents as being relatively more important. It was further hypothesized that there would be a gender by profession interaction with female psychologists rating relational variables the highest, followed by female lawyers, male psychologists, and male lawyers.

(4) It was hypothesized that individual differences in the extent to which psychologists consider specific items to be important to custody and access evaluations would be influenced by the following variables:

- (a) area of degree
- (b) level of education
- (c) amount of experience in custody and access assessment
- (d) training and experience in divorce mediation
- (e) personal history (i.e., personal experience with divorce and custody and access issues)

Due to the nature of the work involved in conducting custody and access evaluations, it was expected that a majority of practitioners engaged in this work would be graduates of a clinical psychology program. Since the training provided in this program is more directly relevant to custody assessment than, for example, training provided in an educational/school psychology

program, it was hypothesized that graduates of these programs would demonstrate different beliefs and biases when assessing the relative importance of criteria. Psychologists who have completed a doctoral degree might also view the criteria differently from those trained at a master's level. Education, experience, and knowledge may differ at these two levels, and this might be reflected in how these two groups consider the criteria. It was hypothesized there would be group differences based on the amount of experience the practitioner has in conducting custody assessments. It is possible that experience in completing custody evaluations enables one to focus on what experience has shown to be the most relevant criteria in formulating a recommendation for the court. Training and experience in divorce mediation may provide a different perspective on what is most relevant in resolving differences. Finally, it was hypothesized that personal history, either with their own divorce and ensuing custody negotiations for their children or with the divorce of their parents and the ensuing arrangements for their own custody, would influence the way in which practitioners rate the relative importance of the BIC criteria.

(5) It was hypothesized that individual differences in the extent to which lawyers consider specific items to be relevant to custody and access evaluations would be influenced by the following variables:

- (a) level of education
- (b) amount of experience in custody and access case management
- (c) training and/or experience in divorce mediation
- (d) personal history (i.e., personal experience with divorce and/or custody and access issues)

It was expected that a majority of lawyers engaged in litigating child custody and access cases would be Bachelor's of Law graduates. However, it was also possible that some lawyers might have obtained master's or doctoral degrees in the practice of law and, therefore, the level of education might influence their rating of the BIC criteria. It was also hypothesized that there would be group differences based on the amount of experience the lawyer has in child custody and access litigation. It is possible that experience in the adversarial litigation of these cases might alter a lawyer's perception of the relative importance of the BIC criteria, particularly given the lawyer's unenviable task of trying to obtain the best result for his or her client while not irrevocably undermining family relationships. Thus lawyers with extensive experience might place more importance on the BIC standard as a whole, and the relational area of assessment in particular, than their counterparts with less experience.

It was also proposed that training and/or experience in divorce mediation might provide a lawyer with additional insight into relationship issues thus leading to a higher rating of the relational area of assessment than that given by lawyers who do not have this training or experience. One final aspect of this hypothesis was that personal history, either with their own divorce and ensuing custody negotiations for their children or with the divorce of their parents and the ensuing arrangements for their own custody, would influence the way in which lawyers rate the relative importance of the BIC criteria.

METHOD

The methods employed to complete this research study are described in five sections. The first section describes the development of the original Best Interests of the Child Questionnaire (BICQ) used to gather data on the relative importance assigned to specific aspects of the BIC criterion by psychologists in a previous study. The second section describes revisions made to the BICQ for this study, and the third section details the procedure for the current study. The fourth section provides information regarding research participants, while section five explains the handling of missing data.

Measure Development

The Original BICQ. The original Best Interests of the Child Questionnaire (BICQ) was designed for an exploratory study conducted in 1992. This study assessed psychologists' understanding of what factors are important to consider when making custody and access recommendations that are in the child's best interests. A number of demographic and other variables, used to provide information on current practice as well as to investigate the influence of individual differences on response patterns, were also included on the BICQ. For the original exploratory study, an examination of previous psychological research (Keilin & Bloom, 1986; Lowery, 1985) and legal literature led to the development of the 60 item BICQ². A Best Interests of the Child Assessment (BICA) model (Jameson, 1993; Jameson, Ehrenberg, & Hunter, 1997) around which to organize the BIC evaluative criteria was developed using the structural, developmental, and functional perspectives from family systems theory (see Freeman, 1981; Gorall & Olson, 1995; Kaslow & Schwartz, 1987; Minuchin, 1984). Using these three perspectives, the 60 criteria were organized a priori into one of three assessment areas: (1) the relational assessment area which was further divided into parent-parent and child-parent relationship scales; (2) the needs of the child assessment area; and (3) the abilities of the parents assessment area.

The relational assessment area was designed to reflect empirical findings regarding the importance of relationship variables in mediating the effects of divorce on children. Items on the parent-parent relationship scale addressed the issues of interparental conflict, cooperation, domestic violence, and the ability to share parenting responsibilities. These parent-parent items reflected empirical findings demonstrating the importance of the parents' relationship to

² In order to increase item clarity and decrease redundancy between items, an original pool of 76 items was reworked, reworded, and reduced to a final pool of 60 BICQ items.

children's adjustment during and after the separation period. An additional item, considering to what extent each parent was responsible for the marital breakdown, explored the respondent's attitude towards the outdated legal notion of assessing marital "fault" as a means to determine child custody and access. According to the best interests standard, marital "fault" is only relevant if it somehow impacts on one or both spouses' ability to provide for the best interests of the child. This item was included on the BICQ to explore current attitudes towards marital "fault" and to consider potential differences in professional opinion.

Items on the child-parent relationship scale investigated the importance of each parent's affection for the child, the child's affection for each parent, each parent's sense of responsibility for the child, and the amount of contact between parents and children before and after the separation period. This scale also queried beliefs regarding the importance of past physical and sexual abuse of the child by a parent, known to jeopardize children's adjustment under any circumstances (Browne & Finkelhor, 1986; Haugaard & Repucci, 1988). Another item on the child-parent scale targeted parental manipulation of the child insofar as divorcing parents may pressure children to "choose" between them. Research has demonstrated that parental pressure of this kind exacerbates children's loyalty conflicts, which in turn can compromise their psychological health (Amato, 2000; Buchanan et al., 1991; Kelly, 1993). Finally, one item on this scale examined the importance placed on keeping a young child and the mother together. The "tender years" presumption has been eliminated from legislative guidelines, but it continues to influence judicial discretion in many jurisdictions (Emery, Matthews, & Kitzmann, 1994). It was included on the BICQ as a marker of how up-to-date respondents are with current judicial process and as a reflection of personal bias.

The needs of the child assessment area was grounded in legal statutes affirming the priority of the children's needs in child custody and access decisions. Consistent with such statutes, as well as relevant developmental literature, this assessment area considered such items as the importance of the child's daily routine, their desire to maintain a relationship with siblings, their academic needs, and any fears they may have about the current family situation. Respondents were also asked to rate the importance of the child's need to be with the "psychological" parent. The concept of psychological parent, while disputed in the psychological literature, has been widely accepted by the judiciary in the past, and it has been established through legal precedent as an important construct in judicial decision making. This item was included to assess the relative importance respondents attach to this construct when considering child custody and access matters.

The third assessment area explored the importance of each parent's ability to meet the various needs of the child. Items on the abilities of the parents assessment area questioned the importance of each parent's capacity to contribute to the child's moral development, their psychological adjustment, their ability to provide stable community involvement to their children, their current and past drug and alcohol use, their own childhood history of physical and/or sexual abuse, and their ability to provide access to education. Although many of these items reflected criteria stressed in legal statutes, they also reflected empirical research on parenting and divorce. For example, it is known that a childhood history of physical abuse increases a parent's risk for physically abusing their own children, particularly in stressful circumstances (Herrenkohl, Herrenkohl, & Toedter, 1984; Kaufman & Zigler, 1987; Wolfe, 1987). This raises the question of whether, and to what extent, psychologists consider parents' histories of abuse when developing custody and access recommendations they believe to be in the best interests of the child. Familiarity with current legal practice was measured with items such as each parent's financial sufficiency, an issue which is typically downplayed in custody decisions rendered by the courts (Emery, Matthews, & Wyer, 1991). Finally, items assessing the importance placed on each parent's empathic capacity and understanding of child development reflected empirical evidence underlining the importance of these parental qualities to healthy parenting practices (Bavolek, 1984; Hetherington et al., 1998).

Items within the assessment areas were randomly ordered except where items appeared to be similar in content but were actually addressing different issues. This exception held true for two items on the parent-parent scale focused on violence and conflict in the parental relationship, two items on the child-parent scale focused on physical versus sexual abuse of the child by a parent, and two items on the abilities of the parents assessment area focused on the parent's childhood history of sexual abuse versus a parent's childhood history of physical abuse. In those instances, similar items were separated in order to ensure that they were considered within the context of the assessment area rather than a direct comparison of how they related to each other.

A final section of the questionnaire provided participants with an opportunity to add items they believed should have been included on the BICQ. The purpose of this final section of the BICQ was to assure maximum coverage of considerations relevant to psychologists' understanding of the Best Interests of the Child Criterion by providing psychologists with an opportunity to add items the researcher may have missed.

The Revised BICQ (BICQ-R). The current study utilizes the BICQ with some revisions and additions. All of the items from the original BICQ were retained. However, one item, “parental pressure on the child to choose one parent,” was reworded in an attempt to clarify the issue of children being caught in loyalty conflicts by their parents. In the original study, this item was given a very low endorsement by psychologists (ranked 44th out of 60 but with the largest standard deviation of any item on the BICQ). It was unclear if the psychologists surveyed did not understand the underlying query of the importance of loyalty conflicts due to the wording of the item, or if they were simply unaware of the empirical research indicating that this type of pressure may be quite harmful to the child’s psychological well-being. In an attempt to clarify this issue, the item has been reworded to read “Attempts by a parent to influence the child against the other parent.”

An additional 17 items were added to the BICQ-R to reflect current empirical research and to further clarify certain issues. Six of these items appear on the relational assessment area: (1) current allegation of sexual abuse by a parent; (2) current allegation of physical abuse of the child by a parent; (3) current allegation of neglect or emotional abuse of the child by a parent; (4) history of neglect or emotional abuse by a parent; (5) the level of conflict between each parent and the child(ren); and (6) the way each parent expresses their conflicts with the other parent.

Both the original BICQ and the BICQ-R contain items making reference to a history of sexual or physical abuse of the child by a parent. However, empirical research has noted an increase in allegations of physical and, in particular, sexual abuse within child custody and access cases (Elterman & Ehrenberg, 1991; Penfold, 1995). In this context, there is some controversy as to whether or not there has been an increase in false allegations, or if more genuine victims are coming forward (Cossman & Mykitiuk, 1998). Whatever the reason, the reality is that allegations of sexual abuse are complex, rarely clear cut, and they tend to complicate the issue of child custody and child custody and access assessment (Gould, 1998). Therefore “current allegation of sexual abuse of a child by a parent” and “current allegation of physical abuse of a child by a parent” were added to explore the relative importance psychologists and lawyers assign to criteria that may be next to impossible to either substantiate or disprove. The items “current allegation of neglect or emotional abuse of the child by a parent” and “history of neglect or emotional abuse by a parent” were also added to more fully explore the area of abusive parental behaviour and the relative importance assigned to criteria that are less easily substantiated.

Research has also suggested that an important aspect of parental conflict is the manner in which that conflict is expressed. If the parents refrain from behaviours that make the child feel caught, if they do not make the children the focus of their conflict, and if they do not express their conflict in front of the children, then conflict does not appear to play a significant role in post-divorce adjustment (Amato, 2000; Buchanan et al., 1991; Kelly, 1993). The item “the way each parent expresses their conflict with the other parent” was added to the relational assessment area to explore this added dimension. Finally, one item, “the level of conflict between each parent and the child(ren),” was added to round out the exploration of the relative importance of conflict within the relational assessment area.

An additional change to the structure of the relational assessment area on the BICQ-R must also be noted. On the original questionnaire, the relational assessment area was divided into the parent-parent relationship scale and the parent-child relationship scale. This was done to explore the relative importance psychologists assigned to various criteria within each relationship and to avoid a direct comparison of the two relationships. However, it was decided to collapse these two scales back into one relational assessment to actually encourage a comparison of the relative importance of criterion from both relational scales. Within the context of a child custody and access evaluation, the evaluator is called upon to decide which aspects of the various familial relationships will be given priority. One relationship is not necessarily more important than the other, they simply bring different concerns to the forefront. Therefore, in order to clarify the relative importance assigned to these relationships, the two scales were collapsed.

The abilities of the parents assessment area also saw the addition of eight new items on the BICQ-R. These new items included “each parent’s willingness to protect the child from interparental conflict,” a further reflection of research regarding the importance of conflict in post-divorce development, and “each parent’s childhood history of neglect or emotional abuse,” which is related to the exploration of the relative importance assigned to different aspects of abusive parental behaviour. “Each parent’s criminal history” was added to reflect judicial concern regarding the potential for future criminal behaviour and the possible impact of criminal behaviour on parenting (Gould, 1998). “The likelihood of each parent moving the child from the jurisdiction” also reflected current judicial concerns related to issues of stability and continuity for the child (e.g., contact with the non-custodial parent, extended family, peers, and schools) if the custodial parent decides to relocate for personal or professional reasons (Bruch, 1992; Gould, 1998). The issue of maintaining the child’s cultural ties is also of concern

to the judiciary (Gould, 1998), and, as a result, “each parent’s ability to provide for the child’s cultural needs” was added to the BICQ-R. One final item that is not mentioned in most legal statutes but is considered to be relevant in most jurisdictions, “each parent’s ability to keep the siblings together,” was also added to explore the significance of this item to psychologists and lawyers.

Three items were added to the needs of the child assessment area. There is some evidence that gender may play a role in children’s post-divorce adjustment, particularly as gender interacts with developmental needs (Clark-Stewart & Haywood, 1996; Hetherington et al., 1998; Kelly, 1993; Wallerstein, 1991). Even though this impact may be less pronounced and less consistent than first hypothesized (Amato & Keith, 1991), it may still be understood as significant. As a result, “the child’s gender” was added to the BICQ-R. As discussed above, the maintenance of cultural ties has recently become a focus of concern in child custody and access and a corresponding item, “the cultural needs of the child,” was added to this assessment area. Finally, there appears to be a belief within the legal profession that “whomever has custody, gets custody.” In other words, it is understood that a judicial preference exists for disrupting the child’s life as little as possible when making child custody and access determinations (Kronby, 1997; Leving, 1997; Payne & Payne, 1994; Stamps & Kunen, 1996). Therefore, the item “the length of time the child has been in the current living situation” was added as a means to explore stability and judicial preference from the needs of the child perspective.

Demographic Information and Practice Variables on the BICQ-R. In order to investigate the influence of individual differences on response patterns and to explore various aspects of child custody and access practice, a number of demographic variables were included on the BICQ-R. As with the original BICQ, the demographic variables include age, gender, education, main areas of practice, amount of experience in custody and access related work, and theoretical orientation. Unlike the original BICQ, the revised questionnaire also queries various aspects of private practice for both psychologists and lawyers. This exploration of private practice variables has its foundation in the research of Keilin and Bloom (1986), Wetter and Corrigan (1995) and Ackerman and Ackerman (1997).

In their groundbreaking study, Keilin and Bloom (1986) explored the custody evaluation practices of 82 mental health professionals. In addition to asking respondents to rate the importance of 21 items about two hypothetical divorcing parents (e.g., Parent A exhibits better parenting skills than Parent B), they explored the amount of time these professionals spent on evaluation procedures, their use of psychological testing (i.e., types of tests used and

frequency of usage), and the fees charged for child custody and access assessment. More recently, Ackerman and Ackerman (1997) replicated and expanded Keilin and Bloom's original survey to study the custody evaluation practices of 338 experienced psychologists. Ackerman and Ackerman (1997) also asked about evaluation procedures, psychological testing, custody test usage, fee structures, and custodial decision making. They found that psychologists have become both more sophisticated and more careful in their approach to custody evaluations. Today psychologists review more background materials, incorporate more results from tests developed specifically to assess divorce-related questions, and consider more variables when formulating recommendations for joint, sole, or other custody arrangements (Jameson, Ehrenberg, & Hunter, 1997).

By comparison, relatively little research has been conducted with lawyers exploring attitudes about child custody and access or practice variables. The research which exists that considers the legal profession within the context of child custody and access tends to focus on surveys of judges (e.g., Lowery, 1981; Reidy, Silver, & Carlson, 1989; Settle & Lowery, 1982; Stamps & Kunen, 1996), examinations of court records for judicial decisions (Sorenson et al., 1997), explorations of judicial attitudes toward various custody arrangements (Felner et al., 1985), or lawyers' opinions regarding child custody and access assessment versus mediation (Lee, Beauregard, & Hunsley, 1998). There does not appear to be any research which focuses specifically on lawyers' beliefs about the BIC criterion or which explores legal variables related specifically to child custody and access practice.

However, there is one study of lawyers that raises some interesting questions about lawyers and child custody and access practice. Wetter and Corrigan (1995) surveyed 70 attorneys involved in cases requiring psychological evaluation and 150 law students and asked them the extent to which they felt ethically responsible to inform the clients they referred for psychological testing about the validity scales found on these tests. Their study found that 48% of the attorneys and 36% of the students surveyed believed that an attorney should always or usually inform a client of the validity scales on a psychological test. Thirty-four percent of the attorneys and 36% of the students believed that this information should never be provided. The researchers concluded that, given attorney's beliefs about their obligation to act as zealous and diligent advocates for their clients and in the absence of any specific ethical guidelines about maintaining the security of psychological tests, psychologists need to be aware that client knowledge of the presence of validity scales on tests like the MMPI-2 may not be unusual.

Obviously, this finding may have repercussions for psychologists who include testing as part of their child custody and access evaluation.

The current study expands on the research of Keilin and Bloom (1986), Ackerman and Ackerman (1997), and Wetter and Corrigan (1995) by including several questions related to private practice. Psychologists will be asked about the role of psychologists in custody and access assessment, the use of psychological testing, fee structures, child custody and evaluation procedures, the rewards and stresses of child custody and assessment practice, their beliefs about litigation support, and their impressions of the relationship that exists between psychologists and lawyers. Lawyers will be asked to comment on the role of psychologists in custody and access assessment, various aspects of their child custody and access practice, the causes of relitigation, the rewards and stresses of handling child custody and access disputes, and their impressions of the relationship that exists between psychologists and lawyers.

Procedure

Participation in this study was restricted to psychologists with current or past experience in child custody and access evaluation, and to family lawyers with current or past experience in child custody and access cases. Due to time and financial constraints, participation was further restricted to psychologists practicing in either Alberta or British Columbia, and to family lawyers in Victoria, British Columbia and Calgary, Alberta. Since comprehensive legal or psychological registries of individuals practicing in the area of child custody and access are not readily available, several routes were taken to ensure that those professionals with the appropriate experience were invited to participate in this research.

The starting point for developing the list of psychologists was the *Canadian Register of Health Service Providers in Psychology* (2000), a voluntary directory of registered psychologists across Canada. Using this registry, the names of psychologists from Alberta and British Columbia who indicated a specialization in either divorce-separation or custody-access were added to one of the two provincial lists. Additional names for the Alberta list were obtained from the custody and access referral registry maintained by the Calgary and Edmonton offices of Alberta Family Services, and by asking psychologists known to work in this area for the names of colleagues who also provided custody and access services. Although the College of Alberta Psychologists (CAP) and the Psychologists' Association of Alberta (PAA) were contacted in an effort to obtain a referral list, neither association could provide this information.

Additional names for the British Columbia list were obtained from the College of Psychologists of British Columbia's (CPBC) task force on Custody and Access. As in Alberta, psychologists known to work in the area of child custody and access evaluation were called and asked to provide the names of colleagues who also provided services in this area. Altogether, there were 99 names on the Alberta list and 137 names on the British Columbia list of psychologists at the time of mailing.

The lists of Alberta and British Columbia lawyers were developed under somewhat different circumstances. The Alberta Family Law Section (AFLS) of the Canadian Bar Association (CBA) was contacted and asked for assistance. However, the AFLS does not publish a directory of its members, and the CBA does not distribute its membership list to the general public. Furthermore, correspondence with the Chairperson of the Alberta Family Law Section revealed that neither the AFLS directory or the CBA membership list would be too helpful as lawyers tend to list themselves by areas of interest rather than specific areas of specialization (V. Tousignant, personal communication, May 9, 2000). This created some problems in developing a comprehensive list of lawyers who handled child CA disputes.

In Calgary, a list of family lawyers was obtained from a psychologist with twenty years of experience in child custody and access evaluation. Although this list served as a starting point, the majority of the names on the Alberta list of family lawyers were obtained by phoning all of the law firms listed in the Calgary yellow pages telephone directory. Receptionists were asked to provide the names of any lawyers within the firm who practiced divorce law and/or who were known to accept child custody and access cases. When the list of names from the psychologist and the telephone list were combined, the resulting Calgary database contained the names of 272 family lawyers. Given the time constraints of this research, it was not possible to personally speak to each lawyer to ascertain if they qualified for this study. Therefore it is possible the Calgary list contained the names of some lawyers who do not practice in this area.

The Victoria database consisted of a list of family lawyers developed in 1999 by the University of Victoria's Families in Motion Research and Information Center (FMRIC) which specializes in divorce related research.. All of the lawyers listed in the 1999 Victoria telephone yellow pages were surveyed to ascertain if they worked in the area of divorce. If they answered in the affirmative and if they agreed to participate in relevant research studies, their name was placed on the FMRIC family law list. There were 151 names on this list.

Given the logistics of studying two geographic areas, this study was run in cooperation with the FMRIC at the University of Victoria. The British Columbia mailings were handled by

the FMRIC, while Alberta mailings were processed through a satellite FMRIC office established in Calgary for the duration of this project. All materials for the study were developed in Calgary and then forwarded to the Victoria FMRIC for review and replication. The research procedure was the same for both provinces.

Following approval of the study by the University of Victoria's Human Research Ethics Committee, the BICQ-R packages were assembled and readied for mailing. The BICQ-R package consisted of a covering letter, a Statement of Informed Consent, the BICQ-R, a Request for Survey Results form, and a stamped, return addressed envelope (see Appendices B, C, D, E, and F). The covering letter explained the purpose of the research while the Statement of Informed Consent focused on ethical issues such as safeguards to confidentiality and potential use and dissemination of data. Participants were advised in the Statement of Informed Consent that returning a completed questionnaire would be understood as their informed consent to participate in this study. Participants were also informed they could obtain a summary of the research findings by filling in and returning the enclosed Request for Survey Results form or by including their business card in the postage paid envelope.

Prior to mailing the BICQ-R packages, a one page introductory fax was sent to all psychologists and lawyers on both provincial mailing lists (See Appendix A). This fax provided a brief overview of the research and urged recipients to participate in the project. In addition, participants were asked to contact one of the FMRIC offices if they did not have any experience in the area of child custody and access so their name could be removed from the mailing list. As a result of this fax, the names of 13 psychologists and three family lawyers were removed from the British Columbia lists, and the names of five psychologists and 10 family lawyers were removed from the Alberta lists.

The BICQ-R packages, 218 for psychologists and 410 for family lawyers, were mailed approximately one week after the fax, in early to mid-August. A follow-up fax was sent one month later, in mid-September (see Appendix G). The purpose of this fax was to remind recipients about the package, to further encourage their participation, and to request they call the FMRIC office if they did not receive a copy of the BICQ-R package. As a result of this fax, several more surveys were returned by psychologists and lawyers in both British Columbia and Alberta. However, the response rate was still below that which had been anticipated.

Given that family lawyers had received the original fax, the BICQ-R, and a follow-up fax to relatively little effect, and given that there were over 400 names on the lawyers' lists, it was decided that there was insufficient time and resources to successfully pursue additional

responses from this sample. Therefore, attention was turned to maximizing the participation of qualified psychologists in the study. A follow-up fax was sent to psychologists in Alberta (see Appendix H). In addition, follow-up telephone calls were made to psychologists in Alberta and British Columbia to clarify whether or not they actually qualified for this study, and to further encourage participation. These calls resulted in the names of 22 psychologists being struck from the Alberta list and 26 from the British Columbia list, leaving 72 names on the Alberta list and 98 names on the British Columbia list. In total, 52 surveys were returned by psychologists (30.6%) and 53 surveys were returned by family lawyers (12.7%).

There are several possible explanations for these relatively low return rates. The timing of the study may have itself been problematic. Follow-up calls to several psychologists and lawyers in Alberta in late August revealed that many of these professionals took their summer holidays during the last weeks of August. It is possible some professionals missed the mailing altogether, or that their workload was such when they returned from holidays that the survey was given little consideration. In addition, several psychologists and lawyers indicated the BICQ-R was too long and they did not have time to complete such a detailed instrument. To further compound these problems, a study by a graduate law student was delivered to Alberta family lawyers at the same time as the BICQ-R. It is possible that some lawyers, not having time to complete two surveys, may have chosen to participate in the study being conducted by a member of their own profession.

A major limitation of this study was the financial and time constraints which did not allow for a direct survey of all the family lawyers and psychologists found on the mailing lists to verify that all of these individuals actually worked in the area of child custody and access. As result, it is possible that a significant percentage of the both samples did not practice in this area and therefore did not respond. For psychologists, this conclusion is supported by a 1993 study of British Columbia psychologists who either had experience in child custody and access or believed themselves to be competent to perform child custody and access assessment (Jameson, Ehrenberg, and Hunter, 1993). This study also reported a low response rate, particularly for those psychologists with direct experience (N=39) in child custody and access evaluation. The conclusion drawn in this research was that the low response rate was a fairly accurate reflection of the paucity of psychologists actually working in this field. This hypothesis is also supported by the PAA which reported that out of 1164 members listed in its referral database, only 24 psychologists (2%) indicated a specialization in the area of child custody and access (personal correspondence, 2000).

Discussions with psychologists working in the areas of child custody and access evaluation suggest that the majority of psychologists who practice in this area would have received the BICQ-R and the related faxes. Considering the process undertaken to secure participants, particularly psychologists, it is reasonable to conclude that the 52 psychologists who responded are representative of the population of psychologists currently engaged in child custody and access evaluation in British Columbia and Alberta. Unfortunately, it is less clear as to whether or not the relatively small percentage of responses from family lawyers are representative of the population as the size of the population being sampled is open to question. As a result of these limitations, this research is considered exploratory in nature, particularly with regards to the family law sample.

The Measure: BICQ-R

The BICQ-R was divided into three sections: Part I, *Demographic and Practice Information*; Part II, *Rating the Best Interests of the Child Criterion*; and Part III, *Optional Questions*. Two forms of the BICQ-R were developed, one for psychologists and one for lawyers (See Appendices D and E). Part I and Part III of the BICQ-R contained questions relevant to the child custody and access practice of each professional group. Part II of the questionnaire, exploring the ratings assigned to the various BIC criteria, was identical on both surveys.

On the psychologists' questionnaire, Part I was divided into 6 sections. *Basic Demographic Information* requested information regarding the respondent's age, gender, highest degree earned, theoretical orientation, and areas of practice. *Training and Knowledge* queried the respondent's familiarity with the legal test for Best Interests of the Child and with professional guidelines and standards of practice. *Experience in Child Custody and Access Practice* explored professional practice in terms of years of experience and current referrals, hours required to complete an evaluation, fees, and the process of child custody and access evaluation. *Psychological Testing* queried the use of psychological tests for adults and children in custody and access evaluation. *Views on Custody and Access Practices* explored various aspects of the relationship between lawyers and psychologists and inquired about the rewards and stresses of child custody and access practice. Respondents were also asked about their views regarding case conferencing in Court-ordered custody evaluation cases. Finally, *Comments* provided space for additional remarks regarding any of the questions raised or for general remarks about child custody and access.

Part I on the lawyers' survey was divided into 7 sections. *Basic Demographic Information* was requested pertaining to each participant's age, gender, highest degree earned, year of call and their main areas of practice. *Training and Knowledge* explored each participant's familiarity with the legal test for Best Interests of the Child and with professional guidelines and standards of practice for child custody and access evaluations. This section also explored beliefs regarding the types of training and experience that participant's believed were relevant to developing skills in handling child custody and access disputes. *Experience in Child Custody and Access Practice* explored professional practice in terms of years of experience and current referrals, the number of cases handled per year, the relitigation rate, and the causes of relitigation. *Psychologists' Involvement in Child Custody and Access Disputes* queried the role of psychologists and the value of psychological involvement in child custody and access. *Preparing Clients for Custody and Access Evaluations* investigated the level and kinds of litigation support lawyers offered to their clients prior to a child custody and access evaluation. *Views on Child Custody and Access Practices* explored various aspects of the relationship between lawyers and psychologists and inquired as to the rewards and stresses of practice in this area. An additional question queried the use of case conferencing in court-ordered child custody and access evaluation. Finally, *Comments* provided space for additional remarks regarding any of the questions raised or for general remarks about child custody and access.

Part II of the BICQ-R, Rating the Best Interests of the Child Criterion, was divided into three sections: (1) the relational assessment area; (2) the needs of the child assessment area; and (3) the abilities of the parents assessment area. The same scale was used on each section of the BICQ-R and respondents were instructed to rate each item according to the extent to which they believed it should be considered in determining child custody and access. The strength of endorsement for each item was determined using a 7-point Likert scale (7= essential, should always be considered; 6=extremely important consideration; 5=very important consideration; 4=important consideration; 3=marginally important consideration; 2=not an important consideration; 1=irrelevant, should never be considered). In the introduction to Part II, respondents were asked to check off the numbered box which best represented their belief regarding the importance of that item. An example of how an item might be rated was given using an item not found on the BICQ-R. A brief forward was included for each of the three sections of the BICQ-R that explained the assessment area under consideration, and the basic instructions for rating each item were then repeated. For ease of reference, the 7-point Likert scale was displayed at the top of each section.

Part III of the BICQ-R, *Optional Questions*, explored whether or not participants had any personal experience with child custody and access. In addition, lawyers were asked to comment on two potential professional dilemmas in child custody and access practice and on their beliefs regarding the use of the Best Interests of the Child test in the determination of child custody and access.

Respondents were informed that a brief summary of the findings could be obtained by returning the Summary of Results form with their questionnaire, by enclosing a business card with their questionnaire, or by phoning the FMRIC offices in either Calgary or Victoria. In addition, it was indicated that results from this study would be shared through probable future publication in a scholarly journal, through presentations at scholarly meetings, and through the availability of the dissertation.

Participants

In total, 52 psychologists (30.6% of those to whom surveys were mailed) returned completed questionnaires. Twenty-six of these psychologists were from Alberta and 26 were from British Columbia. This accounts for 36% of the psychologists whose names were on the Alberta list and 26% of the psychologists whose names were on the British Columbia list. The age of the psychologists who completed the survey ranged from 31 to 71 years of age with the overall mean being 51.4 years of age ($SD = 7.8$). There was no significant difference in the age of psychologists from Alberta versus psychologists from British Columbia. Thirty-seven of the psychologists were male (71.1%) while 15 (28.9%) were female. There was no significant difference in the ratio of males to females between the two provinces.

The majority of respondents (85%) held doctoral degrees, while the balance possessed either a Master of Arts, a Master of Science, or a Master of Education degree (15%). There were significantly more master's level psychologists in Alberta than in British Columbia ($p < .05$). This finding was expected as British Columbia is one of the few remaining Canadian jurisdictions which does not register master's level practitioners. Unfortunately, it was not possible to determine the area of specialization for these degrees. University and program of study were combined into one question on the survey, and, although 98% of the respondents noted their alma mater, only 38% noted their program of study. Of these, 10% simply noted "psychology" as their program of study without indicating any specialization (e.g., clinical, counselling, developmental, etc.). Therefore, program of study was dropped from any further analyses.

Fifty-three family lawyers (13% of those to whom surveys were mailed) completed and returned the survey. Twenty-one lawyers were from Alberta and 32 were from British Columbia. This accounts for 8% of the lawyers whose names were on the Alberta list and 22% of the lawyers whose names were on the British Columbia list. The age of lawyers who completed the questionnaire ranged from 29 to 65 years with an overall mean of 44.7 years of age ($SD = 7.9$). There was a significant age by gender effect with male lawyers being, on average, 48.1 years of age ($SD = 8.1$) while female lawyers averaged 41.7 years of age ($SD = 6.9$) ($p < .01$). Twenty of the lawyers were male (37.7%) and 33 were female (62.3%). Most of the lawyers held Bachelor of Law degrees (88.7%), while the balance held either a Master of Arts degree (7.5%) or a Doctorate of Jurisprudence (3.8%).

Missing Data

Despite the survey's length, most respondents were quite conscientious in completing all of the questions posed on the BICQ-R. However, some data was missing. Part I of the BICQ-R contained both qualitative and quantitative questions. For qualitative variables, no steps were taken to replace missing data. Instead, for qualitative variables with missing data, the correct sample size is noted in the results and a comment on sample size is made where appropriate. For quantitative variables, the mean of the group under consideration (e.g., by gender, by profession, by province) was inserted.

Research participants were specifically asked not to skip any items on Part II, Rating the Best Interests of the Child Criterion. A frequency count of all the item scores on Part II of the BICQ-R indicated that 56 scores were missing from the 105 completed questionnaires. Of these 56 scores, 10 scores (6 from psychologists; 4 from lawyers) were missing from one item on the needs of the child assessment area of the BICQ-R: "Child's need to be with the psychological parent." Appropriate group means were inserted for this variable. Since the remaining 46 missing scores were spread across 23 variables, concern regarding a spurious reduction in the variance of an item or its correlation with another item was unwarranted. Missing data were accounted for in subsequent analyses by inserting appropriate group means for that item (i.e., gender or professional group), depending on the analyses under consideration.

Part III of the BICQ-R consisted of a group of optional questions. Ninety-four percent of lawyers and 98% of psychologists responded to these questions. As these questions are qualitative in nature, any missing data was noted in the sample size in the appropriate tables or analyses.

RESULTS

This study examined the views and practices of psychologists and family lawyers with regards to child custody and access disputes. Included in this research were questions designed to provide information about what psychologists and lawyers actually do within the scope of their child custody and access related practice, their opinions of each other's role in this process, and their beliefs about the relative importance of various aspects of the Best Interests of the Child Criterion in the determination of child custody and access. The results are reported in five sections. The *first two* sections provide descriptive information about the psychologists and lawyers who participated in this study. The *third* section provides an exploration of psychologists' and lawyers' attitudes about various aspects of each professional groups' involvement in child custody and access cases. Section *four* presents the results of inferential statistical analyses of the BICQ-R and explores questions relevant to the central hypotheses of this study, and section *five* discusses the results of a data transformation of the BICQ-R items to control for response bias.

Statistical analyses revealed the existence of outliers within the data for a few of the variables considered within this study. Two methods of controlling for outliers were utilized. In order to avoid reducing the small sample size, most outliers were given a score that was either one unit larger than the largest score or one unit smaller than the smallest score not considered to be an outlier on that variable (Tabachnik & Fidell, 1989). For two respondents, outliers were removed on two variables. Both respondents were lawyers who indicated their work in the area of child custody and access is now limited to approximately one percent of their practice. Since it is impossible to verify the extent of their past child custody and access practice, it was decided to remove their data related to Number of Cases Per Year and Percentage of Practice Devoted to Child Custody and Access Practice. Adjustments for outliers are noted on the tables where applicable.

Survey Respondents: Psychologists³

Demographics for Psychologists. The demographic variables Age, Gender, Highest Degree Obtained, and Years of General Practice were tabulated for the total sample of psychologists, for psychologists from Alberta, and for psychologists from British Columbia.

³ Given that there was a gender difference in the response rate for psychologists with only 15 female psychologists responding as compared to 37 male psychologists, results making reference to gender differences must be interpreted with caution. It is possible that this sample of female psychologists may represent a biased subset of female practitioners in the field of CA evaluation.

This information is presented in Table 1. Psychologists in Alberta ranged in age from 31 to 71 while the age range of the psychologists from British Columbia was from 41 to 65 years of age. Years of Practice for the two groups of psychologists were virtually identical with Alberta psychologists ranging from 4 to 37 years of practice and British Columbia psychologists ranging from 3 to 36 years of practice.

Respondents were also asked to identify the Theoretical/Clinical Orientations that most influence their approach to psychological practice (see Table 2), and their two Main Areas of Practice (see Table 3). For Theoretical Orientation, all of the main schools of thought are represented, with over half of the respondents identifying cognitive behavioural theory as one of the orientations that most influences their psychological practice. However, single respondents also identified a number of less mainstream theoretical approaches, such as eco-systemic, eye movement desensitizing and reprocessing, trauma theory, and hypnosis. Six single responses were also noted for Main Areas of Practice including pain management, neuropsychology, disability, human sexuality, mediation, and medical-legal practice.

Pearson chi-square analyses for Gender and analyses of variance on Age and Years of General Practice revealed no differences between Alberta and British Columbia psychologists on these variables. There was, however, a significant difference for Highest Degree Obtained ($p < .05$) with the Alberta sample containing significantly more psychologists who practice with a Masters level education (26.9%) than does the British Columbia sample (3.9%). Since British Columbia is one of the few remaining jurisdictions in Canada where a psychologist cannot be registered at the highest level of independent practice with a Masters degree, this result is not surprising. No gender differences were found for Age, Highest Degree Obtained, or Years of General Practice.

Training/Experience Essential for Competency in Child Custody and Access Evaluation.

Participating psychologists were asked to rank order a list of 15 types of training/experience according to how important they believed each item was to developing competence to complete child custody and access (CA) evaluations ("1" = most important, "2" = second most important, and so on). A space was also provided for respondents to describe any training or experience options they believed were important but which were not included on the list. Participants left blank those options they did not believe to be relevant to developing competence in CA evaluation.

Overall mean ranks were calculated for each item using only the ranking of those respondents who actually endorsed the item. If a respondent left the item blank, this was

Table 1

Demographic Variables for Total Sample of Psychologists, Alberta Psychologists (ABP), and British Columbia Psychologists (BCP)

		Total Sample (N=52)	ABP (N=26)	BCP (N=26)
Age	Mean	51.4	49.8	53.0
	(SD)	(7.8)	(8.7)	(6.8)
Gender	Female	15	5	10
	Male	37	21	16
Highest Degree*				
	Doctorate	44	19	25
	Master's	8	7	1
Years of General Practice				
	Mean	18.5	19.3	17.8
	(SD)	(8.4)	(8.7)	(8.2)

* $p < .05$

Table 2

Clinical/Theoretical Orientations (T.O.) that Most Influence Psychological Practice for the Total Sample of Psychologists, Alberta Psychologists (ABP), and British Columbia Psychologists (BCP)

Theoretical/Clinical Orientations	Total (N=49)	ABP (N=26)	BCP (N=23)
Cognitive Behavioural	26	12	14
Psychodynamic	15	7	8
Systems	7	5	2
Humanistic/Phenomenological	5	4	1
Existential	5	3	2
Narrative/Solution Focused	3	3	0
Personality Theory	2	1	1
Developmental	3	1	2
Other T.O.'s * (Single responses)	9	2	7

Table 3

Main Areas of Practice (A.P.) for the Total Sample of Psychologists, Alberta Psychologists (ABP), and British Columbia Psychologists (BCP)

Areas of Practice	Total (N=49)	ABP (N=25) A. P.	BCP (N=24) A. P.
Assessment (Clinical/ Forensic/Educational)	29	15	14
Therapy/Counselling (Child/Adolescent/Adult)	22	12	10
Custody and Access	9	4	5
Family Therapy	9	5	4
Clinical Psychology	8	2	6
Child Psychology	4	2	1
Violence/Trauma	3	1	2
Child Protection/Abuse	3	1	2
Hypnosis	2	2	0
Educational Psychology	2	1	1
Other A.P.'s (Single responses):	6	4	2

entered as a ranking of irrelevant and not included in the calculation of the overall mean ranking. Table 4 provides a rank ordering of the means, standard deviations, and the frequency of endorsement for all of the items. One way analysis of variance was calculated for each item to determine if there were any Gender or Provincial differences in the mean rank for each item. No Gender differences were found. However, there were significant differences for Province for clinical experience ($p < .01$) and child psychopathology ($p < .05$). Alberta psychologists ranked clinical experience as being significantly more important to developing competence in CA evaluation than did British Columbia. British Columbia psychologists rated training in child psychopathology as being significantly more important to competence in CA evaluation than Alberta psychologists.

For the item supervised CA experience, the standard deviation and the frequency of endorsement are of note as they indicate some disagreement among psychologists as to this item's relative importance. Supervised CA experience had the highest standard deviation of any of the items on the training/experience competence list. Forty-two percent of the sample ranked supervised CA experience as being in the top ten with regards to developing competence in CA evaluation, while 14% rated this item as ranking between eleventh and fourteenth most important. In addition, although 20% of the sample ranked supervised CA experience as the most important training/experience available, nearly one quarter (23%) of the sample did not endorse supervised CA experience in their overall ranking.

Respondents described four other types of training and experience that might be considered essential for developing competence in child CA evaluation. Two psychologists reported that all of the items on the competence list provided were important, but that each item's relative importance depended on the context of the CA evaluation and the nature of the specific family involved in the evaluation. The following suggestions for developing competence in this area of practice were single responses filled in by the respondents: developing a forensic mindset, training in parent-child relations, and knowledge of the impact of divorce on children.

Psychologists' Experience in Child Custody and Access Practice. As a first step in exploring child custody and access practice, psychologists were asked to provide information related to their years of experience conducting child CA evaluations, whether or not they were still accepting referrals, the number of evaluations they completed per year, and the percentage of their total psychological services comprised of CA evaluations. This information is reported in Table 5.

Table 4

Training/Experience Essential for Competency in Child Custody and Access EvaluationRank Ordered According to Total Mean Ranking for Each Item (1 = most important;2 = 2nd most important, etc.) (N=48)

Type of Training/ Experience	Total Mean (SD)	Alberta Mean (SD)	British Columbia Mean (SD)	Frequency Endorsed
Child Development	3.3 (1.7)	3.5 (1.8)	3.1 (1.6)	48
Family Dynamics	4.0 (2.8)	4.4 (3.2)	3.6 (2.5)	43
Clinical Experience*	4.3 (2.8)	3.1 (2.6)	5.6 (2.5)	44
Psychological Assessment	5.4 (3.2)	4.9 (2.9)	5.8 (3.4)	44
Parenting Skills Training	5.4 (2.6)	5.6 (2.6)	5.2 (2.7)	42
Attachment Processes	5.6 (2.8)	5.8 (2.6)	5.4 (3.1)	43
Adult Psychopathology	5.9 (3.5)	6.6 (3.4)	5.3 (3.7)	44
Supervised CA Experience	6.1 (4.2)	5.5 (3.4)	6.7 (4.5)	37
Child Psychopathology**	8.1 (2.9)	9.1 (2.6)	7.2 (2.9)	41
Adult Development	9.3 (3.3)	9.4 (3.3)	9.2 (3.3)	35
Child Abuse Training	9.3 (3.1)	9.7 (2.7)	9.0 (3.5)	39
Legal Knowledge	9.6 (3.5)	10.1 (3.7)	9.2 (3.3)	38
Domestic Violence	11.1 (2.1)	10.7 (2.0)	11.6 (2.1)	33
Cognitive Assessment	11.6 (2.8)	11.7 (2.8)	11.5 (2.9)	34
Divorce Mediation	11.7 (4.0)	11.9 (4.1)	11.5 (4.0)	24

* $p < .01$ ** $p < .05$

Table 5

Psychologists' Experience in Child Custody and Access Practice for the Total Sample of Psychologists, Alberta Psychologists (ABP), and British Columbia Psychologists (BCP)

		Total	ABP	BCP
Years Experience Conducting CA Evaluations (N = 52)				
	Mean	10.7	10.8	10.5
	(SD)	(6.6)	(6.3)	(7.1)
Still Accepting Referrals for Custody and Access Evaluations (N=50)				
By Province:		Yes	42	23
		No	8	2
				19
				6
By Gender*:	Female (N= 14)	Yes	9	5
		No	5	0
	Male (N=36)	Yes	33	18
		No	3	2
				4
				5
				15
				1
Average Number of Custody and Access Evaluations per year (N=51)				
By Province:		Mean	9.5	8.9
		(SD)	(7.9)	(8.0)
				10.2
				(8.0)
By Gender**:	Female (N=15)	Mean	6.0	5.0
		(SD)	(3.2)	(2.9)
	Male (N=36)	Mean	11.0	9.8
		(SD)	(8.9)	(8.8)
				6.5
				(3.4)
				12.6
				(9.2)
Percentage of Psychological Services Comprised of Custody and Access Evaluations (N=51)				
By Province:		Mean	26.4%	22.7%
		(SD)	(22.3%)	(23.4%)
				31.7%
				(23.4%)
By Gender+:	Female (N=15)	Mean	16.3%	15.0%
		(SD)	(11.2%)	(11.7%)
	Male (N=36)	Mean	30.5%	24.7%
		(SD)	(24.8%)	(25.4%)
				17.0%
				(11.6%)
				37.8%
				(22.7%)

* $p < .05$ ** $p < .05$; 3 male outliers adjusted to 31; 1 female outlier adjusted to 11+ $p < .01$

One way analyses of variance on Years of Experience Conducting CA Evaluations, Average Number of Evaluations Completed per Year, and Percentage of Psychological Services Comprised of CA Evaluations and Pearson chi-square analysis of Still Accepting Referrals revealed no significant differences by Province for these variables. However, there were Gender differences for the variables Still Accepting Referrals, Average Number of Evaluations Per Year, and Percentage of Psychological Services Comprised of CA Evaluations.

Years Experience Conducting CA Evaluations reported by Alberta and British Columbia psychologists ranged from 1 to 24 years and 1 to 30 years respectively. Male psychologists from Alberta reported they complete 2 to 31 CA evaluations per year, comprising from 2 to 80% of their psychological practice. Male psychologists from British Columbia reported completing 1 to 31 CA evaluations per year, also comprising from 2 to 80% of their psychological practice. This is in contrast to female psychologists from Alberta who indicated they complete from one to eight CA evaluations per year (comprising from 5 to 30% of their psychological practice) and female psychologists from British Columbia who indicated they complete 1 to 11 CA evaluations per year (comprising from 4 to 42% of their psychological practice). On average, male psychologists reported they complete 11 CA evaluations per year, while female psychologists indicated they complete, on average, 6 CA evaluations per year ($p < .05$). Corresponding to these numbers, male practitioners also reported that custody and access evaluations comprised a significantly higher proportion of their psychological practice than female psychologists ($p < .01$) (see Table 5).

In this sample, significantly more female psychologists (36%) than male psychologists (8%) reported they no longer accept referrals for child custody and access evaluations ($p < .05$). Psychologists who indicated they had stopped accepting referrals were asked to note their reason for stopping. Of the eight psychologists who reported they no longer accepted CA evaluation referrals, two respondents indicated the evaluations required too much time. The other six psychologists who no longer provide CA evaluations reported the following reasons. One psychologist found CA evaluations too stressful. One psychologist was waiting for their professional regulatory body to determine whether they were competent to conduct CA evaluations. Another psychologist indicated they were discouraged from this practice by a lack of support from their professional regulator body. One individual had reduced their practice in order to accept a faculty position, and one psychologist has stopped practicing in this area due to "grave doubts" over the validity of CA evaluations. Finally, one psychologist indicated they had retired from practice.

Psychologists were also asked to report the Average Number of Hours required to Complete a CA evaluation (not including the final report), the Average Number of Hours Required to Complete the Final Report, and the Average Number of Weeks Needed to Complete an Evaluation (see Table 6). In addition, participants were queried as to their Average Total Fee for a CA evaluation (see Table 7). By dividing the average total fee by the average number of hours needed to complete both the CA evaluation and the final report, the Average Fee per Hour for each participant was also calculated (see Table 7).

One way analyses of variance indicated that, on average, Alberta psychologists reported requiring significantly more hours than British Columbia psychologists reported to complete both the CA evaluation and the final report ($p < .01$ and $p < .05$ respectively). They also reporting requiring significantly more weeks to complete the evaluation and the final report than psychologists in British Columbia ($p < .001$). One Gender difference was noted with female psychologists reporting they require significantly more time to complete the final report than their male colleagues ($p < .01$). Pearson Correlation analyses did not reveal any significant correlations between Hours Required to Complete the CA Evaluation and Years of Experience in CA Evaluation ($r = .04$), Percentage of Practice in CA Evaluation ($r = .01$), or Number of CA Evaluations per Year ($r = .02$). Pearson correlation analyses also did not reveal any significant correlations between Hours Required to Complete the Final Report and Years of Experience in CA Evaluation ($r = -.12$), Percentage of Practice in CA Evaluation ($r = -.01$), or Number of CA Evaluations per Year ($r = -.23$).

Given that Alberta psychologists reported requiring an average of 11 more hours to complete their CA evaluation and final report than British Columbia psychologists, it is not surprising that analysis of variance revealed that the Average Total Fee charged by Alberta psychologists for CA evaluations was also significantly higher than the Average Total Fee reported by British Columbia psychologists ($p < .001$). The Average Fee Per Hour for the two provinces was not significantly different providing further evidence that the difference in total fees charged is a result of the additional hours accrued by Alberta psychologists rather than a higher hourly fee. However, there was a significant Gender difference for Average Fee Per Hour with male psychologists charging significantly more than their female counterparts ($p < .05$). The highest average fee per hour charged by a male psychologist was more than double the highest average fee per hour charged by a female psychologist (see Table 7). Pearson correlation analyses did not reveal any significant correlations between Average Total Fee and Highest Degree Earned ($r = .05$) or CA Evaluations Per Year ($r = .15$). There was a

Table 6

Average Time Needed to Complete a Child Custody and Access Evaluation for the Total Sample, Alberta Psychologists (ABP), and British Columbia Psychologists (BCP)

	Total Mean (SD)	ABP Mean (SD)	BCP Mean (SD)
<hr/>			
Average Hours Required to Complete a CA Evaluation (not including Final Report)* (N=46)			
	27.1 (8.2)	30.9 (8.9)	23.2 (7.4)
Average Hours Required to Complete the Final Report** (N=46)			
By Province:	12.8 (5.4)	14.8 (6.5)	10.8 (4.3)
By Gender: Females (N=11)	16.7 (6.0)	21.3 (6.3)	14.1 (4.3)
Males (N=35)	11.6 (5.2)	13.5 (5.8)	9.4 (3.4)
Average Weeks Needed to Complete an Evaluation and the Final Report+ (N=39)			
	5.3 (2.2)	6.5 (2.1)	4.0 (2.2)
<hr/>			

* $p < .01$

** By province: $p < .05$; By gender: $p < .01$

+ $p < .001$

Table 7

Average Fees Charged for Child Custody and Access Evaluation For Total Sample,
Alberta Psychologists (ABP), and British Columbia Psychologists (BCP)

	Total Mean (SD)	ABP Mean (SD)	BCP Mean (SD)
Average Total Fee (N=45)*	\$4653 (\$1695)	\$5564 (\$1896)	\$3783 (\$831)
Range of Average Total Fees:	AB	\$3,000 - \$10,000	
	BC	\$2,050 - \$ 5,000	
	Females	\$2,500 - \$ 9,000	
	Males	\$2,050 - \$10,000	
Average Fee per Hour (Including Final Report Hours) (N=42)	\$118 (\$31)	\$124 (\$36)	\$113 (\$25)
By Gender**: Female (N=9)	\$ 95 (\$14)	\$106 (\$10)	\$ 90 (\$13)
Male (N=33)	\$125 (\$31)	\$127 (\$38)	\$125 (\$30)
Range of Average Fees per Hour:	AB:	\$71 - \$285 per hour	
	BC:	\$52 - \$250 per hour	
	Females:	\$52 - \$134 per hour	
	Males:	\$71 - \$285 per hour	

*p<.001; 1 male outlier (Alberta) adjusted from \$10,000 to \$9,001

**p<.05; two male outliers adjusted from \$285 (Alberta) and \$250 (British Columbia) to \$203

significant correlation between Average Total Fee and Years of CA Experience ($r = .35, p < .05$) and, obviously, between Average Fee Per Hour and Years of Experience in CA Evaluation ($r = .54, p < .01$).).

Child Custody and Access Evaluation Practices. In order to explore the practice of psychology within the context of a CA evaluation, psychologists were asked to rank order 13 items which they were told they may or may not do when conducting a child CA evaluation. For those tasks they do complete, they were instructed to rank order the items according to how long it took to complete each task, with "1" equaling the longest time, "2" equaling the second longest time, and so on. They were also instructed to leave blank any items they do not complete. Analyses of variance were used to calculate means for each item, and the items were then rank ordered according to these means. No significant differences in the mean scores assigned to these items were found for Province, Gender, Degree, or Theoretical Orientation. There were no significant changes in any of these univariate significance levels when the effects of Years of Experience in Child CA as a covariate were tested. A summary of this data appears in Table 8. Space was provided for respondents to describe items forming part of their child CA evaluation practice that were not on the list. Five psychologists added home visits, two psychologists added consultation with colleagues, one respondent mentioned conjoint interviews, and one noted the amount of time spent deliberating all of the information.

Psychologists were also asked to review a list of seven continuing education opportunities and to check off those items they included in their custody and access practice. Fifty psychologists (98%) endorsed reading psychological literature and reviewing ethical standards as part of their CA practice. Forty-eight psychologists (94%) endorsed attending relevant seminars, discussing issues with other psychologists, and reading current books and articles. Thirty-eight psychologists (74%) indicated they discuss issues related to CA practice with family lawyers while 18 psychologists (35%) reported that they read case law regarding child custody and access. For those who wrote in additional responses, three psychologists noted they kept abreast of the development of relevant assessment instruments as part of their continuing education. One psychologist indicated he presented workshops on CA evaluation, and one psychologist indicated she was writing a book on the topic of child CA evaluation.

Psychological Testing in Child Custody and Access Evaluation. Several questions on the psychologists' survey pertained to the use of psychological testing when conducting child custody and access evaluations. These questions addressed the frequency of use of

Table 8

Child Custody and Access Evaluation Process: Items Endorsed as Included in Child Custody and Access Evaluations. Rank Ordered According to Overall Mean Ranking of Length of Time to Complete For Total Sample (N=48)

	Mean Rank	<u>SD</u>	Frequency Endorsed
Interviewing Parents	2.10	1.48	48
Report Writing	2.63	2.45	48
Interviewing Children	3.94	1.63	48
Psychological Testing	4.60	2.17	45
Observing Parent-Child Interaction	5.35	1.89	46
Reviewing Documents	5.46	2.16	46
Test Scoring/Interpretation	6.45	2.34	42
Collateral Phone Calls	7.23	1.96	43
In Person Interview of Others	9.14	2.56	25
Testifying in Court	9.65	2.10	38
Researching Relevant Literature	9.65	2.10	37
Communicating with Lawyers	9.67	1.80	45
Feedback to Parents	10.48	2.40	25

psychological tests for adults and for children, queries as to the most frequently used adult and child psychological tests, and questions regarding the avoidance of testing in CA evaluation.

Analyses of variance revealed there was no significant difference in the percentage of time Alberta and British Columbia psychologists use psychological tests for adults ($M = 86\%$ for both) or in the percentage of time they use psychological tests for children (Alberta $M = 62\%$; British Columbia $M = 70\%$). There were no significant gender differences in the frequency of use of psychological testing for either adults or children.

Fifty of the psychologists (96%) reported they include psychological testing of adults as part of their CA evaluation. Of this group, both Alberta and British Columbia psychologists administer psychological tests to adults 86% of the time ($SD = 29\%$ and 22% respectively). For the two psychologists who indicated they do not do adult testing, one reported he did not think adult psychological tests were relevant to custody and access issues. The other psychologist indicated he only used psychological testing for adults if he felt there were might be clinical problems requiring diagnosis.

Forty-nine of the psychologists (94%) reported they conduct psychological testing with children. Of this group, Alberta psychologists use psychological tests for children 68% of the time ($SD = 34\%$), and British Columbia psychologists use these tests 70% of the time ($SD = 33\%$). The three psychologists who reported they did not use psychological tests for children provided five explanations for avoiding these tests: (1) psychometric problems (reliability and validity); (2) lack of relevancy to child CA issues; (3) unreliable measures of parent-child relationships; (4) concerns not sufficient to merit testing; and (5) confidence in ability to assess the situation unless a clinical problem requires diagnosis.

Psychologists who indicated they included psychological testing in their CA evaluations were asked to list the three adult psychological tests and the three psychological tests for children they used most frequently within their practice. Summary lists of the most frequently used tests are presented in Table 9 and Table 10. The two most frequently mentioned adult tests, the Minnesota Multiphasic Personality Inventory II (MMPI-II) and the Millon Clinical Multiaxial Inventory III (MCMI-III) were endorsed by 90% and 46% of the psychologists respectively. The two most frequently mentioned psychological tests for children, projective stories and drawings (e.g., House-Tree-Person, Roberts Apperception Test, Kinetic Family Drawing) and the Bricklin Perceptual Scales were endorsed by 49% and 26% of the total psychologists' sample respectively.

Table 9

Psychological Tests for Adults Most Frequently Used in CA EvaluationsFor Total Sample (N=50)

Psychological Tests for Adults	No. of Respondents Using Test	% Total Sample
Minnesota Multiphasic Personality Inventory II (MMPI-II)	45	90%
Millon Clinical Multiaxial Inventory III (MCMI-III)	23	46%
Parent Stress Index (PSI)	13	26%
Child Abuse Potential Index (CAPI)	10	20%
Wechsler Adult Intelligence Scale III/IV (WAIS)	8	16%
Parent Child Relationship Inventory (PCRI)	7	14%
Parents Awareness Skills Survey (PASS)	4	8%
Rorschach Inkblot Test	4	8%
Walmyr Scales	2	4%
Sixteen Personality Factor Questionnaire (16PF)	2	4%
Parenting Scale	2	4%
Incomplete Sentence Blanks	2	4%
Moos Family Environment Scales	2	4%
Other Tests (one respondent each)	8	2% each

Table 10

Psychological Tests for Children Most Frequently Used in CA Evaluations
For Total Sample (N=49)

Psychological Tests for Children	No. of Respondents Using Test	% Total Sample
Projective Stories/Drawings	24	49%
Bricklin Perceptual Scales (BPS)	13	26%
Bene-Anthony Family Relations Test	11	23%
Intelligence Tests	10	20%
Child Behavior Checklist (CBCL)	9	18%
Behaviour Assessment System	8	16%
Perceptions of Relations Test (PORT)	7	14%
Incomplete Sentence Blanks	6	12%
Parent Attachment Structured Interview (PASI)	4	8%
Child Depression Inventory (CDI)	3	6%
Piers Harris Children's Self-concept	2	4%
Minnesota Multiphasic Personality Inventory-Adolescent (MMPI-A)	2	4%
Other Tests (one respondent each)	19	2% each

A number of psychological tests for adults and for child were mentioned by only one respondent each. For adults, eight tests were noted including the Dissociative Experiences Scale, the Western Personality Inventory, the Family Coping Index, and the California Personality Inventory. For children, 19 tests were noted including the Child's Attitude to Parents Index (CAPI), the Millon Adolescent Personality Inventory (MAPI), the Personality Inventory for Children (PIC), Moos Family Environment Scales, the California Personality Inventory (CPI), the Child Adjustment Questionnaire (CAQ), the Wide Range Achievement Test (WRAT), the Peabody Picture Vocabulary Test, the Parent Rating Scale, and the MCMI (no version noted).

A final query with regard to psychological testing in CA evaluation asked psychologists to note any specific child or adult psychological tests they avoided and their reasons for doing so (see Table 11). Forty-eight percent of the sample of psychologists who include testing responded to this question. These psychologists reported they avoid a variety of tests including the Rorschach Inkblot Test, the Bricklin Scales, projective tests, the MMPI-II, and the MCMI. Major concerns with these tests centred on psychometric difficulties ranging from problems with reliability and validity, to lack of norms pertinent to CA evaluation, to a general inability to defend what two respondents labelled "scientifically insupportable" tests in Court.

Summary of Key Findings: Results for Psychologists. When Alberta and British Columbia psychologists were compared, no Gender or Age differences were found but there was a significant difference for Highest Degree Obtained with significantly more psychologists in Alberta practicing with a Master's level degree. The majority of psychologists reported their main theoretical orientation was either cognitive behavioural or psychodynamic and the two main areas of practice identified were assessment and therapy. In terms of training/experience essential for developing competency in CA evaluation, Alberta psychologists ranked clinical experience as being significantly more important than British Columbia psychologists, and British Columbia psychologists rated training in child psychopathology as significantly more important than Alberta psychologists. Gender differences were found for the variables Still Accepting Referrals (significantly more females have stopped accepting referrals for CA evaluation), Average Number of Evaluations per Year (male psychologists reported conducting significantly more evaluations per year than female psychologists), and Percentage of Psychological Services Comprised of CA Evaluations (male practitioners reported CA evaluations comprised a significantly higher percentage of their practice than female psychologists).

Table 11

Psychological Tests Avoided for Custody and Access Evaluations And Reasons
for Avoiding Tests

Psychological Test Avoided	Frequency of Response (N=24)	% of Total Sample Who Do Testing (N=50)
Rorschach Inkblot Test	8	16%
Bricklin Scales	4	8%
Projective Tests (e.g., TAT; H-T-P)	4	8%
Child Abuse Potential Index (CAPI)	2	4%
Other Tests (one respondent each)	6	2% each
Adult-Adolescent Parenting Inventory		
Parenting Satisfaction Scale		
Millon Clinical Multiaxial Inventory (MCMI)		
Minnesota Multiphasic Personality Inventory-II (MMPI-II)		
Instruments Under Development for CA Evaluation		
Most Tests		
Reasons for Avoiding Tests	Frequency of Response	
Reliability/Validity Problems		9
Cannot Defend Test In Court		5
No Established Norms for CA/Scientifically Insupportable		4
Inappropriate/Misleading in this Context		2
Too Much Variability		1
Administration Too Time Consuming		1
Too Easy to Invalidate in CA Evaluation		1
Too Focused on Pathology		1
Lack of Training in Psychological Testing		1

Alberta psychologists reported requiring significantly more hours and weeks than British Columbia psychologists reported to complete the CA evaluation and the final report, and female psychologists reported requiring significantly more time to complete the final report than male psychologists. The average total fee reported by Alberta psychologists for CA evaluations was also significantly higher than the average total fee reported by British Columbia psychologists but the Average Fee Per Hour was not significantly different. However, there was a significant Gender difference for Average Fee Per Hour with male psychologists charging significantly more than their female counterparts. There were no significant differences in the percentage of time Alberta and British Columbia psychologists used psychological tests for adults or for children. There were also no significant Gender differences in the frequency of use of psychological tests for either adults or children. The two most frequently mentioned psychological tests for adults were the MMPI-II and the MCMI-III, and the two most frequently mentioned psychological tests for children were the BPS and projective drawings or stories.

Survey Respondents: Lawyers

Demographics for Lawyers. The demographic variables Age, Gender, Highest Degree Earned, and Average Years in Practice were tabulated for the total sample, for lawyers from Alberta, and for lawyers from British Columbia. Pearson chi-square analyses for Gender and for Highest Degree Earned revealed no differences between Alberta and British Columbia lawyers on these variables. One way analyses of variance on Age and Average number of Years in Practice revealed a significant effect for Gender ($p < .01$ and $p < .05$ respectively).

Female lawyers ranged in age from 29 to 52 years of age, while male lawyers ranged in age from 33 to 65 years of age. In terms of Years in Practice, the number of years for female lawyers ranged from two to 25 years while the range for male lawyers was from 3 to 40 years. On average, male lawyers in this sample are six and a half years older than their female colleagues and have been in practice for close to five years longer. A summary of this information is presented in Table 12.

The lawyers were also asked to identify their two Main Areas of Practice and the Percentage of their Practice that Pertained to Family Law. Overwhelmingly, the most frequently mentioned area of practice was Family Law (70%) followed by Wills and Estates (28%). Other Areas of Practice, endorsed by one respondent each, included sexual abuse claims, administrative law, health law, libel suits, domestic litigation, corporate law, and family advocacy. A summary of this data appears in Table 13.

Table 12

Demographic Variables for Total Sample of Lawyers, Alberta Lawyers (ABL), and British Columbia Lawyers (BCL) (N = 53)

		Total Sample	ABL (N=21)	BCL (N=32)
Age	Mean	44.1	44.3	44.0
	(SD)	(7.8)	(8.5)	(7.6)
By Gender*				
Female	Mean	41.7	42.5	41.0
	(SD)	(6.8)	(6.9)	(6.9)
Male	Mean	48.1	50.2	47.3
	(SD)	(8.1)	(11.4)	(7.0)
Gender				
Female		33	16	17
Male		20	5	15
Highest Degree Earned				
LLB		47	20	27
Other		6	1	5
Average Years in Practice				
	Mean	14.2	13.0	14.9
	(SD)	(7.8)	(7.8)	(7.9)
By Gender*				
Female	Mean	12.1	12.2	12.0
	(SD)	(6.6)	(6.1)	(7.2)
Male	Mean	17.6	15.4	18.3
	(SD)	(8.6)	(12.1)	(7.5)

*p<.01

Table 13

Two Main Areas of Practice (A. P.) for the Total Sample of Lawyers,
Alberta Lawyers (ABL), and British Columbia Lawyers (BCL)

Areas of Practice	Total (N=50)	ABL (N=21) A. P.	BCL (N=29) A. P.
Family Law	37	17	20
Wills & Estates	15	7	8
Criminal	7	3	4
Personal Injury	6	3	3
Civil Litigation	6	2	4
Divorce & Separation	4	1	3
Family Law Mediation	4	0	4
Child Welfare	3	1	2
Real Estate	3	2	1
Professional Negligence	2	1	1
General Practice	2	1	1
Other A.P.'s (single response)	8	2	6

Analysis of variance of the Percentage of Practice in Family Law found no significant difference for Province between Alberta lawyers ($M=75\%$; $SD=21\%$) and British Columbia lawyers ($M=65\%$; $SD=26\%$). However, an unequal variance t-test revealed a significant Gender difference. Female lawyers reported an average of 74.6% of their practice focused on family law ($SD=19.8\%$) while male lawyers reported an average of 59.5% of their practice focused on family law ($SD=28.5$) ($p<.05$). The data from two British Columbia lawyers, one female and one male, who reported that family law currently made up only one percent of their practice were not included in these analyses.

Training/Experience Important for Lawyers to Develop Skills Handling Child Custody and Access Disputes. Lawyers were provided with a list of five possible types of training and experiences, and they were asked to check those items which they believed were important or helpful to family lawyers in developing their skills in handling child custody and access disputes. These training options did not include formal education but essentially fell under the category of professional development or continuing education. Space was provided for lawyers to write in other training or experience options that they believed to be important. The frequency of endorsement, the valid percentage for each item, and a list of responses added by participants can be found in Table 14.

Lawyers' Experience of Psychologists' Involvement in Child CA. Lawyers were asked which mental health practitioners they most frequently encountered conducting child CA evaluations, which mental health professional they preferred to have involved in child custody and access disputes, and their reasons for this preference (see Table 15).

For the total sample of lawyers, 44% reported they most frequently encounter Ph.D. psychologists conducting CA evaluations while 31% reported encountering Masters level psychologists most frequently. The percentages within-province are somewhat different, although psychologists remained the most frequently encountered mental health professional. In Alberta, where registration as a psychologist is possible with a Masters degree, only 33% of lawyers indicated they most frequently encounter Ph.D. psychologists while 55% reported they tend to encounter Masters level psychologists doing this work. In British Columbia these statistics are reversed with 50% of the lawyers reporting they most frequently encounter Ph.D. psychologists and only 16% reporting frequent encounters with Masters level psychologists. Family Court Counsellors were encountered most frequently by 17% of the sample (8 in BC; 1 in Alberta), and 3 lawyers (6%), all from British Columbia, indicated they most frequently

Table 14

Training and Experiences Important for Lawyers in Child Custody and Access Cases:
Frequencies and Valid Percent for Total Sample of Lawyers (N=53)

Type of Training/Experience	Frequency Endorsed	Valid %
Related Workshops & Seminars	48	91%
Reading Case Law	46	87%
Education regarding the components of a Child CA Evaluation	39	74%
Reading Legal Journals	32	60%
Education re Psychological Testing	26	49%
Other Training/Experiences (Added by Respondents)	17	32%
Work Experience in Child Custody and Access	6	11%
General Knowledge of Child/Adult		
Developmental Psychology	3	6%
Life Experience	2	4%
Mediation/Negotiation Training	2	4%
Cross-Disciplinary Workshops	1	2%
Education re Family Transitions &		
Impact of Divorce on Children	1	2%
Being Divorced	1	2%
Having Your Own Children	1	2%

Table 15

Lawyers' Experience of Psychologists' Involvement in Child CA Disputes
Alberta Lawyers (ABL), British Columbia Lawyers (BCL) and Total Sample

	ABL	BCL	Total	Valid %*
Mental Health Professional Prefer to Have Involved in CA disputes (N=53):				
Psychologist (Degree Not Specified)	11	16	27	51%
Ph.D. Psychologist	2	7	9	17%
Depends on Case Requirements	2	1	3	6%
Psychiatrist	1	1	2	4%
Family Court Counsellor	0	2	2	4%
Prefer not to Have Mental Health Involved	1	1	2	4%
Social Worker (Degree Not Specified)	1	0	1	2%
Individual Traits More Important than Title	1	0	1	2%
Ph.D. (Profession Not Specified)	0	1	1	2%
Prefer Multiple Evaluators	0	1	1	2%
No Response	2	2	4	8%
Why Prefer Psychologist (N=39)				
Education, Training, & Experience	4	13	17	46%
Qualified in Psychological Testing	5	5	10	27%
Most Familiar Legal Test for Best Interests of Child	1	4	5	14%
Opinions More Accepted by Court	1	1	2	5%
Psychological Testing Impresses Court	1	0	1	3%
Understanding of Legal Process	0	1	1	3%
More Objective	1	0	1	3%
Best Able to Evaluate Parenting	0	1	1	3%
Depends on Case Requirements	1	0	1	3%

* Rounded to nearest percentage

encountered Masters level Social Workers in the course of their CA practice. One lawyer from Alberta reported he encountered a Ph.D. level Social Worker most frequently in his CA practice.

Fifty-one percent of the lawyers indicated they preferred to work with a psychologist without specifying a degree. Only 17% of the lawyers, the majority of whom were from British Columbia (BC=7; AB=2), indicated a clear preference for a Ph.D. psychologist. The balance of the sample chose a variety of disciplines as the mental health professional they preferred to have involved in child CA disputes (see Table 15).

Those respondents who preferred to have a psychologist involved in child CA evaluations were asked why they held this preference. The top three reasons provided were psychologists' education, training and experience; psychologists' competence to administer and interpret psychological testing; and a belief that, among mental health professionals, psychologists are the most familiar with the legal test for the Best Interests of the Child (See Table 15).

The lawyers were also asked to rank order a list of seven types of training/experience according to how important they believed each item was in determining the competency of a mental health professional to conduct a child CA evaluation (1=most important; 2=2nd most important, etc.). Participants left blank those options they did not believe were relevant to determining competency. A space was provided for respondents to fill in any training or experience options not on the list that they believed were important. Analyses of variance were used to calculate mean rankings and standard deviations for each item. This information is summarized in Table 16.

A significant difference for Province was found in the mean ranking assigned to the item References/Impressions of Evaluator by Other Family Lawyers. Alberta lawyers rated this item as being significantly more important than British Columbia lawyers ($p<.01$). The three options endorsed most frequently as being important in determining competency to conduct child CA evaluations were References/Impressions of Evaluator by Other Family Lawyer (94%), Divorce and Custody Related Training (88%), and Years of Relevant Clinical Experience (79%) (see Table 16).

Lawyers' Experience in Child Custody and Access Practice. Basic information was collected from lawyers regarding Years of Experience Handling Child Custody and Access Disputes, the Average Number of Referrals Each Year, whether they Still Accept Referrals, and the Percentage of CA Cases Requiring Relitigation. This information is reported in Table 17.

Table 16

Training/Experience Important in Determining Competency of Mental Health Professional
Conducting Child CA Evaluation for the Sample of Lawyers Who Endorsed Each Item
Rank Ordered According to Mean Ranking (1 = Most Important; 2 = 2nd Most Important, etc.)
Total Sample (N=53)

Type of Training/Experience	Mean Rank	(SD)	Frequency Endorsed
References/Impressions of Evaluator by other			
Family Lawyers*	2.3	(1.6)	50
Divorce and Custody Related Training	2.6	(1.4)	47
Years of Relevant Clinical Experience	3.1	(1.4)	42
Education in Mental Health from Recognized			
University Program	3.6	(1.8)	34
Training Relevant to Child Abuse and Child			
Protection Issues	3.8	(1.5)	35
Review of Evaluator's Past Court Testimony	4.9	(1.8)	24
Qualified as an Expert by the Court	5.1	(1.9)	31
Other Training/Experiences Suggested:		Frequency Endorsed	
My Past Impressions & Experience		3	
Good Interpersonal Skills		2	
Available to Do Report Promptly		2	

* $p < .01$ (ABL $M = 1.6$, $SD = .9$; BCL $M = 2.8$, $SD = 1.8$)

Table 17

Lawyers' Experience of Child Custody and Access Practice for the Total Sample,
Alberta Lawyers (ABL), and British Columbia Lawyers (BCL)

		Total	ABL	BCL
Years Experience Handling Child Custody and Access Disputes (N = 53)				
Mean		11.5	10.0	12.4
(SD)		(7.2)	(6.2)	(7.2)
By Gender:	Female	Mean	10.1	8.9
	(N= 33)	(SD)	(6.6)	(6.6)
	Male	Mean	9.6	16.4
	(N=20)	(SD)	(5.6)	(7.0)
Still Accepting Referrals for Custody and Access (N=53)*				
Yes		45	15	30
No		8	6	2
Average Number of Custody and Access Cases Per Year (N=52)+				
Mean		35.6	37.2	34.5
(SD)		(25.3)	(25.2)	(25.5)
Percentage of Child Custody and Access Cases Requiring Relitigation (N=49)++				
Mean		14.5	14.5	14.9
(SD)		(12.5)	(11.6)	(12.6)

* $p < .05$

+ 3 outliers adjusted: AB female = 300 cases to 81 cases/year; AB female = 99 cases to 81 cases/year; BC male = 200 cases to 101 cases/year

++ 1 outlier adjusted: BC lawyer = 40% to 31%; 1 outlier removed: BC lawyer = 100%

Lawyers were also asked to comment on their experiences around the causes of relitigation in child custody and access disputes.

Factorial analyses of variance of Years Experience Handling Child Custody and Access Disputes revealed no significant differences between Alberta and British Columbia lawyers for Province or Gender, but did reveal a trend towards a Gender by Province interaction ($p < .06$) indicating that male lawyers in British Columbia averaged almost seven years more experience in CA disputes than either male lawyers in Alberta or female lawyers in general. Analyses of variance for Average Number of Custody and Access Disputes Per Year revealed no significant differences between Alberta and British Columbia lawyers. Alberta lawyers reported accepting from 2 to 300 custody and access cases per year, while British Columbia lawyers reported accepting from 1 to 200 child custody and access cases per year.

Pearson chi-square revealed a significant difference for Province for Still Accepting Referrals for Custody and Access ($p < .05$). Of the eight lawyers who reported they no longer accept referrals, six were from Alberta (28.6% of the Alberta sample) and two were from British Columbia (6.2% of the British Columbia sample). Analysis of variance found no significant differences for Percentage of Child Custody and Access Cases Requiring Relitigation. Of the 44 lawyers who responded to this question, 19 (43%) identified ongoing conflict between parents as a major cause of relitigation. Fifteen lawyers (34%) identified a change of circumstances, such as a parent deciding to relocate, as a major cause. Client dissatisfaction with the custody decision was mentioned by 4 lawyers (9%), while a breakdown in the child custody and access agreement was identified by three lawyers (7%). Finally, changing needs of the child and general access and maintenance issues were listed by two lawyers (5%) and one lawyer (2%) respectively as major contributors to the relitigation of child custody and access decisions.

Ethical Dilemmas for Lawyers involved in Child CA Disputes (Optional Questions). At the end of their survey, lawyers were asked two optional questions related to ethical dilemmas that might arise during the course of their child custody and access related practice. First, the lawyers were asked what percentage of time they felt caught between their professional responsibility to represent their client and their personal beliefs about what would be in the best interests of the children in a child custody and access dispute. Forty-nine lawyers (92% of the total sample) chose to answer this question. Analysis of variance revealed no significant differences for Province or Gender. On average, these lawyers reported feeling caught in this ethical dilemma 23% of the time ($SD = 22.9$). Ten lawyers (20%) indicated they never feel caught in this particular dilemma, while nine (18%) of their colleagues reported they are troubled by this

dilemma 40 to 50% of the time when handling child custody and access disputes. The lawyers were also asked how they resolved this dilemma (see Table 18). Twenty-two percent of the sample either referred the client on or withdrew from the case, and 22% advised the client to put the child's interests first. Twelve percent of the sample believed that personal views were not relevant within their practice and they therefore focused on their professional responsibility to the client.

The second ethical dilemma was a query regarding the percentage of time lawyers felt caught between their professional responsibility to represent their client and the legal statutes which require consideration of the best interests of the child in determining child custody and access. Forty-eight lawyers (91%) chose to answer this question, and analysis of variance again revealed no significant differences for Province or Gender. On average, these lawyers reported feeling caught in this dilemma 13% of the time. Twenty-one lawyers (44%) reported never feeling caught in this ethical dilemma, while three lawyers (6%) indicated they were troubled by this dilemma 40 to 50% of the time when handling child custody and access disputes. As with the previous ethical dilemma, lawyers were asked how they resolved this problem (see Table 18). The most frequently endorsed methods of resolution were to refer the client on or withdraw from the case (13%) or to advise the client to put the child's interests first (10%). Four lawyers indicated they believe they are obligated to follow the letter of the law and they would therefore adhere to whatever was required by the statutes governing the best interests of the child.

Summary of Key Findings: Results for Lawyers. A significant effect for Gender on Age and Average Number of Years in Practice was found for the combined lawyers' sample. Male lawyers in this sample are significantly older than their female colleagues and have been in practice close to five years longer. The two main areas of practice were Family Law followed by Wills and Estates. Female lawyers reported dedicating a significantly higher percentage of their practice to Family Law than male lawyers. On average these lawyers reported they most frequently encounter Ph.D. psychologists followed by Master's level psychologists conducting CA evaluations, and 51% of the lawyers reported they prefer working with a psychologist on CA cases rather than another mental health professional. In terms of training/experience important for determining competency to conduct CA evaluations, the most frequently endorsed option was "references/impressions of the evaluator by another family lawyer." Alberta lawyers rated

Table 18

Resolutions Suggested by Lawyers for Two Ethical Dilemmas

Resolution	Frequency Endorsed
Professional Obligation to Client Versus Personal Beliefs of Best Interests of Children (N=49)	
Refer on/withdraw from case	11
Advise client to put child's interests first	11
Personal views are not relevant	6
Educate client re legal test for BIC	4
Refer to psychologist/mediator	3
Discuss dilemma with client	3
Help client find acceptable alternative	1
Consult mental health professional	1
Evidence/legal process will resolve dilemma	1
Act on client's instructions	1
Consult with my spouse	1
Have not resolved this dilemma	1
Professional Obligation to Client Versus Statutes Defining Best Interests of Child (N=48)	
Refer on/Withdraw from case	6
Advise client to put child's interests first	6
Must follow statutes/law	4
Act on client's instructions	2
Have not resolved this dilemma	2
Advise client contact police/protection services	1

these references as being significantly more important than British Columbia lawyers.

There were no significant Province or Gender differences between Alberta and British Columbia lawyers for Years of Experience Handling CA Disputes or for Average Number of CA Disputes per Year. There was a trend towards a Gender by Province interaction for Years Experience Handling CA Disputes with male lawyers in British Columbia averaging significantly more years than either male lawyers in Alberta or female lawyers in general. A significant difference for Province was found for Still Accepting Referrals for CA with six of the eight lawyers who reported they no longer accept referrals for CA disputes living in Alberta. No significant differences were found for Percentage of CA Cases Requiring Relitigation.

On average, lawyers reported feeling caught between their ethical responsibility to represent their client and their personal beliefs about what would be in the best interests of the children involved 23% of the time. On average, lawyers reported feeling caught between their professional responsibility to represent their client and legal statutes requiring consideration of the Best Interests of the Child standard 13% of the time. Referring the client on to another lawyer or withdrawing from the case was the most frequently mentioned resolution for both dilemmas.

Comparisons: Psychologists and Lawyers

Demographics. The demographic variables Age, Gender, and Years of Practice were tabulated for Professional Group (TP = total sample of psychologists, $N=52$; TL= total sample of lawyers, $N=53$). Analyses of variance for age revealed a significant difference between the professional groups for Age ($p<.001$) with psychologists ($M=51.4$; $SD=7.9$) being, on average, close to six years older than lawyers ($M = 45.2$; $SD=10.9$). There was also a significant Gender difference for Age ($p<.05$) with females ($M = 45.5$; $SD = 11.3$) being younger than males ($M = 50.4$; $SD = 8.4$). A review of the descriptive data reveals that female lawyers in this sample were significantly younger than male lawyers ($p<.01$) (See Table 16), while there was no gender difference for Age for the psychologists' sample (see Table 1). When Gender was analyzed as a covariate for Professional Group, Age remained significantly different between the two professional groups ($p<.01$).

Pearson chi-square analysis of Gender also revealed a significant difference between Professional Groups ($p<.001$). In the psychologists' sample there are more male practitioners ($N=37$) than female practitioners ($N=15$). However, in the lawyers' sample the demographic is reversed with more female lawyers ($N=33$) than male lawyers ($N=20$).

Given the significant difference in Age between the two professional groups, it was not surprising to also find a significant difference in the Average Years of Experience ($p < .01$). Psychologists in this sample averaged 18.5 years of experience ($SD = 8.4$) while lawyers averaged 14.3 years of experience ($SD = 8.3$). Analysis of variance of Average Years of Experience for Gender also revealed a significant difference ($p < .01$). Female practitioners in this sample averaged 13.7 years of experience ($SD = 7.5$) while male practitioners averaged 18.5 years of experience ($SD = 8.5$). As with Age, this difference appears to be attributable to the lawyers' sample where female lawyers averaged five and a half years less experience than male lawyers ($p < .01$) (see Table 14). For psychologists, there was no significant difference for Gender for Years of Experience. When Years of Experience was analyzed for Professional Groups with Gender as a covariate, a significant difference no longer existed ($p < .06$). However, when Years of Experience was analyzed for Gender with Professional Group as a covariate, a significant Gender effect was still found ($p < .05$).

Standards of Practice and Best Interests of the Child Test. Psychologists and lawyers were asked to rate their overall familiarity with both their jurisdiction's legal definition of Best Interests of the Child and with professional guidelines and standards for mental health professionals completing child CA evaluations. The rating was based on a five point Likert Scale (1 = Not at all familiar; 2 = Hardly familiar; 3 = Somewhat familiar; 4 = Very familiar; 5 = Completely familiar). Analysis of variance revealed there was no significant difference between psychologists' and lawyers' level of familiarity with their jurisdiction's legal definition of Best Interests of the Child (TP $M = 4.0$; $SD = .7$; TL $M = 4.2$, $SD = .7$). However, analysis of variance of their familiarity with professional guidelines and standards for child CA evaluation revealed that psychologists were significantly more familiar with these standards than lawyers ($p < .001$; TP $M = 4.3$, $SD = .8$; TL $M = 3.0$, $SD = 1.0$). Lawyers who were not familiar with professional guidelines and standards for mental health professionals for child CA evaluations were asked if they knew how to obtain a copy of these guidelines. Thirty-one of the 33 lawyers whose responses ranged from "Not at All" to "Somewhat familiar" with CA evaluation answered this question. Seventeen (55%) of these 31 lawyers reported they did not know how to obtain a copy of CA evaluation guidelines for mental health professionals.

Accepting Referrals. Both psychologists and lawyers were asked whether or not they still accept referrals for child custody and access practice. Pearson chi-square analyses revealed no significant Provincial or Professional Group differences for Accepting Referrals. However, a significant effect for Gender was found for Accepting Referrals ($p < .01$). Of the 47 female

professionals surveyed, 26% (five psychologists; seven lawyers) indicated they no longer accept referrals for work related to child custody and access. Of the 56 male professionals surveyed, 7% (three psychologists; one lawyer) indicated they no longer accept referrals for work related to child custody and access.

Role of Psychologists in Child Custody and Access Evaluation. Both professional groups were asked what role they thought psychologists should be playing within the context of child custody and access. Overwhelmingly, psychologists and lawyers endorsed the process was best served if psychologists gathered information and made recommendations (90% and 87% respectively). Two psychologists and four lawyers stated that psychologists' participation should be restricted to gathering and reporting information rather than making recommendations. Only one psychologist believed that the authority of psychologists in child custody and access should be increased to include rendering the final decision. One psychologist and one lawyer agreed that psychologists' participation in child custody and access should be limited to making treatment recommendations in the event of some type of psychopathology, and one psychologist stated that participation should be restricted to assessing those issues directly impacting the child's psychological welfare. Finally, two lawyers indicated they did not think psychologists should be involved in the process in any way.

Litigation Support for Clients Prior to a Child Custody and Access Evaluation. One question on the survey was designed to explore how psychologists' beliefs about the litigation support provided to parents prior to a child CA evaluation corresponds to reported legal practice. From a list of four types of litigation support, psychologists were asked to check those supports they believed lawyers provide to their clients as part of their child custody and access practice. Lawyers were asked to check the litigation support they actually provide to their clients following a court-ordered child CA evaluation. A fifth type of litigation support only appeared on the survey for lawyers, "Arrange practice assessment interviews with an independent mental health professional." Space was also provided for other examples of litigation support to be written in by either professional group. Results appear in Table 19. Pearson chi-square analyses revealed significant Professional Group differences on Information Regarding Home Visits, Specific Information Regarding Psychological Testing, and Review of the Final CA Report with Another Mental Health Practitioner. For these three litigation support options, psychologists believed that

Table 19

Litigation Support Prior to Child Custody and Access Evaluation: Psychologists' Beliefs and Lawyers' Reported Practice By Frequency of Endorsement

Litigation Support	Psychologists (N=49)	Lawyers (N=52)
Information regarding home visits*		
Yes	33	23
No	16	29
General Information about psychological tests (e.g., the purpose of psychological testing)		
Yes	27	33
No	22	19
Specific Information about psychological tests (e.g., information about validity scales)*		
Yes	11	4
No	38	48
Review of the final CA report by another mental health professional**		
Yes	32	17
No	17	35
Arrange practice assessment interviews with an independent mental health practitioner		
Yes	n/a	3
No	n/a	49

* $p < .05$ ** $p < .001$

lawyers provide this support significantly more often than lawyers reported providing it to their clients. Lawyers' endorsement of the various types of litigation support they provide to their clients ranged from a low of 6% of the sample (Arrange Practice Interviews with an Independent Mental Health Professional) to a high of 64% of the sample (General Information Regarding Psychological Testing).

Both lawyers and psychologists were invited to fill in other types of litigation support related to child CA evaluations. Six lawyers noted that they provide general information to their clients on all aspects of a CA evaluation. Three additional types of litigation support, each endorsed by one respondent, were suggested by the lawyers. These responses were: providing the client with a list of people to speak to prior to the evaluation, giving the client a copy of CA evaluation standards or guidelines, and providing general information regarding the legal standard for the Best Interests of the Child.

Three psychologists indicated they believed that lawyers provide their clients with general advice to prepare them for a child CA evaluation, and two psychologists reported that they believed lawyers provide information regarding the orientation of the assessor. Five additional types of litigation support, each endorsed by one respondent, were suggested by the psychologists. These responses included providing the client with knowledge of the complaint process with the psychologists' regulatory body, coaching the children through the parent, advising the client on what not to tell the assessor during the CA evaluation, and doing whatever it takes to win the case.

Case conferences in Court-Ordered Child Custody and Access Evaluations. Using a seven point Likert scale (1=Never; 2=Rarely; 3=Infrequently; 4=Sometimes; 5=Frequently; 6=Very Frequently; 7=Always), both professional groups were asked to what extent they believed there should be a case conference among the judge, the lawyers, and the mental health professional in cases where a child custody and access evaluation was ordered by the Court. Pearson chi-square analysis revealed a significant difference between the professional groups with psychologists indicating these case conferences should be held Frequently to Very Frequently (TP $M = 5.4$, $SD = 1.2$) and lawyers indicating a preference for Sometimes to Frequently (TL $M = 4.6$; $SD = 1.8$) ($p < .01$). Fourteen percent of the lawyers believed these case conferences should "Never" or "Rarely" occur, while none of the psychologists endorsed this option. Thirty-six percent of the lawyers and 22% of the psychologists indicated case conferences should "Infrequently" or "Sometimes" occur. Seventeen percent of the lawyers and 30% of the psychologists endorsed holding case conferences "Frequently" in court ordered CA

cases. Thirty-three percent of the lawyers and 50% of the psychologists indicated these case conferences should "Very Frequently" or "Always" occur.

Rewards and Stresses of Practice in Child Custody and Access. Although there were a wide range of responses to the questions regarding the rewards and stresses associated with working in the area of child CA evaluation (see Tables 20, 21, and 22), there was some consensus about the costs and benefits of doing this type of work. For both professions, the greatest reward for undertaking work in child custody and access was the opportunity to advocate for the needs and interests of the children. Second on both lists was a feeling of satisfaction when custody issues were resolved in a way that was acceptable to everyone involved.

Five additional rewards of practice, each endorsed by one respondent, were noted by the psychologists: making confident recommendations based on an in-depth analysis, working for the next generation of healthy adults, seeing through the "smoke and mirrors," balancing practice in individual therapy with the critical thinking required for CA evaluation, and making child welfare stop and think. The lawyers also provided three single responses. These responses described serving justice, educating clients, and changing custody and access arrangements not working for the child or children involved as rewards of child CA practice.

There were also some shared complaints regarding the stresses of involvement in child custody and access cases but the two most common stresses named for each professional group were different. Psychologists most frequently identified the threat of complaints and lawsuits as a major concern when conducting child custody and access evaluations, followed by the stress of having to work within the legal framework and testifying in court. For lawyers, the most frequently mentioned stress was dealing with unreasonable clients. Tied for second for lawyers were the stresses of dealing with unreasonable lawyers and the impact of child custody and access on children.

Altogether the lawyers provided 13 examples of stresses related to child CA practice, three of which were responses endorsed by only one participant. Psychologists reported 24 examples of CA practice related stresses, 11 of which were endorsed by only one participant. For lawyers, these responses included the stress of working with lawyers and psychologists who lose their objectivity and feeling that parental rights are valued over the parents' responsibility to the child. The single responses from psychologists were varied and included worrying about the impact of the divorce on the children, trying to resolve complex matters with insufficient information, concern that their writing skills may not represent all the circumstances accurately,

Table 20

Rewards of Involvement in Child Custody and Access Evaluation For Psychologists (N=51)

Rewards	Frequency	Valid %*
Advocating for children/focus on child's interests	21	41%
Satisfaction when resolution is acceptable to all involved	9	18%
Potential to offer help	8	16%
Challenging work	6	12%
Role as educator and consultant	4	8%
Very important work that makes a difference	4	8%
Interesting and varied work (no two cases the same)	4	8%
Good Income	3	6%
Investigative nature of work/exploring family dynamics	3	6%
Resolving conflict/forcing communication between parents	3	6%
Don't really know	2	4%
Helps families to function post-divorce	2	4%
Interface of psychology and the law/assisting courts	2	4%
Refocus case from adversarial to collaborative	2	4%
Other Rewards (one respondent each)	5	2% each

* Rounded to the nearest percentage

Table 21

Rewards and Stresses of Involvement In Child Custody and Access Cases for Lawyers (N=45)

	Frequency	Valid %*
REWARDS:		
Protecting children/Best Interests of the Child	26	58%
Negotiating reasonable agreement	13	29%
No rewards	5	11%
Finding creative solutions	3	7%
Finding solutions that allow family to move on	3	7%
Helping to heal human suffering	2	4%
Other rewards (one respondent each)	3	2% each
STRESSES:		
Dealing with unreasonable clients	17	38%
Dealing with unreasonable lawyers	7	16%
Impact on children	7	16%
Willingness of parents to involve children in dispute	6	13%
Too adversarial/someone wins, someone loses	6	13%
Too emotionally draining	5	11%
Delays and costs	5	11%
Stakes too high	4	9%
Toughest cases least likely to be resolved	2	4%
Confusing & frustrating outcomes	2	4%
Other stresses (one respondent each)	3	2% each

*Rounded to nearest percentage

Table 22

Stresses of Involvement in Child Custody and Access Cases for Psychologists (N=51)

Stresses	Frequency	Valid %*
Danger of complaints, lawsuits, threats	17	33%
Testifying in court/legal framework	10	20%
Time pressures	7	14%
Making recommendations parents may not like	6	12%
Demanding, emotionally draining, High conflict	5	10%
Lack of support from professional regulatory body	4	8%
Dealing with uncooperative parents	3	6%
Dealing with uncooperative lawyers	3	6%
Concern reports will be used inappropriately	2	4%
When parents/lawyers lie	2	4%
Lawyers pick apart report losing focus on Best Interests of child/becoming legal pawn	2	4%
Worry over making recommendations	2	4%
Other stresses (one respondent each)	11	2% each

*Rounded to nearest percentage

knowing that you can never really "win" in these cases, concern over their position of "power" in CA evaluations, and concern that the psychologists are acting as lawyers.

How Psychological Services are Helpful and Harmful in Child Custody and Access

Disputes. Psychologists and lawyers were asked to list up to two ways they had found psychological services to be helpful and up to two ways they had found them to be harmful to the resolution of child custody and access disputes (see Tables 23, 24, 25, and 26). Psychologists believed that their services are most helpful in removing the child from the middle of the dispute and in bringing a clear focus on the best interests of the child to the negotiations. This particular service also appeared on the lawyers' list, but in third place. Lawyers indicated psychological services are most helpful in clarifying the strengths and weaknesses of each party, a benefit that appears to be directly linked to the adversarial nature of the legal process. A similar response was provided by one psychologist who indicated that psychological services are helpful in providing solid evidence for or against one side.

Once again, there were numerous single responses for psychologists regarding how their services may be helpful to the resolution of child CA disputes. These benefits included providing information in addition to affidavit material, making recommendations regarding shared parenting, eliminating blame from the divorce, normalizing the emotional process of divorce for parents, and offering a different perspective on the situation than that provided by the lawyers. Single responses from the lawyers regarding the benefits of psychological services in CA cases included providing an evaluation when the court requests assistance in the decision-making process, helping the court see into the lives of the family, and providing additional resources and references. One lawyer indicated that psychological services were not helpful in resolving child CA disputes.

With regards to how psychological services are harmful to the resolution of child custody and access disputes, 33% of the psychologists and 33% of the lawyers agreed that psychological services are harmful when they result in biased evaluations and reports lacking in objectivity. Psychologists also acknowledged that lack of assessor training or experience and assessment reports that perpetuate the conflict are also harmful to the resolution of child custody and access disputes. Lawyers reported that psychological services are harmful when reports are produced that are too theoretical or unrealistic, when the psychologist's recommendations are unacceptable to the parents, and when the psychologist moves from a position of providing litigation support to being the "expert."

Table 23

Psychologists' Beliefs Regarding How Psychological Services are Helpful to the Resolution of Child Custody and Access Disputes (N=46)

How Psychological Services are Helpful	Frequency	Valid %*
Clear focus on BIC/remove child from middle	14	30%
Understanding & assessment of issues/dynamics	11	24%
Education (e.g., help parents understand impact of their behaviour)	8	17%
Objective independent appraisal/balanced	6	13%
Mediation	6	13%
Clear recommendations based on assessment/solid data	5	11%
Comprehensive report	5	11%
Can highlight areas needing support (e.g., depression)	5	11%
Sorts out psychopathology in parenting	4	9%
Mediation	3	7%
Post-divorce counselling	2	4%
Provide support to family members	2	4%
Encourages communication between parents	2	4%
Single responses (one respondent each)	10	2% each

*Rounded to nearest percentage

Table 24

Lawyers' Beliefs Regarding How Psychological Services Are Helpful to the Resolution of Child Custody and Access Disputes (N=48)

How Psychological Services are Helpful	Frequency	Valid %*
Clarifies positions (strengths/weaknesses) of each party	15	31%
Provides objective documented report by third party	12	25%
Focuses on Best Interests of the Child	8	17%
Assists parties to accept recommendations	6	13%
Provides psychological testing	5	10%
Provides possible workable solutions	5	10%
Helps parties gain insight	4	8%
Helps mediate disputes	3	6%
Helps parents reach own agreement	3	6%
Helps sort out allegations	3	6%
Helps arrange age-appropriate shared parenting	3	6%
Gives parties place to vent and be heard	2	4%
Educates parents	2	4%
Allows for application for summary resolution	2	4%
Single responses (one respondent each)	6	2% each

*Rounded to the nearest percentage

Table 25

Psychologists' Beliefs Regarding How Psychological Services are Harmful to the Resolution of Child Custody and Access Disputes (N=39)

How Psychological Services are Harmful	Frequency	Valid %*
Biased one-sided assessment/psychologist not honest	15	38%
Assessor lack of training/experience	6	15%
Assessment report perpetuates conflict	5	13%
Misuse of information included in a public report	3	8%
Failure to follow standards of practice	3	8%
Over-reliance on/inappropriate use of test data	3	8%
Failure to do home visits	2	5%
Alliances with one party or with one lawyer	2	5%
Take on role of investigator/judge not psychologist	2	5%
Poor recommendation fail to consider all options	2	5%
3 to 4 hour "wonders"/opinions with little involvement	2	5%
Not harmful	2	5%
Single Responses (one respondent each)	12	3% each

*Rounded to nearest percentage

Table 26

Lawyers' Beliefs Regarding How Psychological Services Are Harmful to the Resolution of Child Custody and Access Disputes (N=46)

How Psychological Services are Harmful	Frequency	Valid %*
Report lacks objectivity/biased evaluation	16	33%
Report too theoretical or unrealistic	7	15%
Recommendations are unacceptable to parents	7	15%
Psychologist moves from litigation support to "expert"	7	15%
Evaluation is incomplete	4	8%
Small inaccuracies that undermine overall authority	4	8%
Failure to provide strategies for reducing conflict	4	8%
High cost discourages use of service/adds to problems	3	6%
Recommends status quo	3	6%
Delay in producing final report	3	6%
Recommendations inconsistent with report	2	4%
Unilateral evaluation of only one parent	2	4%
Failure to criticize poor parenting	2	4%
Failure to follow College guidelines for CA evaluation	2	4%
Gives unqualified legal advice	2	4%
Evaluator is deceived by one or both parents	2	4%
Not harmful	2	4%
Single responses (one respondent each)	6	2% each

*Rounded to the nearest percentage

Psychologists provided twelve ways in which psychological services are harmful to the resolution of CA disputes that were each endorsed by only one respondent. This list included making recommendations that address the legal issues but not the overall context, following cookbook standards created by the psychologists' regulatory body, being unable to directly address parental conflict, the high costs associated with a CA evaluation, seeing recommendations ignored, and seeing psychologists attribute psychopathology to the normal process of grieving the loss of the family. Single responses noted by lawyers included poor communication with lawyers, recommending lengthy and costly counselling, acting as "hired guns" for a specific law firm, and failing to explain potential problems revealed in psychological testing.

How the Legal System is Helpful and Harmful in Child Custody and Access Disputes.

Psychologists and lawyers were also asked to list up to two ways they had found the legal system to be helpful and up to two ways they had found it to be harmful to the resolution of child custody and access disputes (see Tables 27, 28, 29 and 30). The primary benefit attributed to the legal system by both professional groups was the Court's ability to provide a final decision regarding custody and access. Second on both lists was the ability of the legal system to provide set rules and guidelines for reaching this final decision. Single responses from the psychologists regarding how the legal system is helpful to CA dispute resolution included keeping victims of domestic violence safe, enforcing court orders, using collateral information to decide the Best Interests of the Child, making decisions re false allegations, and requiring a concrete written parenting plan. One psychologist indicated they did not believe the legal system was helpful in resolving child CA disputes. Single responses from the lawyers included establishing child support guidelines, determining "fitness" to parent, educating clients on how the legal system will follow up on the case, and assisting the parties to settle without a trial.

There was also consensus between the professional groups on the ways in which the legal system negatively impacts the resolution of child custody and access cases. Lawyers and psychologists agreed that the legal process is too adversarial, often resulting in escalation of the conflict between the parents. Other concerns mentioned by both professional groups were the long delays associated with due process in the Courts, and the high cost of litigation which limits service to the lower and middle income class, according to the psychologists, and favors those individuals with greater financial resources, according to the lawyers. Single responses appear on their respective tables.

Table 27

Psychologists' Beliefs Regarding How Legal System Is Helpful to the Resolution
of Child Custody and Access Disputes (N=46)

How Legal System Helps	Frequency	Valid %*
Timely decisions/Judge makes final decision	14	30%
Provides set rules & guidelines to follow	11	24%
Needs of child put first	6	12%
Clearly identifies issues/relevant factors	5	10%
Fair hearing of all sides/brings reason into process	5	10%
Legal professionals who are well prepared	3	6%
Lawyers who practice "collaborative law"	3	6%
Judicial arbitration/mediation	2	4%
Appointment of a child advocate	2	4%
Court has more information than just CA report	2	4%
High cost takes fight out of parents	2	4%
Sensitive counsel who are genuinely concerned	2	4%
Court ordered CA assessments	2	4%
Judges who understand & make use of CA reports	2	4%
Parenting after separation/educative measures	2	4%
Single responses (one respondent each)	9	2% each

* Rounded to nearest percentage

Table 28

Lawyers' Beliefs Regarding How Legal System Is Helpful to the Resolution of Child Custody and Access Disputes (N=49)

How Legal System is Helpful	Frequency	Valid %*
Provides final decision/enforceable closure	24	49%
Imposes limits/guidelines	10	20%
Where parents are unreasonable/attitude adjustment	9	18%
Due process - both sides heard	7	14%
Protects rights of children/best interests of child	5	10%
Provides enforceable access order	4	8%
Reduces imbalance of power	3	6%
Judge stays with file in future/case management	3	6%
Judge may have creative solutions	3	6%
Can order child custody and access evaluation	3	6%
Process uncovers lying/clarifies the truth	3	6%
Involvement of judge early in the process	2	4%
Single responses (one respondent each)	4	2% each

* Rounded to the nearest percentage

Table 29

Psychologists' Beliefs Regarding How Legal System Is Harmful to the Resolution of Child Custody and Access Disputes (N=46)

How Legal System is Harmful	Frequency	Valid %
Too litigious/adversarial (escalates conflict)	28	61%
Long delays court dates/slow judicial process	13	28%
Expensive/lack of services for lower/middle income	9	18%
Lawyers create delays/cross litigation/unethical counsel	8	17%
Prejudiced judges/judge inexperienced in family law	2	4%
Single responses (one respondent each)	1	2% each
Applies standard solutions to complex problems/ narrow focus		
Failure to act on recommendations due to court applications		
Court documents that are harmful to family members		
Experienced lawyer runs circles around inexperienced lawyer		
Encourages greed in disputing parties		
Too strategic without consideration of consequences		
Child forced to see parent against wishes/child views not fully recognized		
Last minute pressure to settle out of court		
Cannot separate adult issues from issues in Child CA dispute		
Court accepts part of CA report to justify pre-conceived opinion		
Not geared to co-parenting post-divorce		
Allows parent to self-represent		
Can be used to harass an existing family unit (e.g., ex-spouse & new family)		
Too much emphasis on lay concepts of risk, parenting, etc.		
Other psychologist criticizes report without seeing the child and court accepts criticism		
Exaggerates "critical incidences" that may reflect badly on one parent		
Places too much weight on experts		
Failure to provide follow-up after court decision		

*Rounded to nearest percentage

Table 30

Lawyers' Beliefs Regarding How Legal System Is Harmful to the Resolution
of Child Custody and Access Disputes (N=46)

How Legal System Harmful	Frequency	Valid %*
Too adversarial/inflames parties	20	41%
Long delays/slow process	13	27%
Cost/costly relitigation -		
favours party with financial resources	9	18%
Cannot adequately resolve problems	5	10%
Early/hasty decisions (e.g., prejudices one party)	4	8%
Biased judges/judge unwilling to listen	4	8%
Does not always hear/represent child's interests	4	8%
Inconsistent decisions	3	6%
False allegations restrict access	3	6%
Favours parties who are unethical/dishonest	2	4%
Emotionally draining/difficult for all parties	2	4%
Court favours status quo	2	4%
Superficial evaluation of parenting	2	4%
Poor understanding of domestic violence	2	4%
Single responses (one respondent each)	1	2% each
Court defers to senior counsel		
Inability to enforce access		
Lawyers who lose objectivity		
Relying too much on CA evaluation		
When both parties are good parents		
Neglecting to order CA evaluation		
Focuses on client rights not responsibilities		
Parental alienation		
Legal system is not harmful		

*Rounded to the nearest percentage

The Relationships Between Psychologists and Lawyers. Keeping in mind their professional community overall, both professional groups were asked to characterize the relationship between psychologists and family lawyers using a seven point Likert scale (1=Extremely Poor; 2=Very Poor, 3= Poor, 4=Neutral, 5=Good, 6= Very Good, 7=Excellent). Analyses of variance revealed there were no significant differences on the mean rating of this relationship for Professional Group or for Gender. Overall, both professional groups rated the relationship as "Good."

However, there was a significant Gender effect within the psychologists' group ($p < .05$) with female psychologists ($M = 4.4$; $SD = .9$) characterizing the relationship less favourably than their male colleagues ($M = 5.1$; $SD = 1.0$). While 31% of the male psychologists rated the relationship as either "Very Good" or "Excellent", none of the female psychologists rated the relationship this highly. Fifty-seven percent of the female psychologists rated the relationship as "Good", 36% rated it as "Neutral", and seven percent rated it as "Very Poor." By comparison, 46% of the male psychologists rated the relationship as "Good", 17% rated it as "Neutral", and 6% rated it as "Poor". No male psychologists rated the relationship with lawyers as "Very Poor." These results must be interpreted with caution due to the small sample size (female psychologists=14; male psychologists=35).

There was also a significant effect for Province within the lawyers' group ($p < .05$) with Alberta lawyers ($M = 5.35$, $SD = 1.0$) characterizing the relationship more favourably than British Columbia lawyers ($M = 4.7$, $SD = .6$). Forty percent of Alberta lawyers rated the relationship as "Very Good" or "Excellent" compared to only seven percent of British Columbia lawyers. Forty percent of Alberta lawyers rated the relationship as "Good" compared to 61% of British Columbia lawyers. The lowest rating assigned to this relationship by lawyers was "Neutral." Twenty percent of Alberta lawyers and 32% of British Columbia lawyers endorsed this rating.

Participants were also asked for suggestions on how to improve communication between psychologists and lawyers. The two most frequently proposed ideas by both professional groups were collaborative educational and informal cross-disciplinary meetings or affiliations (see Table 31). The lawyers also suggested there needs to be clarification of the custody and access evaluator's role and mandate, and they endorsed the need for clearer guidelines regarding communication between psychologists and lawyers during the custody and access evaluation process. For their part, psychologists suggested it would be helpful for lawyers to learn more about the strengths and limits of psychological testing, and for both professional groups to

Table 31

Suggestions for Improving the Communication Between Psychologists (N=40)
and Lawyers (N=39)

Suggestions	Frequency	Valid %*
PSYCHOLOGISTS' SUGGESTIONS:		
Collaborative educational opportunities	14	35%
Informal cross-disciplinary meetings/affiliations	12	30%
Lawyers need to learn more about strengths/limits of psychological assessment	4	10%
Need better understanding of each profession's role in CA cases	4	10%
Other suggestions (one respondent each)	6	3% each
LAWYERS' SUGGESTIONS:		
Collaborative educational opportunities	13	33%
Informal cross-disciplinary meetings/affiliations	11	28%
Clarification of CA Evaluator's Role/Mandate	11	28%
More communication/clear communication guidelines	8	21%
Psychologists need to understand adversarial process	2	5%
Better mutual understanding & respect	2	5%
Case Conferencing	2	5%
Improvements not needed	2	5%
Other suggestions (one respondent each)	1	3% each

*Rounded to the nearest percentage

develop a better understanding of each profession's role in child custody and access cases.

Single responses from psychologists for improving the professional relationship between psychologists and lawyers included allowing more communication during the CA evaluation process, changing the focus of CA disputes from adversarial to mediation/dispute resolution, providing child advocates, and encourage case conferencing between the lawyers and the psychologist. Single responses from lawyers for improving this relationship included developing academic sources that could be accessed by both professional groups, creating internet discussion boards, and creating greater flexibility regarding schedules and fee for service.

Summary of Key Findings: Comparisons of Psychologists and Lawyers. A significant difference was found for Age between the two professional groups with psychologists being, on average, nearly six years older than lawyers and females being significantly younger than males. A significant difference for Gender was also found between the two professional groups. In the psychologists' sample there were more male than female practitioners, while in the lawyers' sample the demographic was reversed. Psychologists averaged significantly more years of experience than lawyers, and male practitioners had significantly more years of experience than female practitioners. Psychologists were significantly more familiar with professional guidelines and standards of practice for CA evaluators than lawyers. A significant effect for Gender was found for Accepting Referrals with 26% of female practitioners indicating they no longer accept referrals compared to 7% of male practitioners.

The majority of psychologists and lawyers agreed that psychologists should continue to gather information and make recommendations in their role as child CA evaluators. Psychologists believed that lawyers provide information regarding home visits, provide specific information regarding psychological testing, and review the final CA report with another mental health professional significantly more than lawyers reported providing these services to their clients. With regards to case conferencing in Court ordered CA evaluations, psychologists indicated these case conferences should be held significantly more often than lawyers would prefer. Both professional groups characterized the nature of the relationship between psychologists and lawyers as "good." However, female psychologists rated this relationship less favorably than their male colleagues, and Alberta lawyers, particularly females, rated this relationship more favorably than British Columbia lawyers.

Inferential Statistics: The BICQ-R

The following section reports the results of statistical analyses used to test the central hypotheses related to the BICQ-R. The means, standard deviations, and rank ordering of the 77 items found on the BICQ-R are reported and significant differences in the rating of these items by psychologists and lawyers are noted. Also included in this section is an exploration of within group and between group differences for psychologists' and lawyers' ratings of the BICQ-R items.

Internal Reliability of the BICQ-R. It was originally hypothesized that the BICQ-R could be understood as a single construct representing the Best Interests of the Child Criterion. However, within this construct, it was hypothesized there were three areas of assessment that represented the relational, the abilities of the parents, and the needs of the child aspects of the BIC criterion. The subject to variable ratio (105 to 77) for this study made factor analyses of these data unreliable, particularly any attempts to compare the factor structure between the psychologists and the lawyers. However, testing was done to explore the internal consistency of the BICQ-R as a whole and for the three areas of assessment for each professional group.

To test the internal reliability of each of the areas of assessment and of the BICQ-R as a whole, coefficient alpha (Cronbach, 1951) was computed for each professional group for each assessment area and for the BICQ-R as a whole. The resulting reliability estimates for the relational assessment area (psychologists' alpha = .86; lawyers' alpha = .87), the abilities of the parents assessment area (psychologists' alpha = .88; lawyers' alpha = .90), and the needs of the child assessment area (psychologists' alpha = .91; lawyers' alpha = .90) suggests adequate internal consistency for items within each area of assessment. The internal reliability of each of the areas of assessment and of the BICQ-R as a whole was also computed for the total sample ($N=105$; psychologists and lawyers combined). The resulting reliability estimates for the relational assessment area (alpha = .90), the abilities of the parents assessment area (alpha = .91), the needs of the child assessment area (alpha = .92) provides further confirmation of the internal consistency of each of the assessment areas.

Overall Ranking of the Best Interests of the Child Criterion. Using the respondents' ratings of the extent to which each item should be considered in determining child custody and access, mean scores and standard deviations for each item were calculated for both psychologists and lawyers. A rank ordering of these 77 items is presented in Table 32, which is organized according to the psychologists' rank ordering of the items. The ranking assigned to each item by the lawyers is also provided. Significant differences in the mean score assigned to each of the items by the two professional groups are noted. Although the lawyers did not rank all of the

items the same order as the psychologists, there are only two differences in the actual content of the top 30 items. The lawyers did not endorse "each parent's parenting style (e.g., discipline)" and "the child's fears regarding the current family situation" (ranked 28th and 29th respectively by psychologists) in their top 30 items. However, they included "physical violence in the parents' relationship" (ranked 32nd by psychologists) and "each parent's ability to maintain the child's interests" (ranked 49th by psychologists) in their list of the top 30 items for consideration in child custody and access cases. Therefore, for lawyers, there are 18 items from the relational assessment area, 7 items from the abilities of the parents assessment area, and 5 items from the needs of the child assessment area in the 30 items that were rated most highly. As ranked by the psychologists, out of the top 30 items, 17 items are from the relational assessment area, 7 items are from the abilities of the parents assessment area, and 6 items are from the needs of the child assessment area.

The respondents' ratings of each item were also used to calculate overall means and standard deviations for each of the areas of assessment. Psychologists ranked the overall importance for consideration of the assessment areas in the following order: first, the relational assessment area ($M = 5.39$; $SD = .51$); second, the needs of the child assessment area ($M = 4.92$; $SD = .67$); and third, the abilities of the parents assessment area ($M = 4.66$; $SD = .49$). Lawyers' overall mean ranking of the assessment areas was the same as psychologists with the relational assessment area first ($M = 4.77$; $SD = .58$), the needs of the child assessment area second ($M = 4.34$; $SD = .72$), and the abilities of the parents third ($M = 4.34$; $SD = .72$). There was a significant difference in the overall mean ratings assigned to each assessment area by psychologists and lawyers with lawyers' ratings being significantly lower than psychologists' ratings in all of the assessment areas ($p < .001$).

Within Professional Group Differences. Within the lawyers' sample, multivariate analysis of variance revealed no significant differences for Province, Training in Divorce Mediation, Coaching for Psychological Tests, or Gender on the relational, the needs of the child, or the abilities of the parents assessment areas⁴. The possible effects of Years of

⁴ The large number of comparisons being completed on the BICQ-R items increases the possibility of a Type I error, and the small sample size creates concerns regarding the power of the analyses to detect significant differences between groups leading to possible Type II errors. Therefore, the accepted standard approach of a multivariate significance level of .05 (to control for Type I errors) and a univariate significance level of .05 (to protect against possible Type II errors) was chosen.

Table 32

Best Interests of the Child Criteria Rated by Psychologists and Lawyers as to the Extent Each Item
Should be Considered in Determining Child Custody and Access: Rank Ordered According to
Psychologists' Means (Overall Ranking for Lawyers = Rank) (Psychologist N=52; Lawyers N=53)

Best Interests Criteria	Psychologists		Lawyers		
	<u>M</u>	(<u>SD</u>)	<u>M</u>	(<u>SD</u>)	(Rank)
1. History of sexual abuse of the child by parent (RA3+)	6.79	(0.57)	6.68	(0.70)	(1)
2. History of physical abuse of the child by parent (RA16)	6.60	(0.75)	6.42	(0.80)	(2)
3. History of neglect/emotional abuse of the child by parent RA26).....	6.58	(0.67)	6.04	(1.13)*	(4)
4. Overall quality of parent-child relationship (RA9)	6.25	(0.79)	5.17	(1.16)**	(15)
5. Preferences of child age 15 or older (NC18)	6.25	(0.91)	6.11	(1.05)	(3)
6. Level of parental conflict (RA1)	6.19	(0.97)	4.92	(1.17)**	(21)
7. Willingness to let child maintain contact other parent (RA4)	6.17	(0.90)	6.04	(1.13)	(5)
8. Parent's ability to separate child's needs from their own (AB28)	6.12	(0.86)	5.81	(1.14)	(6)
9. Emotional needs of the child (NC7)	6.10	(0.93)	5.40	(1.20)*	(9)
10. Parent's ability to provide a safe physical environment (AB24)	6.02	(1.18)	5.62	(1.20)	(8)
11. Attempts to influence the child against the other parent (RA18)	5.92	(1.05)	5.68	(1.00)	(7)
12. Parent's current drug/alcohol use (AB5)	5.90	(1.07)	5.39	(1.27)	(10)
13. Allegations of physical abuse of the child by parent (RA11)	5.85	(1.32)	5.08	(1.56)*	(19)
14. Each parent's ability to meet child's health needs (AB7)	5.78	(0.98)	5.23	(1.16)*	(12)
15. Each parent's affection for child (RA10)	5.75	(1.08)	5.19	(1.30)	(14)
16. Allegations of sexual abuse of the child by parent (RA7)	5.75	(1.37)	5.10	(1.55)	(17)
17. Preferences of a child ages 12-14 yrs old (NC17)	5.73	(1.01)	5.26	(1.40)	(11)
18. Level of conflict between each parent and child (RA25)	5.71	(1.07)	4.91	(1.24)**	(22)
19. Allegation neglect/emotional abuse of child by parent(RA21)	5.71	(1.32)	4.82	(1.57)*	(26)
20. Child's affection for each parent (RA2)	5.69	(1.04)	4.90	(1.06)**	(23)
21. Parents' ability to cooperate on parenting matters (RA12)	5.69	(1.23)	5.08	(1.19)	(18)
22. Willingness protect child from interparental conflict (AB16)	5.60	(1.03)	5.17	(1.17)	(16)
23. Each parent's psychological adjustment (AB9)	5.60	(1.22)	4.79	(1.23)**	(27)
24. Way in which parent's express their conflict (RA13)	5.50	(1.21)	4.85	(1.23)*	(24)
25. Child's need for relationship with siblings (NC1)	5.47	(1.07)	4.76	(1.43)*	(28)
26. Each parent's willingness to share parenting (RA23)	5.44	(1.09)	4.83	(1.12)*	(25)
27. Each parent's feelings of responsibility for the child (RA20)	5.42	(1.13)	4.66	(1.44)*	(30)
28. Each parent's parenting style (e.g. discipline practices) (AB18).....	5.35	(1.06)	4.30	(1.03)**	(47)
29. Child's fears regarding the current family situation (NC9)	5.35	(1.20)	4.49	(1.20)*	(38)
30. Child's special health needs (NC4)	5.26	(1.03)	5.19	(1.14)	(13)

+ Item's assigned number on the BICQ-R

* $p < .01$

** $p < .001$

Table 32 (continued)

Best Interests of the Child Items Rated by Psychologists and Lawyers as to the Extent Each Item Should be Considered in Determining Child Custody and Access

Best Interests Criteria	Psychologists		Lawyers		
	<u>M</u>	<u>(SD)</u>	<u>M</u>	<u>(SD)</u>	<u>(Rank)</u>
31. Each parent's preferences for possible shared parenting plans (RA8)	5.26	(1.27)	4.54	(1.18)*	(33)
32. Physical violence in the parent's relationships (RA15)	5.25	(1.22)	4.94	(1.22)	(20)
33. Child's perception of relationships with family members (NC13)	5.21	(1.13)	4.29	(1.12)**	(49)
34. Child's need to be with "psychological" parent (NC2)	5.16	(1.36)	4.37	(1.52)	(43)
35. Likelihood of parent moving child from jurisdiction (AB29)	5.10	(1.09)	4.49	(1.28)	(39)
36. Extent of parent-child contact before the separation (RA17)	5.08	(1.15)	4.52	(1.01)*	(35)
37. New partner's contribution to parenting (RA19)	5.06	(1.00)	4.19	(1.08)**	(53)
38. Each parent's history of drug/alcohol use (AB6)	5.04	(1.31)	4.50	(1.35)	(36)
39. Preferences of child ages 9 - 11 years old (NC16)	5.20	(1.21)	4.28	(1.39)	(50)
40. Parents' history of sharing parenting (RA6)	5.00	(1.14)	4.64	(1.27)	(31)
41. Each parent's psychological history (AB19)	4.98	(1.21)	4.25	(1.33)*	(52)
42. Child's need to maintain a daily routing (NC6)	4.90	(0.96)	4.19	(1.09)*	(54)
43. Each parent's ability to provide access appropriate education (AB4)	4.90	(1.02)	4.47	(1.28)	(41)
44. Length of time child has been in current living situation (NC19)	4.89	(1.28)	4.34	(1.28)	(44)
45. Each parent's ability to maintain child's daily routine (AB20)	4.87	(0.89)	4.27	(0.96)*	(51)
46. Child's need to see grandparents/extended family (NC12)	4.87	(0.89)	4.45	(0.95)	(42)
47. Child's academic needs (NC11)	4.85	(0.96)	4.53	(0.93)	(34)
48. Each parent's ability to maintain the child's interests (AB 27)	4.81	(0.86)	4.66	(1.07)	(29)
49. Willingness to provide child contact with extended family (AB8)...	4.81	(1.03)	4.47	(1.01)	(40)
50. Each parent's ability to keep siblings together (AB30)	4.78	(1.19)	4.60	(1.04)	(32)
51. The child's interests and preferred activities (NC8)	4.77	(0.90)	4.32	(1.02)	(46)
52. Each parent's access to support from family/friends (AB17)	4.71	(0.98)	4.04	(0.81)**	(55)
53. Intellectual needs of the child (NC3)	4.69	(1.04)	4.49	(1.05)	(37)
54. Extent of parent-child contact during separation (RA5)	4.66	(1.25)	4.33	(1.03)	(45)
55. Each parent's criminal history (AB12)	4.63	(1.05)	3.56	(1.42)**	(66)
56. Each parent's ability provide stable community involvement(AB23)	4.48	(0.98)	3.93	(0.94)*	(59)
57. Child's cultural needs (NC5)	4.48	(0.98)	3.98	(1.10)	(57)
58. Each parent's ability to provide access to same age children (AB25)	4.46	(1.05)	3.79	(1.01)*	(63)
59. Each parent's capacity contribute child's moral development (AB2)..	4.42	(0.96)	4.30	(1.12)	(48)
60. Child's need to maintain contact with friends (NC10)	4.44	(1.07)	3.96	(1.02)	(58)
61. Each parent's physical health (AB31)	4.39	(1.01)	3.88	(0.93)	(61)
62. Each parent's ability to provide "family" environment (AB13)	4.39	(1.17)	3.65	(1.02)*	(64)
63. Preferences of child ages 6-8 years (NC15)	4.23	(1.29)	3.57	(1.53)	(65)
64. Each parent's ability to meet child's cultural needs (AB15)	4.14	(0.82)	3.79	(0.79)	(62)
65. Each parent's understanding of child development (AB1)	4.14	(0.99)	4.04	(1.18)	(56)

* $p < .01$ ** $p < .001$

Table 32 (continued)

Best Interests of the Child Criteria Rated by Psychologists and Lawyers as to the Extent
Each Item Should be Considered in Determining Child Custody and Access

Best Interests Criteria	Psychologists		Lawyers		
	<u>M</u>	<u>(SD)</u>	<u>M</u>	<u>(SD)</u>	<u>(Rank)</u>
66. Each parent's history of neglect/emotional abuse (AB26)	4.12	(1.32)	3.27	(1.35)*	(68)
67. Each parent's cognitive ability (AB10)	4.02	(1.06)	3.85	(1.06)	(60)
68. Each parent's history of physical abuse (AB22)	3.87	(1.27)	3.19	(1.37)	(70)
69. Each parent's history of sexual abuse (AB3)	3.83	(1.18)	3.34	(1.41)	(67)
70. Each parent's financial sufficiency (AB14)	3.69	(1.00)	3.23	(1.17)	(69)
71. Preferences of child ages 0-5 years (NC14)	3.65	(1.43)	2.83	(1.63)	(72)
72. Keeping young child and mother together (RA14)	3.56	(1.22)	3.04	(1.30)	(71)
73. The child's gender (NC20)	3.00	(1.34)	1.89	(0.95)**	(75)
74. Each parent's sexual orientation (AB11)	2.80	(1.22)	1.94	(1.23)*	(74)
75. Each parent's religious orientation (AB21)	2.69	(1.00)	2.17	(1.03)	(73)
76. Keeping parent-child of the same gender together (RA24)	2.60	(0.93)	1.79	(0.84)**	(76)
77. Extent each parent responsible for dissolution of marriage (RA22)..	2.54	(1.04)	1.68	(0.98)**	(77)

* $p < .01$

** $p < .001$

Experience⁵ and Percentage of Practice in Family Law as covariates were also tested on group differences for Province, Training in Divorce Mediation, Specific Coaching for Psychological Tests, and Gender using multivariate analysis of variance. Results from these analyses were similar to the results obtained for group differences without adjustment for the covariates with no changes in the multivariate levels of significance.

For psychologists, multivariate analysis of variance revealed no significant differences for Province⁶, Highest Degree Earned, Theoretical Orientation or Training in Divorce Mediation on any of the three assessment areas. There was, however, a significant difference for Gender on the abilities of the parents assessment area ($p < .05$). Psychologists' ratings were also tested for the possible effects of Years of Experience Conducting CA Evaluations and Percentage of Practice in CA Evaluations as covariates on differences for Highest Degree Earned, Theoretical Orientation, Training in Divorce Mediation, and Gender using multivariate analysis of variance. For the relational assessment area and for the needs of the child assessment area, the results of these analyses were similar to the results obtained for group differences without adjustment for the covariates. However, when Percentage of Practice was tested as a covariate on Gender group differences for the abilities of the parents assessment area, there was a slight increase in the multivariate level of significance ($p < .02$). An examination of this assessment area revealed four items that were significant for Gender at the univariate level: each parent's ability to separate the child's needs from their own (male $M = 5.92$, $SD = .83$; female $M = 6.60$, $SD = .74$; $p < .01$), each parent's ability to maintain the child's routine (male $M = 5.08$, $SD = .80$; female $M = 4.33$, $SD = .90$; $p < .01$), each parent's ability to provide a family environment (Male $M = 4.6$, $SD = 1.0$; female $M = 3.7$, $SD = 1.0$; $p < .05$), and each parent's ability to meet the child's cultural needs (male $M = 4.3$, $SD = .88$; female $M = 3.73$, $SD = .46$; $p < .05$).

Between Professional Group Differences. When the psychologists sample and the lawyers sample were combined, multivariate analysis of variance revealed significant differences for Professional Group on the relational assessment area ($p < .001$), the abilities of the parents assessment area ($p < .001$), and the needs of the child assessment area ($p < .001$) (See Tables 33, 34,

⁵ Age and Years of Experience were highly correlated for both samples ($r > .70$, $p < .01$). Given that highly correlated covariates do not contribute additional adjustment to the DV, no further analyses using Age as a covariate were pursued.

⁶ There were no significant differences for Province on any of the analyses performed for this study. To simplify the Results, Province will no longer be reported as part of the analyses.

and 35). On average, psychologists rated the extent each of the items on all three assessment areas should be considered in determining child custody and access higher than the ratings assigned by lawyers. Using multivariate analysis of variance, the possible effects of Years of Experience as a covariate were tested on group differences for Professional Group but no changes in the multivariate levels of significance were found. The possibility of a Professional Group by Gender interaction was tested for all three areas of assessment, but no significant multivariate differences were found.

Using multivariate analysis of variance, the combined sample was also tested for group differences for Training in Divorce Mediation and Gender with and without Years of Experience as a possible covariate. No significant group differences at the multivariate level were found for Training in Divorce Mediation on any of the three areas of assessment nor were any significant group differences found for Gender on the relational and the needs of the child assessment areas. Years of Experience as a covariate did not change the multivariate level of significance for these tests. However, a significant difference for Gender was found on the abilities of the parents assessment area ($p < .01$). When the possible effects of Years of Experience as a covariate for Gender on the abilities of the parents assessment area were tested, a significant difference for Gender still remained ($p < .05$). An exploration of the ability of the parents assessment area for univariate levels of significance revealed three items with significant gender differences: the sexual orientation of the parent (male $M = 2.79$, $SD = 1.39$; female $M = 1.88$, $SD = .98$; $p < .01$), the ability of each parent to provide a "family" environment (male $M = 4.45$, $SD = 1.12$; female $M = 3.50$, $SD = .97$; $p < .001$), and each parent's financial sufficiency (male $M = 3.74$, $SD = 1.08$; female $M = 3.13$, $SD = 1.06$; $p < .05$). On all three of these items, the assigned ratings were significantly lower for females than for males.

The Impact of Personal Custody and Access Experience on BICQ-R Ratings. One hypothesis of this study was that a personal history with child custody and access might influence the way a psychologist or lawyer rated the items on the BICQ-R. An optional question was used to explore this hypothesis. Respondents were asked whether or not they had ever been personally involved in a child custody and access dispute. Of the 50 lawyers who responded, ten (20%) reported they had been personally involved in a child custody and access dispute. Of the 51 psychologists who responded, nine (18%) reported they had been personally involved in a child custody and access dispute. Given these small samples, these results are considered exploratory in nature.

Multivariate analyses of within group differences for lawyers revealed no significant multivariate differences for Personal CA Experience on any of the three areas of assessment. No

Table 33

Items Rated by Psychologists and Lawyers as to the Extent Each Item Should be Considered in
Determining Child Custody and Access: Relational Assessment Area
Rank Ordered by Psychologists' Mean Rating (Psychologist N=52; Lawyers N=53)

Relational Area of Assessment	Psychologists		Lawyers	
	<u>M</u>	<u>(SD)</u>	<u>M</u>	<u>(SD)</u>
History of sexual abuse of the child by parent (RA3+)	6.79	(0.57)	6.68	(0.70)
History of physical abuse of the child by parent (RA16)	6.60	(0.75)	6.42	(0.80)
History of neglect/emotional abuse of the child by parent (RA26).....	6.58	(0.67)	6.04	(1.13)*
Overall quality of parent-child relationship (RA9)	6.25	(0.79)	5.17	(1.16)**
Level of parental conflict (RA1)	6.19	(0.97)	4.92	(1.17)**
Willingness to let child maintain contact other parent (RA4)	6.17	(0.90)	6.04	(1.13)
Attempts to influence the child against the other parent (RA18)	5.92	(1.05)	5.68	(1.00)
Allegations of physical abuse of the child by parent (RA11)	5.85	(1.32)	5.08	(1.56)*
Each parent's affection for child (RA10)	5.75	(1.08)	5.19	(1.30)
Allegations of sexual abuse of the child by parent (RA7)	5.75	(1.37)	5.10	(1.55)
Level of conflict between each parent and child (RA25)	5.71	(1.07)	4.91	(1.24)**
Allegation neglect/emotional abuse of child by parent(RA21)	5.71	(1.32)	4.82	(1.57)*
Child's affection for each parent (RA2)	5.69	(1.04)	4.90	(1.06)**
Parents' ability to cooperate on parenting matters (RA12)	5.69	(1.23)	5.08	(1.19)
Way in which parent's express their conflict (RA13)	5.50	(1.21)	4.85	(1.23)*
Each parent's willingness to share parenting (RA23)	5.44	(1.09)	4.83	(1.12)*
Each parent's feelings of responsibility for the child (RA20)	5.42	(1.13)	4.66	(1.44)*
Each parent's preferences for possible shared parenting plans (RA8)	5.26	(1.27)	4.54	(1.18)*
Physical violence in the parent's relationships (RA15)	5.25	(1.22)	4.94	(1.22)
Extent of parent-child contact before the separation (RA17)	5.08	(1.15)	4.52	(1.01)*
New partner's contribution to parenting (RA19)	5.06	(1.00)	4.19	(1.08)**
Parents' history of sharing parenting (RA6)	5.00	(1.14)	4.64	(1.27)
Extent of parent-child contact during separation (RA5)	4.66	(1.25)	4.33	(1.03)
Keeping young child and mother together (RA14)	3.56	(1.22)	3.04	(1.30)
Keeping parent-child of the same gender together (RA24)	2.60	(0.93)	1.79	(0.84)**
Extent each parent responsible for dissolution of marriage (RA22)	2.54	(1.04)	1.68	(0.98)**
Mean Rating of Extent of Consideration for Relational Assessment Area	5.39	(0.51)	4.77	(0.58)**

+ Item's assigned number on the BICQ-R

* $p < .01$

** $p < .001$

Table 34

Items Rated by Psychologists and Lawyers as to the Extent Each Item Should be Considered in
Determining Child Custody and Access: Abilities of the Parents Assessment Area
Rank Ordered by Psychologists' Means (Psychologist N=52; Lawyers N=53)

Abilities of Parents Assessment	Psychologists		Lawyers	
	<u>M</u>	<u>(SD)</u>	<u>M</u>	<u>(SD)</u>
Parent's ability to separate child's needs from their own (AB28+)	6.12	(0.86)	5.81	(1.14)
Parent's ability to provide a safe physical environment (AB24)	6.02	(1.18)	5.62	(1.20)
Parent's current drug/alcohol use (AB5)	5.90	(1.07)	5.39	(1.27)
Each parent's ability to meet child's health needs (AB7)	5.78	(0.98)	5.23	(1.16)*
Willingness protect child from interparental conflict (AB16)	5.60	(1.03)	5.17	(1.17)
Each parent's psychological adjustment (AB9)	5.60	(1.22)	4.79	(1.23)**
Each parent's parenting style (e.g. discipline practices)(AB18)	5.35	(1.06)	4.30	(1.03)**
Likelihood of parent moving child from jurisdiction (AB29)	5.10	(1.09)	4.49	(1.28)
Each parent's history of drug/alcohol use (AB6)	5.04	(1.31)	4.50	(1.35)
Each parent's psychological history (AB19)	4.98	(1.21)	4.25	(1.33)*
Each parent's ability to provide access appropriate education (AB4)	4.90	(1.02)	4.47	(1.28)
Each parent's ability to maintain child's daily routine (AB20)	4.87	(0.89)	4.27	(0.96)*
Each parent's ability to maintain the child's interests (AB 27)	4.81	(0.86)	4.66	(1.07)
Willingness to provide child contact with extended family (AB8)	4.81	(1.03)	4.47	(1.01)
Each parent's ability to keep siblings together (AB30)	4.78	(1.19)	4.60	(1.04)
Each parent's access to support from family/friends (AB17)	4.71	(0.98)	4.04	(0.81)**
Each parent's criminal history (AB12)	4.63	(1.05)	3.56	(1.42)**
Each parent's ability provide stable community involvement (AB23)	4.48	(0.98)	3.93	(0.94)*
Each parent's ability to provide access to same age children (AB25)	4.46	(1.05)	3.79	(1.01)*
Each parent's capacity contribute child's moral development (AB2)	4.42	(0.96)	4.30	(1.12)
Each parent's physical health (AB31)	4.39	(1.01)	3.88	(0.93)
Each parent's ability to provide "family" environment (AB13)	4.39	(1.17)	3.65	(1.02)*
Each parent's ability to meet child's cultural needs (AB15)	4.14	(0.82)	3.79	(0.79)
Each parent's understanding of child development (AB1+)	4.14	(0.99)	4.04	(1.18)
Each parent's history of neglect/emotional abuse (AB26)	4.12	(1.32)	3.27	(1.35)*
Each parent's cognitive ability (AB10)	4.02	(1.06)	3.85	(1.06)
Each parent's history of physical abuse (AB22)	3.87	(1.27)	3.19	(1.37)
Each parent's history of sexual abuse (AB3)	3.83	(1.18)	3.34	(1.41)
Each parent's financial sufficiency (AB14)	3.69	(1.00)	3.23	(1.17)
Each parent's sexual orientation (AB11)	2.80	(1.22)	1.94	(1.23)*
Each parent's religious orientation (AB21)	2.69	(1.00)	2.17	(1.03)
Mean Rating of Extent of Consideration Abilities of Parents Assessment	4.66	(0.49)	4.13	(0.58)**

+ Item's assigned number on the BICQ-R

* $p < .01$; ** $p < .001$

Table 35

Items Rated by Psychologists and Lawyers as to the Extent Each Item Should be Considered in

Determining Child Custody and Access: Needs of the Child Assessment Area

Rank Ordered by Psychologists' Means (Psychologist N=52; Lawyers N=53)

Needs of the Child Assessment Area	Psychologists M (SD)		Lawyers M (SD)	
Preferences of child age 15 or older (NC18+)	6.25	(0.91)	6.11	(1.05)
Emotional needs of the child (NC7)	6.10	(0.93)	5.40	(1.20)*
Preferences of a child ages 12-14 years old (NC17)	5.73	(1.01)	5.26	(1.40)
Child's need for relationship with siblings (NC1)	5.47	(1.07)	4.76	(1.43)*
Child's fears regarding the current family situation (NC9)	5.35	(1.20)	4.49	(1.20)*
Child's special health needs (NC4)	5.26	(1.03)	5.19	(1.14)
Child's perception of relationships with family members (NC13)	5.21	(1.13)	4.29	(1.12)**
Preferences of child ages 9 – 11 years old (NC16)	5.20	(1.21)	4.28	(1.39)
Child's need to be with "psychological" parent (NC2)	5.16	(1.36)	4.37	(1.52)
Child's need to maintain a daily routing (NC6)	4.90	(0.96)	4.19	(1.09)*
Length of time child has been in current living situation (NC19)	4.89	(1.28)	4.34	(1.28)
Child's need to see grandparents/extended family (NC12)	4.87	(0.89)	4.45	(0.95)
Child's academic needs (NC11)	4.85	(0.96)	4.53	(0.93)
The child's interests and preferred activities (NC8)	4.77	(0.90)	4.32	(1.02)
Intellectual needs of the child (NC3)	4.69	(1.04)	4.49	(1.05)
Child's cultural needs (NC5)	4.48	(0.98)	3.98	(1.10)
Child's need to maintain contact with friends (NC10)	4.44	(1.07)	3.96	(1.02)
Preferences of child ages 6-8 years (NC15)	4.23	(1.29)	3.57	(1.53)
Preferences of child ages 0-5 years (NC14)	3.65	(1.43)	2.83	(1.63)
The child's gender (NC20)	3.00	(1.34)	1.89	(0.95)**
Mean Rating of Extent of Consideration Needs of the Child Assessment	4.92	(0.67)	4.34	(0.72)**

+ Item's assigned number on the BICQ-R

* $p < .01$

** $p < .001$

significant Gender by Personal CA Experience interactions were found on any of the assessment areas, nor were there any changes in the multivariate levels of significance when Years of Experience was introduced as a covariate.

The psychologists' sample also did not reveal any significant multivariate differences for Personal CA Experience on the three areas of assessment. However, there was a trend towards multivariate significance for Personal CA Experience on the abilities of the parents assessment area ($p < .07$). The effects of Percentage of Practice and Years of Experience as possible covariates were tested for Personal CA Experience on the abilities of the parents area. Percentage of Practice did not change the level of multivariate significance, but this significance level dropped when the effects of Years of Experience as a covariate were tested ($p < .10$).

Multivariate analysis of variance of the psychologists' sample also revealed a trend towards significance on the relational assessment area for a Gender by Personal CA Experience interaction ($p < .09$). However, the multivariate level of significance for this assessment area also dropped ($p < .11$) when a test of the effects of Years of Experience as a covariate was calculated.

In order to tease out possible within groups' differences, Gender effects were explored by performing multivariate analyses of variance on female lawyers and psychologists (six with Personal CA Experience, 41 without) and male lawyer and psychologists (13 with Personal CA Experience, 41 without). For the female sample, multivariate analysis of the effects of Personal CA Experience and of a Personal CA Experience by Professional Group interaction revealed no significant group differences for any of the areas of assessment. Testing for the possible effects of Years of Experience as a possible covariate did not change the multivariate levels of significance. It is possible that with a sample of only six females with personal CA experience, there was insufficient power in these analyses to produce any significant differences.

For males, multivariate analyses of the effects of Personal CA Experience also revealed no significant differences on any of the three assessment areas of the BICQ-R. However, multivariate analysis of variance of a possible Personal CA Experience by Professional Group interaction yielded significant multivariate differences for the abilities of the parents assessment area ($p < .05$) and for the relational area of assessment ($p < .001$). These multivariate significance levels did not change when the possible effects of Years of Experience as a covariate were tested.

A summary of significant univariate tests for the abilities of the parents and the relational areas of assessment are provided in Table 36. Within the abilities of the parents assessment area, it is somewhat difficult to discern a pattern of interaction for Personal CA Experience by Professional Group. On some items, individuals with personal CA experience within both professional groups

rated the items higher than those individuals without such experience, and in some instances they rated the items lower. However, a close inspection of these variables reveals an interesting pattern. If the direction of the change for male psychologists was from a lower score for those with personal CA experience to a higher score for those without, then the lawyers' sample was the opposite, with higher scores from lawyers with personal CA experience to lower scores from those without this experience and vice versa. For the relational assessment, a clear pattern of interaction can be discerned for these three items. Male psychologists with personal CA experience rated these three items higher than male psychologists without personal CA experience, while male lawyers with personal CA experience rated the items lower than male lawyers without personal CA experience with the greatest changes occurring within the lawyers' sample.

Finally, an exploration of between groups differences was conducted with Personal CA Experience being the primary independent variable of interest. Multivariate analyses of variance of the combined sample (i.e., both professional groups) did not reveal any significant differences for Personal CA Experience for any of the three areas of assessment. However, when testing was done for a possible Personal CA Experience by Professional Group interaction, a significant multivariate effect was found for the relational area of assessment ($p < .01$). An examination of the univariate tests for this assessment area revealed only one significant item, the way parents express their conflict with each other (Psychologists with Personal CA Experience: $M=4.78$, $SD=1.09$; Psychologists without Personal CA Experience: $M=5.62$, $SD=1.19$; Lawyers with Personal CA Experience: $M=5.20$, $SD=1.48$; Lawyers without Personal CA Experience: $M=4.78$, $SD=1.27$; $p < .05$). Multivariate analysis for the possible effects of Years of Experience as a covariate reduced the multivariate level of significance for the relational area of assessment ($p < .02$). With this adjustment, the significance of the univariate test, the way parents express their conflict with each other, was reduced ($p < .07$).

Given the small sample sizes for the between groups and within groups analyses for Personal CA Experience, it is somewhat surprising that there was sufficient power for the analyses to reveal significant, or nearly significant, differences. This suggests that the effects of Personal CA Experience, particularly as it interacts with profession, may be significant. Further research is warranted to examine these effects.

Table 36

Summary for Multivariate Analyses of Variance of Males for Effects of Personal CA (PCA) Experience by Professional Group
Interaction on the Abilities of the Parents and the Relational Assessment Areas ; Psychologists with PCA Experience N=7; Psychologists
without PCA Experience N=29; Lawyers with PCA Experience N=6; Lawyers without PCA Experience N=12

Personal CA Experience:	Psychologists		Lawyers		Significance
	Yes	No	Yes	No	
	<u>M</u> (<u>SD</u>)	<u>M</u> (<u>SD</u>)	<u>M</u> (<u>SD</u>)	<u>M</u> (<u>SD</u>)	
ABILITIES OF THE PARENTS ASSESSMENT AREA					$p < .05$
Each parent's parenting style (e.g., discipline) (AB18*)	4.43 (1.0)	5.17 (1.5)	5.45 (1.0)	4.00 (1.1)	$p < .01$
Each parent's financial sufficiency (AB14)	4.57 (1.3)	3.66 (0.9)	3.33 (1.4)	3.67 (1.1)	$p < .07$
Each parent's sexual orientation (AB11)	4.00 (1.4)	2.89 (1.1)	1.83 (1.0)	2.50 (1.8)	$p < .05$
RELATIONAL ASSESSMENT AREA					$p < .001$
Parents' history of sharing parenting (RA6)	5.29 (1.1)	5.17 (1.0)	3.50 (0.6)	5.25 (1.3)	$p < .01$
History of physical abuse of child by a parent (RA16)	6.86 (0.4)	6.55 (0.7)	5.67 (1.2)	6.33 (0.7)	$p < .05$
Each parent's willingness to share parenting (RA23)	5.86 (0.7)	5.34 (1.2)	4.50 (0.6)	5.33 (1.1)	$p < .06$

* Item's assigned number on the BICQ-R

Summary of Key Findings: Inferential Statistics. Reliability estimates suggest adequate internal consistency for items within each area of assessment. In addition the reliability estimate for the BICQ-R as a whole suggests that all of the items taken together could be considered to tap a single construct, the Best Interests of the Child Criterion. Although the lawyers did not rank all of the items from the BICQ-R in the same order as psychologists, only two differences were found in the actual content of the top 30 items. When overall means were calculated for psychologists and for lawyers in each assessment area, there was a significant difference between the ratings with lawyers' ratings being significantly lower than psychologists' ratings in all of the assessment areas. A significant effect for Gender was found for psychologists on the abilities of the parents assessment area, but there were no significant within group differences for lawyers. Multivariate analyses of variance revealed significant differences between psychologists and lawyers on all of the three assessment areas. On average, psychologists rated the relative importance of the BIC criteria higher than the lawyers. No Professional Group by Gender interaction was found. Multivariate analyses of variance also revealed a significant effect for Gender on the abilities of the parents assessment area for the combined sample. Three items were found to be significant at the univariate level with female practitioners assigning lower ratings than male practitioners.

Respondents were asked if they had any personal experience with custody and access. Of the 101 participants who answered this question, 19 (19%) indicated they did have this experience. Multivariate analyses of within group differences for lawyers revealed no significant differences for Personal CA Experience. The psychologists' sample revealed a trend towards significance on the abilities of the parents assessment area. Personal CA Experience effects were not found for female practitioners. However, multivariate analyses involving male practitioners revealed significant effects for a Personal CA Experience by Professional Group interaction for the abilities of the parents assessment area and for the relational assessment area. Multivariate analyses of Personal CA Experience for Professional Group did not reveal any significant differences for any of the three assessment areas. A significant Personal CA Experience by Professional Group interaction was found for the relational area of assessment.

Response Bias and Data Transformation

Given that the psychologists rated the relative importance of every item on the BICQ-R higher than lawyers, consideration was given to the possibility of a systematic difference in the

ways psychologists and/or lawyers responded to the items on the BICQ-R. Therefore, the BICQ-R data was ipsatized⁷ in order to correct for any response bias. Each participant's responses to the items on the BICQ-R were individually centered⁸, and the transformed data were used to re-calculate various analyses to determine if results for any between group analyses were different with potential response bias removed.

Comparison of Overall Means for Areas of Assessment. Repeated measures analysis was used to explore differences in the overall means for each area of assessment using both the transformed data and the original scores. Regardless of whether the original or the transformed data were used, a significant effect for Areas of Assessment was found ($p < .001$), indicating that overall means for the three areas of assessment differed significantly from one another. Concerning the possibility of an interaction between Areas of Assessment Means and Professional Group membership, repeated measures analyses revealed that there was a significant interaction for the original data ($p < .001$) but not for the centered data ($p < .46$). Profile plots of these two analyses are presented in Figures 1 and 2, respectively. The data were also examined for an Areas of Assessment Means by Gender interaction and both the transformed data and the original data were significant to the same degree ($p < .05$). Profile plots of these two analyses are presented in Figures 3 and 4, respectively.

Analyses of variance of the transformed data revealed there were no significant differences for the means of any of the areas of assessment for Professional Group, in that psychologists and lawyers did not differ. This is in direct contrast to the original data in which significant Professional Group differences were found for the means for each of the areas of assessment ($p < .001$ for each area of assessment). Analysis of variance of the transformed data also revealed a significant Gender difference for the needs of the child assessment area mean ($p < .05$) and a trend towards significance for the abilities of the parents assessment area mean ($p < .06$). When the effects of Years of Experience were tested as a covariate for Gender, the univariate levels of significance for each area of assessment were adjusted to $p < .01$ and $p < .08$

⁷ Ipsatizing is a data transformation process in which each participant's responses are transformed relative to the subject themselves. Following this transformation, each participant's *total* score for the BICQ-R is equal (i.e., response biases are removed) and their relative profiles across the items of the BICQ-R (or across the areas of assessment) are highlighted.

⁸ Individually centering data is a common procedure for removing response bias. Each participant's responses are individually centered by calculating their individual mean score for the whole BICQ-R and subtracting this mean from their response to each of the 77 items. When the centered scores are summed, the *total* score for each participant on the BICQ-R now equals zero. Since the total score for all respondents is now equal, any existing response bias in the data has been removed.

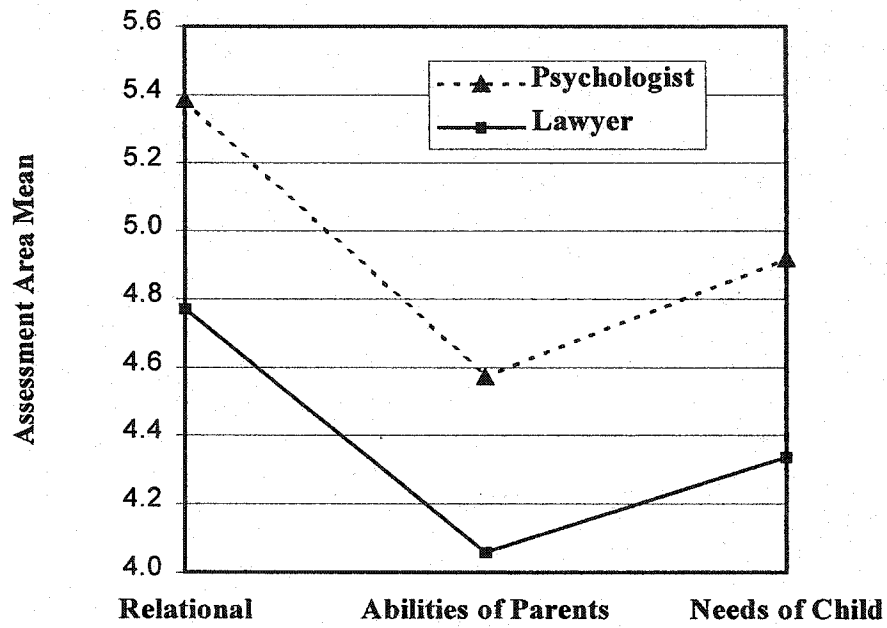


Figure 1: Assessment Area Means by Professional Group Interaction for Original Data

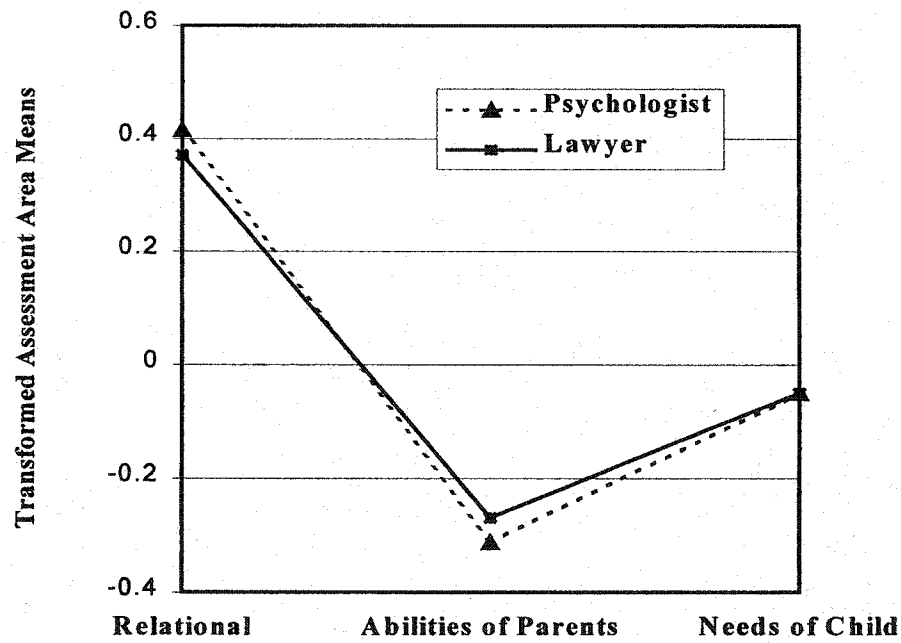


Figure 2: Assessment Area Means by Professional Group Interaction for Transformed Data

* Negative numbers indicate ratings below Total BICQ-R mean;
Positive numbers indicate ratings above Total BICQ-R mean

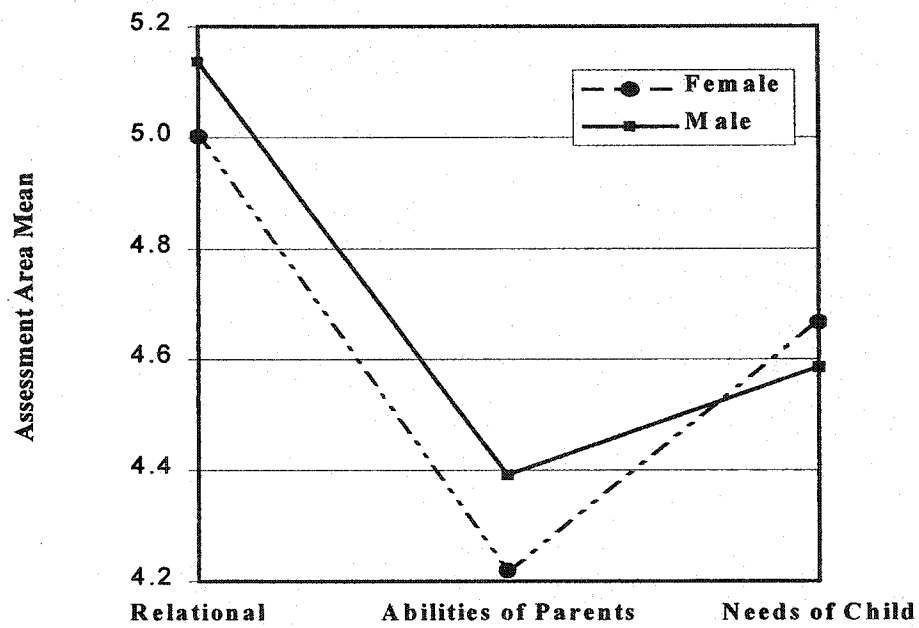


Figure 3: Assessment Area Means by Gender Interaction for Original Data

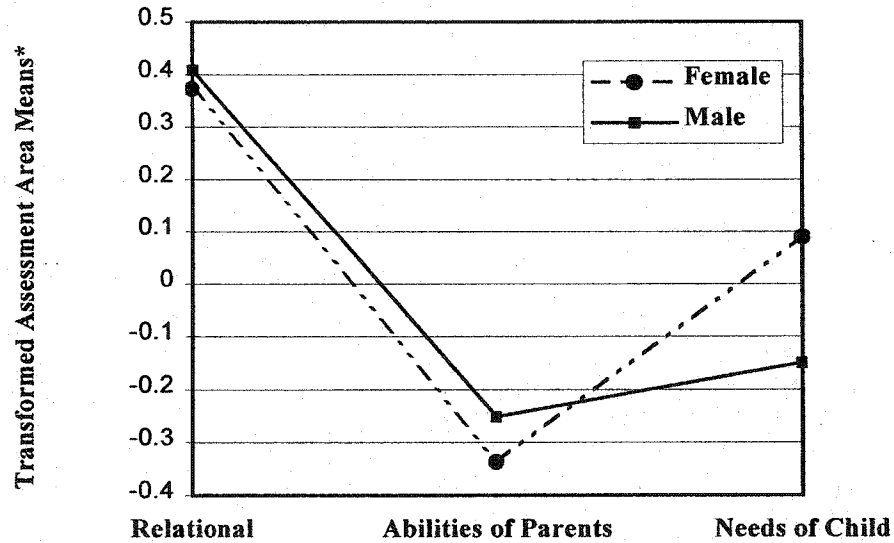


Figure 4: Assessment Area Means by Gender Interaction for Transformed Data

* Negative numbers indicate ratings below Total BICQ-R mean;
Positive numbers indicate ratings above Total BICQ-R mean

respectively. In general, females rated the items on the needs of the child assessment area as being more important in determining custody than males, and there was a trend for males to rate items on the abilities of the parents assessment area as being more important in determining custody than females.

Between Group Differences. When the untransformed items within each area of assessment were analyzed using multivariate analyses of variance, significant differences were revealed for Professional Group for all three areas of assessment ($p < .001$ for each assessment area) (See Tables 33, 34, and 35). There were no significant changes in these multivariate significance levels when various possible covariates were tested. For the transformed items, the results of multivariate analyses of variance for Professional Group revealed significant differences for the relational assessment area ($p < .01$), for the abilities of the parents assessment area ($p < .05$), and for the needs of the child assessment area ($p < .01$), but to a lesser degree than with the original data. When the effects of Years of Experience as a possible covariate for Professional Group were tested on the transformed data, the multivariate level of significance remained the same for the relational area of assessment ($p < .01$), was reduced for the needs of the child assessment area ($p < .05$), and, although trending towards significance, ceased to be significant for the abilities of the parents assessment area ($p < .09$). The possibility of a Professional Group by Gender interaction was tested for all three assessment areas using the transformed data, but, as with the original data, no significant multivariate differences were found.

An exploration of the relational area of assessment for univariate levels of significance revealed four items with significant Professional Group differences for the transformed data. On two of these items, psychologists' ratings were significantly higher than the lawyers' ratings: the level of parental conflict ($p < .01$) and the overall quality of the parent-child relationship ($p < .01$). However, on the other two items, the lawyers' ratings were significantly higher than the psychologists' ratings: history of sexual abuse of the child by a parent ($p < .01$) and a history of physical abuse of the child by a parent ($p < .05$).

An exploration of the needs of the child assessment area for univariate levels of significance for the transformed data revealed three items that were significantly different or approaching significance for Professional Group: the intellectual needs of the child ($p < .06$); special health needs of the child ($p < .05$); and preferences of a child 15 years of age and older ($p < .05$). In all three cases, the lawyers' ratings were higher than the psychologists' ratings.

As with the original data, the transformed data was tested for group differences for Training for Divorce Mediation and Gender with and without Years of Experience as a possible covariate. Similar results were found for the transformed data. In other words, no significant group differences at the multivariate level were found for Training in Divorce Mediation on any of the three areas of assessment, nor were any significant group differences found for Gender on the relational and needs of the child assessment areas. However, a significant difference for Gender was found on the abilities of the parents assessment area ($p < .01$). Similar to the covariate effects found with the original data, a test of Years of Experience as a possible covariate for Gender for the transformed data resulted in a reduction in the level of significance on the abilities of the parents assessment area ($p < .05$). An exploration of the abilities of the parents assessment area for univariate levels of significance revealed the same three items with significant Gender differences as found with the original data: the sexual orientation of the parents ($p < .01$; same as original data significance); the ability of the each parent to provide a "family" environment ($p < .0001$; original data significance $p < .001$), and each parent's financial sufficiency ($p < .05$; same for original data significance). Once again, the assigned ratings on all three items were significantly lower for females than for males.

Transformed Data and the Impact of Personal Custody and Access Experience. Given that a response bias was found for the data, analyses for the impact of personal custody and access experience on BICQ-R ratings were reviewed. As with the original data, multivariate analyses of the transformed data revealed no significant differences based on Personal CA Experience on any of the areas of assessment for lawyers. For psychologists, the trend towards multivariate significance for Personal CA Experience on the abilities of the parents assessment area remained ($p < .07$) as did the trend towards significance on the relational assessment area for a Gender by Personal CA Experience interaction ($p < .09$). Adjustments for Years of Experience as a covariate for these analyses also remained the same ($p < .10$ and $p < .11$, respectively).

An exploration of Gender effects revealed the same results for females as with the original data. For males, the significant difference found for a Personal CA Experience by Professional Group interaction on the abilities of the parents in the original data ($p < .05$) was reduced slightly ($p < .06$) for the transformed data. Multivariate analysis of variance revealed that the Personal CA Experience by Professional Group interaction for the relational assessment area for males remained the same ($p < .001$). The effects for Years of Experience as a possible covariate for this interaction did not change the multivariate significance level. There were no changes in the significant levels reported for univariate tests in Table 36 for the transformed data.

Finally, a review of between group differences was conducted for Professional Group using the transformed data with Personal CA Experience as the primary independent variable of interest. As with the original data, there were no significant differences based on Personal CA Experience for any of the three areas of assessment. The same significant multivariate difference was found for a Personal CA Experience by Professional Group interaction for the relational area of assessment, although the level of significance was reduced ($p < .05$ from $p < .01$).). An examination of the univariate tests for this assessment area revealed that the same item remained significant, the way parents express their conflict with each other ($p < .05$), and there was no change in the level of significance. Multivariate analysis for the possible effects of Years of Experience as a covariate for this interaction did not reduce the multivariate level of significance for the relational area of assessment ($p < .05$) in the transformed data. With this adjustment for the covariate, the significance of the univariate test, the way parents express their conflict with each other, was not reduced for the transformed data ($p < .05$) although it was for the original data ($p < .07$).

Summary of Key Findings: Data Transformation. Given that psychologists rated the relative importance of every item on the BICQ-R higher than lawyers, the data was transformed to correct for any possible response bias. Following transformation, a significant effect for Areas of Assessment was still found indicating that the overall means for the three assessment areas still differed significantly from one another. Analyses of variance revealed significant differences between psychologists and lawyers for the means on any of the assessment areas were no longer found. However, a significant Gender difference for the needs of the child assessment area mean and a trend towards significance for the abilities of the parents assessment area mean were found.

Multivariate analyses of variance for Professional Group with Years of Experience as a covariate revealed significant differences for the relational and the needs of the child assessment area, and a trend towards significance for the abilities of the parents assessment area. No Professional Group by Gender interactions were found. However, multivariate analyses of variance did find a significant Gender difference on the abilities of the parents assessment area for the transformed data, with the same three items rated significantly higher by male practitioners as was found in the original data.

No significant within group differences for Personal CA Experience were found for lawyers or psychologists nor were any significant differences found for female practitioners. However, the significant difference for Personal CA Experience by Professional Group interaction for male practitioners found in the original data remained for the relational assessment

area and was reduced slightly for the abilities of the parents assessment area. As with the original data, there were no significant differences for Professional Group based on Personal CA Experience for any of the three assessment areas. The same significant multivariate difference was found for a Personal CA Experience by Professional Group interaction for the relational area of assessment, although the level of significance was reduced.

DISCUSSION

Overview

This chapter is divided into seven sections. The *first section* describes the interpretive context of the results for this study. *Section two* presents a profile of psychologists who practice in the area of child custody and access and explores psychologists' beliefs about various aspects of their child custody and access practice. *Section three* presents a similar profile for family lawyers and also examines two ethical dilemmas that lawyers face within the context of divorce and child custody and access disputes. *Section four* compares psychologists' and lawyers' attitudes about custody and access practice, and explores beliefs about their relationship with one another. *Section five* discusses the BICQ-R and, in particular, explores the ranking of various BIC criteria by psychologists and lawyers and how these rankings reflect the respondents' current knowledge of empirical research regarding various aspects of best interests of the child and post-divorce adjustment. *Section six* outlines the limitations of this study and *section seven* includes a discussion of the implications of this research on current CA practices and potential areas for future research.

The Interpretive Context

The results from this study must be interpreted and discussed within the context of the relatively small sample sizes obtained for both psychologists (N=52) and family lawyers (N=53) who practice in the area of child custody and access. Although every effort was made to include all psychologists in Alberta and British Columbia who have current or past experience in conducting child custody and access evaluations, the number of respondents who completed the psychologists' questionnaire was just over 30% of those contacted (36% in Alberta and 27% in British Columbia).

Formal and informal contacts with psychologists and lawyers confirmed that the majority of psychologists with professional custody and access experience were included on the mailing lists. Follow-up phone calls to a subset of psychologists known to have considerable experience in this field provided additional confirmation that the majority of those psychologists who are qualified and actively involved in child custody evaluation participated in this study. The psychologists surveyed for this study possessed an average of 18 years of general clinical experience and 11 years of child custody and access experience. They also dedicated, on average, 26% of their clinical practice to child custody and access evaluation. For the most part, these

research participants appear to be experienced practitioners who are still actively involved in the practice of child CA evaluation. Considering the process undertaken to secure participants and the apparent paucity of psychologists actively working in the area of child custody and access, it is not unreasonable to conclude that the 52 psychologists who participated in this research are representative of the population of psychologists in Alberta and British Columbia who have experience completing child custody and access evaluations.

The sample of family lawyers is more problematic in that only 12.7% of the lawyers (N=53) who were mailed questionnaires returned them. There were insufficient resources to allow for a more thorough review of the mailing lists, particularly for Alberta, to determine if those included in the mailing actually practiced in the area of child custody and access. It is possible that a significant percentage of the lawyers on these lists do not, or no longer, accept child custody and access cases and so did not respond to the mailing. However, it is equally possible that a significant number of the lawyers who did not complete the questionnaire do practice in this area and simply chose not to respond. Therefore, the sample of lawyers who did participate in this research may represent a biased subset of those family lawyers who currently practice in the area of child custody and access. These individuals may represent family lawyers who have a greater interest in the psychological aspects of child custody, and who may be more inclined to work collaboratively with other lawyers and with the mental health professionals they encounter in their practice. It is interesting to note, however, that the 53 lawyers who did participate in this study have been in practice an average of 11.5 years and handle, on average, 36 child custody and access cases per year. Although they may represent a unique subset of family lawyers, this sample also represents family lawyers who appear to be qualified and remain actively involved in the area under study. However, any results from this research pertaining to the lawyers should be considered exploratory in nature and in need of further explication.

The small sample sizes prevented an exploration of the study's first hypothesis regarding the three dimensional structure of the Best Interests of the Child Assessment Model. The subjects to variables ratio (105 to 77 respectively) made factor analyses of these data unreliable, particularly any attempts to compare the factor structure between the psychologists and the lawyers. It was decided to forego any structural analyses of the areas of assessment, and focus, instead, on differences in the level of endorsement of specific criteria and of the assessment areas in general. Despite this limitation, there was evidence supporting the internal reliability of each assessment area.

This research must also be considered within the context of the self-report measures used to gather the data. Self-report surveys are typical of the measures used to conduct research in this area (e.g., Ackerman & Ackerman, 1997; Bow & Quinnell, 2001; LaFortune & Carpenter, 1998). However, it is possible a significant difference exists between these participants' responses and what they actually believe about the BIC criterion or do within the context of their day-to-day practice. If such differences exist, they may be due, in part, to the artificially homogeneous presentation of child CA issues by the surveys. The reality is that child CA practice is highly heterogeneous with no two families being exactly the same and no two children needing exactly the same assistance. This particular survey was not designed to reflect these complexities but to provide a foundation for considering psychologists' and lawyers' perspectives on practice related issues and on the various BIC criteria.

Finally, given the relatively small sample sizes, particularly for the lawyers sample, this research should be considered exploratory in nature and in need of further replication. That said, in discussing this research, attention will be paid to generating ideas and questions for further research.

Psychologists Who Practice in the Area of Child Custody and Access

Although the past decade has seen an increase in research exploring various aspects of the involvement of mental health professionals in child CA evaluation (e.g., Ackerman and Ackerman, 1997; Austin, Jaffe, & Friedman, 1994; Caplan & Wilson, 1990; Heilbrun, 1995; Jameson, Ehrenberg, & Hunter, 1997; LaFortune & Carpenter, 1998), remarkably little is still known about the characteristics of mental health professionals who work in this area and what these individuals actually do within the context of their child CA practice. In an attempt to shed some light on these subjects, the psychologists' BICQ-R contained a broad spectrum of questions. The survey addressed basic demographic issues and posed questions regarding various aspects of child CA evaluation practices including competency, the components of a custody evaluation, and beliefs about and attitudes towards the legal system in which they perform these evaluations. In addition, participants were asked to rate the extent each item on the BICQ-R should be considered in determining child custody and access.

Psychologists' Demographic Information. Participants provided information regarding their age, level of education, years of general practice, theoretical orientation, and main areas of practice. The mean age of the psychologists was 51 years, and they had, on average, been in

practice for just over 18 years, including 11 years of child CA evaluation experience. The majority of the psychologists held doctoral degrees (85%), while the balance possessed Master's level degrees (15%). There was a significant degree by province interaction with seven of the eight Master's level practitioners residing in Alberta. Given that the College of Alberta Psychologists (CAP) allows psychologists to be registered at the highest level of independent practice with a Master's degree, this finding was not unexpected. What was somewhat surprising was the nearly three-to-one ratio found in the study of doctoral level to Master's level psychologists practicing in the area of child custody and access in Alberta. Currently, there are 691 doctoral level chartered psychologists in Alberta compared to 1140 Master's level chartered psychologists (personal correspondence with CAP, 2001).

Three possible explanations for this discrepancy come to mind. It is possible that, in general, Master's level psychologists do not feel they have the training necessary to be competent to conduct child custody and access evaluations and so they tend to avoid this area of practice. A second hypothesis is that the Courts may favor the testimony of doctoral level practitioners (Clark, 1995) over that of Master's level practitioners thus encouraging the selection of psychologists who hold the advanced degree for CA evaluations while limiting the participation of Master's level practitioners. Finally, it may be there are an equal number of Master's level and doctoral level psychologists in Alberta who are actively engaged in child CA practice but that the Master's level practitioners chose not to respond to the survey. In psychology, training at the doctoral level emphasizes the importance of empirical research, both in terms of personal contributions to the psychological literature and with regards to keeping abreast of recent developments. As a result, psychologists who have completed the doctoral program may anticipate a greater personal benefit from participation in practice-related research than Master's level practitioners.

It was hypothesized that a significant difference in education, experience and knowledge might exist between doctoral and Master's level practitioners resulting in different ratings of the items on the BICQ-R. However, there were no significant differences in how practitioners with Master's degrees rated the BIC criteria compared to psychologists with doctoral degrees. One explanation for this lack of effect may be that a sufficient level of expertise is reached with the Master's degree to enable practitioners to rate the relative importance of the BIC criteria in the same way as practitioners who hold a Doctorate. It is also possible that an education by

experience interaction may exist whereby, after several years of custody and access practice, experience compensates for any deficits arising from disparate levels of education and training.

Theoretical Orientations and Areas of Practice. The three most frequently mentioned theoretical orientations were cognitive behavioural (50%), psychodynamic (29%), and humanistic (21%). Despite these differences in approach to clinical practice, there were no significant differences for theoretical orientation on the BICQ-R, nor did theoretical orientation impact on the process variables related to child custody and access evaluation. Theoretical orientation may affect the way a practitioner conceptualizes a custody and access evaluation, and it may impact the way a practitioner ultimately organizes and presents the information in the final report. However, it does not seem to impact on what areas or questions psychologists consider important to explore with regards to the best interests of the child, or the way in which they conduct this exploration.

The majority of respondents (56%) listed assessment (i.e., clinical, forensic or educational) as one of their two main areas of practice. Therapy or counselling was the second most common area (42%), and child custody and access was the third most common area of practice (17%). The ten psychologists who listed custody and access as their main area of practice were all male and they reported, on average, that 65% of their practice was devoted to child custody and access evaluation. Given the stress and the increased risk of work-related litigation that accompanies child CA evaluation, it was expected that relatively few of the psychologists would list child custody and access as a main area of practice.

The Role of Gender in Psychologists' Participation in Child Custody and Access. In general, this research appears to indicate that male psychologists are considerably more active in the area of child custody and access evaluation. Not only do male psychologists outnumber female psychologists by more than two to one in this sample, they also conduct significantly more CA evaluations per year. Correspondingly, male psychologists dedicate significantly more of their psychological practice to child custody work than female psychologists. The number of female psychologists in this study who reported they no longer accept referrals for CA evaluations was also significantly higher than the number of male psychologists who have stopped practicing in this area.

Therefore, gender differences appear to impact psychologists' participation in child custody and access practice in several ways. First, the overall ratio for participation seems to favor male psychologists. For a variety of reasons, fewer female psychologists may be choosing

child CA evaluation as an area of practice. However, it is also possible that equal numbers of male and female psychologists enter child custody and access practice but that the number of female practitioners diminishes more quickly due to higher rates of attrition than that experienced by male psychologists. This latter hypothesis is supported by findings in this study and in Jameson's earlier study (1993) that, compared to their male colleagues, significantly more female psychologists with previous CA evaluation experience have stopped accepting referrals for CA evaluations.

Second, female psychologists who work in child custody and access accept fewer referrals per year than male psychologists and thus gain less overall experience in this field. Less experience may translate into less self-confidence in their ability to provide competent CA evaluation service and this, in turn, may increase the likelihood the practitioner will drop this area of practice. It is interesting to note that several well-known studies that focused on psychologists' child custody and access practice also reported a gender imbalance with male psychologists outnumbering female psychologists by 20 to 40% (Ackerman & Ackerman, 1997; Keilin and Bloom, 1986; LaFortune & Carpenter, 1998). Gender differences in psychologists' participation in child custody and access were not addressed in these studies.

Female psychologists may also be less willing to enter into the adversarial arena in which most contested custody and access cases unfold. Given the socialization of females to mediate conflict and their tendency to consider situations in a relational context (Belenky, Clinchy, Goldberger, Tarule, 1986; Gilligan, 1982), it may be more stressful for females to pursue an area of practice in which they are unable to utilize their therapeutic skills to assist families and children in crisis. However, the underlying distinction here may not be one of gender, but rather some other fundamental difference in the approach to CA practice. Compared to the total population of psychologists in Alberta and British Columbia, the number of psychologists, male or female, who are actively engaged in child custody and access practice is very small. Perhaps the question that needs to be addressed is not "why do more male than female psychologists practice in the area of child custody and access?" but rather "what is unique about those psychologists who successfully practice within the area of child custody and access evaluation?" An answer to this question could be useful to both experienced practitioners and psychologists in training who are debating whether or not to enter the fray.

Training/Experience Essential for Competency in Child CA Evaluation. A substantial amount of psychological literature (e.g., APA Guidelines for Child Custody Evaluations, 1994;

Custody and Access Standards for British Columbia, 1998; Gindes, 1995; Weissman, 1991) and legal literature (e.g., Heilbrun, 1995; Roseby, 1995) has been directed towards developing a consensus regarding the types of training required for competency in the area of child CA evaluation. There was a high rate of congruence between the types of training suggested in this literature and the training and experiences endorsed by the psychologists. Given the focus on the best interests of the child in CA evaluation, it was not surprising that training in child development was ranked as the most important requirement for competency in CA evaluation and was endorsed by 100% of the sample. This was followed by training or experience in family dynamics, general clinical experience, psychological assessment, parenting skills, attachment processes, and adult psychopathology - all of which were endorsed by over 87% of the psychologists.

Two of the items on the competency list were ranked differently by Alberta and British Columbia practitioners. Clinical experience was ranked significantly higher by Alberta psychologists, while British Columbia psychologists ranked training in child psychopathology significantly higher. If a rank ordered list of essential training items were collated for each province, clinical experience would have been ranked first on the Alberta list and sixth on the British Columbia list. However, despite the significant difference in the overall mean rank, the ninth place rank for child psychopathology would not have changed on either of the provincial lists.

One hypothesis explored regarding clinical experience was related to the practitioners' level of education. Master's level psychologists, most of whom practice in Alberta, do not have the benefit of the advanced education of their Doctorate level colleagues. As a result, they may value clinical experience more highly. Analysis of the Alberta data did reveal a level of education trend towards ranking clinical experience as significantly more essential to competency, but the higher ranking was assigned by the Doctorate level not the Master's level practitioners in Alberta. In fact, the mean rank assigned to this item by Master's level psychologists in Alberta was only slightly higher than the mean rank assigned by Doctorate level psychologists in British Columbia. Unexpectedly, however, it was the Doctorate level psychologists in Alberta who soundly endorsed the value of clinical experience in developing competence. It is unclear why Doctorate level psychologists in Alberta would value clinical experience more highly than their colleagues in British Columbia, but it may be linked to Doctorate level practitioners' beliefs about the ability of Master's level psychologists to practice

in child CA evaluation. Additional research is needed into the interaction of level of training and clinical experience in child CA evaluation in order to shed light on this finding.

With regards to child psychopathology, the psychologists in Alberta were unanimous in their ranking of this item, which was significantly lower than the ranking assigned by the British Columbia participants. Given this result, it was hypothesized there may be regional differences in the importance various psychological regulatory bodies assign to different aspects of competency for child custody and access evaluators. These differences may then filter down to the members of the respective organizations. Since British Columbia only accepts Doctorate level candidates as registered psychologists, and since these psychologists are more likely to have training in child psychopathology, this aspect of CA evaluation training may be given more weight within this region. Unfortunately, it is not possible to explore this hypothesis with the data available for this study.

Despite the proliferation of professional standards and guidelines for mental health professionals conducting child CA evaluations (e.g., APA, 1994; BCPA, 1998), and the publication of a number of books intended to provide practitioners with standardized methods of conducting CA evaluations (e.g., Ackerman, 1995; Gould, 1998), child custody and access remains a litigious area of practice for psychologists. To date, there are no formal licensing or accrediting bodies specifically designed to determine who has received appropriate training and supervision in child custody and access. Although the participants in this study endorsed a broad range of training and experience as important to competency in child custody and access, they were not specifically asked if they possessed this training.

In a recent study of 69 psychologists experienced in CA evaluation (Gourly & Stolberg, 2000), 76% of the participants reported they were essentially self-taught and they indicated the majority of their CA training consisted of reading relevant research. Fifty-seven percent indicated they had obtained additional training by attending seminars and workshops in child custody and access. Only 33% reported they had received any graduate training in child custody and access, and only 29% had any supervised clinical CA evaluation experience. In addition, when these psychologists were asked how often they feel that psychologists perform poor custody evaluations, 43% responded "often" and 52% responded "sometimes." Although this is just one study involving a small number of psychologists with experience in child CA evaluation, it directly addresses the reality that more remains to be done to insure a competent standard of psychological practice in child custody and access cases.

Psychologists' Experience of Child Custody and Access Practice. Psychologists involved in any form of assessment or evaluation are usually mindful of the need to produce a timely report summarizing their findings. This is particularly true for child custody and access cases where the legal process may be essentially on hold until the psychologist completes the evaluation report. However, as noted by some of the lawyers surveyed for this research, an ongoing problem with psychological evaluation from a legal perspective is the delay in completing the evaluation and filing the final report.

A significant difference was found for the hours required by Alberta versus British Columbia psychologists to complete the CA evaluation, not including the final report. Alberta psychologists required an average of 7.7 more hours to complete a CA evaluation. This difference in hours becomes even more substantial when the length of time required to complete the final report is also considered. Female psychologists in Alberta required more than twice the time of male psychologists in British Columbia to complete this report (21.3 hours and 9.4 hours respectively). On average, to complete both the CA evaluation and the final report, female psychologists in Alberta reported requiring 52.5 hours, male psychologists in Alberta reported requiring 44.4 hours, female psychologists in British Columbia reported requiring 37.3 hours, and male psychologists in British Columbia reported requiring 32.6 hours. The broad range of these hours is even more striking when compared to a study of custody and access assessors in the United States who required an average of 21 hours to complete the evaluation and write the final report (LaFortune & Carpenter, 1998).

What is driving this discrepancy in the time required for the completion of a child CA evaluation? Although self-selection of referrals by psychologists might be implicated, it seems unlikely that the differences caused by self-selection would be so consistent across gender and province. It also seems unlikely that differences in family composition or custody issues are at the heart of these substantial differences in hours. There were no significant correlations between the average hours required to complete all aspects of the CA evaluation and the practitioners' years of experience or the number of evaluations they prepared each year. The practitioner's level of education does not seem relevant since a significant difference in the time required to complete an evaluation was not found for Master's level versus Doctorate level psychologists. In addition, an examination of the Alberta standards and British Columbia guidelines for CA evaluation did not reveal any substantial differences that might require Alberta

psychologists to spend additional time completing their evaluations. A recent article (Amundson, Daya, & Gill, 2001) may cast some light on this puzzle.

According to this article, many psychologists conducting CA evaluations work in fear that the opinions they express in their final report will result in litigation against them. Therefore, in an effort to protect themselves from litigation, some psychologists are engaging in what these authors term "maximalist" evaluation. In other words, practitioners include as much information as possible in the report in the hope that this will strengthen their opinion, project an "aura of expertise," and, ultimately, protect them from litigation. The authors indicated that a report generated using this approach may range from 40 to 70 pages in length. The possibility that this is happening in Alberta is supported by one comment from a Calgary lawyer that "50 page reports and a cost of \$10,000 plus are becoming ridiculously common." However, it is unclear why this should be more of a problem in Alberta than in British Columbia.

Whatever the cause, the difference in the hours needed to complete the evaluation and the final report is reflected in the fees charged by psychologists in Alberta and British Columbia for child CA evaluations, and families in Alberta appear to be at a distinct financial disadvantage. The cost of a child CA evaluation in British Columbia ranged from a low of \$2,050 to a high of \$5,000 ($M = \$3783$, $SD = \$831$) while in Alberta the cost ranged from a low of \$3,000 to a high of \$10,000 ($M = \$5564$, $SD = \$1896$). The highest average total cost for a CA evaluation was charged by female psychologists in Alberta ($M = \$6000$, $SD = \$1155$), while female psychologists in British Columbia charged the lowest total fee for service ($M = \$3719$, $SD = \$940$). Since the range of the average fee per hour was not significantly different between the two provinces, it would seem that the difference in the total fee charged for a CA evaluation is largely due to the significant difference in hours.

However, it should also be pointed out that, in both provinces, female psychologists charged significantly less for their CA services than their male colleagues. The fees charged by female psychologists ranged from \$52 to \$134 per hour while male psychologists charged from \$71 to \$285 per hour. On average, female psychologists charged \$95 an hour for custody and access evaluations. This is less than half the hourly fee of \$230 suggested by the College of Alberta Psychologists in its 2001 Recommended Fee Schedule for custody and access practice, and significantly less than the average hourly fee of \$125 charged by male psychologists. Although there was a significant correlation between years of experience in child CA evaluation and the total average fee charged for a CA evaluation, male and female psychologists were not

significantly different with regard to the number of years they had been practicing in the area of child CA evaluation. However, male psychologists reported completing nearly twice as many CA evaluations per year as female psychologists. Even though the correlation between the average total fee charged and the number of evaluations completed per year was not significant, it is possible that male psychologists, with more CA experience condensed into the same period of time, feel justified in charging higher hourly fees than their female colleagues. However, given the disparity in the range of fees charged by male and female psychologists, it is possible that female psychologists are simply undervaluing their services in this difficult area of practice. Perhaps female psychologists are more sensitive to the financial strains of some families being evaluated and they may have a tendency to adjust their fees accordingly. It would be interesting to know if female psychologists are aware of their tendency to require more hours than their male colleagues to complete all aspects of a CA evaluation, and if this knowledge influences the hourly fee they charge for this service.

When the lawyers were asked to name the greatest impediment to accessing psychological services in child custody and access disputes in cases where they felt such services were appropriate, 71% of Alberta lawyers and 81% of British Columbia lawyers replied that the cost of evaluations was the most pressing problem. It would seem appropriate that these discrepancies in fees be addressed by the appropriate professional regulatory bodies, both for the sake of professional consistency and for the sake of the families requiring CA services. Without further clarification of this issue, one is left to wonder whether or not those families who are in need of a CA evaluation are aware of the substantial variation in the cost of this service.

However, it may be somewhat ironic that lawyers are questioning the cost of custody and access evaluations. One article written by a family lawyer (Grasby, 1993) noted that lawyer's fees of \$15,000 per parent are common in child custody and access cases, and fees over \$20,000 are not rare. The author noted that fees in excess of \$100,000 per lawyer have been noted in custody cases that have dragged on through multiple appeals and relitigation. Given that CA evaluations often result in parents reaching an agreement (Austin & Jaffe, 1990; Radovanovic, Magnatta, Hood, Sagar, & McDonough, 1994), it would seem to be in the best interests of families entering the legal CA process to be encouraged to participate in a CA evaluation before litigation has proceeded too far.

The Child Custody and Access Evaluation Process. Much has been written about the process of conducting a child CA evaluation, both by professional regulatory bodies such as the

CAP and the BCPA, and within the psychological and legal literature (e.g., Ackerman, 1995; Clark, 1995; Gould, 1998; Halikias, 1994; Heilbrun, 1995; Gindes, 1995; Weissman, 1991). The psychologists were asked to rank order a list of 13 possible CA evaluation practices according to the length of time it took to complete each. Participants reported they spend the most time on a given custody and access evaluation interviewing the parents, followed by writing the final report, and then interviewing the children. These three items were endorsed by 100% of the respondents who answered this question. Given the previous discussion regarding the hours required to complete the CA evaluation and the final report, it is not surprising that the standard deviation for report writing is almost as high as the overall mean ranking for the item, confirming the substantial variation found in completion times. Ninety-six percent of the participants indicated they regularly include observing parent-child interaction and reviewing documents in their CA practice, and 94% of the psychologists include psychological testing and communication with lawyers. These results are similar to the findings reported in two studies of mental health professionals, most of whom were psychologists, who were engaged in child CA evaluation practice (Ackerman & Ackerman, 1997; LaFortune & Carpenter, 1998).

It is interesting to note the low ranking and frequency of endorsement accorded to giving feedback to the parents. Only 52% of this sample reported they regularly provide feedback to the parents as part of their CA evaluation process. Neither the CAP guidelines nor the CPBC standard of practice for CA evaluation mandate that feedback be provided to parents following an evaluation. The closest the CAP guidelines come to making this recommendation is to advise psychologists that the evaluation report is to be made available to both lawyers simultaneously and an opportunity provided to both legal counsel and/or the parties involved to discuss the contents of the report with the evaluator. However, in an article published in *Family Law Quarterly* (1995), Dr. Vivienne Roseby, former director of the Protecting Children from Conflict Research Project at the Centre for the Family in Transition in California, suggested that parental feedback is essential if the CA evaluation report is to be utilized to its full potential. Dr. Roseby believes that by reviewing the final report with the parent and the attorney, there may be an increased likelihood that the report can be used to educate and heighten the parents' understanding of the conflict, of their own range of functioning, and of the needs of their children over the short and long term. Given that 52% of the respondents indicated they do provide some feedback to the parents, there does not seem to be any legal proscription against this activity. However, it is also possible that some practitioners avoid providing feedback out of concern that

one or both parties may try to reopen the evaluation or argue against the results (Johnston & Roseby, 1997). Perhaps psychologists need to turn their attentions towards developing some standard options for providing feedback in the more difficult CA cases. Providing feedback would also add more time and more cost to the evaluation process, but it may be time and money well spent if it eases some of the conflict and animosity surrounding disputed custody cases.

The Use of Psychological Testing in CA Evaluation. One of the most frequently used psychological tests for adults in CA evaluation is the Minnesota Multiphasic Personality Inventory II (MMPI-II) (Ackerman & Ackerman, 1997; Gourley & Stolberg, 2000; Keilin & Bloom, 1986). Its use has been well documented and, recently, normative data for the MMPI-II in child custody and access have been published (Bagby, Nicholson, Buis, Radavanovic, & Fidler, 1999; Bathurst, Gottfried & Gottfried, 1998; Posthuma and Harper, 1998). Given this history and the availability of normative data, it is not surprising that 90% of the psychologists in this study reported the MMPI-II as one of the psychological tests for adults they use most frequently during a CA evaluation. However, since the MMPI-II was the only psychological test for adults endorsed by more than 50% of the psychologists, it would appear there is still relatively little professional agreement about which tests tend to be the most appropriate within the custody and access arena.

The Millon Clinical Multiaxial Inventories⁹ (MCMI) were the second most commonly mentioned psychological test for adults, with an endorsement rate of 46%. The use of the MCMI for testing adults caught up in child custody and access litigation has been criticized on the grounds that the test was originally designed for use with clinical populations and not the presumed normal population found in the CA context (Ackerman & Ackerman, 1997; Brodzinsky, 1993). As a result, the use of the MCMI, and other tests designed for clinical populations, may create interpretive problems related to the validity, the reliability, and the generalizability of the results. However, supporters of the MCMI have countered this criticism by noting that the MCMI-III normative sample contains data from a significant number of high-conflict couples undergoing marital treatment (Gould, 1998). They argue that divorcing couples are essentially married couples undergoing conflict and, therefore, the applicability of the data in the normative sample to child custody and access is appropriate (Gould, 1998). Of course, the MCMI may be an appropriate choice in those cases where other assessment information suggests the presence of clinical syndromes or personality problems. In these cases, the MCMI can help

to elaborate and differentiate these problems to allow for a better understanding of their potential impact on the individual's parenting ability.

A number of psychological tests specifically designed to assess adults within the context of CA evaluation also appeared on the respondents' list. These tests included the Parenting Stress Index (PSI), the Child Abuse Potential Index (CAPI), and the Parent Child Relationship Inventory (PCRI) (endorsed by 26%, 20%, and 14%, respectively). In a review of instruments used in child CA evaluation to assess parenting competencies, these three tests were scrutinized for norms, reliability, validity and generalizability (Heinze & Grisso, 1996). Although some problems existed for each of these tests, the researchers concluded that the PSI, the CAPI, and the PCRI all showed utility within the realm of child CA evaluation if some caution was taken with interpretation and generalizability.

There was even less consensus among the psychologists surveyed with regards to the psychological tests used in the assessment of children during a child CA evaluation. In total, 21 different psychological tests for adults and 31 different psychological tests for children were listed. For children, the most frequently employed psychological tests were projective drawings and stories, such as the House-Tree-Person test and the Kinetic Family Drawing (endorsed by 49% of the psychologists). The Bricklin Perceptual Scales (BPS), designed to measure the children's perceptions of each parent, and intelligence tests were the next most frequently used tests (endorsed by 26% and 20% of the psychologists, respectively).

Although projective drawings have been criticized as lacking validity for clinical outcomes (LaFortune & Carpenter, 1998), there is some evidence that projective tests may provide useful information for custody evaluations, particularly in cases involving allegations of sexual abuse, depending on how the evaluator employs the data (Oberlander, 1995). It has been argued that if these tests are used to generate hypotheses, such as questions about the parent-child relationship, rather than to draw conclusions, then they may play a valuable role in child custody and access. The BPS has also been criticized for a lack of data regarding the normative sample, test validity, and test reliability (Brodzinsky, 1993; Heinze & Grisso, 1996). As a result, serious reservations have been expressed about the utility of the BPS, and caution must be used when interpreting the results (Heinze & Grisso, 1996; LaFortune & Carpenter, 1998). Given these reservations, the relatively widespread acceptance of the Bricklin Perceptual Scales is somewhat surprising.

⁹ Unfortunately, the majority of respondents did not report which version of the MCMI they were using.

The issue has been raised that new tests designed for child custody and access assessment, such as the BPS, have been rushed to the clinical front lines without giving due consideration to the development of established normative data or sufficient testing of the instrument's validity and reliability (Brodzinsky, 1993; Heinze & Grisso, 1996). Unfortunately, when these psychometric shortfalls arise, the evaluator's ability to interpret test results with any degree of confidence is seriously compromised. In fact, one of the most common criticisms of the use of psychological testing within the context of child CA evaluation is the problem of over-interpretation of test data by psychologists (Heilbrun, 1995). Given what is at stake, it is essential that practitioners fully explore and understand the psychometric properties of the psychological tests they are using in their CA evaluation practice.

One area for future research might be to explore the rationale behind test selection in child custody and access. Are tests chosen on the basis of their psychometric properties? Are tests chosen based on the critical issues to be explored within the context of a given evaluation? Is test selection dependant on the psychologist's training, or lack thereof, in the administration and scoring of specific tests? Or is the choice of tests partly determined by the psychologists' beliefs about which tests the Court will accept and which will be challenged? It might be enlightening to ask practitioners with several years CA experience a series of true/false questions regarding psychological tests commonly used in CA evaluation, the psychometric properties of these tests, and about psychologists' perceptions of judicial attitudes towards different types of testing and psychological "evidence."

Lawyers Who Practice in the Area of Child Custody and Access

Although there are many aspects of psychologists' involvement in child custody and access in need of further clarification, the state of research into the role of lawyers in this process appears to be much less well developed. Research exploring the judiciary and the Best Interests of the Child has tended to focus on factors that influence judicial decision-making (e.g., Lowery, 1981; Reidy, Silver, & Carlson, 1989; Stamps, Kunen, & Lawyer, 1996; Stamps, Kunen, & Rock-Faucheux, 1997; Sorenson et. al., 1997), trends in child custody awards (Bahr, Howe, Mann, & Bahr, 1994; Mason & Quirk, 1997) and revisions to the various divorce codes (e.g., Buehler & Gerard, 1995; Irving & Benjamin, 1999) rather than on the role of lawyers within the context of child custody and access disputes (Pruett & Jackson, 1999). Articles related to the

Therefore, these tests will be referred to as the Millon Clinical Multiaxial Inventories or MCMI's.

actual process of child custody and access practice from the lawyers' perspective could not be found, nor could articles exploring lawyers' attitudes towards the relative importance of various aspects of the BIC criterion in determining custody. This portion of the study was designed to lay the foundation for future research into these attitudes and into legal practice issues related to child custody and access. In interpreting and discussing the results from this research, the low response rate (12.7%) for lawyers must be kept in mind¹⁰. However, despite this limitation some interesting insights regarding legal practice related to child custody and access were revealed.

Lawyers' Demographic Information. Lawyers who participated in this study were asked to provide information regarding their age, gender, level of education, years in general practice and their two main areas of practice. On average, male lawyers were more than six years older than female lawyers, and they had been in general practice five and a half years longer. Male lawyers in British Columbia had worked in the area of child custody and access seven and a half years longer than their female colleagues (16.4 and 8.9 years respectively), while both male and female lawyers in Alberta had worked in child custody and access for approximately ten years. Altogether, these lawyers had an average of 11.5 years of experience handling child custody and access disputes, and they accepted an average of 35.6 cases per year. Eighty-nine percent of the sample held Bachelor's of Law Degrees, eight percent had completed a Master of Arts degree, and three percent had completed their Doctorate of Jurisprudence degree. More female lawyers than male lawyers participated (a ratio of 33 to 20), and this gender difference was opposite to that found for the psychologists where males outnumbered females by more than two to one.

It is possible that the gender difference for the lawyers is simply an artifact of the small sample size. However, other hypotheses warrant some consideration. Just as child custody and access has developed the reputation of being a high risk area of psychological practice that is both challenging and potentially lucrative, family law may have developed a reputation as an area of practice that is equally as demanding but less rewarding, financially and professionally. Family law may also have a history of being considered a traditionally female area of practice. Together, these two factors may produce a lower rate of participation in family law for males, or they may induce male lawyers to diversify their practice to a greater degree than female lawyers.

¹⁰ In a recent American study exploring the custody evaluation procedures of experienced psychologists (Gourley & Stolberg, 2000), lawyers were asked to submit the names of psychologists whom they believed were competent in the area of child custody and access. Participation time was minimal, and yet the response rate was only 10%. If more is to be learned about legal practice in child custody and access or about the interaction of law and psychology in this area, some way must be found to convince lawyers of the benefits of participating in practice-related research, even if it is from outside their profession.

Although it is not clear whether or not male and female lawyers enter this field at different rates, it does appear that male lawyers tend to dedicate a lower percentage of their practice to family law issues. On average, female lawyers reported devoting 74% of their practice to family law, significantly more than the 59% reported by male lawyers. In addition, seven male lawyers did not list family law or a related practice area (e.g., divorce and separation, family law mediation, child welfare, family advocacy) as one of their main areas of practice, compared to only one female lawyer. However, given that a female lawyer in Alberta reported handling approximately 300 child CA cases per year, and a male lawyer in British Columbia reported accepting 200 child CA cases per year, there appears to be a great deal of variability regarding how much time either gender devotes to this practice.

The lawyers were also asked whether they were still accepting referrals for child custody and access disputes. Forty-five lawyers (85%) indicated they were accepting referrals and eight lawyers (15%) reported they were not. As with the psychologists, there was a higher rate of attrition for female lawyers than for male lawyers (7 females; 1 male). The main reason given by the lawyers for abandoning this area of work was the high level of stress associated with child custody and access practice. One respondent reported the work was not satisfying and another indicated the work was too emotionally draining. Psychologists' reasons for refusing referrals were more diverse and included such responses as CA evaluations requiring too much time, lack of support from the regulatory body, too little faith in the validity of CA evaluations, and deciding to retire. Only one psychologist in this study cited too much stress as a reason for leaving child CA evaluation practice. However, an earlier study (Jameson, 1993) found that the stress associated with conducting CA evaluations, from testifying in Court, and from coping with the adversarial nature of the legal system were the main reasons cited by psychologists for no longer conducting child CA evaluations.

If a significant proportion of both lawyers and psychologists are finding child CA practice stressful and unrewarding, then perhaps the time has come for a more collaborative interdisciplinary approach. Research is needed into questions addressing what differentiates experienced psychologists and lawyers who continue handling child CA cases from those professionals who decide to stop. Answers to these questions might allow psychologists and lawyers to work together to mitigate some of the difficulties associated with child custody and access practice. In the meantime, a minority of family law practitioners have begun to explore a new paradigm for divorce related practice known as collaborative law.

Collaborative Law: A New Paradigm. The collaborative law method emerged from the discontent of one American lawyer, Stuart Webb, who realized that the way he was trained to handle conflict within the context of divorce was taking a tremendous toll on his health (www.divorcecanada.com). He and other like-minded lawyers began to work together on divorce cases, and a collaborative method of practice evolved that reduced the lawyers' levels of stress and appeared to produce better results for their clients. Based on dispute resolution, collaborative law is a radical departure from the traditional adversarial approach to divorce. Both parties still retain counsel, but the goal of the collaborative process is to seek a resolution to the divorce that meets, to the greatest extent possible, the needs and interests of both parties. At the outset, both lawyers inform their clients they will not represent them in Court if the collaborative process fails. Therefore, both parties are aware that if they proceed to trial, they will have to hire new counsel and essentially start the process again (Tesler, 1999). Apparently the thought of beginning over with new lawyers is often enough to motivate all parties to negotiate creative solutions to issues that have the potential to de-rail the process.

Both parties sign a binding contract with their lawyer agreeing to negotiate in good faith, to disclose all relevant documents, and not to disclose any information gained through the collaborative law process (except for matters that must be disclosed by law). Since the entire process is based on trust and good faith, lawyers are required to withdraw from the case if they believe their client is being less than honest in their representation of the facts of the case, or if the client fails to keep agreements made during the course of the negotiation (e.g., such as attending joint parenting counselling) (Tesler, 1999).

In some areas, collaborative law is practiced using an interdisciplinary team involving psychologists and financial specialists (Sacks, 2000). Psychologists may participate in the process either as "divorce coaches" or as child specialists. The function of the divorce coach is to help their client negotiate the emotional process of the separation, divorce, and reorganization of the family. In cases where divorce coaches are used, both parties are required to hire their own coach. They must also sign an agreement stipulating that neither divorce coach will be called upon to testify if the couple proceeds to litigation.

Psychologists may also engage in the collaborative law process as a child specialist whose main function is to represent the children in the negotiations. In these instances, the psychologist works with the children to develop an understanding of their concerns and of their needs within the context of the emerging family structure. The psychologist would then address

these concerns and needs with the parents and their counsel. The ultimate goal is to help the parents devise a parenting plan acceptable to both parties that will optimize the interests of the children.

Although collaborative law is being practiced in both Alberta and British Columbia, it is interesting to note that only one psychologist and one lawyer in this study made reference to collaborative law as an alternative dispute resolution process. Collaborative law is not yet part of mainstream legal practice, and one wonders how aware child custody and access professionals and members of the general public are of its existence and its possibilities. An exploration of collaborative law on the internet revealed a number of sites, mostly home pages for lawyers or law societies, discussing the merits of this process. Most sites suggest collaborative law is not for all divorcing couples as it requires a genuine commitment to reaching an agreement that will serve both partners (Tesler, 1999; Sacks, 2000). In cases of high acrimony, it is doubtful that both parties could put aside their grievances to the extent required by the collaborative process. However, in some cases, the high levels of acrimony might be avoided if couples were directed to an alternative resolution process earlier in the divorce process and before entering into litigation.

One other limitation regarding collaborative law is of concern. As with most new procedures, there is not much support for the efficacy of this approach beyond anecdotal reports, and there does not appear to be any research into outcomes for families who use this process. Of particular interest would be information regarding the subsequent rate of litigation for couples who reach an agreement using the collaborative law approach. However, despite these reservations, collaborative law provides an opportunity for divorcing families to negotiate in an environment that attempts to foster communication and cooperation rather than the "winner take all" approach of the traditional court system.

Training/Experience Important for Lawyers in Child CA Cases. It is generally accepted that continuing education activities are critical if a professional wishes to remain competent to practice in their chosen field. When the lawyers were asked what types of training or experience were important for developing their skills in the area of custody and access, the most consistent endorsements were for workshops and seminars related to child custody and access (91%) and for reading case law (87%). However, nearly 75% of the lawyers endorsed the importance of education regarding the components of a child CA evaluation, and 49% indicated they believed some basic education regarding psychological testing was relevant to their practice. These items are significant in that both lawyers and psychologists reported that communication between the

two professions could be improved if collaborative educational opportunities were developed, and if both groups gained additional clarification of each other's role within the custody and access process. Furthermore, it has been hypothesized that one of the factors contributing to the overuse and misuse of psychological tests in child CA evaluations is the unrealistic views held by lawyers (and judges) of what these tests can accomplish (Brodzinsky, 1993). If this is the case, then the participation of lawyers in seminars on psychological testing may prove highly beneficial to psychologists completing CA evaluations. It would be interesting to know how many of these lawyers have actually participated in activities related to the types of training they endorsed. Are these endorsements an accurate reflection of current practice, or are they only indications of what lawyers believe they should be doing? Whatever the case, this information may be useful in designing workshops that are beneficial to both the legal and psychological communities.

Lawyers' Experience of Psychologists' Involvement in Child CA Disputes. Previous studies have demonstrated that psychologists are not the only professional group involved in child CA evaluation. Social workers, family court counsellors, and psychiatrists are also known to practice in this area (Austin, Jaffe, & Friedman, 1994; Caplan & Wilson, 1990; Keilin & Bloom, 1986; Lowery, 1985) and all of these professional groups were mentioned by the lawyers in this study. However, 75% of the lawyers in this study indicated they most frequently encounter psychologists, either at the Doctorate or Master's level, in the course of their custody and access practice, and 68% of the sample reported they prefer to have a psychologist involved in these cases. The same level of consensus was not reached when lawyers were asked to record their reasons for preferring the involvement of psychologists. The most frequently mentioned reason, the education, training, and experience of the psychologist, was endorsed by only 46% of the lawyers. Twenty-seven percent mentioned the specific ability to administer and interpret psychological testing as their reason for preference, and 14% noted the familiarity of psychologists with the legal test for Best Interests of the Child.

The relative importance of these responses becomes somewhat clearer when compared to a list of items the lawyers were asked to rank order according to their importance in determining the competency of a mental health professional to conduct a CA evaluation. Although 64% of the lawyers endorsed "education in mental health from a recognized university program" as important in determining competency, it was ranked fourth on the list. The item ranked as being the most important consideration for competency was "references or impressions of the evaluator provided by another family lawyer." These references were particularly important to Alberta lawyers who

rated this item significantly higher than British Columbia lawyers. Once again, the presence in Alberta of both Doctorate level and Master's level practitioners may be a consideration. Since levels of education are not uniform in Alberta, lawyers may rely more heavily on references provided by colleagues regarding the competency of a particular CA evaluator. It would appear the lawyers recognize that although education is certainly essential for competency, it is not necessarily sufficient. Given that many practitioners may be self-taught with regards to CA evaluation, lawyers may be well advised to look beyond degree certification to determine competency.

Surprisingly, previous judicial experience did not appear to be an important consideration as the evaluator's previous Court testimony in child custody and access cases and their qualification as an expert by the Court were ranked sixth and seventh respectively. It is also interesting to note that two lawyers from British Columbia described "the ability to complete the final report promptly" as an important determinant of evaluator competence. Although delays are rampant throughout the judicial system in the processing of child custody and access disputes, apparently the role psychologists play in these delays has not gone unnoticed within the legal community.

Ethical Dilemmas for Lawyers in Child CA Practice. Two optional questions on the survey explored another aspect of legal practice in the area of child custody and access. Lawyers were asked to comment on two ethical dilemmas they may confront on a regular basis when handling child CA disputes. The first dilemma pits the lawyer's professional obligation to represent their client's interest as effectively, and aggressively, as possible against their own personal beliefs about what may be in the best interests of the client's children. The second dilemma concerns a matter of law. Lawyers are obligated to represent their client's best interests but they must also consider statutes defining the Best Interests of the Child that will be used by the Court to determine the outcome of child custody. In two optional questions, lawyers were asked what percentage of the time they felt caught between the two opposing poles of these dilemmas and, if they ever felt caught, how they had resolved the dilemma.

Ninety-two percent (49) of the lawyers responded to the first question regarding professional obligation versus personal beliefs. Although ten of these respondents (20%) indicated they never felt caught in this dilemma, another subset of lawyers (16%) reported they were troubled by this dilemma more than 50% of the time. On average, the lawyers reported

feeling caught in this ethical bind 23% of the time when handling child custody and access disputes.

To understand the nature of this dilemma, it is necessary to place the lawyer and their child custody and access client in context. Child custody and access disputes that enter the judicial system involve approximately 10% of divorcing couples with children (Stamps, Kunen, & Rock-Faucheux, 1997). These cases are often drenched in animosity and the parties involved are usually deeply divided about issues relating to child custody and/or property settlement. Although the lawyer's basic responsibility to their client is quite clear, the execution of this responsibility becomes complicated in a divorce action where the parent needs both aggressive representation and assistance in forging family relationships that will continue long after the divorce is finalized (Pruett & Jackson, 1999). As if this walk along the razor's edge was not challenging enough, lawyers may also have to grapple with their own beliefs about what is in the best interests of the client's children, particularly if the client is perceived to be blindly unaware of, or worse, unconcerned about, the impact of his or her actions on the children. As the level of response indicates, this dilemma may be quite pervasive in child custody and access cases.

Despite the fact that 80% of those who responded to this question had experienced this dilemma within their child custody and access practice, only two of the resolutions offered for this dilemma were endorsed by more than 20% of the lawyers. One option mentioned was to refer the client on to another lawyer or to withdraw from the case, while the other option was to advise the client to put the child's interests first. One lawyer combined these two approaches and indicated he would first advise the client regarding the best interests of the child and then, if the client did not change his instructions for representation, he would withdraw from the case. Twelve percent of the lawyers reported their personal views were not relevant and, despite any personal reservations, they would act on the client's instructions. A number of other options were proposed for resolving this dilemma, but it would appear there is no professional consensus regarding how such dilemmas should be handled within the unique context of a child custody and access dispute. Only one lawyer indicated they had not been able to resolve this dilemma in some manner.

Although lawyers are ethically required to maintain the perspective of their client, free and clear of any personal biases (Pruett & Jackson, 1999), it does not take much imagination to grasp the personal toll this dilemma could take in some custody disputes. This brings one back to the question of which lawyers continue to practice in child custody and access, and which

lawyers stop. Perhaps those lawyers working in child custody and access who carry large case loads for long periods are those individuals best able to compartmentalize their own beliefs and stay focused on the client's goal. If so, what are the implications of this type of legal representation for the judicial system whose prime directive in these cases is to determine custody and access based on what is in the Best Interests of the Child?

The second dilemma, pitting the lawyer's professional obligation to represent their client against the Best Interests of the Child legal standard, did not appear to create as many difficulties for these lawyers. Forty-eight lawyers (91%) responded to this question. On average, they reported feeling caught in this dilemma 13% of the time. However, 21 of these lawyers (44%) reported they were never troubled by this dilemma, while only three lawyers (6%) felt caught in the middle of this legal quagmire more than 50% of the time. Although this dilemma may represent a legal Catch-22, it would not seem to have the same emotional resonance as the first dilemma involving personal belief systems. That said, there was no greater consensus regarding the resolution of this dilemma than there was for the first example. Once again, the main course of action appears to be to either withdraw from the case or counsel the client to put the interests of the children first. Two lawyers indicated they have not managed to resolve this dilemma.

Psychologists and Lawyers: Professional Opinions on Practice Related Issues

One goal of this study was to gather information regarding how psychologists and lawyers working in the area of child custody and access experience their own and each other's professional involvement. To that end, both professional groups were asked to comment on specific aspects of the role they each play in child custody and access, and their perceptions of how each profession potentially helps and harms the child custody and access process. Participants were also asked to report those aspects of child custody and access practice they found most rewarding and most stressful. Last, they were asked to rate the character of their interdisciplinary relationship and to suggest ways in which interdisciplinary communication might be enhanced.

Litigation Support: Psychologists' Beliefs Versus Lawyers' Reported Practice. There does not appear to be any research exploring the types of litigation support lawyers provide to their clients prior to a CA evaluation, particularly if that evaluation is likely to involve psychological testing. One study (Wetter & Corrigan, 1995) surveyed 70 attorneys involved in forensic cases requiring psychological evaluation (e.g., criminal law, personal injury) and 150 law

students. These individuals were asked to report the extent to which they felt ethically responsible to inform the clients they referred for psychological testing about the validity scales found on these tests. Wetter and Corrigan reported that 48% of the attorneys and 36% of the students surveyed believed that an attorney should always or usually inform a client of the validity scales on a psychological test. The researchers concluded that, given attorney beliefs about their obligation to act as zealous and diligent advocates for their clients and in the absence of any specific ethical guidelines for lawyers regarding the security of psychological tests, psychologists need to be aware that client knowledge of validity scales on tests like the MMPI-2 may not be the exception.

These concerns appear justified by the findings of a second study. In this study, (Baer, Wetter, Greene, Nichols, & Berry, 1995), test-takers were provided with high and low detail levels of information about the validity scales on the MMPI-II. The researchers reported that test takers who have any information, general or specific, regarding the validity scales on the MMPI-II were able to distort their responses (i.e., fake good) without being detected. This may be of significance for psychologists in CA evaluation practice as the majority of practitioners report administering psychological tests for adults as part of their evaluation process (Ackerman & Ackerman, 1996; LaFortune & Carpenter, 1998), and the MMPI-II is a frequent choice.

Given this research and the lack of information regarding litigation support related to child custody and access, an effort was made to explore psychologists' beliefs about what types of litigation support lawyers provide and lawyers' reports of their actual practice regarding litigation support in CA cases. Psychologists were asked whether or not they believe lawyers provide four types of litigation support: (1) information regarding home visits, (2) general information about psychological tests (e.g., the purpose of psychological testing), (3) specific information about psychological tests (e.g., information about validity scales), and (4) a review of the final CA report by another mental health professional. This question was also addressed to lawyers. However the lawyers survey included one additional type of litigation support: arranging practice interviews with an independent mental health practitioner.

At first glance, it appears that psychologists may be overly skeptical when it comes to lawyers and litigation support. Psychologists seem to believe that there are a number of lawyers providing most of the suggested types of litigation support to their CA clients. In particular, there are significantly more psychologists who appear to believe lawyers provide specific information

about psychological tests and arrange for a review of the final report, than there were lawyers who reported providing these services. Two possible hypotheses are immediately apparent.

First, psychologists may be showing a response bias driven by their own anxieties related to conducting CA evaluations within the judicial system. The psychologists reported the greatest stress associated with child CA evaluation was working under the constant threat of having a lawsuit or a complaint filed against them. Therefore, responses to these questions may reflect a level of cynicism regarding the lengths to which lawyers will go to win their case. This hypothesis may be partially supported by the content of the responses added by psychologists regarding litigation support. These responses included: "whatever it takes to win;" "knowledge of the regulatory body's complaint process;" "coaching children through the parents;" "what topics to avoid and what to tell the evaluator;" and "advising the client to report the psychologist to the regulatory body in order to make the report inadmissible." Although these responses appear to represent the attitudes of only 10% of the psychologists who participated in this study, they may be indicative of a larger underlying dissatisfaction with the adversarial judicial system. This dissatisfaction may account, to some degree, for the differences in psychologists' beliefs about litigation support and lawyers reported practice.

However, a second hypothesis also warrants consideration. Given the relatively low endorsement of most of these items by lawyers, the possibility of a socially desirable response bias for the lawyers cannot be ruled out. Unfortunately, no other research regarding litigation support in child CA cases appears to exist with which to make a comparison. However, considering that nearly 50% of practicing lawyers in one American study admitted to providing their clients with specific information regarding psychological testing (Wetter & Corrigan, 1995), the 8% response rate from lawyers in this sample appears rather conservative. It is possible that the standards of legal practice in Canada and the United States may be quite different, or there may be a different standard of practice in both countries with regards to psychological testing in child custody and access. It is also possible that the lawyers in this study may represent a positively biased subset of lawyers who are the most interested in working with psychologists. As a result, they may be less likely to provide information regarding psychological tests to their clients. Basically, no conclusions can be drawn other than to suggest the need for further research in this area. In the meantime, psychologists using psychological tests for adults as part of their CA evaluation might be wise to remember that a very small percentage of the lawyers in

this study indicated they do, in fact, supply their clients with specific information regarding psychological tests and this may have implications for the validity of test scores.

The Psychologist's Role in Child Custody and Access: Psychologists' and Lawyers' Opinions. An area of ongoing debate has centered around the role of psychology within the judicial arena of Best Interests of the Child. An earlier study (Jameson, 1993) exploring the opinion of British Columbia psychologists about the role they believed psychologists should play in the child custody and access process found that 58% of psychologists with CA experience believed they should continue in their current role of gathering information and making recommendations. However, 40% of these psychologists indicated the custody process would be better served if the psychologist's role was limited to gathering information. Ackerman and Ackerman (1997) asked psychologists whether or not they should be allowed to testify to the "ultimate issue." Sixty-five percent of the respondents stated they should be allowed to testify to this issue, 21% said psychologists should not be allowed to testify to this issue, 7% did not know, and 6% of the respondents did not know what ultimate issue meant. In addition to the empirical research, there has also been considerable debate in the psychological literature regarding the role of psychologists in CA disputes (Amundson, Daya, & Gill, 2001; Gindes, 1995; Halikias, 1995).

The current study asked both professional groups to identify the role they believed psychologists should play in the CA process. Psychologists and lawyers overwhelmingly endorsed the belief that psychologists should continue in their current role of gathering information and making recommendations to the Court (90% and 87% respectively). Only one psychologist in the current study indicated the process might be better served if the psychologist also rendered the final decision regarding custody and access. It would be interesting to know if psychologists in this study perceive a difference between "making recommendations" and "testifying to the ultimate issue."

Deciding the ultimate issue in a child custody and access case is not an easy task, and it is easy to understand why psychologists might not wish to assume this burden. However, research indicates that judges follow the recommendations found in mental health professionals' CA evaluations from 60 to 90% of the time in disputed child CA cases (Caplan & Wilson, 1991; Kunin, Ebbesen, & Konecni, 1992; McCarthy, 1997). Therefore, it seems obvious that mental health professionals who conduct CA evaluations may already be the decision-maker in a significant proportion of these cases (Gindes, 1995). This raises an interesting question: If psychologists do not wish to assume the role of decision-maker (and psychologists in this survey

indicated they do not), and if they are aware that their recommendations may ultimately determine custody in 60 to 90% of cases, should psychologists make recommendations?

Does the role of decision-maker belong, to any degree, within the realm of psychology? In an article in the *American Journal of Forensic Psychology* on minimalist practice, the authors seem to state categorically that it does not: "The psychologist should not be called upon to draw summary conclusions regarding the custody of a child but should be called upon to inform the court's decision (pp. 80, Amundson, Daya, & Gill, 2001)." Perhaps the issue is not which role psychologists should play within the CA process, but rather what constitutes a recommendation and when do CA recommendations cross over into areas of judicial discretion?

Mental health professionals conduct child CA evaluations with the express purpose of developing recommendations to inform the Court's decision. However, the various standards and guidelines developed to oversee this practice are not consistently clear regarding the scope and limitations of these recommendations. Some standards provide concrete and detailed instructions regarding what may and may not be included in CA recommendations for the Court. However, other guidelines define the content of recommendations in vague terms that leave wide room for interpretation and potential errors in judgment.

In response to questions posed by the Court, it is generally accepted that clear articulation of the criteria and methodology used to answer these questions is essential. However, practitioners may need more education on how to summarize key findings as recommendations (i.e., provide information regarding how each parent meets or does not meet these criteria) without addressing the ultimate issue directly. If the judge agrees with the basic criteria and methodology employed by the psychologist, then he or she is left to follow the recommendations to their logical conclusions regarding child custody and access. Even when asked by the Court to make recommendations concerning custody and access, a professional consensus regarding how these conclusions should be framed, given the limits of psychological knowledge, might serve to reduce some of the difficulties associated with CA evaluation practice. Considering that child CA evaluation tends to be one of the most litigious areas of psychological practice, it would seem to be in the best interests of the professionals involved to develop a well articulated, widely accepted understanding of how information for the Court should be organized and presented.

Psychological Services in Child Custody and Access. Both psychologists and lawyers were asked to list up to two ways they had found psychological services to be helpful and two ways they had found these services to be harmful to the resolution of child custody and access

disputes. Psychologists believe they are able to provide a clear focus on the children involved and that their education and training allows them to understand family issues and family dynamics that may be at play during a child custody and access dispute. Furthermore, psychologists appear to agree their training also gives them an advantage in identifying underlying pathologies (i.e., psychiatric and/or parenting) in need of support. In other words, psychologists appear to believe their services are most helpful in understanding and reporting family relationships and related parenting issues, in developing recommendations to address these issues to best meet the needs of the children, and in providing education and support to parents involved in a child custody and access dispute.

Lawyers appear to agree with this assessment of how psychological services are helpful. For example, the lawyers specifically noted the ability of psychologists to focus on the best interests of the child, their ability to provide possible workable solutions, mediate disputes, and assist parents in reaching their own agreement, and their ability to help parents accept proposed recommendations. Not surprising, given the differences in professional orientation, lawyers most frequently mentioned that psychological services are helpful in resolving child CA disputes by clarifying the relative positions, that is the strengths and weaknesses, of each party -- a firm reminder that the CA process is entrenched in an adversarial system searching for a solid rationale for the ultimate decision.

Psychologists and lawyers also appear to agree on how psychological services may be harmful to the resolution of child CA disputes. In general, there are two main areas of complaint. The first complaint regards the presentation of biased and/or incomplete evaluation reports to the Court. Lawyers described evaluation reports as being too theoretical or unrealistic, and these professionals were concerned that reports containing small inaccuracies undermined the overall authority of the psychologist and his or her recommendations. A small percentage of both professions agreed that the recommendations themselves were often problematic in that they sometimes failed to consider all possible options, they were unacceptable to the parents, or they were inconsistent with the rest of the report.

Problems with the evaluation report appear to stem directly from poor evaluation practices, the second major complaint regarding psychological services. Lawyers noted such flawed evaluation practices as providing a biased evaluation of one or both parents, failing to follow professional guidelines or standards for CA evaluation, and inappropriately giving legal advice. Psychologists were also highly critical of CA evaluation practices. Fifteen percent of

psychologists indicated that lack of assessor training and experience were potentially very harmful in child CA evaluation practice. Psychologists noted such errors in CA practice as the inappropriate use of test data, failure to do home visits, and failure to follow standards of practice. One psychologist commented, "I'm appalled by some of the assessments I've seen. Where did people get trained, if at all?"

Standards and guidelines of practice are all well and good, but if evaluators do not have the training and experience to understand how to ethically implement them, then the guidelines will remain aspirations for practice that are not grounded in reality. They may serve to protect the public, but without some form of standardized certification for professionals who wish to practice in child CA evaluation, these standards may fall short of their goal of ensuring ethical practice. However, it must be remembered that complaints and lawsuits happen in only a minority of cases. Despite the problems associated with some CA evaluators and with some evaluation reports, research has found that child custody assessments frequently result in the divorcing parents settling their disputes out of court (Austin & Jaffe, 1990; Radovanovic et al., 1994). Therefore, the problems associated with CA evaluation appear to be related more to quality control than to the actual CA evaluation process itself.

The Legal System in Child Custody and Access. The most frequently noted benefit attributed to the legal system by both psychologists and lawyers was the Court's ability to provide a timely final decision regarding custody and access. Both lawyers and psychologists appear to appreciate the ability of, and the need for, the Court to provide closure in many of these difficult cases. However, as all professionals (including judges) involved with child custody and access know, a determination of custody does not necessarily mean the matter is settled. Lawyers in this study reported an average relitigation rate of 15%, and the most common cause of relitigation was ongoing conflict between the parents. In a small percentage of these cases, the old marriage vow, "till death do us part", takes on new meaning as the custody war continues.

Both professional groups also appreciated the semblance of order the judicial system brings to these cases by imposing limits and providing rules to move the process along. However, somewhat contradictory to the approval given to the Court's ability to provide closure was the low level of endorsement given by both lawyers and psychologists to the Court's ability to uphold the Best Interests of the Child standard. Only 10% of the participants from either group reported the Court was able to affirm its primary mandate of protecting children caught in a

divorce. It would seem that providing closure does not necessarily equate with a satisfactory resolution to the custody dilemma at hand.

The most frequent complaint lodged against the legal system by both psychologists and lawyers was its adversarial atmosphere. Not only did these professionals feel this atmosphere was not helpful to the resolution of CA disputes, it was directly tied to many of the practice-related stresses reported by both psychologists and lawyers. Long delays and exorbitant costs were also cited as being highly problematic for CA dispute resolution, and both psychologists and lawyers were critical of specific aspects of the legal process, such as failing to provide follow-up after Court determination and the tendency of the Court to favour the status quo. However, lawyers appeared to be more critical of the actual legal system. Their complaints included biased judges who are not willing to listen, early or hasty decisions that ultimately prejudice the Court against one parent, inconsistent rulings which preclude being able to predict custody determinations, and the inability of the Court to adequately deal with the complex problems of child custody and access.

A further indication of lawyers' dissatisfaction with the judicial system was reported in a recent study (Lee, Beauregard, & Hunsley, 1998) in which lawyers were asked to identify those professionals they believed were best suited to assist parents unable to agree on a parenting plan. Although lawyers in this study reported a wide range of professionals, the least popular alternative was judges. The researchers concluded that lawyers see a strong need for alternatives to litigation in resolving custody and access disputes. Participants in the current study would appear to agree with this conclusion. However, given this need for alternatives to litigation, it is interesting to note that only three psychologists noted the advantages of involving practitioners of collaborative law or divorce mediators in the resolution of child custody and access cases. None of the lawyers noted any alternative dispute resolution practices as being helpful to the resolution of CA disputes.

This lack of legal alternatives may represent concerns within the legal community that alternative services, such as collaborative law and divorce mediation, may not adequately protect the rights of individual clients, particularly if domestic abuse is a factor. Furthermore, concerns have also been raised about power imbalances in the parental dyad that may lead one partner, usually the woman, to concede more than is appropriate in an effort to appease their partner (Emery & Wyer, 1994). Although mothers who mediate felt more positive about its effects on the children, research comparing mediation and litigation has found that these mothers also report

feeling that they won less and lost more than mothers who litigate (Emery & Wyer, 1994). With regards to collaborative law, it is also possible it is still considered too experimental and, perhaps, insufficiently rigorous in a legal sense to be regarded as a realistic alternative for those couples engaged in a highly contested custody dispute.

Another obvious consideration for lawyers is the reality that many of them still do not offer alternative dispute resolution services. Forty-seven percent of the lawyers in this study reported they did not have training in divorce mediation. It may be difficult to support an alternative process to traditional divorce practice when you are not able to provide the service yourself.

Rewards of Practice in Child Custody and Access. Psychologists and lawyers were quite congruent with regards to the rewards experienced within the context of child custody and access practice. The main rewards for both groups were the belief that their work was helpful to children caught in these cases, and the sense of satisfaction they derived from knowing a resolution had been found that was acceptable to everyone involved. For some psychologists, an added benefit was the opportunity to use skills not usually required for therapy and the opportunity to interface with the legal system. Although two psychologists specifically noted they enjoy working within the legal framework, there were 10 who indicated they did not.

The third most common response for lawyers when asked about the rewards of CA practice was that there were no rewards. It was hypothesized that the five lawyers who gave this response were likely from the group of practitioners who reported they were no longer accepting referrals for child custody and access. However, a review of the data revealed that four of these lawyers are still accepting referrals and they averaged 15 child custody and access cases per year. To engage in such difficult practice without some sense of personal gratification must take a tremendous toll psychologically and, one would suspect, physically, unless one is able to separate oneself completely from the charged emotional atmosphere and the potentially high stakes of the work in which one is involved. However, when these lawyers' responses were reviewed for the percentage of time they felt caught between their professional responsibility as a lawyer and their own personal beliefs about the best interests of the children involved, only one of these lawyers reported never feeling caught in this dilemma. Two lawyers reported feeling caught 10% of the time, one reported being caught 30% of the time, and the last indicated this was a problem 40% of the time.

Given that the founder of the collaborative law movement changed his method of practice due to escalating health problems (Tesler, 1999), future research might survey experienced CA practitioners (from any profession) and explore the correlations between the number of practice-related rewards/stresses identified and their reported symptoms of physical distress or chronic health problems. If such correlations appear to exist, this information might prove useful in the development of workshops designed to help CA professionals protect their personal well-being while practicing in this important, but challenging, field.

Stresses of Child Custody and Access Practice. The danger of complaints and lawsuits was the number one stress for psychologists engaged in CA practice, followed by testifying in court and working within the legal framework. To help reduce some of this stress, psychologists who practice in this area of forensic psychology might benefit from a series of workshops providing some "moot" court experience similar to that obtained by lawyers during their professional training. A small minority of psychologists also noted that dealing with unreasonable clients and unreasonable lawyers was a major source of stress.

By comparison, unreasonable clients and unreasonable lawyers were the top two stresses named by lawyers who practice in child custody and access. At first glance it seems surprising that lawyers would find these individuals so much more stressful than psychologists, but there may be a number of reasons why these interactions are more difficult for legal practitioners. First, psychologists are trained to deal with individuals in crisis and with individuals who are troubled by interpersonal and personality problems. As a result, they may have more strategies for dealing with the attitudes and behaviours of all the parties involved in CA disputes. However, it must also be remembered that a psychologist's involvement in a given CA case requires a relatively short span of time, does not include taking instruction from one side or the other, and is conducted as an interested, but neutral, third party. Lawyers' professional responsibility in CA cases dictates just the opposite. They usually have protracted relationships with their clients, they have a professional duty to take instruction from their client even if they believe these instructions to be unreasonable, and they are there as aggressive defenders of their client's position. Although the professional training obtained by both lawyers and psychologists may alleviate some of the stresses related to child CA practice, the greatest stress appears to be inherent in those areas of CA practice that fall outside the practitioners usual areas of training.

The Relationship Between Psychologists and Lawyers. On a measurement scale that extended from "extremely poor" to "excellent," psychologists and lawyers both characterized the

nature of their relationship as "good." This may not be a resounding endorsement, but it implies a level of respect and appreciation that may bode well for families involved in the CA process. The ability of psychologists and lawyers to work cooperatively is not essential in custody and access cases. However, it may increase the probability that all parties will have a clear understanding of the questions the Court has asked the psychologist to address, that psychologists will have relatively easy access to appropriate and relevant information, and that lawyers will feel their client's position has been fairly presented.

Two interesting gender differences were revealed in this question. In general, female psychologists were significantly less satisfied than their male colleagues with their relationship with lawyers. Their evaluation of the relationship hovered half way between "neutral" and "good." While nearly one third of the male psychologists appeared to be very satisfied with their relationships with lawyers, none of the female psychologists rated this relationship in the "very good" or "excellent" range. No explanation for this difference in ratings is readily apparent. Perhaps male psychologists place more importance on building professional relationships with lawyers and are ultimately more satisfied with these relationships. However, it also may be that female psychologists are less comfortable with a process that imposes rigid restraints on the psychologist's ability to communicate openly with the lawyers involved in a given case. Or perhaps female psychologists have less patience with some of the maneuvering attempted by lawyers in defense of their client (e.g., inundating the psychologist with essentially irrelevant information). Since only 14 female psychologists responded to this question, these explanations are conjecture, at best, and further research is needed to clarify the results and the underlying rationale.

In general, lawyers in British Columbia seemed less satisfied with their relationships with psychologists than lawyers in Alberta. A closer examination of the data revealed this difference was largely due to the ratings of female lawyers in Alberta who outnumbered male lawyers in Alberta by three to one. As a result, although male lawyers in Alberta characterized the relationship the same as lawyers in British Columbia, the higher rating given by female lawyers in Alberta created a significant difference in the mean between the two provinces. It is unclear why female lawyers in Alberta would characterize their relationship with psychologists more favorably. Given that Alberta psychologists spend significantly more time completing their CA evaluations and preparing the final report, perhaps there is a thoroughness, or a perception of thoroughness, that impresses female lawyers and thus enhances their impressions of

psychologists. It is possible, however, particularly given the small number of male lawyers who participated in the study, this may be a random effect that would simply disappear with a more substantial sample. More research is needed to explore if this difference in characterization is replicated and to examine potential reasons why female lawyers in Alberta might be more satisfied with their relationship with psychologists.

Interdisciplinary Communication. Lawyers and psychologists appear to be quite enthusiastic about increasing interdisciplinary communication either through collaborative educational opportunities or by organizing informal cross-disciplinary meetings. Topics to be covered at these seminars or during informal meetings were also proposed. Several members of both professional groups suggested that a clarification of each profession's role within child CA evaluation would improve interdisciplinary communication, and several practitioners indicated that clearer guidelines regarding communication during a CA evaluation would also be helpful. Some psychologists proposed that lawyers needed to learn more about the strengths and limits of psychological assessment. Considering the research on the abuse and misuse of psychological testing, such a seminar might serve as a good refresher for some psychologists.

One form of interdisciplinary communication, the guest lecturer, was not specifically mentioned by the participants. Collaborative educational opportunities and informal cross-disciplinary meetings would be the most effective way to open the lines of communication and to address specific areas of misunderstanding. However, it might be difficult to convince practitioners who are involved in time-consuming and stressful CA evaluations to attend yet one more meeting. In the short-term, the easiest way to achieve a cross-disciplinary pollination of ideas might be to invite experienced CA practitioners from each profession to act as guest speakers at seminars and/or association meetings already being attended by members of the respective professions. Presentations on specific topics could be organized with appropriate representation from both professional groups. By learning more about one another, the strengths and weaknesses of each profession, both professions may ultimately be able to better serve the children and families who are seeking to resolve child custody and access disputes.

The BICQ-R: Rating the Best Interests of the Child Criterion

Interpretive Context. One of the central hypotheses of this study was that psychologists and lawyers would rate the relative importance of the BIC criterion differently. This hypothesis appeared to garner strong support from the analyses of participants' BICQ-R responses. These

analyses revealed that psychologists had rated every item on the BICQ-R relatively higher than lawyers, and that 33 of these ratings were significantly higher than lawyers' ratings. However, the consistency and level of significance of these ratings gave rise to concerns regarding the possibility of a systematic difference in the way psychologists or lawyers, or both, responded to the items on the BICQ-R, and a response bias was confirmed through further analyses. Two possible explanations for a response bias in this data are readily apparent.

One explanation may be found in current standards of child CA practice and in the training endorsed by participants as being important for psychologists who practice in the area of child custody and access. Most standards of practice for child custody and access evaluators include child development, family dynamics, the assessment of children and adults, and an understanding of current empirical research on divorce and child custody and access in their training recommendations. These research participants appeared to agree that such training was essential for competent practice. It is possible that this training, and the high stakes involved in CA practice, leads psychologists to rate the BIC criterion, particularly criteria related to empirical research, higher than lawyers. However, this hypothesis is in need of clarification as the psychologists surveyed for this study were not asked to note their training background.

A second possible explanation for a response bias in the data may rest in the professional training received by lawyers. In general, lawyers are trained to be analytical, to see all sides of a dispute, and to argue for their client's position within the limits of the law. A natural part of this training may be to take a conservative stance on issues that are not clearly articulated by law. Except for those BIC criteria that are clearly related to the law, lawyers may have a tendency to rate the BIC criterion lower than psychologists.

To remove any possible systematic differences in response, the data were transformed using a centering procedure. Although the overall rank ordering of the items did not change when the data were transformed, there were substantial changes in the multivariate significance of the assessment areas and in the number of BICQ-R items that remained significantly different. Overall, a strikingly different profile of professional group differences was revealed following data transformation.

However, the original data are interesting for what they tell us about inherent differences in the way psychologists and lawyers rate the BICQ-R, and for informing future research about potential systematic differences in response patterns for these two professional groups. Information about these possible response biases may also be useful for educating both

professional groups on cross-disciplinary differences in their fundamental approach to topics such as custody and access evaluation. Nevertheless, in order to make meaningful comparisons of the differences between psychologists' and lawyers' ratings of the BICQ-R, it is necessary to turn to the transformed data results. The balance of the Discussion will be based on these analyses.

Comparison of Overall Means for Areas of Assessment. One hypothesis of this study proposed that the education and training obtained by psychologists might lead them to rate the relational and needs of the child assessment areas as being relatively more important than the abilities of the parents assessment area. This hypothesis appears to have been supported by the data. However, a similar hypothesis that lawyers would rate the abilities of the parents assessment area as being relatively more important as a result of their training was not supported. The rank order for assessment area means for both professional groups places the relational assessment area first, the needs of the child assessment area second, and the abilities of the parents assessment area third. Therefore, professional training may influence the ratings given to various BIC criteria by psychologists, but the training received by lawyers did not appear to influence their responses to the various BIC criteria in the hypothesized manner.

It is also possible that other factors may be influencing the ratings assigned to the BICQ-R items. Given that the variable "the number of years of experience in CA practice" adjusted the significance level of several analyses in this study, the relative importance assigned to each area of assessment and to the various BIC criteria may be tied as much to professional experience as to professional training. One other possibility is currently being explored in the United States. A study is underway (S. Robertson, personal correspondence, April 2000) to explore the relative importance assigned to items on the BICQ by psychologists, lawyers, and the general public. This study may reveal whether or not the ratings assigned to the BIC criteria by experienced CA practitioners are indicative of beliefs held by the general public about the Best Interests of the Child in custody and access or a reflection of professional experience and training.

Gender Differences and Areas of Assessment Means. Originally, it was hypothesized that females, given their gender socialization and developmental predilection to function in a relational context (e.g., Belenky, Clinchy, Goldberger, & Tarule, 1986; Gilligan, 1982), might rate the relational assessment area as being relatively more important. Although females did rate the relational assessment area as being more important than the other assessment areas, this rating did not differ significantly from males. It was also hypothesized that males might show a preference for either the abilities of the parents or the needs of the child assessment areas. These

areas were chosen since they both contain a greater proportion of objective, individually oriented criteria (i.e., the specific abilities of each parent and the specific needs of each child) that rely less on subjective interpretation and more on objective clarification of the matters at hand. Although a trend was found for males to rate items on the abilities of the parents assessment area higher than females, this assessment area was ranked third overall by both genders. As for the needs of the child assessment area, a significant gender difference was found, but females had the higher overall mean rating not males. A gender by professional group interaction had also been predicted but this hypothesis was not supported.

There appears to be limited research into personal biases or gender differences with regards to child custody and access evaluation. One study (Austin & Jaffe, 1994) explored the effects of background and experience on CA evaluators' responses to two case scenarios and reported no effects for gender. However, an earlier study (Caplan & Wilson, 1990) emphasized the importance of compensating for personal experience and personal bias, including gender, when conducting child CA evaluations. Given this limited research, hypotheses regarding the reasons for gender differences on the relative importance assigned to items on the BICQ-R are speculative. Despite this caveat, there are two possibilities that may merit further exploration. It is possible that professional training or CA work experience may dilute gender differences. One avenue of research might be to conduct a cross-sectional study of female and male psychologists' and lawyers' ratings on the BICQ-R at the beginning and at the end of their professional training. A study of this nature might provide some insight into the effects of education on various personal biases, including gender differences.

The Relational Area of Assessment. When the items within each area of assessment were analyzed using multivariate analyses of variance, a significant difference between psychologists and lawyers was found for the relational assessment area. Further analyses revealed that the ratings for four items on the relational assessment area were significantly different. Psychologists rated the level of parental conflict and the overall quality of the parent-child relationship as being significantly more important to consider in child CA determinations, while lawyers regarded a history of sexual abuse of the child by a parent and a history of physical abuse of the child by a parent as being significantly more important.

The items related to conflict in the parental relationship are of particular interest given the large body of literature regarding the impact of such conflict on post-divorce adjustment in children (e.g., Hetherington et al., 1998; Booth & Amato, 2001; Buchanan et al., 1991).

Psychologists ranked those items related to parental conflict as follows: the level of parental conflict was ranked 4th; each parent's attempts to alienate the child against the other parent was ranked 11th, each parent's willingness to protect the child from parental conflict was ranked 22nd, the way in which parents express their conflict was ranked 24th, and the presence of physical violence in the parental relationship was ranked 32nd. These rankings indicate that psychologists may be aware of empirical literature regarding the general impact of parental conflict on post-divorce adjustment for children (e.g., Hetherington et al., 1998; McNeal & Amato, 1998; Roseby, 1995). However, given that the item "the way in which parents express their conflict" was ranked 24th, psychologists may be less aware of empirical research indicating that the nature of parental conflict may be as important, if not more important, to post-divorce adjustment than the overall level of conflict. In particular, research has demonstrated that conflicts about the child and to which the child is directly exposed, conflicts involving physical violence, or conflicts in which the child feels caught in the middle are the most harmful in terms of post-divorce adjustment in children (Buchanan et al., 1991; Hetherington & Stanley-Hagan, 1999).

Lawyers ranked items related to parental conflict as follows: a parent's attempt to influence the child against another parent was ranked 7th; the parent's willingness to protect the child from conflict was ranked 16th; the presence of physical violence in the parental relationship was ranked 20th, the level of parental conflict was ranked 21st, and the way that parental conflict is expressed was ranked 24th. The rankings assigned to the top three conflict-related items are worth considering. The highest ranking was given to an item addressing parental alienation syndrome (PAS), a process whereby one parent is gradually excluded from the child's life by the other parent. This high ranking may be a reflection of the Court's awareness of parental alienation syndrome and its effects on children (Gould, 1998). It also seems to make intuitive sense that representatives of the judiciary might rank two protection issues, that is, the willingness of each parent to protect the children from conflict and the level of physical violence in the parent's relationship, as being relatively more important. What is less obvious is why lawyers would rate the two items related to sexual and physical abuse of a child by a parent as being significantly more important than the ratings given by psychologists.

Both professional groups ranked a history of sexual abuse of a child by a parent as the most important BIC criteria and a history of physical abuse of a child by a parent as the second most important BIC criteria. Once the original data were transformed, it became apparent that, although the rank order had not changed, lawyers had rated these two items as being significantly

more important than psychologists. These two items, and the relatively higher ratings for the protection-conflict items, may reflect a professional group by BIC criteria interaction in which one's professional training and experience may influence the ratings to a significant degree.

Of all the items on the BICQ, protection and abuse issues are the most likely to require direct legal intervention. Therefore, the higher ratings assigned to the protection-conflict issues and the significantly higher ratings assigned by lawyers to the issues of sexual and physical abuse of the child by a parent may be grounded in the lawyers' knowledge of the law and their perception of how these issues are handled by the Court. Of all the criteria on the BICQ-R, these items may appear to lawyers to be the most absolute with regards to custody determination. For psychologists, who look at the BIC criteria within the context of each family situation, a history of abuse may not be quite so clear cut. Psychologists are trained to deal with individuals with a variety of histories including domestic violence and abuse issues. It may be that psychologists are more willing to consider the possibility that an abusive parent has changed, or that the context in which the abuse occurred has changed, allowing for some consideration of current versus past events. Therefore, even though psychologists still consider the sexual and physical abuse criteria as being of the utmost importance in custody determination, their ratings for these items may not be as absolute as the ratings of lawyers.

With regards to parental conflict, it is possible that lawyers' relatively higher rankings of these issues arise from an awareness of the literature regarding how these issues impact post-divorce adjustment combined with their knowledge of legal procedure. Given that psychologists ranked the level of parental conflict 4th and the way parents express their conflict 24th, it is also possible that the psychologists in this study have not kept abreast of developments in child-related divorce research. It would appear they are somewhat unaware that the nature of the parental conflict is currently regarded as being as salient, if not more salient, to post-divorce adjustment in children than the overall level of conflict (Amato, 2000; Hetherington et al., 1998). Further research is needed to clarify the knowledge base respondents are operating from when they rate the relative importance of the various aspects of the BIC criterion.

Psychologists' significantly higher rating of the overall quality of the parent-child relationship may also reflect empirical research. This research has demonstrated that divorce may lower the quality of parent-child relationships, particularly father-child relationships (Booth & Amato, 2001), and that parent-child relationships may have a significant impact on post-divorce adjustment (Summers, Forehand, Armistead, & Tannenbaum, 1998). In addition, the rating

given this item by psychologists may also be reflective of their professional training in child development and family dynamics and how these areas may be impacted by divorce.

The Needs of the Child Assessment Area. On the needs of the child assessment area, three items were found to be significantly different between psychologists and lawyers: the intellectual needs of the child, the special health needs of the child, and the preferences of a child 15 years of age and older. Lawyers rated all of these items as being significantly more important than psychologists.

It was originally hypothesized that lawyers might rate the abilities of the parents assessment area as being relatively more important. This area includes criteria that may be evaluated objectively, and it contains more items that relate specifically to maintaining stability and continuity in a child's life, a cornerstone of many legal statutes outlining the Best Interests of the Child. This hypothesis was not supported. However, the general premise of this hypothesis appears to apply to the three items rated as being significantly more important on the needs of the child assessment area. All of these items can be linked to legal statutes and current legal preference. The child's health needs are usually mentioned in legal statutes as one of the most basic criteria for determining a child's best interests. These statutes also address a parent's ability to maintain and enhance the child's overall well-being which could be interpreted as both the child's physical well-being and their intellectual growth. Finally, children's opinions regarding custody and access are often heard by the Court, particularly if these children are in their teenage years (Reidy, Silver, & Carlson, 1989; Sorenson et al., 1997). It does make sense that lawyers might endorse these particular items, and the needs of the child assessment area in particular, as being relatively more important in child custody and access given the law's mandate of protecting the Best Interests of the Child. It is interesting to note that lawyers ranked the preferences of the child aged 15 or older 3rd, the child's special health needs 13th, and the intellectual needs of the child 37th. Psychologists ranked these items 5th, 30th, and 53rd respectively. Although psychologists and lawyers appear to agree on the relative importance of listening to the preferences of older children, their opinions seem to differ regarding the relative importance of the other two items.

The Abilities of the Parents Assessment Area. Although no significant group differences for gender were found for the relational or the needs of the child assessment area, a significant difference for gender was found on the abilities of the parents assessment area. A further examination of this finding revealed three unexpected significant differences in the item

ratings. Males in this study rated items relating to each parent's sexual orientation, financial sufficiency, and ability to provide a "family" environment as being significantly more important to consider in determining custody than females. These relative ratings of importance were not affected by province or by professional association.

The highest ranking assigned to any of these items was for "each parent's ability to provide a "family" environment" which was ranked 62nd by the psychologists and 64th by the lawyers. In other words, none of these items are considered to be critical issues in determining child custody and access by either professional group or either gender. However, the question remains: Out of the 31 items that appear on the abilities of the parents assessment area, why would males assign these three items a significantly higher rating of relative importance than females?

A review of the empirical literature does not appear to solve this mystery. There is a significant amount of literature supporting the effects of poverty on children (e.g., Hetherington et al., 1998). However, as this issue is addressed by the federally mandated child support guidelines, the judiciary is expected to disregard financial sufficiency in determining custody. The issue of sexual orientation and parenting is quite controversial in the public domain. The rights of lesbian or homosexual couples to be parents, adoptive or biological, seems to generate strong opinions from many quarters. However, there does not appear to be much research concerning the impact of a parent's sexual orientation on children. With regards to the third item, research has revealed potential problems associated with single parenting (e.g., Amato, 2000), but there is also a significant body of research highlighting the difficulties associated with creating cohesive supportive stepfamilies (e.g., Amato, 2000; Hetherington & Stanley-Hagan, 1999). Therefore, the literature does not appear to support the position taken by these practitioners regarding the relative importance of these items.

Two possible hypotheses for the gender differences on the abilities of the parents assessment area fall within the realm of personal biases. An examination of the frequency counts for the three significantly different items suggested there may be a subset of male practitioners who rated these items consistently higher than their male colleagues. It is possible that this subset of males may share similar work experiences that have influenced these ratings, or perhaps they share a similar set of personal values. However, if these ratings do reflect conservative personal values, why would female practitioners be less influenced by such personal values?

A second hypothesis is also possible. For male practitioners, a significant interaction was found for professional affiliation and personal experience with custody and access at the multivariate level on both the abilities of the parents assessment area and, in particular, on the relational assessment area. On the abilities of the parents assessment area, the ratings given two of the items under discussion (i.e., financial sufficiency and sexual orientation) were significantly different for males with personal custody and access experience compared to males without this experience. These items were also rated differently depending on the professional affiliation involved.

On one hand, male psychologists who have experienced custody and access on a personal level rated these two items as being relatively more important in determining custody than male psychologists who did not have this experience, and as being significantly more important than male lawyers with personal CA experience. On the other hand, male lawyers with personal custody and access experience rated these two items as being relatively less important than male lawyers who did not have this experience.

The effects of the interaction of personal custody and access experience and professional affiliation on male practitioners' ratings were even more pronounced at the multivariate level on the relational area of assessment. Once again, male psychologists with personal custody and access experience rated three items (i.e., parent's history of sharing parenting, history of physical abuse of a child by a parent, and each parent's willingness to share parenting) as being relatively more important than male psychologists without personal CA experience, and as being significantly more important than male lawyers with personal CA experience. And once again, male lawyers with personal experience in child custody and access rated these three items as being relatively less important than male lawyers without personal CA experience.

Female practitioners did not show the same pattern of interaction of personal custody and access experience with their professional affiliation. However, considering that only six females reported they had personal custody and access experience, it is possible there was insufficient power in the analyses to detect any differences. It must be remembered that, of the 101 participants (96% of the total sample) who answered the optional questions, only 19 (20%) reported having personal custody and access experience. Therefore, these results are considered exploratory. However, with an interaction effect for personal custody and access experience found for male practitioners on two assessment areas, the potential impact of these experiences on CA practice for both genders should not be ignored.

How might personal custody and access experience affect relative ratings of BIC items on the BICQ-R? Perhaps participation in a child custody and access case as a parent leads a CA practitioner to believe they possess a clearer understanding of the issues. Perhaps being the centre of a custody and access dispute as a child colours the relative importance you assign to specific criteria, particularly those with some form of personal resonance. The potential affects of personal child custody and access become even more complicated when the impact of gender issues, professional training, and personal mores are added to the equation. Obviously, more research is needed into how personal experiences interact with professional practice to ensure that professionals engaging in child CA work are knowledgeable about the potential impact of personal biases on CA practice.

Limitations of the Current Study and Implications for Future Research

The research findings from this study must be interpreted within the context of the following limitations:

1. The relatively small sample sizes obtained for both psychologists (N=52) and family lawyers (N=53) who practice in the area of child custody and access must be considered. The process undertaken to secure the participation of psychologists in this study, and the apparent paucity of psychologists actively working in the area of child custody and access, suggests that the 52 psychologists who participated in this research may be representative of the population of psychologists in Alberta and British Columbia who have experience completing child CA evaluations. However, it is possible that those psychologists who chose to respond to the survey may be different from the population of psychologists who also practice in the area of child CA evaluation but who chose not to respond.
2. The sample of lawyers who participated in this study is more problematic since fewer than 13% of the lawyers who were mailed questionnaires returned them. It is possible that the sample of lawyers who did participate in this research may represent a biased subset of those family lawyers who currently practice in the area of child custody and access. These individuals may represent family lawyers who have a greater interest in the psychological aspects of child custody, and who may be more inclined to work collaboratively with other lawyers and with the mental health professionals they encounter in their practice. Therefore, the results for the lawyers, and for comparisons of psychologists and lawyers, should be considered exploratory and in need of replication with a larger sample of lawyers.

3. The small sample sizes prevented an exploration of the study's first hypothesis regarding the three dimensional structure of the Best Interests of the Child Assessment Model. The subjects to variables ratio (105 to 77 respectively) made factor analyses of these data unreliable, particularly any attempts to compare the factor structure between the psychologists and the lawyers. Therefore, comparisons of differences between psychologists and lawyers in the factor structure of the three areas of assessment were not possible.

4. Although the use of self-report instruments is typical of this area of research (e.g., Ackerman & Ackerkman, 1997; Bow & Quinnell, 2001)), the problems inherent in using this approach must be acknowledged. It is possible that the ratings of the relative importance psychologists and lawyers assigned to various aspects of the Best Interests of the Child Criterion may not reflect how these practitioners consider these criteria within the context of the stresses of their daily practice. In particular, this self-report method may create the illusion of BIC homogeneity which discounts the reality encountered by psychologists of weighing and integrating the many BIC criteria within the context of a particular family situation, time constraints, and varying ethical concerns. It may also be that lawyers do not consider all of the various components of the BIC criterion within the normal course of their practice. If they do, then this consideration may occur within the context of what would be in the best interests of one parent, the lawyer's client, rather than the child. Based on this study, there is no way of knowing if participants consider the BIC criteria the same way within the context of their day to day practice.

A similar concern with using a self-report instrument relates to the other practice related information provided by psychologists and lawyers on this survey. For example, psychologists may report they include certain procedures in their CA evaluations but there is no way to ascertain if this is what they generally do within their practice. In a similar vein, lawyers may report providing certain types of litigation support in their CA practice, but there is no way to determine if this is more or less than what they provide to clients involved in a child CA dispute.

5. This study revealed significant differences in the fees being charged for child custody and access evaluations by psychologists. Unfortunately, information regarding fees was not obtained from the lawyers in this study. Therefore, it is not possible to draw any conclusions regarding the relative costs of CA evaluations compared to the fees charged by lawyers engaged in this practice. Given that lawyers mentioned the cost of CA evaluation as an impediment to accessing this service, a comparison of fee structures for both professions might be enlightening.

6. This study revealed that a number of lawyers struggle with ethical concerns on a regular basis within the context of their CA practice. Given the already substantial length of the psychologists' survey, similar questions regarding potential ethical dilemmas were not posed. Therefore, it is not possible to make any comparisons between psychologists and lawyers and the potential ethical dilemmas they may face practicing in the area of child custody and access.

Implications for Practice and Research

This study raised a number of questions regarding child custody and access practice, and suggested a number of possible areas of further research. In this section, the implications of this study on child CA practice and suggestions for future research will be summarized.

Implications for Child Custody and Access Practice. The results of this study indicate that, in general, psychologists and lawyers rate the relative importance of various aspects of the BIC criterion in determining custody in a similar manner. However, these data indicate that psychologists and lawyers may rate these criteria in a systematically different way, with psychologists rating them as being relatively more important and lawyers rating them as being relatively less important. These response biases may reflect fundamental differences in the role each profession plays within child CA disputes: lawyers are required to represent their client while psychologists are essentially there to elucidate the child's interests. If interdisciplinary communication is to be enhanced, an understanding of how this difference impacts on the relative endorsement of the BIC by each profession might be useful.

The relatively small samples obtained for this study made it impossible to explore the hypothesized structure of the Best Interests of the Child Assessment (BICA) model with regards to the relational, abilities of the parents, and needs of the child assessment areas. However, as a framework for conceptualizing and guiding CA evaluations, these assessment areas may still have practical applications for each professional group in their custody and access practice. First, the BICA model may inform and enhance lawyers' understanding of the range of BIC criteria psychologists may examine within a given CA evaluation. Having this information might allow them to gauge more accurately their client's position with regards to an evaluation, and might also allow them to counsel their clients more effectively with regards to the child's best interests.

A second potential benefit of the BICA model is the provision of a comprehensive organized framework for considering the many criteria that comprise the Best Interests of the Child. Such a framework could ensure that mental health professionals who undertake CA

evaluations consider all of the relevant issues, especially those criteria with demonstrated empirical support. As an earlier study concluded (Jameson, Ehrenberg, & Hunter, 1997), the BICA model will not tell psychologists what is the most important criteria to consider in a given CA evaluation, or how to integrate all the information the various BIC criteria might generate, but the model might encourage thoroughness and provide some protection against clinician bias. However, mental health professionals who wish to practice in this area will still benefit from certified educational opportunities designed to provide specific knowledge about and experience in child CA evaluation. This may be particularly relevant for developing professional consistency in the preparation of CA reports and in the presentation of recommendations that fall within the limits of psychological expertise and knowledge.

The BICA model may also allow for the development of a consistent and uniform understanding of the BIC criterion across professional boundaries. This understanding may be particularly relevant with regards to the interaction of the mental health profession and the judiciary. A common understanding of the BIC and a shared knowledge of CA evaluation practices may lessen the probability of lawyers, and their clients, being surprised by the recommendations arising from a CA evaluation. This knowledge may also increase the likelihood of psychologists and lawyers working collaboratively to develop new methods of helping families, particularly children, caught in this crisis.

Nearly 75% of the lawyers in this study endorsed the importance of education regarding the components of a child custody and access evaluation. However 62% of the lawyers indicated they were either not at all familiar or only somewhat familiar with any set of guidelines or standards of practice for CA evaluators. Furthermore 55% of this particular subset of lawyers indicated they did not know how to obtain a copy of these guidelines. To enhance interdisciplinary communication and understanding, psychological regulatory bodies might offer to make available copies of standards of practice for CA evaluators for their jurisdiction, and to offer a guest speaker with CA experience who could discuss these guidelines and answer questions from lawyers who also practice in this area. Such small steps might signal the beginning of greater interdisciplinary communication and collaboration, ideas that were supported by the participants in this study.

Future research may also wish to focus on issues related to training and competence in the area of child CA evaluation. In particular, a more explicit exploration of practitioner training, experience, and methodology as they correlate to family satisfaction post CA evaluation might

clarify a number of issues related to child CA evaluation practice (e.g., Radovanovic, 1994). Such research would add to the limited information available on the efficacy of child CA evaluation, and it might clarify aspects of training and clinical experience that need to be deemed essential, not just recommended, for competent practice. This research could also inform the development of courses for graduate students and professionals who may be considering including child CA evaluation in their practice as to what constitutes not only competent practice, but good care of those families seeking assistance in the resolution of such difficult issues. In addition, within the context of the ethical consideration of separation of professional roles, those limited therapeutic interventions that practitioners have found to be helpful in CA cases may become more apparent.

This study also revealed numerous topics for seminars and workshops that could be informative for both professions and that might continue the process of building interdisciplinary bridges. These interdisciplinary seminars might include:

- workshops regarding the strengths and limits of psychological testing in CA practice, and the rationale for protecting specific information regarding psychological tests. Such an understanding might encourage the legal profession to develop a set of ethical standards regarding psychological testing and the law;
- seminars on the lawyer's responsibility to his or her client and the types of litigation support provided in CA cases;
- seminars to provide moot Court experience to psychologists and to develop strategies for coping with the stress of providing legal testimony;
- discussions on the benefits and drawbacks of case conferencing in CA cases;
- seminars on stress reduction with strategies geared specifically for child CA practitioners;
- discussions regarding the rules for interdisciplinary communication during a CA evaluation; and
- workshops addressing the potential impact of personal biases in professional practice, particularly as they might relate to CA practice.

The Canadian government is currently considering reforms to the *Divorce Act* that might reframe child custody and access within a language of parental responsibility as opposed to parental rights. If these reforms are to achieve their goal of lessening the trauma of child custody and access disputes while ensuring the needs of the children involved are met, members of the

mental health profession and the judiciary need to begin a dialogue that will enhance interdisciplinary communication. The relatively free exchange of professional knowledge and understanding of the Best Interests of the Child might serve to enhance each profession's ability to function within the legal context. This, in turn, might reduce some of the stress inherent in the process for CA practitioners, and perhaps lead to more productive resolutions of child custody and access disputes.

Implications for Future Research. Further research on the BICA model may provide needed clarification of the model's overall stability and internal factor structure. In particular, the stability of the three BIC assessment areas needs to be confirmed with larger samples of CA practitioners. Such analyses might confirm the previously discovered internal factor structure of each assessment area (Jameson, 1993), and contribute additional information about how psychologists and lawyers regard the Best Interests of the Child criterion. A confirmation of the stability of the BICA model and of the internal factor structure might also provide added support for the utility of the model as an organizational tool for child CA evaluation.

The practical utility of the BICA model might also be evaluated by comparing the responses of two groups of CA evaluators to a set of standardized custody and access scenarios. One group could be given the BICA model and information regarding its possible utility in conceptualizing and guiding CA evaluation and asked to select the BIC criteria they consider the most relevant for evaluating each case scenario. The second group could be asked to choose the most relevant BIC criteria for each scenario based strictly on their professional knowledge and experience in child CA evaluation. Both groups could also be asked to provide a brief rationale for the criteria selected. Comparisons could then be made on the similarities and differences in criteria selection and on the rationales provided. This research might clarify some of the concerns regarding differences between ratings on the BICQ-R and actual CA practice, as well as provide further information about the criteria that CA evaluators tend to select most frequently within certain CA contexts. Research using standardized custody and access scenarios might also be employed to explore the rationale of CA practitioners regarding the selection of psychological tests.

Within the context of interdisciplinary child custody and access practice, several research questions have been suggested in this study:

- What differentiates CA practitioners who maintain a long-term practice from those who abandon this work earlier in their career? Why do female CA practitioners appear to abandon this work at a higher rate than male practitioners?
- Is there a correlation between the practitioner's perception of the rewards and stresses of CA practice and reported health problems. Do these problems appear to escalate as the reported frequency of stresses increases and rewards decreases?
- Given the gender differences revealed in this study, do gender differences actually impact on child custody and access practice? Further to this, do training programs in psychology and law tend to reduce gender differences in attitudes towards the BIC criterion?
- Given there was evidence in this study to suggest that CA practitioners, particularly males, who have personal experience with child custody and access might rate some aspects of the BIC criterion differently, how might personal experiences impact the custody and access practice of both psychologists and lawyers? Is there a main effect for personal custody and access experience or are the effects manifested through an interaction with another variable such as gender or professional training?
- Do lawyers who practice collaborative law differ from their more traditional colleagues with regards to how they rate various aspects of the BIC criterion and what differences are there in day-to-day practice?
- What are the longer-term outcomes for families who participate in the collaborative law process as compared to families who are involved in litigation or divorce mediation? What is the rate of litigation for families who have completed the collaborative law process? What percentage of families fail to complete the collaborative law process and what differentiates these families from those who are successful?

As these topics suggest, interdisciplinary research involving practitioners from various professions might produce some informative data with valuable applications to current practice. In addition, collaborative research projects involving investigators from different professional backgrounds may prove more effective at recruiting interdisciplinary participants willing to give their time and knowledge to the research. To this end, it would be advantageous for custody and access practice to involve CA practitioners from a wide range of disciplines including psychologists, lawyers, judges, social workers, and family court counsellors. If a shared

understanding of the custody and access process is to be achieved, it is essential that those professions currently participating in the CA process be represented. Without this representation, developing interdisciplinary agreement on how to best meet the needs of the thousands of children whose parents are embroiled in custody and access disputes may remain an elusive goal.

Final Note

This study revealed that psychologists and lawyers share common attitudes towards various aspects of the BIC criterion, as well as common opinions about each other's participation in the custody and access process. Both professional groups agreed on the relative importance of the three assessment areas and ranked the relational, the needs of the child, and the abilities of the parents assessment areas, first, second, and third, respectively. In addition, although the actual rankings differed, there was agreement on 28 of the top 30 BIC criteria rated as being the most important to consider in determining child custody and access.

There was also general agreement on the benefits and drawbacks of each group's involvement in the CA process, and about the stresses and rewards associated with this practice. Psychologists and lawyers overwhelmingly agreed that psychologists should continue in their role of gathering information and making recommendations to the Court. However, it also seems apparent from this research that lawyers and psychologists do not have a clear understanding of each other's role in the CA process, particularly with regards to litigation support and the use and misuse of psychological testing. In general, both groups described the overall quality of their relationship as "good," although both groups also noted that enhanced communication and interdisciplinary educational opportunities might be beneficial for everyone involved in the CA process.

Finally, it is important to discuss the results for psychologists in the light of the obvious jurisdictional differences that exist between Alberta and British Columbia. Despite differences in suggested training for CA evaluators, requirements for certification, and key professional figures who may influence regional beliefs and practices related to CA evaluation, there was a great deal of consensus regarding the relative importance of various aspects of the BIC criterion. In fact, differences between the two provincial groups tended to appear in those questions regarding issues of training and competency rather than in questions that delved into actual CA evaluation processes. Psychologists from different jurisdictions may approach the practice of CA

evaluation with a slightly different set of values, but it would appear that the essential process may be the same regardless.

Child custody and access remains a challenging area of practice for both professional groups. Psychologists report worrying about how their reports and recommendations will be used within the judicial system and many lawyers struggle to balance their obligation to protect their client with their concern for the best interests of the children involved. As the law concerning child custody and access evolves, lawyers and psychologists may be asked to find new ways of representing the interests of all parties involved in these disputes. In particular, lawyers may find their focus has shifted from parental rights to parental responsibility, and lawyers and psychologists may need to find new ways of collaborating on child CA cases. Interdisciplinary communication and education may become more essential to the successful resolution of child custody and access disputes. To assist in this education, more interdisciplinary research is needed that addresses CA practice issues from both the psychological and legal perspective.

It is a sad reality that there will always be parents who are unable to settle their grievances and reach agreements that will serve and protect their children without legal intervention. However, as the evolution of collaborative law has shown, there are alternatives to the traditional legal process. Working together, psychologists and lawyers may be able to develop other creative solutions to custody and access disputes that will endeavor to meet the needs of parents while preserving the best interests of the children.

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APPENDICES

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APPENDIX A: First Fax Sent to Psychologists and Lawyers

August 2, 2000

**PSYCHOLOGY AND LAW PRACTICES:
CHILD CUSTODY AND ACCESS RESEARCH STUDY****Attention: Psychologists With Experience in Child Custody and Access Evaluation**

The Families in Motion Research and Information Centre at the University of Victoria is dedicated to advancing knowledge and practice concerning divorcing families. Over the next week, we will be inviting you to participate in a Western Canadian study, *Child Custody and Access: The Views and Practices of Psychologists and Lawyers*. We are interested in the practices and opinions of psychologists and lawyers in British Columbia and Alberta, who work with families involved in child custody and access disputes. As this is one of the most challenging and high-risk areas in the legal and mental health fields, we plan a broad and practice-oriented dissemination of our findings to psychologists and lawyers.

Please look out for our package in your incoming mail. We recognize your busy schedule, and we will appreciate just a few minutes of your time to share your expertise and experience by responding to our questionnaire. The package will, of course, include details of the study and how you can access the results.

If you are a psychologist who DOES NOT or DID NOT AT ANY TIME IN THE PAST practice in the child custody and access area, please let us know so that we may remove your name from the distribution list for this study. As the surveys have already been mailed, you will still receive the initial package. However, your notification will prevent us from contacting you again in the future regarding this study. You can reach us by telephone (403) 210-2726, BY fax (403) 210-2484, or BY email at bjameson@uvic.ca.

We thank you in advance for your consideration!

Barbara J. Jameson, M.A.
Doctoral Student,
Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Associate Professor & Director,
Families in Motion Research & Information Centre

August 2, 2000

**LAW AND PSYCHOLOGY PRACTICES:
CHILD CUSTODY AND ACCESS RESEARCH STUDY**

Attention: Family Lawyers Experienced in Child Custody and Access

The Families in Motion Research and Information Centre at the University of Victoria is dedicated to advancing knowledge and practice concerning divorcing families. Over the next week, we will be inviting you to participate in a Western Canadian study, *Child Custody and Access: The Views and Practices of Lawyers and Psychologists*. We are interested in the practices and opinions of lawyers and psychologists in Alberta and British Columbia who work with families involved in child custody and access disputes. As this is one of the most challenging and high-risk areas in the legal and mental health fields, we plan a broad and practice-oriented dissemination of our findings to psychologists and lawyers.

Please look out for our package in your incoming mail. We recognize your busy schedule, and we will appreciate just a few minutes of your time to share your expertise and experience by responding to our questionnaire. The package will, of course, include details of the study and how you can access the results.

If you are a lawyer who DOES NOT or DID NOT AT ANY TIME IN THE PAST practice in the child custody and access area, please let us know so that we may remove your name and the name of your firm from the distribution list for this study. As the surveys have already been mailed, you will still receive the initial package. However, your notification will prevent us from contacting you again in the future regarding this study. You can reach us by telephone (403) 210-2726, by fax (403) 210-2484, or by email at bjameson@uvic.ca.

We thank you in advance for your consideration!

Barbara J. Jameson, M.A.
Doctoral Student,
Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Associate Professor & Director,
Families in Motion Research & Information Centre

**APPENDIX B: Invitation to Participate in Research
Cover Letters for Psychologists and Lawyers Included in BICQ-R Package**

August, 2000

Dear [name of psychologist]:

**RE: Research Project – Psychologists' and Lawyers' Ratings of the
Best-Interests-of-the Child Custody and Access Criterion.**

Within the context of divorce-related child custody and access cases, mental health professionals are increasingly involved in evaluating divorcing families and developing recommendations for children's custody and access. As a result, family lawyers and psychologists often find themselves working together in an effort to determine what will be in the best interests of the children, and parents, involved in these custody disputes. There is general agreement in the psychological and legal literature that child custody and access determinations should be based on the best-interests-of-the-child. However, there is still relatively little agreement about what constitutes these "best interests" or about the relative importance legal and mental health professionals assign to the various criterion that comprise the best interests of the child standard. Ethical and professional concerns related to child custody and access assessments have been reflected in the attention paid to this topic by provincial and national psychological and legal associations.

The purpose of this research is to focus on professional similarities and differences by exploring how psychologists and lawyers rate the relative importance of the Best Interests of the Child criterion. It is hoped that the information gathered in this study will create new opportunities for cross-disciplinary communication and education. In addition, this research includes some questions pertaining to each profession's private practice in the hope of understanding more about what lawyers and psychologists actually do in their child custody and access related practice.

This research project is being conducted under the supervision of Dr. Marion Ehrenberg and is in partial fulfillment of a Ph.D. degree in the clinical-lifespan psychology program of the Department of Psychology at the University of Victoria. Approval to conduct this study was granted by the University of Victoria's Human Research Ethics Committee.

The enclosed survey is being mailed to all chartered psychologists in Alberta who have identified themselves either in the Psychology Association of Alberta's referral list or through phone communication as practicing in the area of child custody and access assessment. A similar survey is being mailed to all members of the Family Law Association of Alberta. Participation in this study involves completing the enclosed questionnaire and mailing it in the postage-paid return envelope provided. The questionnaire will take approximately 30 to 45 minutes to complete. The questionnaire contains no reference to your name, and care will be taken to present results free of identifying information. The information gathered in this survey will be treated in a confidential manner and used for research purposes only. Feedback about the results of this study can be obtained by including your name and address on a separate piece of paper with the questionnaire. The receipt of your completed questionnaire will be understood as your consent to participate in this study.

If you have any questions or comments about this study, please feel free to contact me at (430) 220-9241 in Calgary or by e-mail at bjameson@uvic.ca. If possible, please return this questionnaire by June 30th, 2000. Your time and participation is greatly appreciated. I sincerely hope that the findings from this research project will be informative to your practice.

Sincerely,

Barbara J. Jameson, M.A.
Ph.D. candidate in Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Supervising Psychologist & Associate Professor

August, 2000

Dear [name of family lawyer]

**RE: Research Project – Lawyers' and Psychologists' Ratings of the
Best-Interests-of-the Child Custody and Access Criterion.**

Within the context of divorce-related child custody and access cases, mental health professionals are increasingly involved in evaluating divorcing families and developing recommendations for children's custody and access. As a result, family lawyers and psychologists often find themselves working together in an effort to determine what will be in the best interests of the children, and parents, involved in these custody disputes. There is general agreement in the psychological and legal literature that child custody and access determinations should be based on the best-interests-of-the-child. However, there is still relatively little agreement about what constitutes these "best interests" or about the relative importance legal and mental health professionals assign to the various criterion that comprise the best interests of the child standard. Ethical and professional concerns related to child custody and access assessments have been reflected in the attention paid to this topic by provincial and national psychological and legal associations.

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Sincerely,

Barbara J. Jameson, M.A.
Ph.D. candidate in Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Supervising Psychologist & Associate Professor

APPENDIX C: Statement of Informed Consent Included in BICQ-R Package

STATEMENT OF INFORMED CONSENT

You are being invited to participate in a study entitled *Child Custody and Access: Views and Practices of Family Lawyers and Psychologists* that is being conducted by Barb Jameson, a graduate student at the University of Victoria. Barb can be reached at (403) 210-2726 or by e-mail at bjameson@uvic.ca. As a graduate student, this research is part of the requirements for a Ph.D. degree in clinical lifespan psychology and it is being conducted under the supervision and in cooperation with Dr. Marion Ehrenberg. You may contact Dr. Ehrenberg at (250) 721-8771.

In addition to being able to contact Barb or Dr. Ehrenberg at the above phone numbers, you may verify that this study has been approved by the University of Victoria ethics committee, or raise any concerns you may have, by contacting the Associate Vice President Research at the University of Victoria (250-721-7968).

The potential benefits of this research are threefold: (1) To highlight professional similarities and differences between family lawyers and psychologists thus allowing for cross-disciplinary communication and education; (2) To increase the general knowledge about what lawyers and psychologists actually do within the context of their child custody and access practice; and (3) To further develop the Best Interests of the Child Assessment model, an organizational tool for family lawyers and clinicians engaged in child custody and access work. A summary of earlier research involving this model was published in *Professional Psychology: Research and Practice* [Jameson, Ehrenberg, & Hunter, 1997, volume 28(3)]

You are being asked to participate because you are a family lawyer or a psychologist working in Alberta or British Columbia with current or past experience in the area of child custody and access. Participation in this study is completely voluntary and involves completing the enclosed questionnaire and mailing it in the postage-paid return envelope provided or faxing it to (403) 210-2484. Although you are free to withdraw your participation at any time while completing the questionnaire or to leave blank a particular question you do not wish to answer, once you have mailed the questionnaire it may be impossible to us to delete your responses from the data set due to the anonymous nature of the data. In an effort to reach all eligible respondents, we are asking participants to telephone or fax the names and phone numbers of colleagues who practice in the area of child custody and access to the FMRIC office so we can invite them to participate.

The questionnaire will take approximately one hour to complete. There are no known or anticipated risks to you as a result of participating in this research. The questionnaire contains no reference to your name, and care will be taken to present results free of identifying information. If you choose to fax the questionnaire, all identifying fax information will be removed from the document. The information gathered in this survey will be kept in a locked filing cabinet, and, after a period of five years, the data will be destroyed. Data from this study will be used for research purposes only. It is possible that this data may be used in the future for a comparison of American and Canadian psychologists and lawyers engaged in child custody and access work.

A summary of the results of this study can be obtained by completing the enclosed Summary of Results form or by leaving your name and address with the FMRIC office at (403) 210-2726. In addition, an acknowledgment list will be appended to the summary to recognize those professionals who contributed their time and expertise to this study and who wish to be acknowledged. Participants who wish to be acknowledged may indicate their preferences for acknowledgment on the Summary of Results form and return it with their completed questionnaire in the postage paid envelope. If you choose to return the Summary of Results form with your questionnaire, any identifying information will be separated from your questionnaire upon receipt, and it will be held in a separate file until completion of the project when a summary of the findings will be mailed to all interested participants.

It is anticipated that results from this study will be shared with others through future publication in a scholarly journal and through presentations at scholarly meetings, as well as through the availability of the dissertation.

THE RECEIPT OF YOUR COMPLETED QUESTIONNAIRE WILL BE UNDERSTOOD AS YOUR INFORMED CONSENT TO PARTICIPATE IN THIS STUDY.

APPENDIX D: Best Interests of the Child Questionnaire for Psychologists

BEST INTERESTS OF THE CHILD QUESTIONNAIRE FOR PSYCHOLOGISTS**PART I: DEMOGRAPHIC AND PRACTICE INFORMATION**

If your current practice includes divorce, custody and access, please answer the following questions according to your current practice. If you have past experience but no longer practice in the area of child custody and access, please answer the following questions according to this past practice.

BASIC INFORMATION:

1. Age: _____ years 2. Gender: ☐ Female ☐ Male 3. Location of practice: ☐ Alberta ☐ BC
4. Country of citizenship: _____
5. Do you identify with a particular cultural or ethnic group? Yes ☐ No ☐
 If YES, please identify this group: _____
6. Highest degree earned: _____ 7. Year graduated: _____
8. University and program where highest degree was earned: _____
9. Year first practiced as a registered/chartered psychologist: _____
10. What theoretical/clinical orientations most influence your approach to psychological practice?

11. Please identify your TWO main areas of practice:
 (i) _____ (ii) _____
12. Please describe your current employment as a psychologist. (Rank order by the amount of time spent in each setting; 1=most time spent; 2=second most...Please leave blank any that do not apply.)

_____ Children's hospital	_____ Private practice (including EAP work)
_____ General hospital	_____ College or university
_____ Psychiatric hospital	_____ Mental health agency
_____ School system	_____ Government agency (e.g., worker's compensation; forensics)
_____ Other: _____	

TRAINING & KNOWLEDGE:

13. Please describe the key aspects of your training and clinical experience, graduate and post-graduate, that have helped you to develop your child custody and access evaluation skills.
 Graduate: _____

 Post-Graduate: _____

14. In addition to custody and access evaluations, some psychologists offer other divorce-related psychological services. Considering only the divorce-related services that are included in your current psychological practice, please rank order the following according to the proportion of time you spend offering these services. (1=most time; 2=second most. Please leave blank those services you do not offer.)

_____ Court-ordered custody and/or access evaluations
_____ Non Court-ordered custody and/or access evaluations
_____ Divorce mediation
_____ Joint counselling/therapy for separating or divorcing parents
_____ Individual counselling/therapy for adults affected by divorce and remarriage
_____ Individual counselling/therapy for children affected by divorce and remarriage
_____ Family therapy for separating, divorced, and blended families
_____ Psychoeducational consultations regarding divorce, remarriage, and blended families

TRAINING & KNOWLEDGE (continued):

15. Are you trained in divorce mediation? Yes ☐ No ☐

IF YES, where did you receive your training? _____

How many hours of training in divorce mediation have you completed? _____ hours

16. How familiar are you with your jurisdiction's legal definition of "Best Interests of the Child?"
(Please circle the number that best describes your level of familiarity.)

1 2 3 4 5
Not at all Hardly Somewhat Very Completely

17. How familiar are you with professional guidelines or standards for mental health professionals completing child custody and access evaluations? (Please circle the number that best describes your level of familiarity.)

1 2 3 4 5
Not at all Hardly Somewhat Very Completely

Please identify the guidelines/standards you know: _____

EXPERIENCE IN CHILD CUSTODY AND ACCESS PRACTICE:

18. Do you still accept referrals for child custody and access evaluations? Yes ☐ No ☐

IF NO, why have you stopped? _____

19. How many years have you been completing child custody and access evaluations? _____ years

On average, how many custody and access evaluations do you complete per year? _____

What percentage of your psychological services are comprised of child custody and access evaluations? _____ %

20. In what context do you prepare child custody and access assessment reports?

☐ Private Practice ☐ Family Court ☐ Other: _____

21. In your opinion, what role should psychologists assume in child custody and access disputes? (Please choose one)

☐ Should not be involved ☐ Gather and report information only
☐ Gather information and make recommendations ☐ Decision maker
☐ Other: _____

22. On average, how many hours do you spend completing a child custody and access evaluation, not including writing the final report? _____ hours over _____ weeks

23. On average, how many hours do you spend completing the final report for a child custody and access evaluation? _____ hours

24. On average, what is your total fee for a custody and access evaluation including the final report? \$ _____

25. You may or may not complete all of the following when conducting a child custody and access evaluation. For those you do complete, please rank order them according to how long it takes you to complete each item. (1=the longest time; 2=second longest. Leave blank those items you do not complete.)

____ Reviewing documents	____ Communicating with lawyers
____ Observation of parent-child interactions	____ Interviewing parents
____ Interviewing child(ren)	____ Collateral telephone contacts
____ Psychological testing	____ Test scoring & interpretation
____ In person interviews with others	____ Report writing
____ Researching relevant literature	____ Feedback to parents
____ Testifying in Court	
____ Other: _____	

EXPERIENCE IN CHILD CUSTODY AND ACCESS PRACTICE (continued):

26. As part of your custody and access evaluation practice, do you: (Please check all that apply.)

- ☐ Read case law/legal journals
☐ Read psychological literature (e.g., post-divorce; child development)
☐ Review ethical standards/professional guidelines for conducting child custody evaluations
☐ Attend workshops/seminars related to child custody and access evaluation
☐ Discuss child custody and access issues with other psychologist(s)
☐ Discuss child custody and access issues with family lawyer(s)
☐ Read current books/articles regarding the practice of child custody and access evaluation
☐ Other: _____

PSYCHOLOGICAL TESTING IN CHILD CUSTODY AND ACCESS EVALUATION:

27. What percentage of the time do you use psychological tests for adults when conducting custody and access evaluations? (Please circle the percentage that best describes your practice.)

0 _____ 10 _____ 20 _____ 30 _____ 40 _____ 50 _____ 60 _____ 70 _____ 80 _____ 90 _____ 100%

28. If you use psychological tests for adults when completing child custody and access evaluations, please list the three adult tests you use most frequently.

1. _____
 2. _____
 3. _____

29. If you do not use psychological tests for adults when completing a child custody and access evaluation, why do you prefer not to include these tests? _____

30. What percentage of the time do you use psychological tests for children school age or older when conducting custody and access assessments? (Please circle the percentage that best describes your practice.)

0 _____ 10 _____ 20 _____ 30 _____ 40 _____ 50 _____ 60 _____ 70 _____ 80 _____ 90 _____ 100%

31. If you use psychological tests for children school age or older when completing child custody and access evaluations, please list the three children's tests you use most frequently.

1. _____
 2. _____
 3. _____

32. If you do not use psychological tests for children when completing a child custody and access evaluation, why do you prefer not to include these tests? _____

33. To what extent do you personally administer the psychological tests you include in custody and access evaluations? (Please circle the number that best describes your practice.)

1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7
 Never Rarely Infrequently Sometimes Frequently Very Frequently Always

34. To what extent is there variability in the psychological testing you include in your custody and access evaluation, where "no variability" would represent a standardized test battery that is applied in all cases and where "very variable" would signify a highly individualized approach with virtually no overlap across child custody and access evaluations? (Please circle the number that best describes your practice)

1 _____ 2 _____ 3 _____ 4 _____ 5
 No Variability Very Little Variability Some Variability Considerable Variability Very Variable

35. Please note any specific child or adult psychological tests you avoid when completing child custody and access evaluations.

Why do you avoid these tests? _____

VIEWS ON CUSTODY AND ACCESS PRACTICES:

36. In your opinion, what types of training and experiences are important or helpful to psychologists in developing competence to complete child custody and access evaluations? (Please rank order; 1=most important; 2=second most important; etc.)

_____ Child development	_____ Family dynamics	_____ Psychological assessment (e.g., MMPI-2)
_____ Adult psychopathology	_____ Clinical experience	_____ Child abuse training
_____ Legal knowledge/background	_____ Divorce mediation	_____ Attachment processes
_____ Domestic violence training	_____ Adult development	_____ Child psychopathology
_____ Cognitive Assessment	_____ Parenting skills	_____ Other: _____
_____ Supervised custody and access evaluation experience		

37. Please list up to two ways or circumstances under which you have found the legal system to be helpful in resolving child custody and access disputes:

1. _____

2. _____

38. Please list up to two ways or circumstances under which you have found the legal system to impede or be harmful to the resolution of child custody and access disputes:

1. _____

2. _____

39. Please list up to two ways or circumstances under which you have found psychological services to be helpful in resolving child custody and access disputes:

1. _____

2. _____

40. Please list up to two ways or circumstances under which you have found psychological services to impede or be harmful to the resolution of child custody and access disputes.

1. _____

2. _____

41. What do you find rewarding about your involvement in child custody and access cases?

42. What do you find stressful about your involvement in child custody and access cases?

43. As part of their litigation support for child custody and access disputes, do you believe lawyers provide their clients with any of the following: (Please check all that apply.)

- ☐ Information about what to do, or not to do, during a home visit
- ☐ General information about psychological tests (e.g., the purpose of psychological testing)
- ☐ Specific information about psychological tests (e.g., information about validity scales; answers to specific questions)
- ☐ A review of the final custody and access report by another mental health professional
- ☐ Other: _____

VIEWS ON CUSTODY AND ACCESS PRACTICES (continued):

44. Considering your professional community overall, how would you characterize the relationships between psychologists and family lawyers? (Please circle the number that best describes your perception.)

1 2 3 4 5 6 7
Extremely Poor Very Poor Poor Neutral Good Very Good Excellent

45. What steps do you feel would be helpful to improving communication between psychologists and family lawyers? _____

46. What do you think lawyers could do to be more helpful to divorcing families and to child custody and access evaluators? _____

47. To what extent do you believe there should be a case conference among the judge, the lawyers, and the mental health professional in cases where a child custody and access evaluation is ordered by the Court? (Please circle the number that best describes your belief.)

1 2 3 4 5 6 7
Never Rarely Infrequently Sometimes Frequently Very Frequently Always

48. Please list three key references (e.g., books, articles, guidelines, etc.) that you have found helpful in your child custody and access practice.

1. _____
2. _____
3. _____

COMMENTS:

Do you have any other comments you would like to make about your custody and access practice or the legal system in general?

BICQ PSYCHOLOGISTS PART II:**RATING THE BEST INTERESTS OF THE CHILD CRITERION**

Throughout Part II of the questionnaire, please read each statement carefully and consider it within the context of your role as a psychologist and within the context of the Best Interests of the Child criterion. **Please rate each item according to the extent to which you believe it should be considered in determining child custody and access.** Beside each statement you will find boxes which correspond with a seven point numerical scale. This numerical scale corresponds to the following ratings:

- | | |
|---|---|
| 1 = Irrelevant (Should Never Be Considered) | 5 = Very Important Consideration |
| 2 = Not an Important Consideration | 6 = Extremely Important Consideration |
| 3 = Marginally Important Consideration | 7 = Essential (Should Always Be Considered) |
| 4 = Important Consideration | |

After reading each item, mark the box that best represents your belief regarding the extent to which that item should be considered in determining child custody and access.

For Example: Each parent's willingness to read to the child(ren). If you believe this item should be an extremely important consideration in the determination of child custody and access, you would mark the scale this way:

Each parent's willingness to read to the child(ren)..... 1 2 3 4 5 6 7
☐ ☐ ☐ ☐ ☐ ☒ ☐

PLEASE DO NOT SKIP ANY ITEMS.

BEST INTERESTS OF THE CHILD QUESTIONNAIRE (PSYCHOLOGISTS): PART II

RELATIONAL ASSESSMENT: This section of the questionnaire deals with various aspects of the parents' relationship and of the relationship of each parent with the child(ren). Please read each statement carefully and then, as a psychologist, rate it according to the extent to which you believe that item should be considered in determining child custody and access. Mark the box that best represents your belief regarding each item. Please do not skip any items.

	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>
	Not Important		Marginally Important		Very Important		Essential
	Irrelevant	Important	Important	Important	Important	Important	
The level of conflict between the parents.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's affection for each parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
History of sexual abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's willingness to allow the child to maintain contact with the other parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Extent of parent-child contact during the separation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parents' history of sharing* parenting.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current allegation of sexual abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's preferences for possible shared* parenting plans.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overall quality of each parent's relationship with the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's affection for the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current allegation of physical abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parents' ability to cooperate with each other on parenting matters.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The way parents express their conflict.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keeping a young child and the mother together.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Physical violence in the parents' relationship.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
History of physical abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Extent of parent-child contact before the separation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attempts by a parent to influence the child against the other parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Extent to which parents' new partners may contribute to parenting.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's feelings of responsibility for the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current allegation of neglect or emotional abuse of the child by a parent...	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The extent to which each parent is responsible for the dissolution of the marriage.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parents' willingness to share* parenting responsibilities after the separation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keeping a parent and child of the same gender together.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The level of conflict between each parent and the child(ren).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
History of neglect or emotional abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*PLEASE NOTE: In this questionnaire "shared parenting" does not assume any particular form of legal custody or access arrangement but refers literally to "sharing the parenting" in some way.

ABILITIES OF THE PARENTS ASSESSMENT: This section of the questionnaire deals with various aspects of each parent that may impact on each parent's ability to meet the needs of the child (e.g., the overall physical health of each parent). Please read each statement carefully and then, as a psychologist, rate it according to the extent to which you believe that item should be considered in determining child custody and access. Mark the box that best represents your belief regarding each item. Please do not skip any items.

	1	2	3	4	5	6	7
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Irrelevant	Not Important	Marginally Important	Important	Very Important	Extremely Important	Essential
Each parent's understanding of child development.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's capacity to contribute to the child's moral development.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A parent's childhood history of sexual abuse.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide access to appropriate education.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's current drug/alcohol use.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's history of alcohol/drug use.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to accommodate the child's health needs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's willingness to provide contact with extended family.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's psychological adjustment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's cognitive ability.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's sexual orientation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's criminal history.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide a "family" environment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's financial sufficiency.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide for the child's cultural needs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's willingness to protect the child from interparental conflict.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's access to support from family and friends.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's parenting style including discipline practices & beliefs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's psychiatric & psychological history.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to maintain the child's daily routine.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's religious orientation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A parent's childhood history of physical abuse.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide the child with access to stable community involvement.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide the child with a safe physical environment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide access to other children the same age.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's childhood history of neglect or emotional abuse.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to maintain and encourage the child's interests and preferred activities.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to understand their child's needs and separate them from their own.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unlikelihood of parent moving the child from the jurisdiction.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to keep the siblings together.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's physical health.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NEEDS OF THE CHILD ASSESSMENT: This section of the questionnaire deals with various needs of the child that might be considered in a custody and access case (e.g., the child's attachment to a family pet). Please read each statement carefully and then, as a psychologist, rate it according to the extent to which you believe that item should be considered in determining child custody and access. Mark the box that best represents your belief regarding each item. Please do not skip any items.

	1 <input type="checkbox"/> Irrelevant	2 <input type="checkbox"/> Not Important	3 <input type="checkbox"/> Important	4 <input type="checkbox"/> Marginally Important	5 <input type="checkbox"/> Very Important	6 <input type="checkbox"/> Extremely Important	7 <input type="checkbox"/> Essential
Child's need for relationships with siblings.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child's need to be with the "psychological" parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The intellectual needs of the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Physical handicaps or special health needs of the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The cultural needs of the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child's need to maintain a daily routine.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The emotional needs of the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's interests and preferred activities.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any fears the child may have about the current family situation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's desire to maintain contact with friends.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The academic needs of the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's desire to see grandparents and extended family.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's perception of their relationships and involvement with family members.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's views and preferences regarding contact with each parent and possible custody/access arrangements:							
(a) when the child is 0 to 5 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) when the child is 6 to 8 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) when the child is 9 to 11 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) when the child is 12 to 14 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) when the child is 15 years old or older.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Length of time child has been in current living situation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's gender.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OTHER ITEMS: This section of the questionnaire provides space for you to write in any items not already included on the questionnaire that you believe should be considered in determining child custody and access. Please write the item(s) in the space(s) provided. Mark the box that best represents your belief regarding each item.

	1 <input type="checkbox"/> Irrelevant	2 <input type="checkbox"/> Not Important	3 <input type="checkbox"/> Marginally Important	4 <input type="checkbox"/> Important	5 <input type="checkbox"/> Very Important	6 <input type="checkbox"/> Extremely Important	7 <input type="checkbox"/> Essential
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OPTIONAL QUESTIONS: (Please return your questionnaire regardless of whether or not you choose to complete the following questions.)

The following questions explore how personal history might influence the relative importance psychologists assign to the Best Interests of the Child criteria. Your **ANONYMOUS RESPONSES** to these questions will be very helpful to this research.

1. Marital Status: (Please check as many as apply.)

- ☐ Single
- ☐ Common-Law
- ☐ Married
- ☐ Divorced
- ☐ Re-married

2. Are you a parent? Yes ☐ No ☐

3. Have you ever been personally involved in a custody and access dispute? Yes ☐ No ☐

IF YES, please indicate the circumstance(s) (Please check all that apply.):

- ☐ As a child when my parents divorced
- ☐ Regarding my own child(ren)
- ☐ Regarding my spouse's/partner's child(ren)
- ☐ Other: _____

Your participation in this study is greatly appreciated. Please return the questionnaire in the postage-paid, addressed envelope provided or fax it to (403) 210-2484.

If you would like to receive a summary of this research, please complete the enclosed Request for Survey Results form.

APPENDIX E: Best Interests of the Child Questionnaire for Lawyers

BEST INTERESTS OF THE CHILD QUESTIONNAIRE FOR LAWYERS**PART I: DEMOGRAPHIC AND PRACTICE INFORMATION**

If your current practice includes divorcing families, child custody and access, please answer the following questions according to your current practice. If you have past experience but no longer practice in the area of divorcing families, child custody and access, please answer the following questions according to this past practice.

BASIC INFORMATION:	
1. Age: _____ years	2. Gender: Female <input type="checkbox"/> Male <input type="checkbox"/>
3. Location of practice: Alberta <input type="checkbox"/> BC <input type="checkbox"/>	
4. Country of citizenship: _____	
5. Do you consider yourself part of a particular cultural or ethnic group? Yes <input type="checkbox"/> No <input type="checkbox"/>	
IF YES, please indicate this group: _____	
6. Highest degree earned: _____	7. Year graduated: _____
8. University where highest degree was earned: _____	
9. Year of call: _____	10. Number of years in practice: _____
11. What percentage of your practice involves family law: _____%	
12. Where do you practice family law? <input type="checkbox"/> Law firm <input type="checkbox"/> Sole practitioner	
<input type="checkbox"/> Government <input type="checkbox"/> Other: _____	
13. Please identify your TWO main areas of practice:	
(i) _____	(ii) _____

TRAINING & KNOWLEDGE:				
14. Are you trained in family law mediation? Yes <input type="checkbox"/> No <input type="checkbox"/>				
IF YES, where did you receive your training? _____				
Approximately how many hours of training in mediation have you completed? _____ hours				
15. Does your practice include family law mediation? Yes <input type="checkbox"/> No <input type="checkbox"/>				
IF YES, how many years have you been mediating in family law? _____ years				
16. How familiar are you with your jurisdiction's test for "Best Interests of the Child?" (Please circle the number that best describes your level of familiarity.)				
1	2	3	4	5
Not at all	Hardly	Somewhat	Very	Completely
17. How familiar are you with any professional guidelines/standards for child custody and access evaluations? (Please circle the number that best describes your level of familiarity.)				
1	2	3	4	5
Not at all	Hardly	Somewhat	Very	Completely
Please identify the guidelines/standards you know: _____				
If you are not familiar with any professional guidelines or standards, do you know how to obtain these guidelines? Yes <input type="checkbox"/> No <input type="checkbox"/>				
18. In your opinion, what types of training and experiences do you see as important or helpful to family lawyers in developing their skills in handling child custody and access disputes? (Please check all that apply.)				
<input type="checkbox"/> Seminars/workshops related to divorce, child custody and access issues				
<input type="checkbox"/> Reading case law				
<input type="checkbox"/> Reading legal journals				
<input type="checkbox"/> Education concerning the components of a custody assess evaluation				
<input type="checkbox"/> Education concerning psychological testing (e.g., MMPI-2)				
<input type="checkbox"/> Other: _____				

EXPERIENCE IN CHILD CUSTODY AND ACCESS PRACTICE:

19. How many years have you accepted referrals involving child custody and access disputes? _____ years
20. Do you still accept referrals for separation/divorce litigation involving child custody issues? Yes ☐ No ☐
 IF NO, why have you stopped? _____
21. On average, how many child custody and access cases do you handle per year? _____
22. Approximately what percentage of your caseload involving child custody and access disputes eventually require relitigation? _____% To the best of your knowledge, what is the main cause of this relitigation?

23. Considering the clients you represent in child custody and access disputes, approximately what percentage of these cases are settled:
- _____ % By parents reaching agreements on their own
 - _____ % With the assistance of both parties' lawyers
 - _____ % Using a mediation process
 - _____ % By parents receiving joint or individual counselling
 - _____ % Following a Court-ordered custody/access evaluation but prior to Court determination
 - _____ % As a result of a judge's determination, without a Court ordered custody and access evaluation
 - _____ % As a result of a judge's determination, including consideration of a custody and access evaluation
 - _____ % Other _____

PSYCHOLOGISTS' INVOLVEMENT IN CHILD CUSTODY AND ACCESS DISPUTES:

24. In your opinion, what role should psychologists assume in child custody and access disputes?
- | | |
|--|---|
| <input type="checkbox"/> Should not be involved | <input type="checkbox"/> Gather and report information only |
| <input type="checkbox"/> Gather information and make recommendations | <input type="checkbox"/> Decision maker |
| <input type="checkbox"/> Other: _____ | |
25. In your role as a family lawyer, which mental health professionals do you **most frequently encounter** conducting custody and access evaluations? (Please rank order where 1 = most frequently; 2 = second most frequently. Leave blank those professionals you have not encountered.)
- | | |
|--|--------------------------------------|
| _____ Registered Psychologist, Master level | _____ Psychiatrist |
| _____ Registered Psychologist, Doctorate level | _____ Social Worker, Master level |
| _____ Family Court Counselor | _____ Social Worker, Doctorate level |
| _____ Other: _____ | |
26. Which mental health professional do you **prefer to have involved** in conducting a custody and access evaluations? _____ Why? _____
27. What kinds of training and experience do you look for in determining the competence of a potential child custody and access evaluator? (Please rank order where 1=most important; 2=second most important...)
- _____ Education and training in mental health completed at a recognized university
 - _____ Specific training relevant to divorce, custody and access issues
 - _____ Specific training relevant to child abuse and child protection issues
 - _____ Years of relevant clinical experience
 - _____ References/impressions from other family lawyers of the potential evaluator
 - _____ Review of potential evaluator's past Court testimony record
 - _____ Qualified as an expert by Courts
 - _____ Other: _____

PSYCHOLOGISTS' INVOLVEMENT IN CHILD CUSTODY AND ACCESS DISPUTES (continued):

28. Please list up to two ways or circumstances under which you have found **psychological services to be helpful** to the resolution of child custody and access disputes.

1. _____
2. _____

29. Please list up to two ways or circumstances under which you have found **psychological services to impede or be harmful** to the resolution of child custody and access disputes.

1. _____
2. _____

30. What do you consider the greatest impediment to accessing psychological services regarding child custody and access disputes in cases where you consider such services to be appropriate? _____

31. What do you think psychologists could do to be more helpful to separating/divorcing families and their lawyers? _____

PREPARING CLIENTS FOR CUSTODY AND ACCESS EVALUATIONS:

32. In your role as a family lawyer, how important is it to discuss with your clients what would be in the best interests of their child(ren) involved in a custody and access dispute?
(Please circle the number that best describes your perception.)

- | | | | | | | |
|------------|---------------|----------------------|-----------|----------------|---------------------|-----------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Irrelevant | Not Important | Marginally Important | Important | Very Important | Extremely Important | Essential |

33. On average, how many hours do you spend briefing your client prior to a child custody and access evaluation? _____ hours

34. When the court orders a child custody and access evaluation, do you provide your client with any of the following litigation support? (Please check all that apply.)

- ☐ Information about what to do, or not to do, during a home visit
- ☐ General information about psychological tests (e.g., the purpose of psychological testing)
- ☐ Specific information about psychological tests (e.g., information about validity scales; answers to specific questions)
- ☐ Arrange practice assessment interviews with an independent mental health professional
- ☐ A review of the final custody and access report by another mental health professional
- ☐ Other: _____

VIEWS ON CHILD CUSTODY AND ACCESS PRACTICES:

35. Please list up to two ways or circumstances under which you have found **the legal system to be helpful** to the resolution of child custody and access disputes.

1. _____
2. _____

36. Please list up to two ways or circumstances under which you have found **the legal system to impede or be harmful** to the resolution of child custody and access disputes.

1. _____
2. _____

VIEWS ON CHILD CUSTODY AND ACCESS PRACTICES (continued):

37. Considering your professional community overall, how would you characterize the relationships between psychologists and family lawyers? (Please circle the number that best describes your perception.)

1 2 3 4 5 6 7
 Extremely Poor Very Poor Poor Neutral Good Very Good Excellent

38. What steps do you feel would be helpful to improving communication between family lawyers and psychologists? _____

39. What do you find rewarding about your involvement in child custody and access cases? _____

40. What do you find stressful about your involvement in child custody and access cases? _____

41. To what extent do you believe there should be a case conference among the judge, the lawyers, and the mental health professional in cases where a child custody and access evaluation is ordered by the Court? (Please circle the number that best describes your belief.)

1 2 3 4 5 6 7
 Never Rarely Infrequently Sometimes Frequently Very Frequently Always

COMMENTS:

Do you have any other comments that you would like to make about your custody and access practice and/or the involvement of mental health professionals?

BICQ LAWYERS PART II: RATING THE BEST INTERESTS OF THE CHILD CRITERION

Throughout Part II of the questionnaire, please read each statement carefully and consider it within the context of your role as a family lawyer and within the context of the Best Interests of the Child criterion. Please rate each item according to the extent to which you believe it should be considered in determining child custody and access. Beside each statement you will find boxes which correspond with a seven point numerical scale. This numerical scale corresponds to the following ratings:

- 1 = Irrelevant (Should Never Be Considered)
- 2 = Not an Important Consideration
- 3 = Marginally Important Consideration
- 4 = Important Consideration

- 5 = Very Important Consideration
- 6 = Extremely Important Consideration
- 7 = Essential (Should Always be Considered)

After reading each item, mark the box that best represents your belief regarding the extent to which that item should be considered in determining child custody and access.

For Example: Each parent's willingness to read to the child(ren). If you believe this item should be an extremely important consideration in the determination of child custody and access, you would mark the scale this way:

Each parent's willingness to read to the child(ren)..... 1 2 3 4 5 6 7
☐ ☐ ☐ ☐ ☐ ☒ ☐

PLEASE DO NOT SKIP ANY ITEMS.

BEST INTERESTS OF THE CHILD QUESTIONNAIRE (LAWYERS): PART II

RELATIONAL ASSESSMENT: This section of the questionnaire deals with various aspects of the parents' relationship and of the relationship of each parent with the child(ren). Please read each statement carefully and then, as a family lawyer, rate it according to the extent to which you believe that item should be considered in determining child custody and access. Mark the box that best represents your belief regarding each item. Please do not skip any items.

	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>
	Not Important		Marginally Important		Very Important		Essential
The level of conflict between the parents.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's affection for each parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
History of sexual abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's willingness to allow the child to maintain contact with the other parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Extent of parent-child contact during the separation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parents' history of sharing* parenting.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current allegation of sexual abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's preferences for possible shared* parenting plans.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overall quality of each parent's relationship with the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's affection for the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current allegation of physical abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parents' ability to cooperate with each other on parenting matters.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The way parents express their conflict.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keeping a young child and the mother together.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Physical violence in the parents' relationship.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
History of physical abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Extent of parent-child contact before the separation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attempts by a parent to influence the child against the other parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Extent to which parents' new partners may contribute to parenting.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's feelings of responsibility for the child.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current allegation of neglect or emotional abuse of the child by a parent...	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The extent to which each parent is responsible for the dissolution of the marriage.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parents' willingness to share* parenting responsibilities after the separation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Keeping a parent and child of the same gender together.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The level of conflict between each parent and the child(ren).....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
History of neglect or emotional abuse of the child by a parent.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*PLEASE NOTE: In this questionnaire "shared parenting" does not assume any particular form of legal custody or access arrangement but refers literally to "sharing the parenting" in some way.

ABILITIES OF THE PARENTS ASSESSMENT: This section of the questionnaire deals with various aspects of each parent that may impact on each parent's ability to meet the needs of the child (e.g., the overall physical health of each parent). Please read each statement carefully and then, as a family lawyer, rate it according to the extent to which you believe that item should be considered in determining child custody and access. Mark the box that best represents your belief regarding each item. Please do not skip any items.

1	2	3	4	5	6	7
Irrelevant	Not Important	Marginally Important	Important	Very Important	Extremely Important	Essential

Each parent's understanding of child development.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's capacity to contribute to the child's moral development.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A parent's childhood history of sexual abuse.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide access to appropriate education.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's current drug/alcohol use.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's history of alcohol/drug use.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to accommodate the child's health needs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's willingness to provide contact with extended family.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's psychological adjustment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's cognitive ability.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's sexual orientation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's criminal history.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide a "family" environment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's financial sufficiency.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide for the child's cultural needs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's willingness to protect the child from interparental conflict.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's access to support from family and friends.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's parenting style including discipline practices & beliefs.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's psychiatric & psychological history.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to maintain the child's daily routine.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's religious orientation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A parent's childhood history of physical abuse.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide the child with access to stable community involvement.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide the child with a safe physical environment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to provide access to other children the same age.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's childhood history of neglect or emotional abuse.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to maintain and encourage the child's interests and preferred activities.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to understand their child's needs and separate them from their own.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Likelihood of parent moving the child from the jurisdiction.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's ability to keep the siblings together.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each parent's physical health.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NEEDS OF THE CHILD ASSESSMENT: This section of the questionnaire deals with various needs of the child that might be considered in a custody and access case (e.g., the child's attachment to a family pet) . Please read each statement carefully and then, as a psychologist, rate it according to the extent to which you believe that item should be considered in determining child custody and access. Mark the box that best represents your belief regarding each item. Please do not skip any items.

	1	2	3	4	5	6	7
		Not		Marginally	Very	Extremely	Essential
Irrelevant	Important	Important	Important	Important	Important	Important	

Child's need for relationships with siblings.....

Child's need to be with the "psychological" parent.....

The intellectual needs of the child.....

Physical handicaps or special health needs of the child.....

The cultural needs of the child.....

Child's need to maintain a daily routine.....

The emotional needs of the child.....

The child's interests and preferred activities.....

Any fears the child may have about the current family situation.....

The child's desire to maintain contact with friends.....

The academic needs of the child.....

The child's desire to see grandparents and extended family.....

The child's perception of their relationships and involvement with family members.....

The child's views and preferences regarding contact with each parent and possible custody/access arrangements:

(a) when the child is 0 to 5 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) when the child is 6 to 8 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) when the child is 9 to 11 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) when the child is 12 to 14 years old.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) when the child is 15 years old or older.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Length of time child has been in current living situation.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The child's gender.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OTHER ITEMS: This section of the questionnaire provides space for you to write in any items not already included on the questionnaire that you believe should be considered in determining child custody and access. Please write the item(s) in the space(s) provided. Mark the box that best represents your belief regarding each item.

	1	2	3	4	5	6	7
		Not	Marginally		Very	Extremely	Essential
Irrelevant	Important	Important	Important	Important	Important	Important	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OPTIONAL QUESTIONS: (Please return your questionnaire regardless of whether or not you choose to complete the following questions.)

The following questions explore how personal history might influence the relative importance lawyers assign to the Best Interests of the Child criteria, and consider ethical dilemmas family lawyers may face when handling child custody and access actions. Your **ANONYMOUS RESPONSES** to these questions will be very helpful to this research.

1. Marital Status: (Please check as many as apply.)

☐ Single ☐ Common-Law ☐ Married ☐ Divorced ☐ Re-married

2. Are you a parent? Yes ☐ No ☐

3. Have you ever been personally involved in a custody and access dispute? Yes ☐ No ☐

IF YES, please indicate the circumstance(s). (Please check all that apply.)

☐ Regarding my own child(ren) ☐ As a child when my parents divorced
☐ Regarding my spouse's/partner's child(ren) ☐ Other: _____

4. As a family lawyer, what percentage of the time do you feel caught between your professional responsibility to represent your client and your personal beliefs about what would be in the best interests of your client's child(ren) in a custody and access dispute? (Please circle the number that best describes your experience.)

0 10 20 30 40 50 60 70 80 90 100%

How have you resolved this dilemma?

5. As a family lawyer, what percentage of the time do you feel caught between your professional responsibility to represent your client and the legal statutes which require the consideration of the best interests of the child in determining child custody and access? (Please circle the number that best describes your experience.)

0 10 20 30 40 50 60 70 80 90 100%

How have you resolved this dilemma?

6. As a family lawyer, to what extent do you believe the best interests of the child test should take legal precedence in the determination of child custody and access? (Please circle the number that best describes your professional belief.)

1 2 3 4 5 6 7
Never Rarely Infrequently Sometimes Frequently Very frequently Always

7. From a personal perspective, to what extent do you believe the best interests of the child test should take legal precedence in the determination of child custody and access? (Please circle the number that best describes your personal belief.)

1 2 3 4 5 6 7
Never Rarely Infrequently Sometimes Frequently Very frequently Always

Your participation in this study is greatly appreciated. Please return the questionnaire in the postage-paid, addressed envelope provided or fax it to (403) 210-2484.

If you would like to receive a summary of this research, please complete the enclosed Request for Survey Results form.

APPENDIX F: Request for Survey Results Form Alberta and British Columbia***REQUEST FOR SURVEY RESULTS FORM***

We will compile a summary of the survey as soon as possible. Appended to the summary will be an acknowledgment list recognizing those professionals who contributed their time and expertise to this study *and* who wish to be acknowledged. Please indicate your preferences for acknowledgment by checking all that apply below.

- _____ **Send me a copy of the survey results as soon as possible**
- _____ **Include my name on your acknowledgment list**
- _____ **Include the name of my firm or organization, as specified below, on your acknowledgment list**

If you selected any of the options above, please do **ONE** of the following:

1. Complete the information below (or attach your business card) and return this page with your questionnaire in the self-addressed postage-paid envelope provided; the questionnaire will be separated from this form **IMMEDIATELY**; or
2. Complete the information below and fax this page to the Calgary FMRIC office (403- 210-2484), and return only your questionnaire in the envelope provided; or
3. Leave your name and address on the Families in Motion Research and Information Centre voice mail (403-210-2726), including your choice(s) for acknowledgment from the above list, and return only your questionnaire in the envelope provided.

Name: _____ **Lawyer:** _____ **Psychologist:** _____

Name of Firm or Organization: _____

Mailing Address: _____

City: _____ **Postal Code:** _____

RETURN TO:

*Barbara Jameson, M.A.
Families in Motion Research and Information Centre (Calgary)
44 Dalhurst Way N.W.
Calgary, AB T3A 1N7*

Fax: (403) 210-2484

Telephone: (403) 210-2726

REQUEST FOR SURVEY RESULTS FORM

We will compile a summary of the survey as soon as possible. Appended to the summary will be an acknowledgment list recognizing those professionals who contributed their time and expertise to this study *and* who wish to be acknowledged. Please indicate your preferences for acknowledgment by checking all that apply below.

- ☐ **Send me a copy of the survey results as soon as possible**
- ☐ **Include my name on your acknowledgment list**
- ☐ **Include the name of my firm or organization, as specified below, on your acknowledgment list**

If you selected any of the options above, please do **ONE** of the following:

4. Complete the information below (or attach your business card) and return this page with your questionnaire in the self-addressed postage-paid envelope provided; the questionnaire will be separated from this form **IMMEDIATELY**; **or**
5. Complete the information below and fax this page to the Victoria FMRIC office (250-721-8929), and return only your questionnaire in the envelope provided; **or**
6. Leave your name and address on the Families in Motion Research and Information Centre voice mail (250-721-8589), including your choice(s) for acknowledgment from the above list, and return only your questionnaire in the envelope provided.

Name: _____ **Lawyer:** _____ **Psychologist:** _____

Name of Firm or Organization: _____

Mailing Address: _____

City: _____ **Postal Code:** _____

RETURN TO:

*Marion F. Ehrenberg, Ph.D., R.Psych.,
Families in Motion Research and Information Centre - Victoria
Department of Psychology, University of Victoria
P.O. Box 3050, Victoria, B.C. V8W 3P5*

Fax: (250) 721-8929

Telephone: (250) 721-8589

APPENDIX G: First Follow-up Fax for Psychologists and Lawyers

September, 2000

**PSYCHOLOGY AND LAW PRACTICES:
CHILD CUSTODY AND ACCESS RESEARCH STUDY**

HELP WANTED:

PSYCHOLOGISTS WITH EXPERIENCE IN CHILD CUSTODY AND ACCESS EVALUATION

Recently you should have received in the mail a copy of the survey, *Child Custody and Access: The Views and Practices of Psychologists and Lawyers*. This study is designed to explore the practices and opinions of psychologists and lawyers in Alberta and British Columbia who work with families involved in child custody and access disputes. In addition to an up-to-date analysis of how these professionals rate the Best Interests of the Child criterion, the study will provide valuable practice related information for those who work in the area of child custody and access. This research is also the basis of Barb's Ph.D. dissertation.

With the summer holiday season behind us, we are sending this fax to remind you about this important research. To date, only a small number of responses have been received from psychologists who practice in Alberta. If you have *any* experience conducting child custody and access, *your expertise is needed*. The survey requires twenty to thirty minutes of your time, and, if you wish, a summary of the results will be mailed to you upon completion of the study. The deadline to receive surveys has been extended to mid-October.

If you did not receive a package with details of the study, or if you have misplaced your package, please contact the Families in Motion Research Centre (Calgary office) by telephone at (403) 210-2726, by fax (403) 210-2484, or by e-mail at bjameson@uvic.ca and we will mail or fax you a copy of the package contents.

This is a very busy time of year for everyone. However, we would greatly appreciate your assistance in this exploration of child custody and access issues as they relate to the profession of psychology. If you have already returned your survey, thank you for your participation.

Barbara J. Jameson, M.A.
Doctoral Student,
Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Associate Professor & Director,
Families in Motion Research & Information Centre
University of Victoria

September, 2000

LAW AND PSYCHOLOGY PRACTICES: CHILD CUSTODY AND ACCESS RESEARCH STUDY

HELP WANTED: LAWYERS WITH EXPERIENCE IN CHILD CUSTODY AND ACCESS DISPUTES

Recently you should have received in the mail a copy of the survey, *Child Custody and Access: The Views and Practices of Lawyers and Psychologists*. This study is designed to explore the practices and opinions of lawyers and psychologists in Alberta and British Columbia who work with families involved in child custody and access disputes. In addition to an up-to-date analysis of how these professionals rate the Best Interests of the Child criterion, the study will provide valuable practice related information for those who work in the area of child custody and access. This research is also the basis of Barb's Ph.D. dissertation.

With the summer holiday season behind us, we are sending this fax to remind you about this important research. We are still in need of additional participation by lawyers who practice in this area in Alberta. If you have *any* experience handling child custody and access disputes, *your expertise is needed*. The survey requires twenty to thirty minutes of your time, and, if you wish, a summary of the results will be mailed to you upon completion of the study. In addition, as most of your colleagues have done, you may choose to have your name and/or the name of your firm added to the acknowledgment list being appended to the summary of results. The deadline to receive surveys has been extended to mid-October.

If you did not receive a package with details of the study, or if you have misplaced your package, please contact the Families in Motion Research Centre (Calgary office) by telephone at (403) 210-2726, by fax (403) 210-2484, or by e-mail at bjameson@uvic.ca, and we will mail or fax you a copy of the package contents.

This is a very busy time of year for everyone. However, we would greatly appreciate your assistance in this exploration of child custody and access issues as they relate to the professions of law and psychology. If you have already returned your survey, thank you for your participation.

Barbara J. Jameson, M.A.
Doctoral Student,
Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Associate Professor & Director,
Families in Motion Research & Information Centre
University of Victoria

APPENDIX H: Second Follow-up Fax for Psychologists in Alberta

October, 2000

**Psychology and Law Practices:
Child Custody and Access Research Study**

In August you should have received in the mail a copy of the survey, *Child Custody and Access: The Views and Practices of Psychologists and Lawyers*. The response from Alberta psychologists has been less than anticipated, and we are currently trying to clarify the response rate and our sample size. Please complete the form below and fax it to the Families in Motion Research and Information Calgary office at (403) 210-2484. If more than one psychologist in your office received the survey package, please photocopy this form and distribute a copy to each psychologist.

Please note that we are only interested in clarifying our research numbers. Any identifying information will be removed from the fax upon receiving it in our office.

If you have already returned your survey, your participation is greatly appreciated. If you still have the survey and wish to participate, please complete and return the questionnaire by October 13th.

Thank you for helping us clarify this important aspect of our research. If you require any further information, please call us at (403) 210-2726.

Barb Jameson, M.A.
Doctoral Student
Clinical-Lifespan Psychology

Marion F. Ehrenberg, Ph.D., R. Psych.
Associate Professor and Director
Families in Motion Research & Information Centre
University of Victoria

_____ I have past and/or current experience providing divorce related child custody and access evaluations, but I am unable to participate.

_____ I have never provided divorce related child custody and access evaluations as part of my practice and I therefore do not qualify for this study.

_____ I intend to complete and return the survey.

FAX TO: (403) 210-2484

Thank You.