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# Child Custody Evaluations: Forensic Mental Health Professionals as Experts or Consultants

Presenting, Analyzing and Deconstructing Custody Evaluation Reports

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WEDNESDAY, NOVEMBER 16, 2011

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

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Today's faculty features:

Honorable Lisa C. Bell, Chief District Court Judge, **26th Judicial District**  
of North Carolina, Charlotte, N.C.

Jonathan W. Gould, Ph.D., ABPP, Partner, **Charlotte Psychotherapy &  
Consultation Group**, Charlotte, N.C.

Kenneth H. Lester, Senior Partner, **Law Offices of Lester & Hendrix**, Columbia, S.C.

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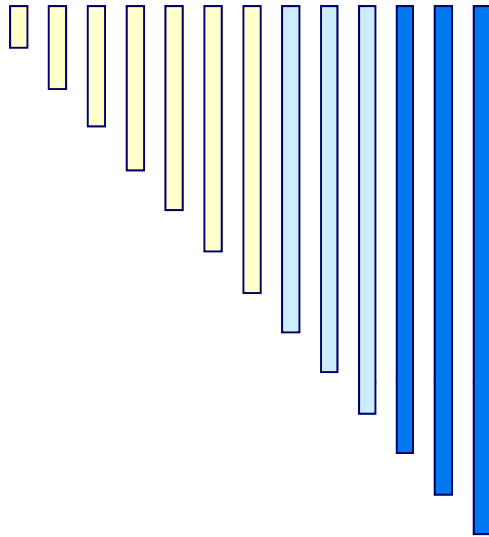
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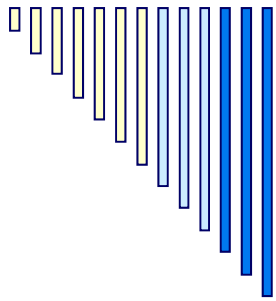
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***Child Custody Evaluations:  
Forensic Mental Health Professionals  
as Experts or Consultants:***

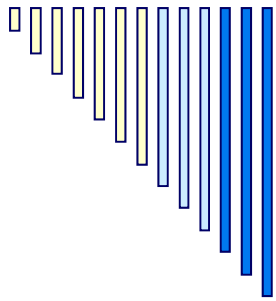
***Presenting, Analyzing, and Deconstructing Custody  
Evaluation Reports***

**The Honorable Lisa C. Bell  
Jonathan Gould, Ph.D., ABPP  
Ken H. Lester, Esquire**



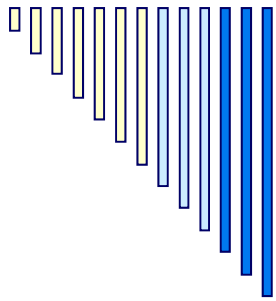
# Contact Information

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  - 704-686-0339(fax)
  
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## What does the court want to know from a child custody evaluation?

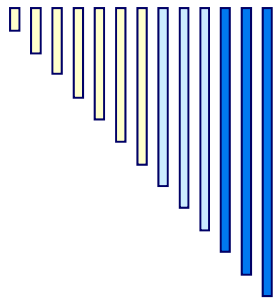
- Qualifications – Education, Experience, with a focus on forensic experience, the number of forensic evaluations performed (distinguish Court’s expert vs. party’s expert), the number of times qualified as an expert by the Court
- Methodology/Procedure
- Opinions – If based on qualified data



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## What does the court want to know from a child custody evaluation?

- Role of Science/peer-review
- Determining Community Standard – Problem of variance from community to community (i.e. small town vs. urban; availability of qualified experts).  
Emphasize the National Standard. May require the education of judges.
- May be limited to the specific questions posed in the appointment order.



# What the Court does NOT want to know

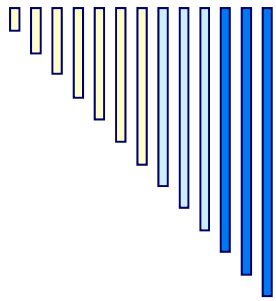
- ❑ Extensive discussion of relationship history unless directly tied to parenting;
- ❑ Invasive, personal information about parties or their children unless directly tied to parenting;
- ❑ Less verbatim transcription from interviews, more analysis and opinion.
- ❑ Character testimony unless tied to parenting.
- ❑ Professional or community accomplishments unless tied to parenting.



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# Ways to Use a Mental Health Professional

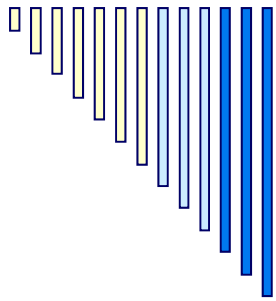
- Trial Consultant (non-testimonial)
- Expert Witness (testimonial)



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# Trial Consultant

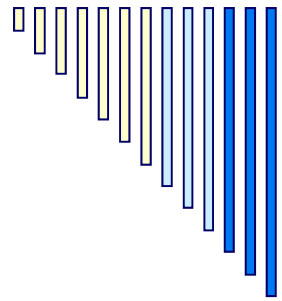
- Many possible roles



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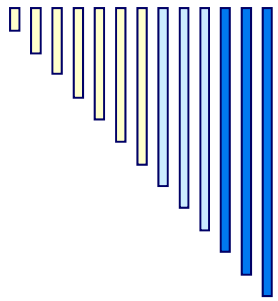
# Expert Witness

- Many possible roles



# Purpose of a Child Custody Evaluation

- Provide information to the court to assist in decision making about the psychological best interests of the child
- Assessment of the parents' "fit" to the best interest needs of the child.
- Provide a diagnosis? Is there a value?

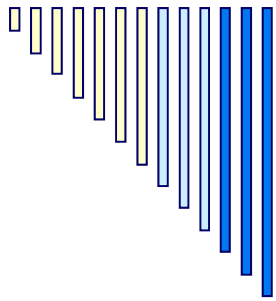


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## The evaluation focuses on:

- parenting attributes,
- the child's psychological needs, and
- the resulting fit.

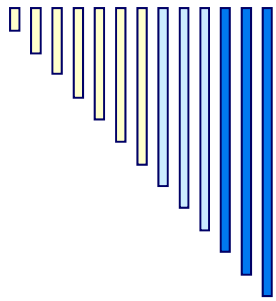




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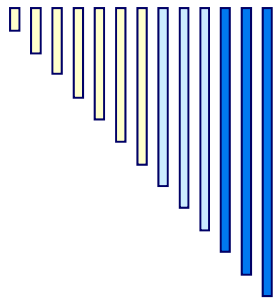
# Ethics and Rules of Evidence

- Competence Ethical Standard (2.01) is similar to FRE Rule 702.
- Competence Ethical Standard (2.04) is similar to FRE Rule 703
- Assessment Ethical Standard is similar to Rules FRE 705



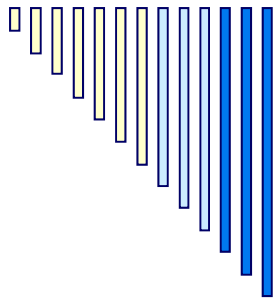
# Documents in Your File

- Ethical Principles of Psychologists and Code of Conduct (American Psychological Association, 2002);
- Specialty Guidelines for Forensic Psychologists (American Psychological Association, 2011);
- Guidelines for child custody evaluations in family law proceedings (American Psychological Association, 2010);
- Model Standards of practice for child custody evaluation (Association of Family & Conciliation Courts, 2007);
- Practice Parameters (American Academy of Child and Adolescent Psychiatry, 1997).



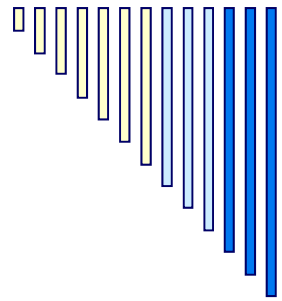
# Selecting an Evaluator

- Training in child custody evaluation methods
- Training in forensic interviewing of children
- Training in forensic interviewing of adults
- Training in forensic use of collateral information
- Training in forensic use of specific tests



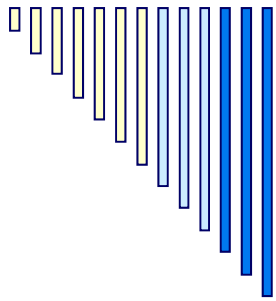
# Selecting an Evaluator

- Training in specific areas of behavioral sciences that relate to the specific questions posed for investigation by the court.
- Stay away from the “hired guns.”



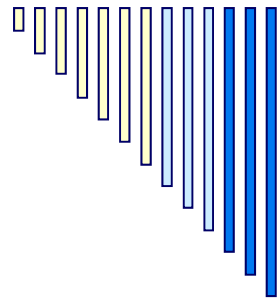
## Elements of a Properly Conducted Child Custody Evaluation

- Specific Questions
- Interviews with each parent
- Interviews with each child
- Observation of each parent and child/children
- Review of historical and current records
- Collateral/Third party interviews
- Psychological Testing (when needed)



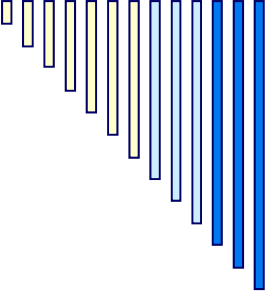
## Elements of a Properly Conducted Child Custody Evaluation

- Opinions directly related to questions posed by the court/attorneys
- Opinions based upon peer-reviewed research (citations to research included);
- Opinions based upon clinical judgment clearly distinguished from opinions based upon peer-reviewed literature



# Issues to Address in Deconstructing a Child Custody Evaluation

- Qualifications in relevant areas
  - Get CV
  - Get list of continuing education attendance over last 5 years
  - How often has the evaluator been qualified as an expert by the court
  - How many forensic evaluations has the evaluator done – distinguish between being court-appointed and being hired by one party

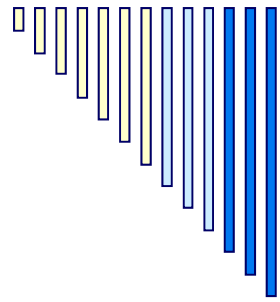


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# Issues to Address in Deconstructing a Child Custody Evaluation

- Specific Questions
  - Informed consent/assent to litigants/parents

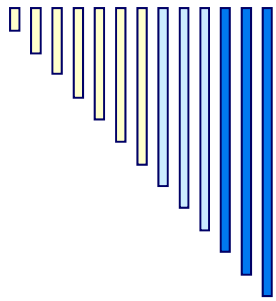




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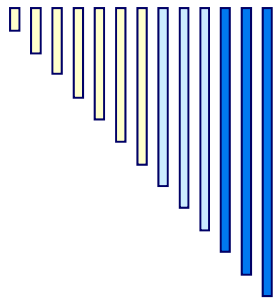
## Issues to Address in Deconstructing a Child Custody Evaluation

- Did interview data reflect specific questions guiding evaluation
  
- Did interviews with child/children investigate specific concerns identified in specific questions?
  
- Observation of each parent and child/children
  - Observer vs. Participant



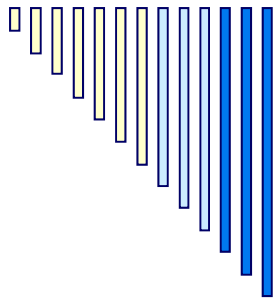
# Importance of Specific Questions

- Questions define scope
- Questions help guide interview examination
- Questions help identify most appropriate tests to employ
- If the evaluator was court-appointed, were the questions posed in the appointment order actually answered



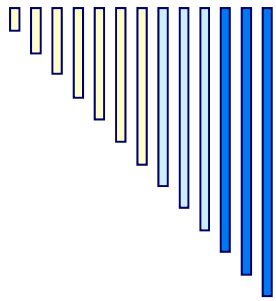
# Purpose of Interview Data

- Provide information about relevant parenting factors
- Relevant child factors
- Relevant parent-child factors
- Relevant family factors



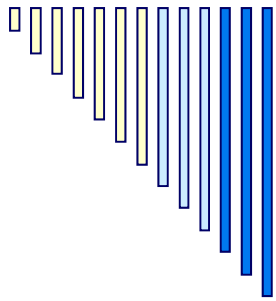
# Interview Data

- Most evaluations contain information about the parental conflict
- Most evaluations contain little information about parenting competencies
- Most evaluations contain little information about the children FROM the children

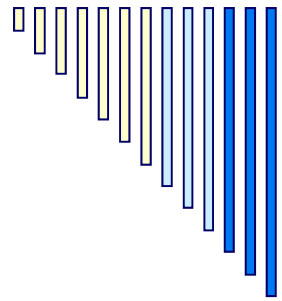


# Child Interviews

- Did the evaluator employ proper interview methods to interview children?
  - Open ended questions
  - No leading questions
  - No suggestive questions
  - No directive questions

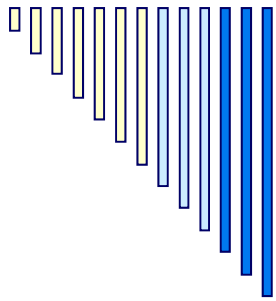


- What steps did the evaluator take to ensure the accuracy of her note taking during child interviews?
  
- When were notes taken?
  
- Was each child's information reliable over time (consistent across interviews?)
  
- Signs of coaching?



# Parent-Child Observations

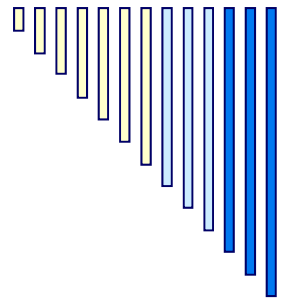
- How typical of real life parent-child interactions?
  - Office v. home
  
- Role played by evaluator?
  
- Reliability of data (note taking)



# Parent-Child Observations

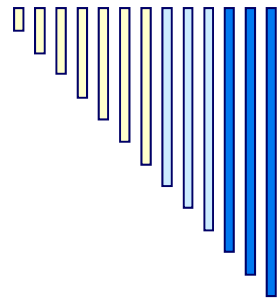
- What information is in the report about how the parent-child observation was conducted;
- role played by the evaluator;
- specific behavioral descriptions





# Record Review

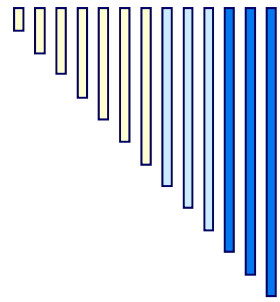
- Review of relevant records include
  - Therapist
  - School
  - Physician
  - Care takers/nannies
  - Neighbors/friends
  - Extended family
  - Community resources



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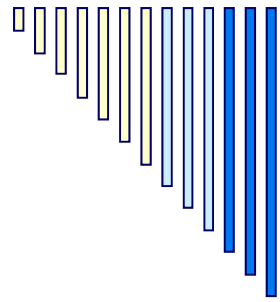
## Issues to Address in Deconstructing a Child Custody Evaluation

- Obtain relevant historical and current records
- Were Collateral/Third party informants interviewed about specific questions of concern?



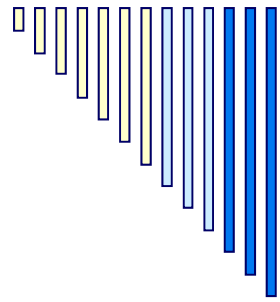
# Issues to Address in Deconstructing a Child Custody Evaluation

- Relevant Psychological Testing?
  - Proper scoring?
  - Use of computer generated interpretive reports?
  - Appropriate/reasonable interpretation of data?



## Issues to Address in Deconstructing a Child Custody Evaluation

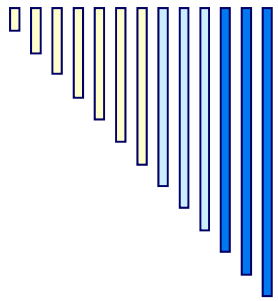
- Did the evaluator address the statutory factors pertaining to best interests?
  
- Did evaluator define and then discuss the psychological and developmental needs of the child?
  
- Did the evaluator define and then discuss each parent's parenting capacity/attributes



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## Issues to Address in Deconstructing a Child Custody Evaluation

- Were opinions logically related to the data generated by evaluation?
- Were opinions based, in part, on peer reviewed literature?
- Were rival, alternative hypotheses considered?
- Was reasoning for recommendations included?



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# Strategies for Rebutting a Child Custody Evaluation

- Ethical Standards of Profession
- Professional Practice Guidelines
- Rules of Evidence