

EXPLORING A PROCESS-ORIENTED FORENSIC FAMILY OBSERVATION PROTOCOL¹

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This article recommends a modification of the child interview and observational components of the conventional child custody evaluation. By scheduling these events in back-to-back sequence, the evaluator adds critical process-oriented data to familiar content-oriented data. These additional data include at least eight landmark separation, reunion, and transition events valuable to understanding the dynamic family system. The benefits of this protocol are discussed in terms of the ecological validity of available data, reduced evaluation time and costs, and research. Limitations are discussed relevant to questions of sampling bias, fatigue and sequence effects, and practical dilemmas that arise when evaluating families with many children.

Key Points for the Family Court Community:

- Conventional systemic (custody) evaluations focus on data obtained within sessions.
- A process-oriented observational protocol includes data available between sessions.
- Observation of how children and caregivers manage the transition of care can be especially valuable to assessing the children's needs, the parents' respective strengths, and the quality of the co-parenting relationship.
- A process-oriented observational protocol is particularly valuable in consideration of a child's tendency to adapt chameleon like to each of two or more disparate and conflicted environments.
- A process-oriented observational protocol is time and therefore cost efficient.

Keywords: *Alienation; Best Interests; Chameleon Child; Co-Parent; Custody; Evaluation; Interview; Observation; and Parenting Plan.*

INTRODUCTION

Child custody evaluation (CCE) is both an art and a science (Gould & Martindale, 2007). The evaluator is bound to work within relevant ethical guidelines, jurisdictional mandates, and cultural norms, using methods consistent with the contemporary literature to draw cautious inferences and make recommendations (or not) as requested by the specific court. The professional who conducts a CCE is challenged to structure the evaluation process so as to collect a balanced and representative sample of all aspects of the reconfigured family system in a time and cost-efficient means.

The present article explores the benefits of adopting a process-oriented observational protocol as one component part of CCE. The proposed protocol increases the breadth and depth of available data, while simultaneously decreasing participants' total time invested and thereby the costs associated with the process. It lends itself to repeat-measures comparisons within each child in the interest of addressing consistency and between-child comparisons in the interest of furthering forensic family research (Kelly & Ramsey, 2009; Vertue, 2011). Most importantly, the proposed protocol captures critical process observations of how the child and his or her parents manage separations, reunions, and transitions that are often neglected in our conventional CCEs.

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PROFESSIONAL STANDARDS AND GUIDELINES

Several professional guilds have produced standards or guidelines relevant to the conduct of CCEs. These include the American Association of Matrimonial Lawyers (AAML, 2011), the American Academy of Child and Adolescent Psychiatry (AACAP, 1997), and the American Psychological Association (APA, 2010a).² In particular, the Association of Family and Conciliation Courts (AFCC, 2007) has published model standards for the conduct of CCEs intended to represent the highest standards across professional guilds.

These publications all agree that CCE must incorporate a number of child-centered interviews and observations. These include direct observation of and/or interview with the child individually (e.g., AFCC, 2007, item 5.8; AAML, 2011, item 4.7; APA, 2010a, item II[10]) and observation of the child in the company of each parent (AAML, 2011, item 4.8; AFCC, 2007, items 5.9 and 10.2; AACAP, 1997; APA, 2010a, item II[10]).³ The latter observations are intended to address the quality of the “fit” in the parent-child relationship (APA, 2010a).

CCE AND FIT

Despite this emphasis on fit, neither the regulating professional bodies nor the law adequately define the term. The AACAP guidelines, for example, reference, “. . . assessment of the quality of the attachments between the parents and the children [as the] centerpiece of the evaluation” (1997, p. 5). The AAML similarly references assessment of, “. . . attachment or bonding. . .” (2011; p. 6).⁴

These references suggest that fit is to be understood exclusively *within* each parent-child dyad.⁵ Custody evaluation is not, however, a competitive sport in which the parent with the better fit wins the child (Garber, 2009). In fact, a best-interests analysis must balance the quality of the child’s relationship *within* each dyad with an understanding of the how the child experiences the larger family system, that is, those *between*-parent variables, including how the child manages separations from, reunions with, and transitions between the parents’ care. Thus, CCE must include observations of the child both within- and between-relationships.

WITHIN- AND BETWEEN-PARENT OBSERVATIONS

The complex interaction of within- and between- is well known to science. In general, the concept recognizes that a simple comparison of a dependent variable (e.g., a child’s behavior) in each of two or more distinct conditions is often inadequate. Instead, behavior within each condition must be understood as compared to the same behavior between conditions. To statisticians, this means an analysis of variance (ANOVA; e.g., Nussbaum, 2015). To researchers, this means, for example, understanding to what degree each of two variables (e.g., medication, psychotherapy) and the interaction of the two may be associated with diminished anxiety (Ferrero et al., 2007). To clinicians, this means, for example, understanding how a student’s behavior within each academic subject area is impacted by his behavior between classes (McGrath & Rust, 2002).

In the context of CCE, observations of a child with each parent (within-dyad data) must be understood in the context of how the child manages between-dyads. Separation, reunion, and transition are, after all, hallmarks of the child’s postseparation reality.

Although seldom couched in these terms, the divorce-related literature has implicitly begun to recognize this within- and between-dyad distinction in recent years. This can be seen in the field’s intense focus on the systemic dynamics that can corrupt the child’s role and relationship within (Garber, 2011) and between relationships. Parental alienation illustrates the latter: Determining that Parent A’s words and actions can undermine the quality of the child’s relationship with Parent B is to recognize the interaction of between and within. In response, forensic family evaluation

procedures are beginning to emphasize fit in both its within- and between-parent meanings (Drozd & Olesen, 2004; Fidler, Bala, Bimbaum, & Kavassalis, 2008; Gould, Martindale, & Eidman, 2008).

THE STRANGE SITUATION

Nowhere has the concept of parent-child fit been more eloquently and thoroughly studied than in the area of parent-child attachment (Bowlby, 1969, 1973). The gold standard measure of attachment fit is the Strange Situation (Ainsworth, Blehar, Waters, & Wall, 1978), a process-oriented observational protocol.

The Strange Situation is a standardized observation of a toddler's response to a sequence of seven back-to-back-to-back 3-minute episodes including parent-child separations, reunions and the introduction of an unfamiliar third party. Critical to the measure are inferences about how the child uses the proximal parent to manage the stresses that accumulate throughout the process.

Part of Ainsworth's genius in developing the Strange Situation is her implicit understanding of the interaction of within- and between-variables and therefore the value of a process-oriented observational protocol. A procedure that captured the same content in the same sequence on separate occasions (e.g., child and mother on Tuesday; child and stranger on Thursday; child reunited with mother ten days later) would serve a very different purpose.⁶ And yet, this is precisely how most CCEs are conducted today.

A PROCESS-ORIENTED FORENSIC FAMILY EVALUATION PROTOCOL

Neither professional standards nor the relevant literature recommending the proper conduct of CCEs (e.g., Rohrbaugh, 2008; Ackerman, 2006; Gould & Martindale, 2007; Stahl, 1999, 2002) explicitly discuss the within- versus between-session distinction. None of these publications address the means or sequence of scheduling child-centered interviews or observations.⁷ Indeed, informal and ad hoc discussions among professionals at a recent international child custody conference find that most schedule interviews and observations by convenience around their own and participants' calendars.⁸

Convenience scheduling typically scatters the component parts of the evaluation across the calendar. Many evaluators try to preserve a preferred order of meetings (e.g., interview child alone before observing child with either parent), but even these nonempirical preferences are often compromised in the interest of availability and in deference to the existing (albeit often temporary) schedule of care. Proceeding in this manner has the appearance of minimizing the extent to which the evaluation disrupts participants' lives, while it actually prolongs a very anxiety-inducing process. Most pointedly, scheduling in this manner means that the child must travel to and from the professional's office many times over, thereby adding to the time that he or she takes away from other responsibilities and preferred activities and confounding each meeting with the proximal variables (e.g., the accompanying parent's pressures) unique to each occasion.

Scheduling the same interviews and observations in a single back-to-back-to-back sequence minimizes the total time and the total duration of the evaluation.⁹ These very practical benefits might be insignificant if the proposed protocol compromised the quality or quantity of data available. To the contrary, the proposed protocol enriches the data available by augmenting familiar within-dyad observations with valuable between-dyad data.

DESCRIPTION OF THE PROTOCOL

The process-oriented protocol is one component part of CCE. It is intended for use with children of all ages and across a variety of family constellations. It is flexible and responsive to these and

related variables, while emphasizing certain landmark events, which facilitate repeat-measures comparisons within a child across time as well as between-children comparisons.

The proposed protocol augments the professional's familiar within-dyad observations (i.e., individual child interviews; Garber, 2007; Hynan, 2003; Poole & Lamb, 1998) and family group observations (Hynan, 2003; Simon & Shelton, 2014; Schmidt et al., 2007; Baker et al., 2010; Acklin & Cho-Stutler, 2006)) with a number of between-dyad observations. These additional data focus on understanding how the child manages a succession of stresses not unlike those stresses he or she must manage in the postseparation world.

In the interest of clarity, this discussion initially presumes evaluation of a hypothetical family that includes only two parents and one school-aged child. Permutations of the protocol responsive to other family constellations and/or the age of the child(ren) are briefly discussed in a subsequent section.

Scheduling the protocol is simple: everyone involved is asked to clear their calendars for one specific date. Parents will need to take the day off of work. The child will need to be taken out of school. Written directions outlining events of that date are provided to the parents, including careful direction about how the evaluator is to be introduced to the child and how the events of the day will progress (see Appendix A).¹⁰

The process of the day is described in Table 1. Using arbitrary times and durations, the day unfolds like this: At 9:30 a.m., Parent A delivers the child to the evaluator's office, introduces the evaluator and, once the child is comfortable, is excused to an adjoining waiting area. The first child interview ensues. At 11:00 a.m., Parent A knocks on the door and joins the evaluator and the child for the first dyadic observation. At noon, Parent B arrives, knocks on the door and joins the evaluator, child, and Parent A. The parents manage their face-to-face transition and Parent A leaves the premises. The second dyadic observation ensues. At 1:00 p.m., Parent B is excused to the adjoining waiting room and the second individual child interview ensues. At 2:00 p.m., Parent B knocks on the door, collects the child, and the pair leave the premises.

BETWEEN-PARENT MEASURES

Eight landmark, process-oriented observations are highlighted in Table 1. These are critical between-dyad data points but by no means represent all the process-oriented data available. The eight landmarks are (1) transition into interview in the company of Parent A, (2) Separation from Parent A, (3) Reunion with parent A, (4) Transition out of Parent A's care and into Parent B's care, (5) Acclimation to Parent B, (6) Separation from parent B, (7) Reunion with Parent B, and (8) Departure.

Transition fuels anxiety. These eight moments highlight how the child and the parents manage anxiety. How the child and each dyad respond to these stresses speaks to their resilience, reflects the history of their relationship, and presumably sets the stage for their future functioning.

How children experience and express anxiety and how parents respond to their own and their children's anxiety may be as varied as the individuals. Despite this variability, the eight landmark events emphasized in the proposed protocol provide the observer with a window on participants' coping strategies, their appropriateness, and effectiveness.

Anticipating these landmarks, the evaluator is wise to ask each parent in advance how they expect the process will unfold. Will the preschooler cling or cry at separation? Will the teenager even notice that Mom is gone or that Dad has arrived? How are Mom and Dad each likely to behave at transition and how will the child react? The (in)accuracy of the parents' predictions, as compared to the reality, provides yet another perspective on their sensitivity to and familiarity with the child's needs and abilities.

Interpreting these process-oriented data, like everything else in this field, is necessarily context dependent. The parents' and the child's behavior must be understood as a function of factors including culture (Schute, 2014; Camp, 2011), development (Garber, 2010), personality, and the family's

Table 1

Planning A Process-Oriented Observational Protocol for a Family Comprised of Two Parents and One Child (Times and Durations Are Arbitrary and for Illustration Only)

<i>Time</i>	<i>Event</i>	<i>Between-parent observations of interest include:</i>
09:30 a.m.	Parent A delivers Child to office; introduction and orientation	1. Transition into interview <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?
10:00 a.m.	Child interview #1	2. Separation from parent A <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?
11:00 a.m.	Parent A joins examiner and Child. Parent A-child dyad observation ensues	3. Reunion with parent A <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?
12:00 p.m.	Parent B arrives, knocks on door and enters. Parent transition. Parent A leaves	4. Transition between parents <ul style="list-style-type: none"> • How does the departing parent facilitate or inhibit the child's transition? • How does the arriving parent facilitate or inhibit the child's transition? • How does the child use the departing parent to manage anxiety? • How does the child use the arriving parent to manage anxiety? • How do the parents respond to one another around the child? • How does the child respond to the parents' interaction?
12:15 p.m.	Parent B-child dyad observation ensues	5. Acclimation to Parent B <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?
01:15 p.m.	Parent B is excused to waiting room. Child interview #2 ensues	6. Separation from Parent B <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?
02:15 p.m.	Parent B returns to collect child, prepare to leave	7. Reunion with Parent B <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?
02:30 p.m.	Departure	8. Departure <ul style="list-style-type: none"> • How does proximal parent facilitate or inhibit the child's transition? • How does the child use the proximal parent to manage anxiety?

unique relational history (Sroufe, Egeland, Carlson, & Collins, 2005), as well as the sequence of the day's events.

Several questions may help the evaluator frame and interpret between-dyad data in the context of the larger CCE:

Separation

There are four planned separations during the course of this protocol. The first occurs soon after arrival when Parent A leaves the child to participate in interview with the evaluator. The second occurs when Parent A departs soon after Parent B has arrived for transition. The third occurs when Parent B leaves the room following the second dyadic observation. The fourth and final separation occurs as the child leaves the site with Parent B at the conclusion of the day.

Separation opens a window on the proximal parent's capacity to respond sensitively to the child's need for predictability and structure. On this basis, the evaluator may be able to draw hypotheses about how the particular parent-child pair manage anxiety. In particular:

- How, if at all, does the proximal parent alert the child to the passage of time and prepare him or her for separation? Are these choices appropriate to the child's needs and abilities?
- How, if at all, do the proximal parent's words and actions reassure the child (e.g., "You'll have fun!")? Fuel the child's anxiety (e.g., "Call me if you need me, I'll be right in the waiting room")? Or even threaten the child (e.g., "I hope she doesn't hurt you this time!")?
- How, if at all, does the proximal parent manage his or her own anxiety at separation? How does he or she balance the need to impress the evaluator with the need to respond to the child?
- How does the proximal parent set limits and consequences (positive or negative) so as to facilitate the process and reassure the child?

REUNION

There are three reunions scheduled through the course of this protocol. They occur when Parent A re-enters the room following the initial child interview, when Parent B arrives at transition, and when Parent B arrives to collect the child following the second child interview.

Reunion episodes are considered especially revealing of parent-toddler security in the Strange Situation and may be similarly valuable in the present protocol. Birnbaum, Fidler, and Kavassalis (2008, p. 120), note, for example, "the [forensic] assessor may choose to activate the attachment system by observing the child's and the parent's reactions when the parent leaves the room and then returns. The assessor may also choose to leave the child briefly and return and observe the child's reactions."¹¹

Reunion essentially asks the child if and how he or she expects that the proximal parent will help to manage the anxiety accumulated during the preceding separation. Among these observations:

- How, if at all, do the child and parent reconnect upon reunion? Visually? Verbally? Physically? Do these behaviors provide the child with relief? Are they welcomed or met with indifference or resistance?
- Does the child engage by drawing the parent into his or her experience (e.g., "look what I made!") or by deferring instead to the parent's experience (e.g., "did you get your work done")?
- How, if at all, does the parent engage the child at reunion? Is this effort appropriate to the child's apparent needs? Or are the parent's needs evident in a response that is either misdirected, inadequate, or overwhelming to the child?
- How do the parent and child triangulate the evaluator into reunion? Is the returning parent focused on the evaluator or the child? Does the parent engage the evaluator so as to be reassured (e.g., "those magazines in your waiting room are really old!") or as if to collaborate with a co-parent (e.g., "so how'd he do?") Does the child engage the evaluator as the parent returns as if to shun the parent?

TRANSITION

Children will be more or less familiar with their parents' face-to-face encounters with one another in part as a function of the details of the (temporary) parenting plan. Regardless, the population of children most likely to participate in a CCE are also most likely to experience their parents' mutual encounters as highly stressful.

In some instances, parents participating in CCE are legally prohibited from approaching one another. In other instances, one or both parents believe that proximity risks violence. The proposed protocol proceeds under both conditions by modifying the transition meeting so as to respect the law and ensure safety. For example, rather than observe a direct parent-to-parent transition, the period is choreographed so as to assure that Parent A leaves the premises before Parent B arrives. This creates another opportunity for child interview or observation.

More commonly, transition occurs when Parent B arrives in the interview room and comes face-to-face with his or her co-parent, the evaluator, and the child. This moment is a juggling act of attention, emotion, and impulse control for all involved and, as such, can reveal parents' priorities, their abilities to manage emotion and behavior, and their capacity to recognize and respond to the child's needs. The same moment can reveal how the child experiences the parent's face-to-face interaction, how he or she divides needs and attention between the adults, and how he or she manages emotion and impulse. Does the child cling to Parent A and avoid Parent B? Reject Parent A and run to Parent B? Collapse in anxiety or explode in rage or withdraw into solitary play or regress as the anxiety of the situation builds?

In order to capture the complexity of the transition observation, it is useful to consider it in three parts:

- i. In anticipation of reunion with Parent B:
 - How, if at all, do Parent A's words, behaviors, and emotions set the tone for transition?¹² Do these actions facilitate or hinder the child's readiness to transition into the other parent's care?
 - How, if at all, does the child respond in anticipation of transition? Are the child's words, behaviors, and emotions congruent or suggest ambivalence? Does the child appear to resonate with the proximal parent's emotional state? Does the child seek that parent's approval of how to feel and behave?
 - How, if at all, do Parent A and/or the child triangulate the evaluator into transition? By seeking intervention ("Do we have to do this?"), support ("Do you have paper so we can make her a card?"), and/or by using the evaluator to bridge the anxiety ("Will you play checkers with Billy while his Mom and I talk?").¹³
- ii. During transition from Parent A to Parent B: There are four people in one room and a potentially overwhelming flood of corresponding data. The evaluator is challenged to attend to each parent's and the child's words, behavior and emotions, as well as maintaining awareness as to how his or her own presence impacts the process.
 - How, if at all, do Parent A and the child orient and respond to Parent B upon arrival?
 - How, if at all, does Parent B orient and respond to each: the child, Parent A and the evaluator?
 - How does the child divide his or her attention, words, expressed emotion and proximity between the two parents, the evaluator and activities?
 - How, if at all, do the parents engage one another verbally, emotionally, and behaviorally? If they communicate directly to one another, is the content child-centered, timely and constructive ("I brought sandwiches"), scripted ("Hello") or inappropriate ("Here's your check")? What emotion is expressed in the accompanying nonverbal communication?
 - How, if at all, do the parents serve or neglect the child's apparent needs? Does Parent A reassure the child ("You guys are going to have fun!")? Is Parent B sensitive and responsive to the child's immediate needs ("Can you show me what you've been doing?")?
- iii. Acclimation to Parent B: The child's transition between disparate and warring caregivers can be experienced as both a culture shock and a loyalty bind. Many parents report that it can take days for their children to settle into their home, only then to be forced to leave again (Smart, Neale, & Wade, 2001). The proposed protocol provides a fleeting glimpse of this reentry, thereby allowing the evaluator to hypothesize about how the parents' and the child's words, actions and emotions facilitate or hinder transition and, by extension, the quality of the child's relationship with each parent.

Now that the child and Parent B are alone with the evaluator:

- How, if at all, does the child accept or reject Parent B? Does the child seek or avoid proximity? Does the child invite Parent B to join in ongoing activities or try to engage Parent B at the adult's level?

- How, if at all, does Parent B acknowledge and facilitate, ignore, or impede the child's feelings about separation from Parent A? To what degree, if any, does Parent B validate the child's experience of loss? To what degree, if any, does Parent B ignore, resent, or dismiss this loss? Are these efforts sensitive and responsive to the child's apparent needs ("I know you miss your mom"), an effort to redirect the child's attention ("I brought your favorite cookies!") or self-serving ("Do I get a hug, too!?").
- How, if at all, does Parent B engage the child? Does he or she appear to read and respond to the child's immediate needs and wishes, distract the child into some neutral topic or activity, or invite the child to engage in adult matters?
- How does Parent B set limits and consequences (positive or negative) so as to facilitate the process and reassure the child?

RECORD-KEEPING AND DEBRIEFING

The forensic family evaluator's responsibility to keep a detailed record of the process (AFCC 2007, item 3.2; APA 2010a, item I[14]; AAML, 2011, item 9.1) is a daunting task, at best. The proposed protocol's emphasis on process-oriented data compounds this difficulty by focusing on complex interpersonal and sequential dynamics over an extended period.

Given the limits and biases of an exclusively written record (Lamb, Orbach, Sternberg, Hershkowitz, & Horowitz, 2000), the evaluator might consider additional means of documenting and/or validating the available data. Audio and/or video recording parts or all of the proposed protocol can be as helpful as it is time consuming and legally complicated (Bertel, 2012; Gould & Martindale, 2007). With or without the benefit of a digital record, it is routinely helpful to ask parents to provide a written summary of their observations as soon as possible after participating in the protocol. These documents can both assist the evaluator to reconstruct critical events and can reveal important biases and distortions.

PERMUTATIONS ON THE STRUCTURE OF THE PROTOCOL

In the interest of clarity, the proposed protocol has thus far been illustrated as applied to the evaluation of the simplest of family constellations. In reality, the complexity of family constellations requires that each evaluation be designed to accommodate the unique needs of each family group.

The proposed protocol is malleable and responsive to these needs. Like any evaluation procedure, it is necessarily limited by numerous practical concerns. In addition, the back-to-back nature of this protocol is furthermore limited by consideration of accumulated fatigue.

One might argue that a preschooler's participation in a 4- or 6-hour "marathon" evaluation is unduly taxing; that the child's needs would be better served and the child's strengths be better represented under other conditions. Acknowledging the validity of these statements, the alternative position argues that CCE should not intend to capture all involved wearing their Sunday best. CCE more reliably and validly captures how participants cope with stress. In this regard, Acklin and Cho-Stutler (2006) highlight that, "...the demand characteristics of parent-child observation are most likely to yield optimal, not typical, parental performance. . . [in that parents are motivated] . . .to demonstrate their outstanding capabilities or how gifted or talented their child is" (pp. 54, 57).

First, Do No Harm

Common sense and ethics (e.g., APA, 2010b, Principle A) establish this mandate above all else. The dilemma arises, however, when the evaluator's task can only be accomplished by inducing stress in participants. This is the foundation upon which both the Strange Situation and the proposed protocol were designed. With this in mind, the evaluator must disclose—from the start—that the

evaluation process (not just the protocol described herein) is likely to be stressful and must be prepared to interrupt the process in response to any person's extreme distress.¹⁴ Should this occur, the conditions of the prematurely terminated observation are in and of themselves valuable data.

Idiosyncratic Participant Needs and the Proposed Protocol

The evaluator should anticipate such needs (e.g., medication, diet, naps, toileting) and make careful choices as to if, when, and how to accommodate them. Within the limits of safety, the task of accommodating their own and their children's needs naturally falls to the parents. From this perspective, mealtime, naptime, medication administration, and bathroom breaks are as much parts of the process as any preconceived task or question. The evaluator reasonably advises that all involved should come prepared to spend the day and then looks at preparedness as yet another relevant observation.

Facilitating or Confounding the Parenting Plan

Parents (and their lawyers) often insist that CCE be scheduled so as to coincide with the existing (albeit often temporary) parenting plan. A parent's unwillingness to concede time to accommodate a court-ordered evaluation ("but that's my time!") or insistence that all such time must be compensated *quid-pro-quo* ("only if I can have them on Sunday!") is valuable data in and of itself.¹⁵ So too is a parent's concern that the evaluation will interrupt the existing schedule of care and will therefore be disruptive to the child.

In the ideal, the proposed protocol will be scheduled on a transition day so that the familiar transition out of Parent A's care and into Parent B's care occurs, albeit through the evaluation process. The backpacks, hockey gear and dance outfits that inevitably travel with the children simply become part of the process.

And if the evaluation cannot be scheduled so as to coincide with transition? The evaluator may reasonably assert that the schedule of care should be adjusted on a one-time basis for this exclusive purpose and leave the details to parties, their counsel and the court to determine.

Accommodating Various Family Constellations

In reality, most family constellations are far more complex than the hypothetical group of three discussed above. Sibling groups of two or more, adult's intimate and parenting partners, grandmatum-caregiver, uncles, aunts, neighbors, and nannies each offer potentially valuable contributions.

The evaluator must define how each member of the family group will contribute to the evaluation and design the observational protocol accordingly. The proposed protocol can accommodate some of this complexity within a single day. To illustrate, one possible schedule for a family of four is outlined in Table 2.

When a full day of this sort is reasonably considered too taxing and/or when family constellations are more complex, the proposed protocol can be broken into two or more segments, as illustrated in Table 3. In this example, the protocol is implemented over the course of 2 days. It is balanced (AAML, 2011, item 4.4; AFCC, 2007, item 5.5) in that each day begins with one of the family groups and ends with the other. It includes sibling group and individual interviews with the four children and incorporates each parent's new partner into the process, regardless of marital status.

This illustration spans two 8-hour days plus travel. Given that the process includes four adults and four children, this is still relatively time and cost efficient (and is highly efficient as compared to scheduling the same contacts individually across months), with one notable consideration: The sequence of individual child interviews leaves each child waiting hours while his or siblings are interviewed in sequence. The evaluator and parents might make allowances for one of the adults present to take the children out as suits the setting, or the children can be encouraged to bring

Table 2

Planning a Process-Oriented Observation Protocol for a Family Comprised of Two Parents and Two Children (Times and Durations are Arbitrary and for Illustration Only)

<i>Time</i>	<i>Event</i>
08:30 a.m.	Parent A delivers children to office; introduction and orientation
09:00 a.m.	Parent A is excused to adjoining waiting room. Sibling group interview/observation ensues.
09:30 a.m.	Parent A returns to collect Child #2. First individual interview with Child #1
10:30 a.m.	Parent A collects Child #1 and delivers Child #2. First individual interview with Child #2
11:30 a.m.	Parent A and Child #1 reunite with Child #2 and evaluator Parent A family observation ensues
12:30 p.m.	Transition: Parent B arrives. Parent A departs premises.
01:30 p.m.	Parent B family observation ensues
02:30 p.m.	Parent B is excused to waiting room with Child #1. Second individual interview with Child #2 ensues
03:30 p.m.	Parent B collects Child #2 and delivers Child #1 Second individual interview with Child #1 ensues
04:30 p.m.	Parent B and Child #2 collect Child #1 Parent B and children depart

portable activities and homework. As undesirable as this downtime may be, it is one more realistic stress that may inform the process.¹⁶

CONSISTENCY AS A MEASURE OF VERACITY

Evaluators frequently rely on internal consistency as one method with which to infer the validity of an observation or report (La Rooy, Lamb, & Pipe, 2009; Vredeveld, van Koppen, & Granhag, 2014).¹⁷ It is in part for this reason that custody evaluators are commonly advised to conduct repeat observations or interviews (Hynan, 2003).¹⁸ But over what span of time?

Consistency across a greater span of time (weeks or months or more) may suggest veracity, but inconsistency across the same period of time is confounded by intervening events (La Rooy, Pipe, & Murray, 2007; Vredeveldt et al., 2014). Things change. Thus, when the period between Time 1 and Time 2 is greater, there is a higher likelihood of false negatives (i.e., incorrect claims that inconsistency is due to lying).¹⁹

Consistency across a briefer period (as when a child is interviewed at 10:00 a.m. and again at 1:00 p.m. the same day; see Table 1) may appear at first glance to be more vulnerable to manipulation and thereby to weaken credibility. In short, it's easier to tell the same lie twice in 3 hours than across three weeks. However, both the accumulated stresses and controlled contexts built into the proposed protocol tax the child's presentation such that efforts to dissemble (due, in some cases, to a proximal parent's coaching, scripting, bribery or threats; see Lyon, Malloy, Quas, & Talwar, 2008) are more easily discerned. This author has, for example, found that closely repeated interviews using the proposed protocol have been valuable in understanding children's chameleon-like efforts to adapt to their parents' very different emotional environments (Garber, 2014a,b).

LIMITATIONS OF THE PROPOSED PROTOCOL

As compared to conventional forensic family evaluation processes, the proposed protocol offers a number of distinct advantages. It also raises at least three important dilemmas.

Table 3

Planning a Two-Day Process-Oriented Observation Protocol for a Family Comprised of Four Parents and Four Children (Times and Durations are Arbitrary and for Illustration Only)

<i>Date</i>	<i>Time</i>	<i>Event</i>
DAY ONE	08:30 a.m.	Parent A and partner deliver children to office;introduction and orientation
	09:00 a.m.	Parent A and partner are excused to adjoining waiting room. Sibling group interview/observation ensues.
	09:30 a.m.	Parent A returns to collect Children #2, #3 and #4. First individual interview with Child #1
	10:30 a.m.	Parent A collects Child #1 and delivers Child #2. First individual interview with Child #2
	11:30 a.m.	Parent A collects Child #2 and delivers Child #3. First individual interview with Child #3
	12:30 a.m.	Parent A collects Child #3 and delivers Child #4. First individual interview with Child #4
	01:30 a.m.	Parent A and partner and Children #1, #2 and #3 reunite with Child #4 and evaluator Parent A family observation ensues
	02:30 p.m.	Transition: Parent B and partner arrive Parent A and partner depart premises. Parent B family observation ensues
	03:30	Parent B and partner and children depart
	04:30	Parent B and partner deliver Children to office;introduction and orientation
DAY TWO	08:30 a.m.	Parent B and partner are excused to adjoining waiting room. Sibling group interview/observation ensues.
	09:00 a.m.	Parent B returns to collect Children #1, #2 and #3. First individual interview with Child #4
	09:30 a.m.	Parent B collects Child #4 and delivers Child #3. First individual interview with Child #3
	10:30 a.m.	Parent B collects Child #2 and delivers Child #2. First individual interview with Child #2
	11:30 a.m.	Parent B collects Child #2 and delivers Child #1. First individual interview with Child #1
	12:30 a.m.	Parent B collects Child #2 and delivers Child #1. First individual interview with Child #1
	01:30 a.m.	Parent B and partner and Children #2, #3 and #4 reunite with Child #1 and evaluator Parent B family observation ensues
	02:30 p.m.	Transition: Parent A and partner arrive Parent B and partner depart premises. Parent A family observation ensues
	03:30	Parent A family observation ensues
	04:30	Parent A and partner and children depart

PARTICIPANT FATIGUE

One of the chief rationales for the proposed protocol is that back-to-back observation taxes participants and erodes their defenses so as to provide more ecologically valid inferences (Saini & Polak, 2014). One must simultaneously consider the extent to which the same accumulated stress and fatigue corrupts validity. What comes to mind in this regard is the film industry's stereotyped criminal suspect interviewed under a blinding light for so long that he is willing to admit to any crime. Pending further study, the available research finds that participant personality and motivational attributes play a bigger role in performance than test duration (e.g., Ackerman, Kanfer, Shapiro, Newton, & Beier, 2010; Liu, Allspach, Feigenbaum, Oh, & Burton, 2004).²⁰

EVALUATOR FATIGUE

The proposed protocol taxes the evaluator as well as participants. The organizational, observational, record-keeping, and physical demands (when to use the restroom, for example) of the

proposed protocol are not incidental. The best solution calls for a pair of closely coordinated evaluators to tag-team throughout the evaluation process (AFCC, 2007, item 7.0). When this is not possible, it is this author's experience that the process works. Bathroom breaks and meals simply become part of the day. Records are carefully annotated by activity, time, and participant. The protocol is scheduled within the physical limits of all involved, including the evaluator him or herself.

“But He Was Sick that Day!”

Perhaps the strongest criticism of the proposed model concerns the validity of behavior samples collected in a single day. This concern is relevant to any particular observation or interview in a conventional CCE, but is commonly factored out when data are collected on different dates and collapsed together.

With this potential criticism in mind, the evaluator should consider conducting the protocol twice, reversing the Parent A-Parent B sequence on the second. The benefit is, of course, collection of twice as much data while minimizing concerns specific to the day of evaluation. The cost is the time and therefore the expense.

A similar answer arises spontaneously when circumstances require that the protocol be scheduled across 2 days, as when more than two children are involved (see Table 3). In this instance, concerns about the representativeness of data from one day are at least diminished by comparison to repeat observations on the other day.

In every instance, the parents' respective debriefing summaries at the end of the evaluation day will be relevant. Chief among the many issues each should address is the question of the representativeness (“Was what we saw today about you and your children typical of how you each behave?”)

In the end, the evaluator is left to balance the proximal effects associated with convenience scheduling (e.g., a week spent in mom's care before one contact, a week spent in dad's care prior to another) with the risks of nonrepresentativeness associated with the proposed protocol.

DISCUSSION

The emotionally draining, practically demanding, and often overwhelming process of evaluating a child triangulated into his/her parents' conflict and associated litigation may be more art than science at present.²¹ Although the field has taken important steps to establish relevant guidelines and standards of practice and to demand that the instruments used are both reliable and valid for the purpose, little has been written about the relevance of the overarching process within which relevant data are collected.

Recognizing the chameleon-like adaptability of many children and the systemic confounds that can corrupt the child's voice calls for adoption of an evaluative process that is standardized, seeks to control for these variables, and is responsive to each child's and family's idiosyncratic needs.

No design is perfect. Concerns about recency, proximity, and sequence effects are universal. Procedural compromises will always be necessary in the interest of serving the needs of each family. Given these considerations, the proposed protocol is a step in the right direction. By collapsing child-centered interviews and observations into a back-to-back sequence, and by attending not only to the content within each parent-child dyad but also to the process that occurs between the dyads, the evaluator can collect a greater breadth and depth of data in a more timely and cost-efficient manner.

APPENDIX A

Sample advance description to parents regarding scheduling and introduction of the evaluator:

Important Instructions.

Please read and keep this page for future reference

Dear Co-parents,

We have planned to devote [date] to complete a portion of the pending custody evaluation. This letter explains how that day will be scheduled. Please read this carefully and reach me with any questions immediately.

My role: I will be present throughout the day. I look forward to spending time with your child and observing the various parts of this process. I will take notes. In general, I will only interrupt if I believe there is a risk of danger or serious damage. Otherwise, I will ask that you -the parents- manage the time and our activities as follows:

	[Day and Date]
09:30 a.m.	[Parent A] delivers [Child] to office; introduction and orientation
10:00 a.m.	[Parent A] is excused to waiting room. First child interview
11:00 a.m.	[Parent A] joins examiner and Child. [Parent A] and [Child] together
12:00 p.m.	[Parent B] arrives , knocks on door and enters. [Parent A] leaves
12:15 p.m.	[Parent B] and [Child] together
01:15 p.m.	[Parent B] is excused to waiting room. Second child interview
02:15 p.m.	[Parent B] returns to collect child, prepare to leave
02:30 p.m.	Departure

Please feel free to bring along anything that you would normally bring to a full-day activity with your child. This can include preferred toys or activities, food and snacks, and medications as you see appropriate. Bathrooms and water are available here.

Your role is to be yourself, to take care of your child as you would in other situations, and to respect this schedule. I will ask you to provide me with a written summary of your impressions of how the day went after it is all over.

What to tell the child? Please tell the child that my job is to help you and his or her other parent to make decisions about the future. I am not your therapist or the child's therapist. What we say together is not private or confidential the same way that it may be with the child's therapist. We're going to spend a day together including talking, drawing and playing. He or she will miss one day of school. I will be glad to provide a note to the school excusing the absence.

Please reach me immediately with any questions or concerns. Thank you,

[Evaluator]

NOTES

1. I am indebted to Drs. Barbara Fidler, Richard Warschak, and Laura Landerman for insights and feedback in the development of this model.

2. The National Association of Social Workers has not published comparable guidelines. See, however, Luftman, Veltkamp, Clark, Lannacone, and Snooks (2005).

3. Given these guidelines and the corresponding ubiquity of this practice (Keilin & Bloom, 1986), it is startling to discover how little has been published about the conduct of parent-child observations in the context of forensic family evaluation (e.g., Acklin & Cho-Stutler, 2006; Baker, Messinger, Ekas, Lindahl, & Brewster, 2010; Schmidt, Cutress, Lang, Lewandowski, & Rawana, 2007; Simon & Shelton, 2014). Saini and Polak (2014) offer an excellent overview of these procedures, with an emphasis on improving the ecological validity (representativeness) of the observation.

4. "Attachment" is taken in this context as a generic reference. Although some evaluators have begun to adapt standardized measures of the more specific attachment construct into custody evaluations (e.g., Byrne, O'Connor, Marvin, & Whelan, 2005), there is good reason to believe that existing tools are not yet appropriate in this context (Garber, 2009).

5. Although the APA (2010a, item I.3) advises that, “Useful contextual considerations may include the availability and use of effective treatment, the augmentation of parenting attributes through the efforts of supplemental caregivers, and other factors that could affect the potential impact of a clinical condition upon parenting.”

6. Marvin (personal communication 18 November, 2014) recounts his experience as Ainsworth’s research assistant at the time, recalling that the group never experimented with nonconsecutive observations. He recalls that Ainsworth intuitively understood the necessity of observing the child across back-to-back-to-back epochs.

7. Ackerman (2006, pp. 118-199) recommends: “. . . it is good practice to interview the mother and the father individually for an hour or more each, followed by interviewing the children, followed by re-interviewing the parents. . . .” However, Rohrbaugh (2008, p. 275), rebuts this assertion in part, stating that the purpose of CCE is to understand the child’s best interests and, “. . . not to confirm or deny the allegations of the parties.”

8. November 6, 2014, Association of Family and Conciliation Courts conference, San Antonio, Texas.

9. If (a) travel time between the child’s home and the professional’s office is one hour, (b) each interview or observation is one hour, and (c) the child must participate in two individual interviews, one dyadic observation with Dad and one with Mom, then the child’s total time investment will be twelve (12) hours including travel. The proposed protocol would complete the same observations but require only one round trip (2 hours) plus four contact hours, totaling six (6) hours. The net practical savings is therefore six (6) hours or fifty percent plus the savings of fuel costs and the parents’ lost wages associated with the additional time.

10. Written documents and parents’ written feedback can help to clarify details for the record, but the evaluator must take care not to confound language and literacy with parenting or compliance. Other presentations (via translation, aloud, in Braille) are sometimes necessary and appropriate.

11. “The entire separation literature . . . suggests that the response to reunion after separation may well yield a clearer picture of the state of attachment than did the response to separation itself” (Ainsworth et al., 1978, p. xii).

12. “What happens when the toddler, held tight in Parent A’s arms, feels that caregiver’s pulse quicken, her muscles contract, her breathing become rapid and shallow, her voice become loud and harsh in response to Parent B’s approach? Far from inducing comfort, inviting exploration, and communicating security, these responses alert the child that a threat is approaching. They, in turn, trigger proximity-seeking behaviors in the child. Being removed from the safe haven that Parent A provides is the last thing that this child needs. . . .” (Garber, 2012, p. 469).

13. The answer is no. The evaluator does not intervene (AFCC, 2007, item 8.4).

14. “We emphasized that any episode could be curtailed if a [participant] became unduly distressed, but it was we who always initiated curtailment while the mothers showed no concern” (Ainsworth et al., 1978, p. xiii writing about the Strange Situation).

15. Friedman (2004, p. 108) reminds us that all such reactions must be understood in context: “The Daleys’ fight over a single hour on a Friday night would mean one thing if they were alternating weeks with the children; it means something quite different, if, as was the case, Mr. Daley only had the children on alternate weekends.”

16. This protocol may assist providers working in underserved or remote locations to better meet the needs of those who would otherwise be unable to travel great distances repeatedly. By condensing these observations into a brief period, such families would conceivably travel once round-trip and stay locally overnight.

17. In fact, “. . . there is little empirical basis for the commonly held belief that truth-telling suspects are always more consistent than lying suspects” (Vredeveldt et al., 2014, p. 198-199)

18. “One observation session alone is not sufficient in helping to make valid inferences about the general style of interactional behavior in families. . . . On the other hand, it is perhaps unrealistic and overly costly to routinely carry out the numerous observational sessions. . . there is good rationale for conducting a minimum of two 45- to 60-minute observation sessions with each parent” (Hynan, 2003, p. 219).

19. “When there have been lengthy delays between interviews. . . more forgetting occurs and the accuracy of new information decreases” (La Rooy et al., 2009, p. 352).

20. Acknowledging that these studies involve college aged participants. This author is not aware of comparable research with children or conducted in a forensic setting.

21. “We recognize that evaluation is an art rather than a science. . . .” (Leslie O. v. Superior Court (Thomas O.) C.A. 2nd, No. B257385 (Super. Ct. No. PD054501)). Accessed 29 November, 2014 at <http://www.courts.ca.gov/opinions/documents/B257385.PDF>.

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