

Guidelines for Psychological Evaluations in Child Protection Matters

Introduction

The problems of abused and neglected children are epidemic in our society (U.S. Department of Health and Human Services, Children's Bureau, 2008) and create issues that psychologists may be called upon to address.

Psychologists are positioned to contribute significantly to decision-making in child protection matters. Psychological data and expertise may provide sources of information and a perspective not otherwise available to courts regarding the functioning of parties, and thus may increase the fairness of decisions by the court, state agency or other party.

As the complexity of psychological practice increases and the reciprocal involvement between psychologists and the public broadens, the need for guidelines to educate the profession, the public, and the other interested parties regarding desirable professional practice in child protection matters continues to increase. Because psychologists may assume various roles and responsibilities in child protection matters, the following guidelines were developed primarily for psychologists conducting psychological evaluations in such matters.

These guidelines are a revision of the 1999 *Guidelines for Psychological Evaluations in Child Protection Matters* (APA, 1999). These guidelines are informed by the American Psychological Association's (APA) *Ethical Principles of Psychologists and Code of Conduct* ("Ethics Code") (APA, 2002a, 2010). The term "*guidelines*" refers to statements that suggest or recommend specific professional behavior, endeavors, or conduct for psychologists. Guidelines differ from *standards* in that standards are mandatory and may be accompanied by an enforcement mechanism.

Guidelines are aspirational in intent. They are intended to facilitate the continued systematic development of the profession and to help facilitate a high level of practice by psychologists. Guidelines are not intended to be mandatory or exhaustive and may not be applicable to every professional situation. They are not definitive and they are not intended to take precedence over the judgment of psychologists. The specific goal of the guidelines is to promote proficiency in using psychological expertise when psychologists conduct psychological evaluations in child protection matters.

Child protection laws address three interests: the child's, the parents', and the State's. Child protection laws emphasize that the child has a fundamental interest in being protected from abuse and neglect.

These laws also address parents' interests in child protection matters.

Parents enjoy important civil and constitutional rights regarding the care for their children. Public policy and practice developments in recent years have also acknowledged the role of extended family and kinship systems in child care matters, such as policies favoring child placement with grandparents or other family members rather than in foster care when such placement is consistent with safety of and care for the child. Although the term "parents" will be used in these guidelines for the sake of simplicity, this term is also intended to include persons other than the biological parents who are raising the child, that is, grandparents, other relatives, step-parents, guardians, and adoptive parents, among others.

In addition to the interests and rights of the child and parents, the State also has interests in child protection matters. All states have the right to investigate and to intervene in cases where a child has been harmed or there is a reasonable belief that a child is being harmed. The specific procedures guiding State intervention in child protection cases vary across jurisdictions but may be understood to involve different phases which may, in practice, overlap. Psychologists strive to be familiar with the relevant law, procedures and practices in the jurisdiction(s) where they provide child protection evaluations.

In the first phase, an investigation by child welfare authorities may be triggered by a report of suspected child maltreatment, which may include involvement by parent(s), sibling(s) or others who have access to the child. (Health and Human Services, 2009). If the initial report suggests that urgent intervention is required to assure the safety of the child, child welfare authorities may seek court authorization to take emergency custody of the child pending further investigation.

In the second phase, if the results of investigation indicate that the child has been harmed or is at significant risk of harm, the child welfare authorities may offer voluntary services or seek court authorization to extend protective custody if it was obtained due to the urgency of the initial report. Child welfare authorities may also seek to obtain or extend protective custody of the child based on the investigation's findings. Typically, an initial strategy for further assessment and intervention for the family is developed and then is presented to the family for voluntary participation and/or is submitted to the court.

This process of resolving protective custody issues and determining an intervention strategy may require court hearings and a finding by the court that the parents have maltreated the child or have otherwise failed to care for or protect the child adequately, and a determination that circumstances warrant continued protective State custody of the child. During this phase,

the court may periodically review interventions and other reunification efforts, and/or permanency planning for the child in the event that reunification cannot occur. At any point during this second phase, the court may order a variety of case-specific assessments relevant to the child protection issues, or a psychologist may be retained by another entity to conduct such assessments.

In the third phase, if efforts at reunification fail or if the court determines that the facts of the case relieve the State from making reasonable efforts to reunify the family, the case may move from child protection to termination of parental rights and permanency planning for the child (e.g., long-term kinship care, guardianship, adoption). During this phase, assessments commonly focus upon why clinical or social services interventions have failed in achieving family reunification, whether the State has made legally required reasonable efforts towards reunification, the likelihood that the parent(s) will ever be brought to adequate parenting or restored to an adequate parenting capacity they had earlier demonstrated, and/or the nature of any continuing risk of harm to the child due to parental maltreatment of the child or failures to provide the child adequate care and protection. Psychologists involved in child protection evaluations remain aware that the termination of parental rights has a finality prompting both due process protections and higher standards of proof than may be required in other phases of a child protection proceeding (Condie & Condie, 2007).

Child protection authorities are ordinarily required to make “reasonable efforts” to establish or re-establish parenting capacities sufficient to reunite the child with his/her parent(s). Typically, these “reasonable efforts” requirements must be met prior to a disposition of termination of parental rights. States may have different statutory or case law requirements regarding reunification efforts. In conducting an evaluation, psychologists become reasonably familiar with such statutes and case law (Ethics Code 2.01(f)).

During any phase of a child protection case, psychologists may be asked to evaluate different parties for different purposes. Psychologists may act as court-ordered evaluators, or may be retained by the state child protection agency or an organization providing contracted services to the state child protection agency. Psychologists may also be retained by a *guardian ad litem* or by an attorney for the child if one has been appointed to represent the child. Finally, psychologists may be retained by the parent(s) or counsel representing the parent(s).

As evaluators in child protection cases, psychologists are frequently asked to address the following questions:

1. What maltreatment of the child, if any, occurred in this case?
2. If maltreatment has occurred, how seriously has the child's psychological well-being been affected?

3. What therapeutic interventions would be recommended to assist the child?
4. Can the parent(s) be successfully treated to prevent harm to the child in the future? If so, how? If not, why not?
5. What would be the psychological effect upon the child if returned to the parent(s)?
6. What would be the psychological effect upon the child if separated from the parent(s) or if parental rights are terminated? (See Barnum R., 1997; Barnum, R., 2002)

In the course of their evaluations, and depending upon the specific needs of a given case, psychologists are frequently asked to evaluate the parent(s) and/or the child individually or together. Psychologists seek to gather information on family history, assess relevant personality functioning, assess developmental needs of the child, explore the nature and quality of the parent-child relationship and assess evidence of trauma. Psychologists typically also consider specific risk factors such as substance abuse or chemical dependency, domestic violence, health status of family members and the entire family context. In addition, psychologists review information from other sources, including assessments of cultural, educational, religious and community factors (Ethics Code 9.06).

Particular competencies and knowledge are necessary to perform psychological evaluations in child protection matters so that adequate and appropriate psychological services can be provided to the court, state agencies or other parties (Ethics Code 2.01(f)). For example, in cases involving physical disability, such as hearing impairments, orthopedic handicaps, etc., psychologists strive to seek consultation from experts in these areas. This need for consultation may also apply to other aspects of human diversity, such as, but not limited to, ethnic minority status, sexual orientation and socioeconomic status, (Condie, 2003).

Conducting psychological evaluations in child protection matters can be professionally demanding and personally stressful. The demands and stresses of such evaluations may intensify because the evaluation issues may include child abuse, neglect and/or family violence. Psychologists remain alert to how these issues may personally affect them and, when appropriate, seek peer or other personal support, and undertake relevant study, training, supervision and/ or consultation (Ethics Code 2.06).

Expiration

These guidelines are scheduled to expire 10 years from [DATE, the date of adoption by APA Council of Representatives]. After this date, users are

encouraged to contact the APA Practice Directorate to determine whether this document remains in effect.

Guidelines for Psychological Evaluations in Child Protection Matters

I. Orienting Guidelines

1. *The primary purpose of the evaluation is to provide relevant, professionally sound results or opinions in matters where a child's health and welfare may have been and/or may be harmed.*

Rationale: Government agencies and courts rely on psychological evaluations in child protection matters to become further informed about the welfare and safety of a child in whose life the State has intervened and to make decisions to ensure the child's welfare and safety. As a result, opinions and recommendations of such evaluations must have a reliable basis in the knowledge and experience of psychology—a standard based in psychology's professional ethics and in legal case law (Ethics Code 2.04; Daubert v. Merrell Dow Pharmaceuticals, Inc., 1993).

Application: Psychologists seek to determine the specific nature of the child protection proceeding; to identify the issues and questions to be addressed that are relevant to the specific investigation or legal proceeding; and to design and implement an evaluation process based upon established

scientific and professional knowledge in psychology that sufficiently addresses these issues or questions (Ethics Code 2.04; see Budd, Felix, Sweet, Saul & Carlton, 2006).

2. *When psychologists conduct evaluations in child protection matters to address specific referral questions, they are aware that the interests of the parties in the case may differ from each other.*

Rationale: In all child protection matters, the State has intervened because of concerns that the child's physical and/or psychological well-being has been endangered. Nevertheless, psychologists who conduct child protection evaluations are aware that the interests of the child, the child's parent(s), and the State—each represented separately in the legal system—may not always coincide. As a result, evaluation recommendations may affect each of these interests differently.

Application: Psychologists, mindful of the different interests represented in child protection matters, strive to conduct impartial and competent evaluations. When conducting their evaluations, psychologists consider the developmental and functional impact on the child of past parental abuse or neglect, as well as the risks to the child's well-being from any reasonably anticipated parental maltreatment or from parental failures to provide the child with sufficient care or protection. Psychologists also seek to address

the following risks to the child: multiple substitute care placements; maltreatment while in substitute care; inadequate supports or interventions from poorly resourced child welfare systems; prolonged separation from parents, kin or other primary caregivers who may be adequate caregivers; unwarranted or poor quality institutional care; or other inadvertent but potentially negative consequences of State intervention.

3. When the referral question in the evaluation addresses concerns about the parent/caretaker and child relationship, psychologists are mindful of: the parent/caretaker's parenting capacities, including circumstances or factors relevant to maltreatment of the child; the child's well-being and psychological needs; and the resulting fit.

Rationale: Although some referral questions may direct psychologists to address specific case concerns involving only the child or parent(s), psychologists are aware that recommendations about the child ordinarily cannot be separated from broader considerations about the fit between the child and parent(s) that have given rise to the child protection concerns, interventions, and/or legal proceedings. As a result, psychologists remain mindful of those broader "fit" considerations as well as of the limits of their evaluative role and of the evaluation information that they consider when they address the parent-child fit in a given case. Where the information and opinions or recommendations arising from a family member's evaluation

have potential implications for the fit between a child's developmental needs and the parenting capacities of the child's caretakers, psychologists strive to communicate those implications thoughtfully and fairly, within the limits of their data and of the evaluation's referral questions and scope (Ethics Code 2.04, 9.01(a)).

Application: Evaluation of the parent/caretaker and child relationship in child protection matters may include the following assessments: (a) the adult's capacities for parenting, including those attributes, skills and abilities most relevant to abuse and/or neglect concerns; (b) the psychological functioning and developmental needs of the child, particularly with regard to vulnerabilities and special needs, including any disabilities, of the child as well as the strength of the child's attachment to the parent(s) and the possible detrimental effects of separation from the parent(s); (c) the current and potential functional abilities of the parent(s) to meet the needs of the child, including an evaluation of the relationship between the child and the parent(s); and (d) the need for and likelihood of success of clinical interventions for observed problems, which may include recommendations regarding treatment focus, frequency of sessions, specialized kinds of intervention, parent education and placement (see Grisso, 2002).

II. General Guidelines: Preparing for a Child Protection Evaluation

4. *The role of psychologists who conduct child protection evaluations is that of a professional expert who strives to maintain an unbiased, impartial approach to the evaluation.*

Rationale: Government agencies and courts may use psychologists' findings to support consequential decisions involving the child and his or her family, including determination of whether a child was abused or neglected, parental access to the child, psychological treatment recommendations, or termination of parental rights. The gravity of these decisions highlights the ethical mandate that the psychologist conduct the evaluation from an unbiased, impartial stance (Ethics Code 9.01(a), 9.06). Further, if the psychologist will testify as an expert about his or her findings, the psychologist can only "assist the court" if his or her opinions arise from evaluation data gathered impartially from reliable methods that reflect the knowledge and experience of psychology (Ethics Code, 2.04; Daubert v. Merrell Dow Pharmaceuticals, Inc, 1993).

Application: Psychologists rely on scientifically and professionally derived knowledge when conducting child protection evaluations (Ethics Code 2.04). Psychologists strive to describe fairly the data they gather and develop in their evaluations and the inferences they draw from the data upon which they base the conclusions and recommendations. Psychologists are not precluded from assertively presenting their findings, opinions or

recommendations. But psychologists strive to base their findings, opinions and/or recommendations upon generally-accepted methods and procedures, an unbiased assessment of the relevant data, active consideration and discussion of all plausible alternative explanations of the data, and fair disclosure of any significant limitations upon the findings, opinions and/or recommendations offered (Ethics Code 2.04); Heilbrun, 2001).

Psychologists unable to accept this unbiased impartial approach ordinarily decline to participate in the case or withdraw from the case. If not permitted to decline the case or withdraw from the case, psychologists make known their commitment to the APA Ethics Code, disclose to the court or to entities that retain them the factors that may bias or compromise the objectivity and reliability of the evaluation findings, and take steps to resolve the conflict consistent with the APA Ethics Code (Ethics Code, 1.02, APA, 2010).

5. Psychologists strive to gain competence sufficient to provide effective and ethical forensic services when conducting child protection evaluations and when addressing case-specific issues that may require specialized professional knowledge, training or skills.

Rationale: Competence to conduct child protection evaluations and to address case-specific issues is ethically demanded and legally required for reliable, admissible expert testimony. Ethically, "Psychologists provide

services ... in areas only within the boundaries of their competence”

(Ethics Code 2.01). Legally, trial courts must ensure “that those who purport to be experts truly have expertise concerning the actual subject about which they are offering an opinion.” (Broders v. Heise, 1996; Daubert v. Merrell Dow Pharmaceuticals, 1993).

Application: Psychologists consider what specific competencies are required for each child protection evaluation and strive to ensure either that they have the necessary competencies to conduct the evaluation or that they can adequately conduct the evaluation under either supervision or in a consulting relationship with a colleague who maintains the necessary competencies.

Professional competence in performing psychological assessments of children, adults, and families is necessary but often insufficient to address, competently and ethically, many referral questions in child protection matters. For example, because child protection proceedings specifically focus upon allegations or findings of abuse and/or neglect of a child, psychologists conducting assessment in these matters seek to develop sufficient expertise in assessment of child maltreatment that is often beyond the scope of general clinical psychology practice (Ethics Code 2.01(c)).

Because a broad range of potential professional skills and competencies may be required to conduct competent child protection evaluations, it may be unreasonable to expect a psychologist to possess the clinical, forensic, cultural, linguistic or other skills necessary to address every potential

referral issue or question prompting a child protection evaluation. For example, psychologists involved in cases where children present with specific disabilities, psychologists strive to rely upon information about the particular vulnerabilities and risks of maltreatment associated with the child's specific disabilities. When the psychologist's competencies are insufficient to conduct a competent evaluation, the psychologist seeks appropriate supervision or consultation, or declines or refers the case (Ethics Code 2.01(b)).

Psychologists strive to consider the various professional competencies called upon to conduct evaluations with specific child protection concerns. Child protection evaluations may call upon specialized education, training, experience and/or supervision in the following areas: forensic psychology practice; law and child welfare practices relevant to the jurisdictions where child protection evaluations are provided; policies and resources that may be relevant to the specific case; risk and protective factors in child maltreatment; the dynamics and potential impacts of various forms of child abuse and neglect; other forms of family violence; family development and dynamics; adult, child and family adaptation and psychopathology; identification of potential strengths or resources within the family or extended family; the potential impact of familial separation; the potential impact of kinship based care, community-based foster or congregate care, or

institutional care upon a child; and the role of human and cultural differences.

Some cases may also require specialized training or experience with specific cultural or linguistic concerns, particular diversity populations, familiarity with unusual patterns or types of maltreatment, needs arising from medical conditions, the functional impact of specific disabilities of the parent(s) and/or or child upon the care and protection of the child, or other essential case-specific competencies. Careful consideration of the specific professional competencies required in each case will enable psychologists to determine if they have sufficient skills to conduct the evaluation, if they should seek appropriate supervision or consultation, or if they should decline or refer the matter.

Psychologists rely upon current research and professional best practices in selecting and using evaluation methods and procedures (APA Ethics Code, Standard 2.04, 9.02(a)). Psychologists strive to communicate any relevant limitations upon the use, findings, or interpretations of psychological assessment procedures, tools, and/or tests to persons who rely upon their reports or professional opinions/recommendations for guidance or decision-making (APA Ethics Code, Standard 9.06).

Psychologists become familiar with applicable legal and regulatory standards and procedures, including state and federal law governing child protection

issues (Ethics Code 2.01(f)). Thus, psychologists seek to become familiar with local child welfare policies, practices and resources relevant to the cases in which they provide professional services, and to be familiar with the procedures and practices of local courts, government agencies, or organizations that provide potentially relevant social or clinical services to persons involved in child protection proceedings. These may include laws and regulations addressing child abuse, neglect and termination of parental rights (see, for example, Indian Child Welfare Act of 1978; Adoption and Safe Families Act, 1997).

6. Psychologists strive to be aware of personal biases and societal prejudices and seek to engage in nondiscriminatory practice.

Rationale: Unrecognized personal biases may compromise the ethical integrity and legal reliability of evaluation conclusions and recommendations. Such biases include those related to age, gender, gender identity, gender expression, race, ethnicity, national origin, religion, sexual orientation, disability, language, culture and socioeconomic status, and immigration status (Ethics Code 3.01). Societal prejudices, just as perniciously, may lead to discriminatory, unfair use of evaluation methods and reasoning that disrespect examinee's rights and dignity and undermine the scientific and professional bases of the child protection evaluation (Ethics Code 2.04, 9.06; Principles C, D, and E).

Application: A psychologist recognizes and strives to overcome any personal biases that could reasonably be expected to impair his or her objectivity, competence, or effectiveness when functioning as an evaluator in child protection matters (Ethics Code 9.06). If any of the psychologist's biases will impair his or her functioning in such matters, the psychologist must withdraw from the evaluation. When developing and interpreting evaluation results, psychologists strive to be aware of diverse cultural and community methods of child rearing, and consider these in the context of existing state and federal law. Psychologists also seek to remain aware of the stigma associated with disabilities often found in child protection cases such as intellectual disabilities and psychiatric disabilities (including substance use disorders), and they ensure that they have sufficient professional competencies to provide an objective and accurate evaluation of persons presenting with these disabilities (Ethics Code 2.01). In addition, psychologists seek to address aspects of the disability that are relevant to parenting, and remain mindful of the potential impact of stigma or bias in their own professional work and that of others involved in the case. Also, psychologists use, whenever available, tests and norms based on populations similar to those evaluated (Ethics Code 9.02).

7. Psychologists providing child protection evaluations strive to avoid role conflicts and multiple relationships that may compromise their objectivity, competence, or effectiveness, or that may

otherwise risk harm or exploitation to the person or identified client (e.g., court, state child protection agency) with whom the professional relationship exists.

Rationale: Inappropriate role conflicts and multiple relationships impair psychologists' abilities to conduct impartial and competent evaluations. As a result, opinions and recommendations from such evaluations will be unable to provide useful information or guidance to entities intervening in the family on the child's behalf and may not provide the basis for reliable testimony that will assist the court to make decisions that address the child's best interests (Ethics Code 3.05, 3.06).

Application: Psychologists seek to manage ethically the role conflicts that may arise when they consider or conduct child protection evaluations.

Psychologists generally do not conduct psychological evaluations in child protection matters in which they serve in a therapeutic role for the child or the immediate family or have had other involvements that may compromise their objectivity. Standard 3.05 of the Ethics Code states, "A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists." This does not, however, preclude

psychologists from testifying in cases as fact or expert witnesses concerning therapeutic treatment of the children, parents or families (Greenberg & Gould, 2001). In addition, during the course of conducting a psychological evaluation in child protection matters or during the pendency of a legal matter in which the evaluation is considered or relied upon by the judge or other legal decision-maker, psychologists do not accept any of the participants involved in the evaluation as therapy clients (Ethics Code 3.05(a)). Therapeutic contact with the child or involved participants following a child protection evaluation is discouraged and when done, is undertaken with caution. When psychologists face extraordinary circumstances, such as when they are serving rural populations or persons with specialized needs for which adequate alternative services are not available, psychologists seek to resolve the situation consistent with Ethics Code Standard 3.05(c).

Psychologists asked to testify regarding a therapy client who is involved in a child protection case are encouraged to become aware of the limitations and possible biases inherent in such a role and the possible impact on ongoing therapeutic relationships (Ethics Code 3.05(a)). Although the court may order psychologists to testify beyond their role as fact witnesses to become expert witnesses, psychologists appreciate the difference in roles and methods between being psychotherapists, child protection evaluators, and expert witnesses, and strive to make these distinctions clear to the court (Greenberg & Shuman, 1997, 2007).

Psychologists appreciate that persons seeking or receiving their evaluation services in child protection cases may not always reliably distinguish between clinical and forensic roles, or recognize other potential role conflicts or multiple relationships that may arise in the context of these cases. For example, family members may not clearly distinguish whether a psychologist is acting in a clinical capacity or a forensic capacity, or understand when a court or state child welfare agency may be the psychologist's client.

Similarly, state child welfare agencies or courts may not appreciate the difference between providing clinical assessment or therapy services and providing forensic assessment and/or expert witness services. Therefore, psychologists strive to communicate with referring parties and family members in a manner that prevents misperceptions of their role.

III. Procedural Guidelines: Conducting a Psychological Evaluation in Child Protection Matters

Child protection matters present situations that reflect a variety of legal and/or ethical considerations. The appropriate procedure or response in one case may be inappropriate in another. Psychologists seek to educate themselves about laws that govern the evaluation, as well as other applicable sections of the Ethics Code, particularly those that address confidentiality and informed consent (Ethics Code 2.01(f), 4.01, 9.03). In addition, psychologists appreciate the need for timeliness in their

involvements in child protection matters, including responding to the evaluation referral, scheduling evaluation appointments, and completing the report. Inattention to court-imposed timelines may delay the case's legal disposition and negatively impact the child and parent(s) involved in the case.

8. *Based on the nature of referral issues or questions that define the focus and scope of the evaluation, psychologists determine the methods that are appropriate to address the referral issues or questions.*

Rationale: Psychologists, based on their training, their experience, and their knowledge of research and professional literature, are best able to determine the methods to address evaluation referral issues and questions appropriately.

Application: In child protection matters, psychologists are frequently asked to address: past, current or foreseeable child protection issues; parenting capacities; and/or the fit between parenting capacities and the needs of a child for care and protection. From these questions, psychologists may propose interventions designed to provide parents with parenting skills and supports sufficient to provide adequate care and protection for a child, may describe why previous attempts at intervention or support have failed,

and/or may offer an opinion about the likelihood that a parent's deficiencies may be adequately remedied by further interventions or supports.

Although the scope of the psychologist's involvement in child protection matters is ordinarily defined by the issues or questions prompting referral for an evaluation, the scope may sometimes be reasonably inferred by the situation prompting the referral when specific questions do not accompany the referral. Nonetheless, in cases where the issues, questions, or circumstances prompting the referral are unclear, the psychologist seeks to clarify the scope of the child protection evaluation being requested.

A psychologist strives to address evaluation referral questions with appropriate methodology that is based upon established scientific and professional knowledge (Ethics Code 2.04). If the psychologist is unable to address the referral question in full, the psychologist strives to communicate the limitations of the evaluation procedures and declines to offer opinions or recommendations beyond the scope of the assessment or his or her expertise (Ethics Code 2.01, 9.01(a)).

For example, if the referral is for a child protection evaluation of only a parent or only a child, psychologists ordinarily refrain from offering opinions or recommendations regarding the specific fit between the person evaluated and the child or a parent who was not evaluated. In such cases, psychologists may describe findings (e.g., cognitive disability, substance

dependence, likelihood that a particular form of maltreatment has occurred, attitudes justifying intimate partner violence) and the potential implications for parenting and/or child safety or well-being. But where the psychologist lacks a sufficient foundation on which to base case-specific opinions or recommendations, the psychologist acknowledges the limitations of the foundation and refrains from offering opinions or recommendations (Ethics Code 9.01(a)). In cases where basic facts are contested and remain uninvestigated or unresolved, psychologists ordinarily avoid offering opinions regarding the personal credibility of evaluation participants or asserting that the psychologist can determine the truthfulness of statements made by evaluation participants. Psychologists may report relevant consistencies or inconsistencies of information that are found in documents reviewed, that are provided by persons interviewed as evaluation subjects or collateral sources, that are developed through assessment procedures, or that are found in other information sources. Similarly, psychologists asked only to critique the child protection assessments of another mental health professional in a particular case may do so but then refrains from making case-specific recommendations about the parent(s) and child because they did not evaluate the parents or child (Ethics Code 9.01(a), (b)).

Psychologists strive to inform those making referrals for child protection evaluation and, as appropriate, those making decisions in these cases, of any relevant limitations upon their evaluations, opinions or

recommendations. When psychologists begin a child protection evaluation but then identify relevant issues not anticipated in the referral questions that could enlarge the scope of the evaluation, psychologists ordinarily notify the identified client for the child protection assessment of the unanticipated relevant issues, notify the identified client of any mandated reports or any previously unanticipated limitations upon confidentiality or testimonial privilege, and, unless urgent action is required to maintain the safety of persons consistent with professional practice and law, seek authorization from the identified client before conducting further evaluation of those newly identified issues (Ethics Code 9.03(a)).

9. In accordance with the Ethics Code, psychologists performing psychological evaluations in child protection matters obtain appropriate informed consent or assent from all adult participants, and as appropriate, inform the child participant.

Rationale: Psychologists seek to be aware of informed consent issues with examinees because of the intrusive nature of child protection matters on the privacy of family members, the complexity of the legal issues involved in such cases, and the potential serious legal consequences of the evaluation for the family (Ethics Code 9.03).

Application: Psychologists seek to establish the identified client for purposes of the child protection evaluation. For example, in court-ordered

evaluations, the court may be the identified client. In other circumstances, a referring state child protection agency or an attorney may be the identified client. Psychologists seek to inform the identified client and others who are involved in the referral and evaluation process, including the evaluation participant(s) about the psychologist's role, the nature of the relationship between the psychologist and the identified client and/or the referring party, the nature and purpose of the evaluation, any limitations on confidentiality and privilege, who might foreseeably have access to the evaluation's results, who is paying for the evaluation, and any other material facts regarding the evaluation process and reporting. This information should be conveyed in language understandable to those receiving the information. Persons who will receive the information should be afforded the opportunity to ask questions about the referral context and/or the evaluation process (Ethics Code 9.03(a)).

Persons referred for a child protection evaluation may feel compelled to consent to the evaluation, particularly when the evaluation is court-ordered or referred by child protection authorities. As a result, psychologists seek to determine whether what is required prior to beginning the evaluation is either informed consent by the evaluation's prospective examinees or assent by the prospective examinees to an evaluation "mandated by law or government regulations" (Ethics Code 9.03). Psychologists also offer minors unable to legally provide their own informed consent an opportunity to

assent to the evaluation (Ethics Code 3.10(b)). Psychologists providing child protection evaluations are mindful of requirements for informed consent or assent relevant to the context or jurisdiction in which the professional service is provided.

Before beginning the evaluation process, psychologists seek to obtain from the participants in the evaluation confirmation of sufficient understanding of the evaluation and its referral context, and their agreement to participate in the evaluation whether by their informed consent or assent (Ethics Code 9.03(a), (b)). When psychologists doubt the capacity of an evaluation participant to offer a meaningful informed consent or assent, psychologists ordinarily do not proceed with evaluation until receiving clarification about whether or not to proceed from a court, attorney representing the individual, a guardian or other source with appropriate authority. When persons referred under court order or by their counsel decline to participate, psychologists typically refer such persons back to the attorneys who represent them in the child protection matter or seek the court's guidance before proceeding. In circumstances where there is not yet a court case filed or the persons declining participation in the evaluation are not yet represented by counsel, psychologists seek to be aware of whether or not another referring party (e.g., governmental child protection agency) has the authority to require participation over the objections of persons referred, or to authorize the psychologist to proceed despite the objections.

Psychologists providing child protection evaluations understand issues of confidentiality and testimonial privilege and seek to inform themselves of the relevant laws and professional practices regarding these issues in the jurisdiction in which the evaluation is provided (Ethics Code 2.01(f), 4.01). Psychologists are aware that confidentiality and/or testimonial privilege issues may be shaped by the specific characteristics or procedural posture of the case, the specific nature of the evaluation requested or the assessment procedures relied upon, as well as factors such as legal requirements, court orders or agency regulations. Standard 3.07 of the Ethics Code states, "When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g., therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality."

Psychologists strive to provide to the child information regarding the nature, purposes and procedures of the child protection evaluation in a developmentally and culturally appropriate manner, and seek to obtain the child's assent if the child cannot legally provide their own informed consent. (Ethics Code 3.10 (b)). Psychologists strive to explain to the child the nature

of the evaluation procedures and attempt to make it clear to the child that information from the evaluation will be shared with other persons. When those persons are reasonably foreseeable and it is developmentally appropriate to do so, the psychologist strives to identify key persons with whom the information will be shared (e.g., judge, case worker, and attorney). Psychologists seek to allow time for questions by the child and answer them in developmentally and culturally appropriate manners.

10. *Psychologists use multiple methods of data gathering.*

Rationale: Multiple methods of data gathering serves three ends: it broadens the information base upon which evaluators will base their opinions and recommendations; it provides information to challenge biases that may compromise evaluators' opinions and recommendations; and it contributes to building a quality evaluation that will support ethical and legally reliable expert opinions.

Application: Psychologists strive to use multiple methods of data gathering, including but not limited to, clinical interviews, interviews with collateral contact, clinical observations, and/or psychological testing that are sufficient to provide appropriate substantiation for their findings. Psychologists ordinarily review relevant reports (e.g. from child protection agencies, social service providers, law enforcement agencies, health care providers, child care providers, schools and institutions). When conducting child protection

evaluations, psychologists are mindful of child welfare system issues that may affect their interactions with the system, including: case records or other documents of varying levels of detail, accessibility, or reliability; the potential or explicit advocacy stance of persons working professionally within the system (e.g., attorneys, case workers, guardians ad litem); the potential impact of turnover or case loads among child welfare staff or service providers to the family; and the potential range of responses of parents and children to investigation and/or court involvement.

Psychologists appreciate that preconceptions and biases may significantly impact their work, particularly in circumstances when they may prematurely believe a particular conclusion is obvious or a case is clear cut—an example of confirmatory bias. This underscores the importance of using consistent multimodal evaluation approaches and procedures across cases, and of utilizing multiple sources of information to actively explore plausible alternative explanations of the evaluation data (Heilbrun, 2001).

In evaluating parental capacity to care for a particular child or assessing the child-parent interaction, psychologists make efforts to observe the child together with the parent in natural settings as well as structured settings. However, in cases where the safety of the child is in jeopardy or where the court has prohibited parental contact with the child, this may not always be possible. Psychologists understand that parent-child observations in safe,

observed settings may be of limited predictive value for assessing the safety of parent-child interactions outside of such observations. Psychologists may also attempt to interview extended family members and other individuals when appropriate (e.g., caretakers, grandparents, clinical and social services providers, and teachers). If information gathered from a third party is used as a basis for conclusions or recommendations, psychologists seek to identify the source of the information, corroborate the information from at least one other source when possible, and, if obtained, document the corroboration in the report. If the information cannot be corroborated but is nonetheless relied upon to support conclusions or recommendations, the psychologist acknowledges that the information is uncorroborated.

11. *Psychologists seek to properly interpret clinical or assessment data that informs or supports their conclusions.*

Rationale: Properly interpreting clinical or assessment data in an evaluation—neither over-interpreting nor inappropriately interpreting or applying the data—conforms with the ethical requirement that psychologists base their work upon established scientific and professional knowledge of the discipline (Ethics Code 2.04).

Application: Psychologists seek to refrain from drawing conclusions that are inadequately supported by the evaluation data. Psychologists strive to rely on scientific and professional knowledge in the field to interpret data from

interviews or assessment measures, aiming to avoid over-interpreting or under-interpreting the data. Psychologists also become knowledgeable about the influence of social and cultural factors in the different evaluation phases: when generating data, when drawing inferences from available data, and when offering conclusions, opinions or recommendations (Ethics Code 9.02(a), 9.06, 9.10).

When reporting findings from a child protection evaluation, psychologists seek to present their evaluations' substance and conclusions in a form that is understandable to the recipient of a written report or oral testimony.

Recipients typically include persons without extensive training in psychology or evaluation methods. Therefore, psychologists in their written reports and testimony seek to distinguish among data, inferences, and conclusions or opinions so that recipients can understand the bases of psychologists' work in the case (Ethics Code 9.01(a)).

Psychologists strive to be knowledgeable about cultural norms. For example, to avoid overstating or understating child protection concerns, psychologists seek to understand relevant cultural variations in the use of physical or verbal methods of discipline, child care giving by adults in the extended family, or contributions to child care or family finances by older siblings (APA, 2002b).

Psychologists also strive to acknowledge to the court any limitations in methods or data used (Ethics Code 9.06). In addition, given the potentially serious consequences of a court's finding that is adverse to an examinee's wishes, psychologists are aware that the examinee's responses in a court ordered evaluation may reflect a defensive posture towards the evaluation.

12. Psychologists conducting a psychological evaluation in child protection matters strive to provide opinions only when they have obtained sufficient data to support those opinions.

Rationale: Opinions from evaluations that are unsupported by sufficient data do not reflect the established scientific and professional knowledge of the discipline (APA Ethics Code, Standard 2.04, 9.01(a)). Rather, those opinions are likely to be based on biases that will compromise the evaluation's professional quality and legal reliability.

Application: Psychologists conducting evaluations seek to withhold communicating opinions and recommendations to any entity in child protection matters until they have obtained sufficient data to support those opinions and recommendations. If required to communicate opinions and recommendations before completing an evaluation, psychologists strive to appropriately limit the nature and extent of their opinions and recommendations.

In addition, the Ethics Code requires that psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an evaluation of individuals adequate to support their opinions. If, despite reasonable efforts, such an evaluation is not practical, psychologists seek to clarify the probable impact of the evaluation's absent information on the reliability and validity of their opinions and limit the nature and extent of their opinions and recommendations to the referring entity (Ethics Code 9.01(b)).

13. *Recommendations, if offered, address the evaluation's specific referral questions, which may encompass various concerns related to the child's welfare and health in a child protection matter.*

Rationale: Referral questions orient and direct evaluations. As a result, recommendations address the referral questions. Recommendations unconnected to referral questions may not meet the concerns of the referral entity and may not be deemed relevant in court. Similarly, consistent with Guideline 8, psychologists may have to inform judges and court officers about the evaluation methods they will use to address specific referral questions effectively.

Application: Recommendations are based on sound psychological data, such as clinical data, interpretations and inferences founded on generally

accepted psychological theory and practice, especially when these are well-supported by evidence-based research (Ethics Code 9.01(a), 2.04).

Particular attention may be given to outcomes research on interventions with abusive families if relevant to the scope of the evaluation as defined by the referral issues or questions. Psychologists strive to communicate relevant information and clinical data pertaining to the issues being evaluated while also maintaining an awareness of and communicating scientific limitations in predicting behavior. Psychologists also seek to explain the reasoning behind their conclusions.

The profession has not reached consensus about whether psychologists should offer opinions regarding the “ultimate issues” before the court—for example, whether psychologists should offer opinions about child placement, termination of parental rights, or the best interests of the child. Some in psychology hold that psychologists may aid judges and other decision-makers by offering opinions on these “ultimate issues;” others in psychology hold that such opinions are essentially social and moral decisions for which psychologists have no particular mandate or expertise and which are beyond the purview of psychological practice. Psychologists conducting child protection evaluations are advised to be aware of the arguments on both sides of this issue and to be able to explain the logic of their position concerning their own practice (APA, 2009, Guideline 13).

If psychologists providing child protection evaluations choose to offer opinions on “ultimate issues” before the court or for other decision-makers (e.g., state child welfare authorities), the recommendations should be based on articulated assumptions, data, interpretations, and inferences based upon established professional and scientific standards (APA, 2009, Guideline 13; Ethics Code 2.04).

14. *Psychologists create and maintain records in accordance with ethical and legal standards.*

Rationale: Legal and ethical standards describe requirements for the appropriate development, maintenance, and disposal of professional records (Ethics Code 6.01). Further, records developed during an evaluation provide underlying professional and legal support for the evaluation’s opinions and recommendations.

Application: All data obtained in the process of conducting a child protection evaluation are properly maintained and stored in accordance with the *APA Record Keeping Guidelines* (APA, 2007). Psychologists recognize that when engaging in forensic work, it is particularly important to maintain complete, legible, and accurate documentation of all their work. All records, including raw data and interview information, are recorded with the understanding

that they may be reviewed by other psychologists, the court, or the referring party.

Psychologists understand from statutes, case law, or professional ethics that managing records from a child protection evaluation referred from an agency, a lawyer, or a court, including conditions for the records' release, may be handled differently than records developed in a psychotherapy setting (Ethics Code 2.01(f)).

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Glossary of Terms¹

The following definitions are written generally and are intended solely to familiarize readers to some common terms used in child protection matters. These are not to be construed as uniformly accepted legal definitions or applied in specific legal matters. Readers wishing to use these terms as part of their evaluations are encouraged to confer with a licensed attorney in the state in which they are providing the evaluation.

Abuse, emotional: also referred to as 'psychological maltreatment' generally defined as a repeated pattern of behavior that conveys to children that they are worthless, unwanted or only of value in meeting another's needs; may include serious threats of physical or psychological violence.

Abuse, physical: generally defined as the suffering by a child, or substantial risk that a child will imminently suffer, a physical harm, inflicted non-accidentally upon him/her by his/ her parents or caretaker.

Abuse, sexual (child): generally defined as contacts between a child and an adult or other person significantly older or in a position of power or control over the child, where the child is being used for sexual stimulation of the adult or other person.

Abuse, neglect: (see Neglect)

¹ This Glossary of Terms appeared in the original 1999 *Guidelines for Psychological Evaluations in Child Protection Matters*. As noted in those Guidelines, many definitions contained in this glossary have been taken from *Working With Courts in Child Protection* (National Center on Child Abuse and Neglect, 1995).

Child Protective Services (CPS): The social service agency (in most states) designated to receive reports, investigate and provide rehabilitation services to children and families with problems of child maltreatment. Frequently, this agency is located within a large public entity, such as a department of social services or human services.

Disposition hearing: held by the Juvenile/Family Court to determine the disposition of children after cases have been adjudicated, includes determinations regarding placement of the child in out-of-home care when necessary and services needed by the children and family to reduce the risks and address the effects of maltreatment.

Evidence: any form of proof presented by a party for the purpose of supporting its factual allegation or arguments before the court.

Expert witness: an individual who by reason of education or specialized experience possesses superior knowledge respecting a subject about which persons having no particular training are incapable of forming an accurate opinion or deducing correct conclusions. A witness who has been qualified as an expert will be allowed (through his/ her answers to questions posted) to assist the jury in understanding complicated and technical subjects not within the understanding of the average lay person. Experts are also allowed to provide testimony based on "hypothetical" scenarios or information/opinions which are not specifically related to the parties in particular legal action.

Fact witness: generally defined as an individual who by being present, personally sees or perceives a thing; a beholder, spectator or eyewitness. One who testifies to what he/she has seen, heard, or otherwise observed regarding a circumstance, event or occurrence as it actually took place; a physical object or appearance, as it usually exists or existed. Fact witnesses are generally not allowed to offer opinion, address issues that they do not have personal knowledge of or respond to hypothetical situations.

Family/Juvenile court: courts specifically established to hear cases concerning minors and related domestic matters such as child abuse, neglect, child support, determination of paternity, termination of parental rights, juvenile delinquency, and family domestic offenses.

Family preservation/reunification: the philosophical belief of social service agencies, established in law and policy, that children and families should be maintained together if the safety of the children can be ensured.

Guardian *ad litem*: generally defined as an adult appointed by the court to represent and make decisions for someone (such as a minor) legally incapable of doing so on his/her own in a civil legal proceeding. The guardian *ad litem* can be any adult with a demonstrated interest.

Guardianship: legal right given to a person to be responsible for the necessities (e.g., food, shelter, health care) of another person legally deemed incapable of providing these necessities for him/ herself.

Maltreatment: generally defined as actions that are abusive, neglectful, or otherwise threatening to a child's welfare. Commonly used as a general term for child abuse and neglect.

Neglect: generally defined as an act of omission, specifically the failure of a parent or other person legally responsible for a child's welfare to provide for the child's basic needs and proper level of care with respect to food, shelter, hygiene, medical attention or supervision.

a. emotional: generally defined as the passive or passive-aggressive inattention to a child's emotional needs, nurturing or emotional well-being. Also referred to as psychological unavailability to a child.

b. physical: generally defined as a child suffering, or in substantial risk of imminently suffering, physical harm causing disfigurement, impairment of bodily functioning, or other serious physical injury as a result of conditions created by a parent or other person legally responsible for the child's welfare, or by the failure of a parent or person legally responsible for the child's welfare to adequately supervise or protect him/her.

Out-of-home care: child care, foster care, or residential care provided by persons, organizations, and institutions to children who are placed outside of their families, usually under the jurisdiction of Juvenile/Family Court.

Petition: a formal written application to the court requesting judicial action on a particular matter.

Protection order: may be ordered by the judge to restrain or control the conduct of the alleged maltreating adult or any other person who might harm the child or interfere with the disposition.

Review hearing: held by the Juvenile/Family Court to review dispositions (usually every 6 months) and to determine the need to maintain placement in out-of-home care and/or court jurisdiction of a child. Every state requires state courts, agency panels, or citizen review boards to hold periodic reviews

to reevaluate the child's circumstances if s/he has been placed in out-of-home care. Federal law requires, as a condition of Federal funding eligibility, that a review hearing be held within at least 18 months from disposition, and continue to be held at regular intervals to determine the ultimate resolution of the case (i.e., whether the child will be returned home, continued in out-of-home care for a specified period, placed for adoption, or continued in long-term foster care).

Termination of parental rights hearing: formal judicial proceeding where the legal rights and responsibility for a child are permanently or indefinitely severed and no longer legally recognized and where the State assumes legal responsibility for the care and welfare of the child.

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