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JUDGES, ATTORNEYS, AND PSYCHOLOGISTS' VIEWS OF SOLE-PARENT
CHILD CUSTODY EVALUATIONS

A Capstone Experience/Thesis Project Presented in Partial Fulfillment
of the Requirements for the Degree Bachelor of Arts
with Mahurin Honors College Graduate Distinction
at Western Kentucky University

By

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December 2021

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ABSTRACT

Judges, attorneys, and psychologists are individuals in the legal system who have the most interaction with child custody evaluations (CCEs), yet there is little research regarding whether these parties have different views on what factors are important in CCEs. The present study examined how judges, attorneys, and psychologists evaluated sole-parent child custody cases. A sample of judges, attorneys, and psychologists completed a forty-item questionnaire regarding their opinions of what factors they believe are most/least important in CCEs. The goal of this study was to first observe if there were differences among the parties' ratings, and secondly, determine why might differences exist. Results revealed that judges, attorneys, and psychologists differed on eight of the forty-items. The results have important implications regarding how the legal system might establish a more controlled and standardized system of CCE guidelines for all evaluators in child custody cases. A reexamination of how CCEs are conducted and presented in sole-parent child custody cases is needed.

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INTRODUCTION

Child Custody Evaluations

Mental health evaluators are utilized as experts when a custody agreement cannot be reached in the courtroom (DiPrizito, 2016; Schepard, 2005). Evaluators are in charge of reviewing the whole situation surrounding a child custody case and providing their expert opinion based on the information they gather (DiPrizito, 2016). Evaluators then compile their findings and research-based evaluations into a report, which is considered a child custody evaluation (CCE; Simon & Stahl, 2014). CCEs are complex forensic evaluations of the family (Simon & Stahl, 2014). The purpose of a CCE is to provide an assessment of each individual family member and provide evaluative information about the child, parents, and the relationships between them (American Psychological Association, 2010). The overarching goal of these evaluations is to provide the court with an unbiased professional opinion that can assist in promoting the best interest of the child (*Stern v. Stern*, 1996). The American Psychological Association (APA) and the Association of Family and Conciliation Courts (AFCC) both define the purpose of CCEs in this way (American Psychological Association, 2010; Association of Family and Conciliation Courts, 2006).

The main question and/or issue the legal system has regarding CCEs is deciphering what criteria is necessary or sufficient to include in these reports (Bishop, Farber, Felner, Primavera, & Terre, 1985). Critics have expressed their concerns on

methodological and procedural issues (O'Donohue, Beitz, & Tolle, 2009; O'Donohue & Bradley, 1999), lack of empirical support for different child custody arrangements (O'Donohue & Bradley, 1999; Tippins & Wittmann, 2005), and the level of clinical inference used by evaluators in drawing their conclusions (Tippins & Wittmann, 2005). These concerns have led many to believe that child custody evaluations cannot be conducted ethically and/or objectively (O'Donohue & Bradley, 1999).

An important issue related to CCEs is in regard to the limited amount of existing research focused on how individuals who have the most interactions with CCEs may have different views toward CCEs. That is, judges, attorneys, and psychologists are the individuals in the legal system who often encounter CCEs. Each of these individuals have certain aspects they do and do not expect to see included in CCEs. However, there is limited research on what exactly these aspects are and how to better encompass the wishes of the judge, attorneys, and psychologists (Bussey, Lennings, O'Neill, & Seidler, 2018; Simon & Stahl, 2014). Moreover, it is important that future studies focus on the congruence across professional groups in their views on the components and quality of the CCEs submitted.

Importance of Child Custody Evaluations

Many times, parental divorce provides a positive solution to a broken home (Emery, 1982). However, it can also cause a tremendous negative transition in the lives of parents and children. The result often leads to increased levels of stress and can impact the future adaptive functioning of the child (Felner, Farber, & Primavera, 1980; Hetherington, 1979). It is common that children experience the pressures and tensions of a contentious custody dispute (DiPrizito, 2016). Therefore, it is important to minimize the

exposure of children to the process as much as possible (DiPrizito, 2016). The situation becomes more manageable for children when the number of times they have to be interviewed and the number of evaluators they must encounter is reduced (*Kenneth v. Delonda*, 2006). Sometimes children endure a series of evaluations until a valid report is produced (DiPrizito, 2016). The impact and toll this can take on a child's well-being is too risky to let continue.

It is also important that attorneys in their representation of clients are fully aware and familiar with the proper procedures and guidelines for conducting child custody evaluations (Eaton, 2004). Bishop et al. (1985) argues that attorneys might have more of an impact on the outcome of child custody agreements than do judges. Judges only actually use their discretionary decisional powers over child custody cases when agreements cannot be reached, which is about 10%-15% of the time (Pearson, Munson, & Thoennes, 1984). Despite the small percentage, each individual handling the case(s) and/or is involved should be conscious of the standards in order to help hold others accountable. After all, the decisions made in child custody cases impact the lives of children and families long-term.

History of Child Custody Evaluations

Decades of research and case law show that CCE practices continuously change and evolve (Ackerman & Pritzl, 2011). Traditionally, the consensus of the legal system was that young children were better off with the mother in parental separation agreements (Farris, 2016). This presumption arose in the late 19th century and was known as the Tender Years Doctrine (Kohm, 2008). By the 20th century, courts began weighing the rights of both parents (Kohm, 2008). It was thought that custody should be based on the

child's "best interest" (Kohm, 2008). State courts began overruling the Tender Years Doctrine around the early 1970s (e.g., *Arnold v Arnold*, 1979; *Johnson v. Johnson*, 1977; *King v. King*, 1970) finding that it violated constitutional laws concerning gender equality (Kohm, 2008). Since those series of important court rulings, the Tender Years Doctrine has not been applicable in any state (Artis, 2004).

Although the Tender Years Doctrine is no longer a standard in child custody cases, research regarding the outcomes of sole-parent child custody cases reveal that 83% of children of divorced or separated parents are still placed in the full custody of the mother (Cordell, 2014). However, there have been significant actions and strides taken by non-custodial parents in order to gain more time with their children (Farris, 2016). Since 1975, thirty states have passed statutes allowing joint custody either to be an option for the court to consider or making it a preferred presumption (Bishop et al., 1985).

Before 1986, several models for child custody evaluations had been proposed, but little empirical research had been conducted to guide mental health professionals throughout the evaluation process (Chasin & Grunebaum, 1981; Fortescue, Hornbein, Jackson, Nelson, & Warner, 1980; Landberg, 1982). Keilin & Bloom (1986) surveyed psychologists, psychiatrists, and masters-level practitioners in hopes of discovering more information regarding the practices of mental health professionals in CCE procedures. The survey consisted of questions about demographics, custody evaluation practices, and professional decision making (Keilin & Bloom, 1986). For the last several years, Keilin and Bloom's (1986) report has served as the standard of practice for psychologists performing CCEs (Ackerman & Ackerman, 1997).

In 1994, the APA developed guidelines for CCEs (American Psychological Association, 1994). They were not intended to be either mandatory or exhaustive (American Psychological Association, 1994). Because these guidelines only applied to psychologists, the AFCC also developed guidelines that were meant to apply to all individuals who might perform CCEs (Association of Family and Conciliation Courts, 1994). Both of these Associations created similar guidelines with the same goal in mind: to promote proficiency in providing information to the court regarding the best interest of the child (American Psychological Association, 1994; Association of Family and Conciliation Courts, 1994).

The production of books, publication of journal articles, and creation of workshops on CCEs have increased over the last two decades (Bow, Gottlieb, & Gould-Saltman, 2011). As a result, researchers have developed relatively recent texts for evaluators to help guide their child custody evaluative practices (Ackerman, 1995; Dixson, Lindenberger, Ruther, & Schutz, 1989; Stahl, 1994). In 2002, the APA published a new *Ethical Principles of Psychologists and Code of Conduct* (Ackerman & Pritzl, 2011). In addition, they have recently approved their *Guidelines for Child Custody Evaluations in Family Law Proceedings* (American Psychological Association, 2010). The AFCC published a model standard of practice in CCEs (Association of Family and Conciliation Courts, 2007). Additionally, the American Psychology-Law Society (Division 41 of the American Psychological Association) is working on a revision of the 1991 specialty guidelines for forensic psychology (Ackerman & Pritzl, 2011). The list of researchers who have produced or are currently producing new model standards for CCEs persists. I believe that the increasing interest in improving these guidelines shows how

important this topic currently is to legal officials as well as social scientists interested in legal reform and improving the legal system's CCE process.

Just as CCE guidelines have become a timely research topic, CCE guidelines have also become more sophisticated and comprehensive (Bow, 2006). For instance, there has been an approximate 50% increase in the length of time devoted to performing CCEs (Ackerman & Pritzl, 2011). More specifically, each area (interviewing, report writing, reviewing materials, etc.) has experienced a rise in overall allocated time (Ackerman & Pritzl, 2011). While a wider variety of tests pertaining to CCEs have been made available for both adults and children, pre-existing exams, such as the Parent Child Relationship Inventory (PCRI) and the Parent Awareness Skill Survey (PASS), continue to increase in usage (Ackerman & Pritzl, 2011). As a result, there has been increased criticism in the literature regarding the use of these tests (Ackerman & Pritzl, 2011).

Current Guideline Issues

Empirical data and legal precedents have both failed to provide legal professionals with clear guidelines for making custody recommendations (Bishop et al., 1985). Several states, such as Georgia, Nebraska, New Jersey, and Oklahoma, have acknowledged the need for guidelines to help lead evaluators throughout the evaluative process (Georgia Psychological Association, 1990; Nebraska Psychological Association, 1986; New Jersey State Board of Psychological Examiners, 1993; Oklahoma Psychological Association, 1988). Some states already have established guidelines, however, the guidelines either lack specific parameters or evaluators fail to follow them (DiPrizito, 2016). Many of the standards that have been established in states are looked at as goals, and research shows that the standards are not necessarily practiced consistently

(Bussey et al., 2018). To complicate the matter further, little data exists on factors that contribute to successful custody arrangements (Felner & Farber, 1980). Additionally, it is difficult for the legal system to provide step-by-step guidelines when they do not have much to base their information off of.

Aside from identifying professional requirements for child custody evaluators, DiPrizito (2016) believes all states should include standards in their court rules for evaluators. Within these standards, rules should list criteria to be required and made easily accessible throughout each evaluator's report (DiPrizito, 2016). This would enable judges and other members of the court to spot similarities and differences between each CCE (DiPrizito, 2016).

Evaluator and Evaluation Expectations

There is over two decades of research regarding what factors contribute to evaluation practices (e.g., Ackerman & Ackerman, 1997; Fuhrmann & Zibbell, 2012; Hynan, 2014; Keilin & Bloom, 1986). One universally accepted point is that evaluators of child custody cases should maintain ongoing familiarity with research on several different factors: child development (Kelly & Lamb, 2000), impact of divorce on children (Emery & Kelly, 2009), age-appropriate parenting plans (Lamb, 2002), co-parental conflict (Johnston, 1994), domestic violence (Johnston & Steegh, 2011), alienation, estrangement, gatekeeping (Drozd & Kuehnle, 2012), and relocation (Stahl, 2013). While it is commonly expected that evaluators should continue to be up-to-date on such topics, it might also be just as important that other legal professionals strive to gain a further understanding of current practices used in CCEs (Felner & Farber, 1980). That is, it is

essential that each individual involved in the CCE process, including judges, attorneys, and psychologists, is aware and educated on how an evaluation should be carried out.

There is currently no unified system for appointing evaluators (DiPrizito, 2016). Sometimes the judge will personally select the evaluator (DiPrizito, 2016). Other times, the parties' lawyers are given an opportunity to choose from a list of potential evaluators (DiPrizito, 2016). Another option may be that parties can privately retain their own expert evaluator (DiPrizito, 2016). Research suggests that having a more standardized system for appointing evaluators would assist with the process (DiPrizito, 2016).

Similar to that of a judge, the job of evaluators requires impartiality (*Howard v. Drapkin*, 1990). They should be able to provide their services while maintaining reasonable professional boundaries (*Child Custody Evaluation Standards*, 2011). The methods they use must be objective in all aspects of the case (Simon & Stahl, 2014). Evaluators should also be transparent with each individual involved by disclosing any complications and/or limitations regarding the CCE (Bow et al., 2011). LaFortune (1997) asked attorneys to rate the characteristics most helpful to them in CCEs. "The expert is unbiased," "the expert is cautious and stays within limitations," and "the evaluation is thorough" were all statements that were among the highest ratings (LaFortune, 1997).

Many psychological reports are filled with scientific jargon that, in turn, can be very difficult for non-experts to understand (DiPrizito, 2016). In addition, different psychologists use different procedures, tests, and writing styles (Carter & Sanders, 2001). Judges and attorneys might adapt to the language of one psychologist and then be unfamiliar with the speech used in another CCE produced by a different psychologist. This lack of uniformity nurtures opportunities for deviation from protocol and guidelines

that are already loosely enforced (DiPrizito, 2016). When court orders fail to provide specific information, evaluators have to take it upon themselves to decide how to proceed (Bow et al., 2011). This then leaves the judge to consider each CCE and determine if the data is sufficient (DiPrizito, 2016). For these reasons, it is essential that the assignment and communication be clear through all parts of the CCE.

The written component of the CCE alone has become an important discussion in research. The art and skill of communicating the results is just as important as performing the CCE (Simon & Stahl, 2014). All in all, if there is not a clear and comprehensive discussion of how the data was understood, parsed, and analyzed, how would judges and attorneys carry out their duties to the best of their ability (Simon & Stahl, 2014)? A thorough written analysis allows the court to see if the evaluator considered all of the relevant family data before drawing conclusions and/or making recommendations (Simon & Stahl, 2014).

One controversial question that has been introduced in sole-parent child custody cases is whether evaluators should offer opinions regarding the ultimate outcomes of child custody cases (Bow et al., 2011). LaFortune (1997) found that 51% of attorneys felt that evaluators should provide recommendations, while Bow and Quinnell (2004) found that 84% of judges and 86% of attorneys thought such suggestions should be made. Most research shows that the majority of judges and attorneys agree that evaluators should make recommendations about custody arrangements (Bow et al., 2011). Saini (2008) found that parties reached a settlement in 70-90% of cases after discovering the expert's opinion; and additionally, judges followed expert recommendations about 90% of the time. Essentially, members of the court expect evaluators to tie their data to

recommendations (Bow et al., 2011). Frustration is often expressed when an evaluator makes a recommendation that seemingly comes out of thin air and is not largely based on aspects of the evaluation (Simon & Stahl, 2014). Judges and attorneys want to see that evaluators can show that each conclusion they draw about a custody arrangement is based on the evaluation conducted (Bow et al., 2011).

Psychologists who perform CCEs want them to be as thoroughly conducted as possible (Bussey et al., 2018). Despite their personal motives, psychologists want to protect their reputation (Bussey et al., 2018). Judges, attorneys, evaluators, and other members of the court are all on the same team. This is why I believe it is so important that guidelines and rules are outlined so that each individual involved in a child custody dispute understands what is expected in an evaluation. Research regarding how to conduct and write CCEs is widely available, but whether or not evaluators incorporate these components and whether legal professionals understand them remains unclear (Bussey et al., 2018).

Opinions of Judges, Attorneys, and Psychologists

Several studies have questioned participants regarding their level of satisfaction with CCEs. For example, Bow et al. (2011) found that 56% of attorneys were satisfied, very satisfied, or extremely satisfied with CCEs. This left 44% only somewhat or not at all satisfied (Bow et al., 2011). With this significant difference in satisfaction with CCEs, researchers looked further into why attorneys were not satisfied. The biggest complaint focused on issues with conclusions and recommendations (21%; Bow et al., 2011). Evaluators' indecisiveness, unjustifiable conclusions, ignorance of laws and principles in general, and the decision to make recommendations or not were all factors that attorneys

were concerned about in the study (Bow et al., 2011). The length of time required to complete CCEs (20%) and problems with the procedures utilized (18%) were also frequent complaints by attorneys in the study (Bow et al., 2011). Several others have recommended that CCEs be more comprehensive, evaluators specify all sources of information, and an increased incorporation of more specialized training on the topic be made available (Bow et al., 2011; Bow & Quinnell, 2004). Bow et. at (2011) concluded that legal professionals continue to only be partially satisfied about the quality of CCEs.

Further research by Bow and Quinnell (2004) asked participants, consisting of judges and attorneys, to rate CCE components. Strengths and weaknesses of the parents, child interviews, recommendations for custody, child's history, and recommendations for parenting time were all factors rated as most important (Bow & Quinnell, 2004). For both judges and attorneys, parental characteristics (emotional stability and ability to care for the child) and situational factors (time availability, stability of living environment, financial resources, and childcare arrangements) were rated as important (Bishop et al., 1985). In research done by Ackerman and Ackerman (1997), legal professional participants were presented with a forced choice concerning sole-parent child custody recommendations. The participants rated factors such as active substance abuse, parental alienation, parenting skills, psychological stability, and emotional bonding with parents as being among the most important considerations in sole-parent child custody cases (Ackerman & Ackerman, 1997).

Aside from comparing the opinions of judges and attorneys on custody evaluations, it is of equal importance that researchers also consider the attitudes of psychologists. When psychologists were asked what they feel is expected of them during

CCEs, psychologists said the following: review children’s school records, parents’ criminal records, legal records that pertain to the case, the pleadings of the family law case, consultations with the Guardian Ad Litem,¹ and the performance of psychological testing on others (Ackerman & Pritzl, 2011). This research suggests that judges, attorneys, and psychologists all share similar opinions about which components of a CCE are important, but it is still unclear how these parties’ views on CCEs differ (Bussey et al., 2018).

Recommendations from Previous Research

Previous research and findings have shown that CCEs remain insufficient to many legal professionals (Bussey et al., 2018). Several studies have presented findings in regard to making CCEs more satisfactory for each individual involved (e.g., Bow et al., 2011; Bow & Quinnell, 2004). Bow et al. (2011) found the greatest percentage of responses surrounded the desire for evaluators to follow child custody guidelines/models. However, many states are not strict enough on enforcing this protocol and several others do not have any established guidelines to apply (DiPrizito, 2016). The need to offer recommendations that are comprehensive and understandable was the second highest category (Bow et al., 2011). Others have pointed out the importance of report writing (using plain English, avoiding jargon, providing more detailed information, and organizing the report into relevant sections; Bow et al., 2011). Several researchers have recommended improving training and communication among evaluators, attorneys, and the court (Bow et al., 2011; Bow & Quinnell, 2004; Choate & Patel, 2014). The need for better communication between the mental health and legal disciplines has been

¹ Guardian Ad Litem: A court-appointed attorney who is selected to provide legal representation for the child or adult(s) involved. The goal is to find a solution that would be in the best interest of the child.

recognized, but change has to be made in order to develop a mutually acceptable process of performing CCEs. I believe that research, such as is described in the current study, helps bridge the gap between psychology and law.

The Current Study

The current study was designed to examine how evaluator type, judges, attorneys, and psychologists, evaluate sole-parent child custody cases. The sample consisted of family law judges, family law attorneys, and clinical psychologists across the state of Kentucky. Participants were asked to complete a questionnaire regarding sole-parent child custody factors. The main goal of the current study was to examine what factors in CCEs were important to judges, attorneys, and psychologists; and more importantly, how these parties' views of such factors differed. I believe the results of the current study can be used to assist evaluators in producing CCEs that judges, attorneys, and psychologists all understand and need in order to perform their jobs effectively. I argue that creating evaluation methods that appeal and are understandable to judges, attorneys, and psychologists can also be used to help legal officials make decisions that are in the best interest of the child. The current study also has implications regarding establishing a more controlled and standardized system of CCE guidelines.

METHODS

Design

The design was a single factor design (evaluator type: judge, attorney, psychologist). The dependent variables in the study were participants' rating of

importance to forty items asking their opinions about sole-parent child custody arrangement.

Participants

The participants ($M_{\text{age}}=47.56$, $M_{\text{years experience}}=19.58$) included a sample of family law judges ($n=10$), family law attorneys ($n=21$), and clinical psychologists ($n=12$) across the state of Kentucky. Participation was completely voluntary, and no compensation nor rewards were given. The study was programmed using Qualtrics and was distributed via email. See Appendix A for the email sent to each participant. The website, kycourts.gov, was used to obtain a list of all family law judges in each county across the state. Phone calls were made to each office explaining the study, its purpose, and to request participation. Family law attorneys were contacted via email provided by justia.com, a website containing hundreds of lawyers across the state. A snowball sample also went into effect, as a few attorneys responded that they would be happy to pass the study information along to others they knew. The website, psychologytoday.com, was the initial method used to contact psychologists within Kentucky. There was also correspondence with Local Resource Coordinators through LifeSkills, which in turn, developed into a snowball sample of psychologists. Only clinical psychologists who work with children on a regular basis were asked to participate in the study. Follow-up calls and reminder emails were sent to participants two weeks after the initial contact to encourage participation. The study was approved by the university's Institutional Review Board; see Appendix B.

Materials

Sole-Parent Child Custody Questionnaire. Participants were presented with the forty-item questionnaire taken from Ackerman and Ackerman (1997) regarding sole-parent child custody. Each item contained one piece of information in which participants were asked to rate how important it would be in making a custody recommendation. Participants used a nine-point Likert scale (1 *being not important*, 9 *being highly important*) to rate each of the forty items. See Appendix C for the full questionnaire and rating scale.

Demographic Information Questionnaire. After completing the sole-parent child custody questionnaire, participants were presented with a series of demographics questions. Age, sex, race, occupation, and years of experience were all categories. Psychologists were also asked to classify the specific type of psychologist they identify as (clinical, child, research, educational, etc.). See Appendix D for the full demographic questionnaire.

Procedure

Participants were solicited online and with phone calls to participate in the study. The survey was programmed using Qualtrics Online Surveying Software. Participants completed the survey online. After opening the link to the online survey, participants provided consent to participate in the study. Participants were then presented with the forty-item questionnaire, in which they were asked to indicate a rating they would choose for each item on the nine-point Likert scale. Then, participants completed a demographic questionnaire, were debriefed, and were thanked for their participation.

RESULTS

Three statistical analyses were used to examine the relationship between evaluator type (judge, attorney, psychologist) and ratings of the sole-custody evaluation items. First, a multivariate analysis of variance (MANOVA) was performed to examine whether there was an overall difference between evaluators' ratings among the sole-custody evaluation items. The analysis included evaluator type as the independent variable with all forty sole-custody evaluation items as dependent variables. Results revealed an overall effect of evaluator type on ratings of the sole-custody evaluation items, *Wilks' Lambda* < .01, $F(72, 10) = 10.55, p < .001$. This result indicates that there was a difference between judges, attorneys, and psychologists in their overall ratings of the sole-custody evaluation items.

Second, a multivariate regression was used to examine which of the forty sole-custody evaluation items differed among evaluator type. A multivariate regression consisting of evaluator type was performed on the forty sole-custody items. A multivariate regression analysis was used because the procedure adjusts for significant effects (α). Results indicated that judges, attorneys, and psychologists differed on eight of the forty sole-custody evaluation items; see Table 1.

Last, post-hoc tests were performed on the eight sole-custody evaluation items that differed for evaluator type in order to determine which evaluator types' mean ratings on the sole-custody evaluation items differed from each other. LSD post-hoc analyses were used in all subsequent analyses.

Item-2. Results showed that the judges ($M = 8.40, SD = .70$) rated item-2 (Parent B often attempts to alienate the child from the other parent by negatively interpreting the other parent's behavior.) as more important than both attorneys ($M = 7.48, SD = 0.98, p = .030$) and psychologists ($M = 7.00, SD = 1.41, p = .004$). The attorneys and psychologists did not rate the item differently, $p = .225$.

Item-10. Results revealed that the judges ($M = 7.00, SD = 1.15$) rated item-10 (Parent A exhibits a great deal of anger and bitterness about the divorce.) as more important than both attorneys ($M = 5.48, SD = 1.83, p = .020$) and psychologists ($M = 5.25, SD = 1.60, p = .017$). The attorneys and psychologists did not rate the item differently, $p = .705$.

Item-12. Results showed that the psychologists ($M = 7.08, SD = 1.56$) rated item-12 (The 15-year-old child would prefer to live with Parent A.) as more important than both judges ($M = 5.50, SD = 1.90, p = .029$) and attorneys ($M = 5.81, SD = 1.54, p = .037$). The judges and attorneys did not rate the item differently, $p = .624$.

Item-15. Results revealed that the psychologists ($M = 7.08, SD = 1.37$) rated item-15 (Parent A has a criminal record.) as more important than judges ($M = 5.80, SD = 2.04, p = .048$). The attorneys ($M = 6.10, SD = 1.18$) did not rate the item differently from psychologists, $p = .070$ nor judges, $p = .604$.

Item-29. Results showed that the psychologists ($M = 6.25, SD = 1.77$) rated item-29 (Parent A appears to be much more economically stable than Parent B.) as more important than both judges ($M = 3.80, SD = 2.15, p = .003$) and attorneys ($M = 3.67, SD = 1.62, p < .001$). The judges and attorneys did not rate the item differently, $p = .847$.

Item-30. Results revealed that the psychologists ($M = 6.00$, $SD = 1.47$) rated item-30 (The 10-year-old child would prefer to live with Parent A.) as more important than both judges ($M = 4.20$, $SD = 2.09$, $p = .025$) and attorneys ($M = 3.90$, $SD = 1.81$, $p = .003$). The judges and attorneys did not rate the item differently, $p = .672$.

Item-37. Results showed that the psychologists ($M = 5.43$, $SD = 1.78$) rated item-37 (The 5-year-old child would prefer to live with Parent B.) as more important than both judges ($M = 3.50$, $SD = 1.96$, $p = .016$) and attorneys ($M = 2.95$, $SD = 1.69$, $p < .001$). The judges and attorneys did not rate the item differently, $p = .427$.

Item-39. Results revealed that the psychologists ($M = 3.58$, $SD = 1.98$) rated item-39 (Parent A is the mother, and Parent B is the father.) as more important than both judges ($M = 2.00$, $SD = 1.41$, $p = .003$) and attorneys ($M = 1.86$, $SD = 1.59$, $p = .007$). The judges and attorneys did not rate the item differently, $p = .825$.

Table 1
Differences in Item Ratings Among Evaluators

40 Sole-Custody Evaluation Items	<i>F</i>	<i>p</i>
1. Parent B is an active alcoholic.	0.085	0.362
2. Parent B often attempts to alienate the child from the other parent by negatively interpreting the other parent's behavior.	9.262	0.004**
3. Parent A exhibits better parenting than Parent B.	0.001	0.975
4. The child appears to have a closer emotional bonding with Parent B.	0.483	0.491
5. Parent B appears to be more psychologically stable than Parent A.	0.003	0.954
6. Parent A has not been cooperative with previous court orders.	0.464	0.500
7. Parent A is threatening to move to another state with the children.	0.131	0.719

8. Parent B is more tolerant of other parent visitation.	0.112	0.739
9. Parent A actively participates in children's education.	0.402	0.529
10. Parent A exhibits a great deal of anger and bitterness about the divorce.	5.741	0.021*
11. Physical abuse allegation has been made against Parent B.	0.098	0.756
12. The 15-year-old child would prefer to live with Parent A.	5.442	0.025*
13. Sexual abuse allegation has been made against Parent A.	1.174	0.285
14. Parent B has a history of psychiatric hospitalizations.	3.968	0.053
15. Parent A has a criminal record.	4.427	0.042*
16. Parent A is aware of the child's future needs.	0.785	0.381
17. Before the divorce, Parent A had primary caretaking responsibility.	2.409	0.128
18. Parent A uses physical punishment and Parent B does not.	0.059	0.810
19. Parent B is aware of the children's relevant school information.	0.051	0.822
20. Parent A has significantly worse MMPI results.	0.184	0.670
21. Parent B is aware of the children's developmental milestones.	1.332	0.255
22. Parent B is significantly less intelligent than the children.	0.402	0.529
23. Parent A is a recovering alcoholic.	0.000	0.992
24. Before the divorce, Parent B had primary responsibility for disciplining the children.	3.827	0.057
25. Parent B has more extended family available.	0.082	0.776

26. Parent A's schedule would require placing the child in daycare. Parent B would not.	1.819	0.185
27. Parent B is taking psychiatric medication.	3.135	0.084
28. Parent A has remained living in the original family home, while Parent B has moved to a home in a different school district.	1.474	0.232
29. Parent A appears to be much more economically stable than Parent B.	10.012	0.003**
30. The 10-year-old child would prefer to live with Parent A.	5.641	0.022*
31. Parent A's new partner has children living with him or her.	1.682	0.202
32. Parent B is currently involved in a homosexual relationship.	2.374	0.131
33. Parent A is much more socially active than Parent B.	0.379	0.541
34. Parent B is the same sex as the child.	1.671	0.203
35. Parent B is cohabiting with a person of the opposite sex (without marriage), while Parent A lives alone.	3.352	0.074
36. Parent B is cohabiting with a person of the opposite sex (without marriage), while Parent A has remarried.	2.364	0.132
37. The 5-year-old child would prefer to live with Parent B.	6.270	0.016*
38. Parent A has remarried, and Parent B lives alone.	2.504	0.121
39. Parent A is the mother, and Parent B is the father.	5.162	0.028*
40. Parent A is 10 years older than Parent B.	1.477	0.231

Note. The questionnaire used in this table was taken from a study by Ackerman and Ackerman (1997), in which only psychologists were surveyed. The current study includes judges and attorneys, as well as psychologists. Judges, attorneys, and psychologists

differed significantly, * $p < .05$, ** $p < .01$, on eight of the forty sole-custody evaluation items.

DISCUSSION

The present study addressed an empirical question: do judges, attorneys, and psychologists differ in how they evaluate sole-parent child custody cases? A sample consisting of ten family law judges, twenty-one family law attorneys, and twelve psychologists across the state of Kentucky were asked to express their opinions regarding what types of factors they thought were most/least important in determining custody in a sole-parent child custody arrangement. Participants were presented with a forty-item sole-custody questionnaire adopted from Ackerman and Ackerman (1997).

The main goal of this study was to examine which items were rated as being more/less important across evaluator type: judges, attorneys, and psychologists. More importantly, the study addressed how judges, attorneys, and psychologists' views of such factors in CCEs differed. It was my hope that the results of the current study could contribute to establishing a more controlled and standardized system of CCE guidelines. There are very few states that have established guidelines, and even the ones that do, loosely enforce them (DiPrizito, 2016). Adding structure and change to the CCE process would assist evaluators in producing CCEs that encompass the wishes of the judge, attorneys, and psychologists. This would allow the process to proceed through the court system in a smooth fashion and provide the child involved with the best experience possible under the given circumstances.

My expectation that judges, attorneys, and psychologists would differ on some views regarding sole-parent child custody evaluation items was supported by the results of the study. Results indicated that judges, attorneys, and psychologists differed significantly on eight of the forty sole-custody evaluation items. Each of the eight items are discussed in detail below.

Item-2: Parental Alienation

Judges rated item-2 (Parent B often attempts to alienate the child from the other parent by negatively interpreting the other parent's behavior.) as more important than both attorneys and psychologists. One possible explanation for this difference could be found in the role each of these parties play throughout the custody process. Attorneys typically engage in case building, and the concept of parental alienation might not be as popular of a defense as one might expect. Research reveals that there is a lack of explicit attention on parental alienation syndrome due to a central focus on general evaluation practices and the use of psychological testing (Baker, 2006). Child psychologists mainly direct their attention to the wants and needs of the child, possibly not always giving the parents the proper attention. Judges, on the other hand, must consistently model fairness, impartiality, patience, dignity, and courtesy to all individuals (Crooks, Dunford-Jackson, Jaffe, & Town, 2009). Concepts, such as parental alienation, are alarming to judges and something they tend to look for in custody disputes. Due to the fact that parental alienation has not yet been explicitly examined in surveys of custody evaluators (Baker, 2006), it is not clear why judges rated this item more important compared to attorneys and psychologists. More research on parental alienation is needed.

Item-10: Parent's Anger about the Divorce

Carlson, Reidy, & Silver (1989) surveyed judges concerning joint- and sole-parent child custody. Judges rated the amount of anger and bitterness between parents in the top five most relevant factors for determining joint- versus single-parent custody (Carlson et al., 1989). This finding helps support the results in the current study, in that judges rated item-10 (Parent A exhibits a great deal of anger and bitterness about the divorce.) as more important than both attorneys and psychologists. There is little, if any, research on why judges might find this item as significantly more important than the other parties. However, research does show that the degree of continued parental conflict and hostility, including anger, strongly influences a child's adjustment to divorce or separation (Emery, Otto, & O'Donohue, 2005). Based on this research, I speculate that judges might find the parent's anger and bitterness about the divorce as being particularly important to consider in CCEs because continued hostility could impact the child negatively. Additionally, I believe that the family law judges in my sample likely have frequent real-life interactions with this item; that is, judges likely have the most experience with sole-parent child custody cases in which the parents experience continued hostility in their arrangements. Judges' vast experience with this item, as compared to attorneys and psychologists, could explain why they viewed item-10 as more important in CCEs.

Items-12, 30, and 37: The Child's Preference

Item-12 (The 15-year-old child would prefer to live with Parent A.), item-30 (The 10-year-old child would prefer to live with Parent A.), and item-37 (The 5-year-old child would prefer to live with Parent B.) each concerned whether the child should have a say

regarding which parent they prefer to live with. On all three of these items, psychologists rated its importance much higher than judges and attorneys. Clinical psychologists who work with children have a duty to assess and treat children with various issues. A major and very important part of this lies within conducting research, which contributes academically and clinically to the profession. A possible rational explanation as to why psychologists might find it more important that children have a voice in things regarding their own quality of life could be because psychologists frequently conduct research on ways to promote the health and well-being of children (e.g., Gilman & Huebner, 2003; Ginsburg, 1997). Research into moral, emotional, cognitive, and social development provides good psychological reasoning for encouraging the active participation of children in major life decisions (Baerveldt, Kooistra, & Winter, 1999). Hart (1992) highlighted the importance of children's participation in big decisions for the development of autonomy and social co-operation. If children are engaged in ways that make them feel connected and involved, they discover that dialogue and negotiation with others is essential for healthy development (Baerveldt et al., 1999). Moreover, individuals like psychologists, who immerse themselves in this type of research and work closely with children on a daily basis, are likely to feel more strongly regarding this issue.

Item-15: Parent's Criminal History

Ackerman and Ackerman (1997) found that psychologists believed having a criminal record was in the top five most influential parental factors. Bow and Quinnell (2004) also surveyed psychologists, who rated moral fitness as a highly significant parental factor. Ackerman, Ackerman, Kelley-Poulos, and Steffen (2008) found that attorneys believe psychologists should review criminal records and contact collateral

sources, while judges did not have these expectations. These findings help justify the current study, in that psychologists rated item-15 (Parent A has a criminal record.) as more important than judges. Previous studies show that psychologists find criminal backgrounds important to look into, but there is little, if any, research explaining why that is. The current study's results on the importance of the parent's criminal history supports existing research done on this topic (Ackerman et al., 2008).

Item-29: Economic Stability

Psychologists rated item-29 (Parent A appears to be much more economically stable than Parent B.) as more important than both judges and attorneys. Research suggests that adults who struggle financially have more mental health problems than their economically advantaged counterparts (Fitzgerald, Lester, & Zuckerman, 1995). Parents respond to economic loss with increased irritability, hostility, depression, and erratic behavior towards their child (Elder, 1979). As a result, children in economically unstable homes suffer a variety of socioemotional problems, including depression (Gibbs, 1986), strained peer relations (Langner, Herson, Greene, Jameson, & Goff, 1970), low self-confidence, conduct disorders, and higher levels of psychological disorders (Kellam, Ensminger, & Tumer, 1977; Langner, Greene, Herson, Jameson, Goff, Rostkowski, & Zykorie, 1969; Levinson, 1969; Myers & King, 1983). Clinical psychologists who work with children likely deal with these issues regularly. In turn, psychologists witness the hardships families go through and how it affects the child. Moreover, I speculate that psychologists might have more exposure on the short- and long-term effects of financial problems. I believe this information provides support as to why psychologists might have rated economic stability more importantly than did judges and attorneys.

Item-39: The ‘Tender Years’ Days

Courts automatically awarded mothers custody based on the Tender Years Doctrine up until the late 1960s (Artis, 2004). Mothers were viewed as the primary caretaker who provided the child with their most basic needs – feeding, bathing, diaper-changing, soothing of distress, etc. (Thompson, 1984). Despite current gender-neutral custody laws and the fact that women continue to move into the job market, the idea that mothers are biologically connected to young children and infants may remain entrenched among some (Artis, 2004). This information provides a possible explanation as to why psychologists rated item-39 (Parent A is the mother, and Parent B is the father.) as more important than both judges and attorneys. Little research in the United States, if any, has been conducted regarding psychologists’ current biases toward maternal custody. However, Hacker (2013) found that many Israeli psychologists still support the attachment theory, indicating some preference of maternal custody. The potential for biases on this topic is highly likely, especially among the older generations still practicing in their career field. Future research could determine if and how much biases still exists regarding the Tender Years Doctrine.

CONCLUSION

The study’s findings are important in at least two ways – (1) the eight significant items discussed above can be used to show what differences exist between judges, attorneys, and psychologists and provide an initiative on what can be done in order to encompass the wishes of each party. (2) Additionally, the thirty-two items that did not

significantly differ might be viewed as items that should be kept as all parties rated them equally. In short, the findings of this study provide evidence that judges, attorneys, and psychologists have different views on certain aspects of what they find important for evaluators to include in CCEs.

Future Research

Because the individuals who interact with CCEs the most, judges, attorneys, and psychologists, in the present study expressed obvious differences in many of the items, I believe that a reexamination of how CCEs are conducted and presented in sole-parent child custody cases is warranted. For instance, future research can extend the present study's result and examine each of the eight items to gain a better understanding regarding why judges, attorneys, and psychologists differed on these factors.

Implications

I believe that the current research not only offers many avenues for future research, but also has important applied implications regarding how the legal system might establish a more controlled and standardized system of CCE guidelines for all evaluators in sole-parent child custody cases. Once more research addresses why judges, attorneys, and psychologists differ on certain CCE factors, more radical steps can be taken by researchers to reform the legal system and improve the overall process of CCEs.

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APPENDIX A

Email Requesting Participation

Dear [insert name of person here],

My name is Chandler Flynt and I am a student at Western Kentucky University. I have developed a research project examining the differences in which judges, lawyers, and psychologists evaluate sole child custody cases. I am currently in the process of reaching out to judges, lawyers, and psychologists across the state of Kentucky to request their participation in my study by completing a brief survey. I am reaching out to you to inquire whether you would be willing to participate in my survey. The survey takes approximately ten to fifteen minutes to complete. Your participation is completely voluntary, and your identity and responses to the survey will remain anonymous. Your participation will aid in our understanding of how judges, lawyers, and psychologists might be evaluating custody cases differently.

I would greatly appreciate your participation in the survey. Here is the link to the survey:

https://wku.co1.qualtrics.com/jfe/form/SV_8HfGI2bMCGN8sTQ

Please do not hesitate to reach out to me if you have questions regarding the research project and survey. I would be happy to speak with you and answer any question you might have.

Thank you in advance for your time and consideration completing the survey,

Chandler Flynt

chandler.flynt552@topper.wku.edu

(270) 202-4985

APPENDIX B

Institutional Review Board Approval



*INSTITUTIONAL REVIEW BOARD
OFFICE OF RESEARCH INTEGRITY*

DATE: January 12, 2021
TO: Chandler Flynt
FROM: Western Kentucky University (WKU) IRB
PROJECT TITLE: [1690652-1] Views on Sole Child Custody Cases: Differences Between Judges, Attorneys, and Psychologists
REFERENCE #: IRB 21-128
SUBMISSION TYPE: New Project
ACTION: APPROVED
APPROVAL DATE: January 12, 2021
REVIEW TYPE: Exempt Review

Thank you for your submission of New Project materials for this project. The Western Kentucky University (WKU) IRB has APPROVED your submission. This approval is based on an appropriate risk/benefit ratio and a project design wherein the risks have been minimized. All research must be conducted in accordance with this approved submission.

This submission has received Exempt Review based on the applicable federal regulation.

Please remember that informed consent is a process beginning with a description of the project and insurance of participant understanding followed by an *implied* consent form. Informed consent must continue throughout the project via a dialogue between the researcher and research participant. Federal regulations require each participant receive a copy of the consent document.

Please note that any revision to previously approved materials must be approved by this office prior to initiation. Please use the appropriate revision forms for this procedure.

All UNANTICIPATED PROBLEMS involving risks to subjects or others and SERIOUS and UNEXPECTED adverse events must be reported promptly to this office. Please use the appropriate reporting forms for this procedure. All FDA and sponsor reporting requirements should also be followed.

All NON-COMPLIANCE issues or COMPLAINTS regarding this project must be reported promptly to this office.

This project has been determined to be a MINIMAL RISK project.

Please note that all research records must be retained for a minimum of three years after the completion of the project.

If you have any questions, please contact Robin Pyles at (270) 745-3360 or irb@wku.edu. Please include your project title and reference number in all correspondence with this committee.

This letter has been electronically signed in accordance with all applicable regulations, and a copy is retained within Western Kentucky University (WKU) IRB's records.

APPENDIX C

Sole- and Single-Parent Custody Questionnaire

Directions: Below you will find the forty-item questionnaire regarding sole- and single-parent custody. Your task here is to rate how important each piece of information would be in making a custody recommendation. Please answer each item by using the nine-point Likert scale found directly next to each statement (1 being not important and 9 being highly important). Please answer the questions to the best of your ability. Please note, your information will not be given to outside entities. It is for internal use only.

1. Parent B is an active alcoholic.
2. Parent B often attempts to alienate the child from the other parent by negatively interpreting the other parent's behavior.
3. Parent A exhibits better parenting than Parent B.
4. The child appears to have a closer emotional bonding with Parent B.
5. Parent B appears to be more psychologically stable than Parent A.
6. Parent A has not been cooperative with previous court orders.
7. Parent A is threatening to move to another state with the children.
8. Parent B is more tolerant of other parent visitation.
9. Parent A actively participates in children's education.
10. Parent A exhibits a great deal of anger and bitterness about the divorce.
11. Physical abuse allegation has been made against Parent B.
12. The 15-year-old child would prefer to live with Parent A.
13. Sexual abuse allegation has been made against Parent A.
14. Parent B has a history of psychiatric hospitalizations.
15. Parent A has a criminal record.
16. Parent A is aware of the child's future needs.
17. Before the divorce, Parent A had primary caretaking responsibility.
18. Parent A uses physical punishment and Parent B does not.
19. Parent B is aware of the children's relevant school information.
20. Parent A has significantly worse MMPI results.
21. Parent B is aware of the children's developmental milestones.
22. Parent B is significantly less intelligent than the children.
23. Parent A is a recovering alcoholic.
24. Before the divorce, Parent B had primary responsibility for disciplining the children.
25. Parent B has more extended family available.
26. Parent A's schedule would require placing the child in daycare. Parent B would not.
27. Parent B is taking psychiatric medication.
28. Parent A has remained living in the original family home, while Parent B has moved to a home in a different school district.

29. Parent A appears to be much more economically stable than Parent B.
30. The 10-year-old child would prefer to live with Parent A.
31. Parent A's new partner has children living with him or her.
32. Parent B is currently involved in a homosexual relationship.
33. Parent A is much more socially active than Parent B.
34. Parent B is the same sex as the child.
35. Parent B is cohabiting with a person of the opposite sex (without marriage), while Parent A lives alone.
36. Parent B is cohabiting with a person of the opposite sex (without marriage), while Parent A has remarried.
37. The 5-year-old child would prefer to live with Parent B.
38. Parent A has remarried, and Parent B lives alone.
39. Parent A is the mother, and Parent B is the father.
40. Parent A is 10 years older than Parent B.

APPENDIX D

Demographic Information Questionnaire

*Please answer the following demographic questions to the best of your ability.
Please note, your information will not be given to outside entities. It is for internal use only.*

1. What is your age?
2. What is your sex?
Male
Female
Other
3. Which option most accurately describes your race?
Black or African American
Hispanic or Latina
Non-Hispanic White
Asian
American Indian
Other
4. Please identify your occupation.
Judge
Attorney
Psychologist
5. If you selected 'Psychologist' in the question above, what specific type of Psychologist do you identify as? (clinical, child, research, educational, etc.).
6. How many years of experience have you had in your career field?