

# JUDGES' JOURNAL

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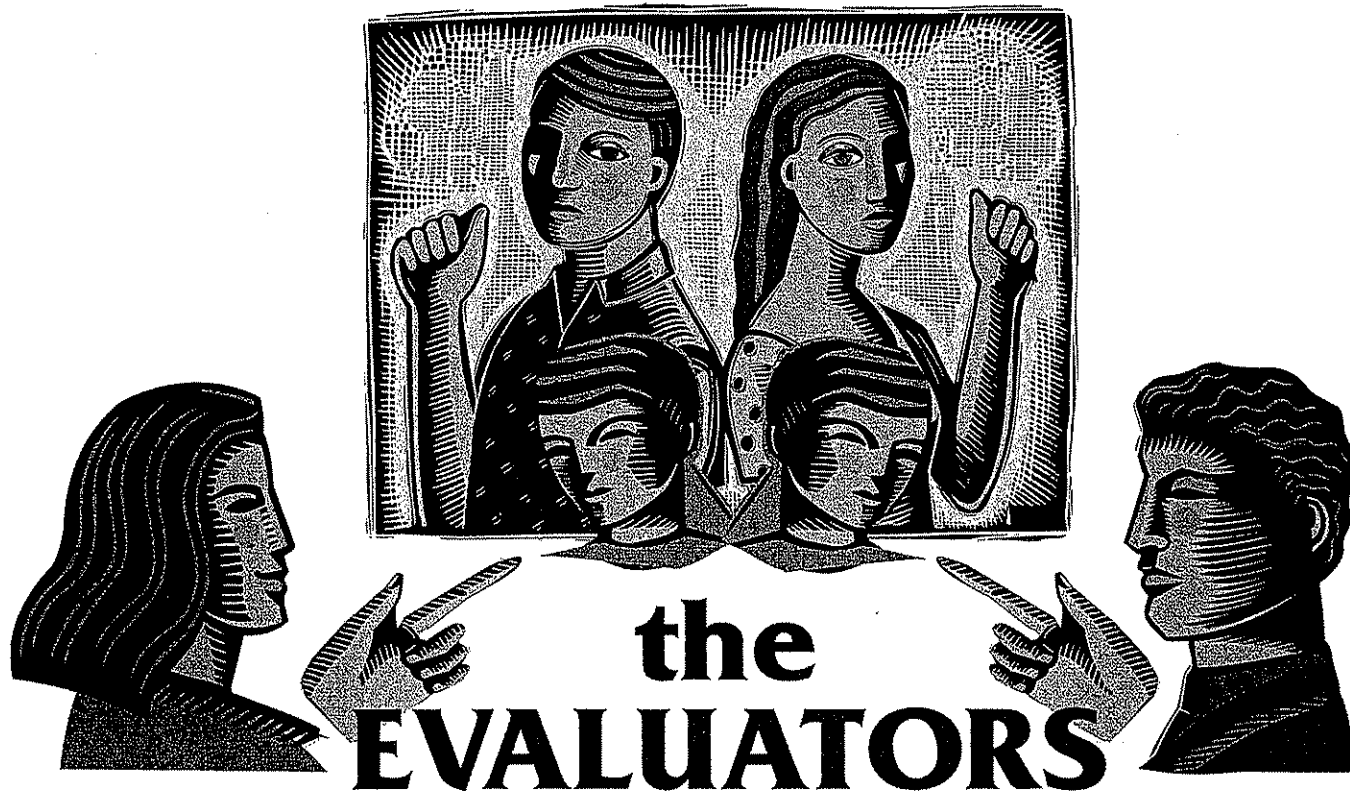
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# EVALUATING



## Problems with "Outside Neutrals"

By Lynn Hecht Schafran

The Spring 2002 issue of *The Judges' Journal* featured a thought-provoking article, "The Next Society and the Public Courts," by Los Angeles Superior Court Judge Richard L. Fruin and Bryan Borys, director of organizational development and education for the Los Angeles Superior Court. The article explored the impact on the courts of emerging social changes identified by management consultant Dr. Peter Drucker in a 2001 article, "The Next Society."<sup>1</sup> These trends include what Drucker described as the importance of "knowledge workers," people whose jobs entail manipulating knowledge rather than things. Fruin and Borys cited certain family court practices as modeling the way courts should utilize knowledge workers in the future:

Family courts make extensive use of outside professionals. Judges, in making highly individualized deci-

sions concerning the welfare of children, rely on reports for neutral fact-finding and recommendations. These reports are prepared by family psychologists at the parents' expense. And family courts usually require that all parental issues be mediated by an outside neutral before being submitted to a judge for an adversarial determination. Family courts, in this sense, are already pioneers in outsourcing the "knowledge work" that Drucker identifies as the hallmark of the Next Society.<sup>2</sup>

Outsourcing makes sense: courts are overburdened and underfunded. But experience with "outside neutrals" in custody evaluations teaches that outsourcing must be approached with great caution and monitored with strict controls. Many of those making custody recommendations are well schooled in child development issues, follow best practices guidelines for their profession,

and are indeed "neutral." But nationwide reports from state supreme court task forces on gender bias in the courts document that many are not so thorough. These "outside non-neutrals" can be a major source of bias and can blindside judges with flawed recommendations that are contrary to the best interests of the child. This article uses the term "custody evaluators" to encompass all of these individuals.

Knowledge workers from many professions make custody recommendations to the courts. Although their titles may vary, they include psychologists, psychiatrists, family therapists, social workers, special child advocates, guardians ad litem, law guardians, child representatives, and attorneys for children. They may have a vast range of education, experience, and specialized training, or they may be young court-appointed lawyers

with little experience of life or law. But even extensive experience is no guarantee of expertise or neutrality.

### Gender Bias and Outsourced Custody Evaluations

In the mid-1980s, state chief justices throughout the country began appointing blue-ribbon task forces to examine gender bias in their court systems and recommend reforms.<sup>3</sup> The task forces and their implementation committees include trial and appellate judges, court administrators, lawyers, law professors, judicial educators, sociologists, and others with specialized knowledge of the courts. To date, more than forty task force reports have been issued (Pennsylvania's only this year), and their findings are highly similar.<sup>4</sup>

With respect to custody, the task forces concur that gender bias in this area disadvantages both sexes and that a significant source of the bias is the wide variety of individuals involved in making custody recommendations to the courts. As the Montana task force reported:

[I]t will do no good for judges to eliminate gender bias from judicial parenting decisions, if judges accept, with little question, the recommendation of a guardian ad litem or psychologist whose report or recommendation is influenced by gender bias . . . Judges need to be alert for indications of gender bias in "outsourced" recommendations . . .<sup>5</sup>

Several task forces commented at length about the problems with supposedly neutral custody evaluators. Evaluators were characterized as:

- hired guns who always recommend custody for the parent who hires them;
- always being either pro-mother or pro-father;
- unfamiliar with the appropriate legal standard for determining the best interests of the child;
- failing to follow professional standards for custody evaluations; and
- clinging to outmoded sex-based stereotypes about appropriate roles and conduct for women and men.

A clinical psychologist testified before the North Dakota Commission on Gender Fairness in the Courts that "gender stereotypes are remarkably pervasive, even among well-educated professionals, such as attorneys and psychologists" and that the American Psychological Association's *Guidelines for Child Custody Evaluation in Divorce Proceedings* specifically advises psychologists to be aware of the potential for this kind of bias.<sup>6</sup> A stark example of a custody evaluator's sex-stereotyped thinking was reported by the Minnesota task force, which quoted from the evaluation of a father who cared for his children during the day and did housework: "[He] appears to have adopted a feminine lifestyle and rejected the male sex role . . . [H]e claims many interests that are traditionally considered feminine and seems insecure in the masculine role."<sup>7</sup> Another example from the North Dakota report relates to findings by every task force that women are held to a higher standard of parenting than men. In a task force focus group, a female attorney related:

In a guardian report for the court, I wrote that the home was what you'd expect from a 21-year-old father with same-age male roommates; you know, beer soaked, cigarette smoke, posters of women with large breasts . . . but from a 21-year-old mother, I'd expect a clean apartment. The judge pointed out to me that this was a sexist perspective.<sup>8</sup>

The task forces expressed concern that although judges may not delegate their decision-making responsibilities, they in fact rely heavily on outsourced custody evaluations and recommendations from psychologists, psychiatrists, therapists, social workers, guardians ad litem, and others. The Colorado task force reported that forty-five of the sixty-five judges who responded to its survey indicated custody evaluations were done for at least seven of their last ten custody cases; nineteen of the judges said they followed the evaluator's recommendation *in every case* (italics in original). Only four judges said they had *not* followed the custody

evaluator's recommendation in as many as three cases.<sup>9</sup> The Minnesota task force reported that 74 percent of male judges and 63 percent of female judges who replied to its survey said they often followed the recommendations of the custody evaluator. Thus, the task force wrote, "It is crucial that the people who perform custody evaluations be knowledgeable about the law and sensitive to the impact of stereotypical thinking on their decision-making."<sup>10</sup>

The task forces' concerns are echoed in a recent article by now retired Massachusetts Judge Edward M. Ginsburg:

Judges . . . have been conditioned to believe that custodial decisions fall more clearly in the mental health realm than in the legal realm . . . Due to the difficulties in making custodial decisions, and the lack of hard evidence on which to base these decisions, judges have been too willing to abdicate their responsibilities and allow mental health professionals to stretch out the process with the eventual hope of finding a satisfactory result.<sup>11</sup>

Mediators are among the outside neutrals who sometimes contribute to problems with custody decisions. The Final Report of the Virginia Gender Bias in the Courts Task Force states: "Virginia law favors resolving child custody litigation and visitation dis-



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puts other than by court hearings and prefers mediation to litigation when appropriate."<sup>12</sup> Mediation does work well, *when appropriate*, but the task forces found that battered women are often forced into face-to-face custody mediation with violent men who abuse them during and after the sessions, and that mediators are often untrained in or indifferent to handling domestic violence. The Wisconsin task force reported one mediation in which the batterer punched his wife in the mouth when the mediator's back was turned and another that led to the woman's being raped at knife point, with her children in the next room, because she "made the mistake of saying how [she] really felt" during mediation.<sup>13</sup>

All of these problems were present in an evaluation of the Marin County, California, family court, where certain custody evaluations prompted so much public criticism that the California Judicial Council commissioned an inquiry from the National Center for State Courts. This criticism involved extensive negative press, including a harrowing essay in a San Francisco newspaper by a teenager who, as a child, had been placed by the county court with her physically abusive father.<sup>14</sup> The center's report begins: "Both the Superior Court of Marin County and the California Administrative Office of the Courts are extremely concerned about the erosion of the public's trust and confi-

dence in the system of family justice in Marin County."<sup>15</sup>

## *Severson v. Hansen*

The concerns about gender bias among custody evaluators are illustrated by a case from the North Dakota Supreme Court, *Severson v. Hansen*.<sup>16</sup> Carla Hansen and Randy Severson lived together, had a daughter, and then separated. Randy Severson sued for custody, and the trial court appointed a psychologist, Dr. Dion Darveaux, to conduct a custody evaluation. He gave both parents the Minnesota Multiphasic Personality Inventory (MMPI) but interpreted their results, which appeared similar, quite differently. He described Randy Severson as "appropriately guarded" and dismissed his "considerable degrees of anger and resentment" as understandable in the circumstances. Dr. Darveaux believed Randy Severson's "stress and hostility" would be alleviated by resolution of the custody dispute, when he would "hopefully be less likely to self-medicate his anger and tension with cigarettes and alcohol."

The psychologist's interpretation of Carla Hansen's MMPI scores was strikingly different. In the words of Justice Beryl Levine: "On the other hand, and in telling contrast, Carla Hansen's parallel anger was attributed not to the tension and stress of the custody dispute or the break-up of the marriage [*sic*] or the fear of losing custody, but to 'hysteria.'" The word "hysteria" comes from the

Greek word for womb and is stereotypically used to paint women as irrational and not credible. Carla Hansen also told the custody evaluator that Randy Severson was stalking and harassing her and cited specific examples. Making no attempts to verify these allegations, the psychologist accepted Randy Severson's denials about these behaviors and branded Carla Hansen as "paranoid" and "delusional."

Carla Hansen retained a second psychologist who reviewed the evaluations and testified to finding bias in the divergent interpretations of the parties' similar MMPI scores and the automatic credibility given to Randy Severson's denial of abuse while Carla Hansen was labeled paranoid and delusional. This psychologist pointed out that these are serious diagnoses that could call into question Carla Hansen's basic stability and described the psychology profession's history of dismissing women as hysterical when they are angry, especially when the anger relates to allegations of abuse. It is particularly interesting that Dr. Darveaux positively interpreted Randy Severson's high degree of emotionality, given that overt displays of emotion in women are so frequently condemned, as in this case. Justice Levine, who concurred in the decision affirming the lower court, was sufficiently concerned about the issue of gender bias in the case that she stated in a separate opinion:

I write separately to expose the issue of gender bias and to suggest that much needs to be done to educate and familiarize all judges and lawyers (and psychologists too, as this case suggests) on the subject, so that when gender bias is present it can be recognized and diffused.

## **The Impact of Domestic Violence on Children**

A competent custody evaluator should be aware that although false or exaggerated allegations of domestic violence are sometimes made in child custody cases, domestic violence is a pervasive problem that must be taken

seriously. Furthermore, abuse and violence often begin or escalate when the victim tries to leave the relationship. Extensive data from the Department of Justice (DOJ) and other sources document that most domestic violence murders and many serious assaults occur after separation or divorce, when the batterer attempts to reassert control.<sup>17</sup>

Most important in the custody context is the impact of domestic violence on children. Children in violent homes suffer increased physical and psychological illnesses that undermine their health, social and emotional development, and interpersonal behaviors. Children exposed to domestic violence are more prone to anxiety, depression, learning disabilities, and delinquency. A high percentage of men who batter their wives also batter their children, but domestic violence is traumatic for children even if they simply witness abuses or live in homes suffused with the tension and fear violence generates. Even toddlers are quite aware of what is going on around them, and often suffer slowed development, sleep disturbances, depression, anxiety, and feelings of helplessness and fear as a result. They also experience somatic symptoms and have more hospitalizations, colds, sore throats, and bedwetting than children from nonviolent homes.<sup>18</sup>

The negative impact of domestic violence on children does not end in childhood. As Attorney General John Ashcroft observed at a recent DOJ symposium on violence against women, "Our children absorb the values we pass on to them; and they in turn pass these values on to their children. But when families are wracked by violence and abuse, values are corrupted. The messages transmitted by parents [in abusive relationships] are messages of violence, cruelty, and powerlessness."<sup>19</sup> Because children learn from family experience, boys often react to domestic violence with aggression toward their own mothers and siblings, which they carry into their later lives as boyfriends, husbands, and fathers. Girls often become more passive and in later life may become

involved with abusive men. The children's mistaken beliefs about appropriate behaviors are reinforced when the court system rewards batterers with custody.

### Custody Evaluators and Domestic Violence

Despite the severely negative impact of domestic violence on children, many guardians ad litem, psychologists, and other custody evaluators ignore evidence of domestic violence or insist it does no harm to youngsters. The most current research on this aspect of custody evaluations is *Battered Mothers' Testimony Project: A Human Rights Report on Child Custody & Domestic Violence in the Massachusetts Family Courts*, a study issued by the Wellesley Centers for Women in 2002.<sup>20</sup> This extensive research project was developed using guidelines from United Nations human rights principles, Massachusetts law, and the findings of the Massachusetts Supreme Court Judicial Gender Bias Study Commission.

Researchers interviewed judges and asked why they had awarded custody to batterers in particular cases; many answered that domestic violence was not mentioned in the reports of the guardians ad litem. This was repeatedly confirmed by mothers in the study who told researchers that despite providing the guardians ad litem with full information about abuses and asking them to call the district attorney, police, and others who could confirm the reports, the guardians ad litem refused to do so. One mother reported:

In my first meeting with the guardian ad litem, I had told him that there was a significant history of domestic violence, my ex-partner had been to [a batterer's intervention program], and that I was disabled as a result of the abuse and he told me "no one cares about that abuse crap."

One guardian dismissed evidence of abuse with the statement that "violence is endemic to our society." Another wrote that although the mother's claims of abuse—including rape by her husband and repeated ransacking of her

home—appeared valid, "there is no credible evidence that the children have been victimized by, or witnessed incidents of violence between, their father and mother." Those who believe that children are not affected when a parent is traumatized by sexual assault—even if the children do not directly witness the incident—should not be conducting custody evaluations.

The impact of domestic violence on children and the fairness of the custody dispute process are specifically addressed in *Principles of the Law of Family Dissolution*, recently released by the American Law Institute (ALI).<sup>21</sup> The custody chapter advises that special measures be implemented to protect family members when a parent commits domestic violence.

Specifically, the court should have in place a screening process to identify domestic violence; the parenting plan should describe the circumstances of the abuse; a hearing on the parental agreement should be held when credible evidence of child abuse or domestic violence exists; mediators should screen for domestic violence and may not impose face-to-face mediation when it is present. *Principles of the Law of Family Dissolution* also stresses that guardians ad litem should know how to recognize domestic violence and understand its impact on children and victim parents.

### The Double Bind for Mothers

The indifference to domestic violence demonstrated by some custody evaluators puts women in an impossible bind. Society holds mothers to an exacting standard with respect to protecting their children—throughout the country battered mothers are regularly prosecuted for neglect for "allowing" their children to witness domestic violence or for failing to seek an order of protection and leave the relationship. Others are prosecuted when they come to the authorities' attention because they *have* taken action. The upshot is that these mothers often lose their children to foster care. But battered mothers who

report domestic violence in the context of custody cases are often ignored, accused of fabricating the abuse to deny fathers custody or visitation, categorized as "alienating" parents, or told the abuse has no bearing on custody decisions despite state laws requiring that domestic violence be taken into account in determining custody and visitation rights. Often, the mothers lose their children to the batterers.

This paradox holds true for child sexual abuse cases as well. Mothers are regularly prosecuted for "allowing" husbands and boyfriends to sexually abuse their children. But mothers who report the abuse to social services or custody evaluators are also accused of fabricating the stories or "alienating" the child. The "theory" of parental alienation syndrome (PAS) has taken hold with a vengeance in custody disputes, even though no scientific basis for it has yet been proved. It does not appear in the *Diagnostic and Statistical Manual of Mental Disorders* and has never been peer reviewed, which should proscribe its use by psychologists or in court. Moreover, despite the word "parental" in the title, PAS is almost always charged only against mothers.<sup>22</sup>

A custody evaluator's improper treatment of child sexual abuse allegations in a custody case is illustrated by the Georgia case *Wrightson v. Wrightson*.<sup>23</sup> A court-appointed psychiatrist testified that he spent no more than an hour alone with the child yet was "convinced right off the bat" when he observed the child and father together that there had been no abuse. As detailed in the National Judicial Education Program's model curriculum, *Adjudicating Allegations of Child Sexual Abuse When Custody Is in Dispute*,<sup>24</sup> best practice in a child sexual abuse evaluation requires vastly more from an evaluator than an hour and a hunch.

### Recommendations

The task forces cited in this article and other entities have made numerous recommendations to address some of these problems. Their recommendations include the following:

- Each state supreme court should conduct an investigation of the role of custody evaluators and also determine which evaluators are most often requested or appointed. This could be done by reviewing court transcripts and evaluators' reports in a randomly selected sample of contested custody cases, in addition to interviewing both parents.

- Courts should reject psychological or guardian ad litem reports that perpetuate gender bias and insist that guardians ad litem and others who make custody recommendations receive training on this topic.

- All judges, and the people who report to them at all levels, should participate in periodic gender fairness education programs. Judges should encourage guardians ad litem and custody evaluators to participate in this training.

- Allegations of past physical or emotional abuse should be investigated before orders for temporary or permanent custody or visitation are entered. The investigations should be conducted by neutral third parties experienced in detecting and evaluating symptoms of spousal or child abuse.

- In cases that involve domestic violence, courts should not utilize mediation because it is intended only for parties of equivalent power.

- In cases that do not involve domestic violence, courts should explore using mediation with mediators trained in understanding gender issues.

- Courts using court services for custody evaluations should provide rigorous training and evaluation to ensure that those making custody recommendations are sensitive to bias in investigating and reporting.

- The office of the state court administrator should develop a standardized format for statewide use in custody evaluations and reports.

The National Center for State Courts, in its report on the Marin County Family Division mentioned earlier, made several additional recommendations. These ranged from making custody evaluators

salaried court employees so they would not be "guns for hire" to creating a referral list of evaluators who demonstrate compliance with all applicable California statutes and Rules of Court for training, education, experience, and standards of practice.

Education and training are essential because much gender bias is the result of a lack of substantive knowledge about the area of law at issue. But it is naive to think this is a silver bullet. A striking finding from the Battered Mothers' Testimony Project (BMTP) is the extent of the "disconnect" between education and application. When investigators spoke with guardians ad litem and judges individually, all agreed that domestic violence is widespread and highly damaging. But that knowledge often was not applied in individual cases. Additional measures *must* be implemented to secure fairness and accuracy in custody evaluations. This will not be easy, especially in jurisdictions that already have reviewed and improved custody evaluations, including creating lists of certified guardians ad litem.

### The Need for a Standardized Format

The task force recommendation for a detailed, comprehensive, and standardized format for evaluations and reports is key for two reasons: (1) It will describe exactly how the evaluation should be conducted; and (2) it will create a record that can be challenged if necessary. In its commentary on judicial reliance on custody evaluators' recommendations, the Colorado task force quoted from a *Colorado Lawyer* article: "One of the concerns regarding custody evaluations is that they carry such weight with the court that a flawed evaluation can be disastrous for a child in terms of custody arrangement, if there is no appropriate evidence to point out the defect in the evaluation."<sup>25</sup>

The standardized format will require a high level of detail to be effective. The BMTP also recommended that an official court form for these reports be developed and offered the

following required elements:

- a listing of all parties interviewed and an explanation of their relationship to the litigants;
- a listing of all allegations of abuse made by any party, signed by the accuser;
- findings regarding the abuse suffered by the victim;
- findings regarding abuse suffered by children;
- a listing of evidence that led to the findings;
- a statement of reasons for custody and visitation recommendations;
- a statement of alternative recommendations; and
- a statement of the child's wishes.<sup>26</sup>

An effective report that minimizes subjectivity would require even more detail. For example, some evaluators see both parents but spend a disproportionate amount of time with only one of them, or interview only one parent with the child present. An effective standardized format should require not only names of interviewees but also the duration of each interview and whether the child was observed with the parent. Allegations of abuse should require information on the evaluators' specific efforts to substantiate them. In addition to attaching relevant medical, police, social services, and court records, the evaluator should have to document, for example, interviews with other family members, neighbors, and coworkers who may have observed, heard, or heard about any abuse, including stalking.

The cover sheet for the file should red-flag cases containing abuse allegations so the court knows to scrutinize the evaluator's assessment of their validity and their impact on the children. This is necessary because of cases in which guardians ad litem and other custody evaluators note the abuse in their reports but ignore it in their recommendations. The format should require evaluators to attach all evidence, not just evidence that supports their own conclusions and recommendations, so others can repeat the review process.

### Parents' Rights to Read Evaluations

Along with standardizing the evaluation format, courts must guarantee the following: access to the reports, the right to submit written responses to clarify and correct the reports, and a system for these responses to become part of the permanent record to be reviewed by the judge. The BMTP found that even though Massachusetts law requires that custody evaluations be available to parents, individual judges have their own rules. Mothers (and presumably fathers as well) sometimes have had to file motions to make the reports available—and even then were told to discuss them only with mental health professionals and their lawyer. One rationale for the policy is that some reports contain inflammatory material that requires confidentiality, for example, a child's statement about a parent that might lead the parent to punish the child. But not allowing parents to see the reports raises serious due process implications. Massachusetts is moving toward mandating that both parents obtain full access to the reports, which is essential because only the parents know whether the evaluator accurately reported their statements.

Custody evaluations often shape children's entire futures, including their relationships with their parents. These reports may result in mothers or fathers being severely limited in their time with their children or cut off from them entirely. They may also result in children being placed at serious risk of emotional, physical, and sexual abuse. Divorce is traumatic enough for children without the court system contributing to the risk by resting its decisions on possibly uninformed, biased custody evaluations.

### The Team Approach

An important recommendation from the BMTP involves using multidisciplinary teams rather than a single evaluator in cases involving allegations of domestic violence and/or child abuse. They further suggest that members of the teams should have, at a minimum,

expertise in working with partner abuse, child protection, child physical and sexual abuse, and mental health issues, as well as strong investigative skills. In cases with specific concerns, additional team members or consultants should be brought in, such as parenting experts with domestic violence expertise, substance abuse professionals, experts on children with special needs, education specialists, and the attorney/advocate for the children. The teams would operate according to specific practice standards linked to sanctions for those who failed to follow them. The BMTP also recommended the creation of a Commission on Custody Investigator and Evaluator Conduct to oversee the creation of a standardized evaluation format, the training of custody evaluation teams, practice standards for these teams, and the disciplining of team members who fail to meet their training requirements or to follow their practice standards.<sup>27</sup>

Optimally, the courts would fund this team approach, which sounds utopian and very expensive. But it is not if we adopt the longer term, more holistic view being taken by drug abuse courts. There, teams consisting of substance abuse professionals, the public defender, the judge, family reintegration specialists, and others hold multidisciplinary case conferences and share the same goal of making defendants drug-free, productive members of both society and their families. Our current ad hoc system of guardians ad litem and psychologists conducting custody evaluations and making recommendations to the courts too often results in unfairness to parents and danger to children. The emotional and often physical damage children suffer as a result of flawed custody decisions has lifelong negative consequences. For example, research documents that many substance abusers engage in destructive behaviors in order to self-medicate psychological pain from childhood. If children are not raised in safety and connected to people who love them, they may as teens and

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ed a bridge connecting other justice system agencies to the liaisons and their respective communities. The agencies that have sent instructors to the Leadership Academy now have a direct connection to informed individuals within the minority and immigrant communities, and the liaisons have the benefit of reciprocal connections to those agencies and the courts.

Members of the San Joaquin County Superior Court believe that the CCLL program has promoted broader confidence in and enhanced respect for the

local justice system. Feedback from the participants in the Leadership Academy has been encouraging. A liaison from the Council for the Spanish Speaking wrote, "I learned so much about the court system. I have used the information many times over the last couple of years to help others, tapping into the resources that were provided." The liaison from the Asian Pacific Islander Alliance wrote, "As an immigrant from a third world country where the court system is a mockery . . . , I am now less skeptical and am more confident

that justice is indeed practiced more effectively here. As a better-equipped citizen of this country, I am able to give guidance to my fellow Filipinos."

The CCLL program can be replicated in other jurisdictions. The materials are available on CD-ROM and may be obtained upon request from Hon. William J. Murray Jr., Superior Court of California, San Joaquin County, 222 E. Weber Avenue, Stockton, California 95202-2777 or [wjmurrayjr@courts.san-joaquin.ca.us](mailto:wjmurrayjr@courts.san-joaquin.ca.us).

## Evaluating the Evaluators

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adults cost society the money we think the court system cannot now afford to spend in the custody dispute process. At least one mother in the BMPT reported that she already had to obtain a protective order against her own abusive son. It will ultimately be more cost-effective for family courts to adopt drug courts' multidisciplinary approach than to unwittingly promote intergenerational violence and future juvenile, family, civil, and criminal court litigation.

### Conclusion

Nationwide supreme court task forces on gender bias in the courts have documented serious problems with outsourced custody evaluations and made numerous recommendations to secure competence and neutrality in the process. In 1993 the Conference of Chief Justices adopted a resolution to implement these recommendations, which have since been augmented by others from the American Law Institute, the Battered Mothers' Testimony Project, and the National Center for State Courts. With respect to both custody evaluations in particular and outsourcing courts' responsibilities in general, the lesson is clear: Not all "knowledge workers" are knowledgeable, and although outsourcing is probably a necessity for the courts, it must be carried out with rigorous attention to the competence and account-

ability of those on whose recommendations the courts rely.

### Notes

1. Peter Drucker, *The Next Society*, THE ECONOMIST, Nov. 3, 2001.
2. Richard L. Fruin & Bryan Borys, *The Next Society and the Public Courts*, JUDGES' J., Spring 2002, at 32.
3. Lynn Hecht Schafran, *Documenting Gender Bias in the Courts*, JUDICATURE, Feb.-Mar. 1987, at 280; *Gender Equality in the Courts: Still on the Judicial Agenda*, JUDICATURE, Sept.-Oct. 1993, at 110.
4. Lynn Hecht Schafran, *Overwhelming Evidence: Reports on Gender Bias in the Courts*, TRIAL, Feb. 1990, at 28 (summarizing findings of first nine task forces). See [www.njep.org](http://www.njep.org) for all task force reports.
5. FINAL REPORT OF THE MONTANA SUPREME COURT GENDER FAIRNESS TASK FORCE 21 (2000).
6. FINAL REPORT OF THE NORTH DAKOTA COMMISSION ON GENDER FAIRNESS IN THE COURTS, 21 N.D.L. REV. 1127, 1188 (1996) [hereinafter NORTH DAKOTA REPORT].
7. FINAL REPORT OF THE MINNESOTA TASK FORCE FOR GENDER FAIRNESS IN THE COURTS, 15 WM. MITCHELL L. REV. 827, 860 (1989) [hereinafter MINNESOTA REPORT].
8. NORTH DAKOTA REPORT, *supra* note 6, at 1188.
9. FINAL REPORT OF THE COLORADO SUPREME COURT TASK FORCE ON GENDER BIAS IN THE COURTS 41 (1990) [hereinafter COLORADO REPORT].
10. MINNESOTA REPORT, *supra* note 7, at 1189.
11. Edward M. Ginsburg, *The Court's Role in Child Custody Cases*, LAWYERS WEEKLY, Aug. 5, 2002.
12. FINAL REPORT OF THE [VIRGINIA] GENDER BIAS IN THE COURTS TASK FORCE 46 (2000).
13. FINAL REPORT OF THE WISCONSIN EQUAL JUSTICE TASK FORCE 209-10 (1991).
14. Alanna Krause, *Alanna Sets the Record Straight*, available at [www.ocof.org](http://www.ocof.org), click "Welcome," click "Kids Speak Out."
15. NATIONAL CENTER FOR STATE COURTS, OPERATIONAL REVIEW, SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN, FAMILY LAW DIVISION (2000), available at [www.courtinfo.ca.gov/reference/documents/ncscoprev-marin.pdf](http://www.courtinfo.ca.gov/reference/documents/ncscoprev-marin.pdf).
16. 529 N.W.2d 167 (N.D. 1995).

17. Jennifer L. Hardesty, *Separation Assault in the Context of Postdivorce Parenting*, 8 VIOLENCE AGAINST WOMEN 597 (2002).

18. HOWARD A. DAVIDSON, THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN (ABA 1994); Lynne R. Kurtz, *Protecting New York's Children: An Argument for the Creation of a Rebuttable Presumption Against Awarding a Spouse Abuser Custody of a Child*, 60 ALB. L. REV. 1345 (1997) and citations therein.

19. John Ashcroft, Speech at First Annual Symposium on Violence Against Women (Oct. 29, 2002), available at [www.ojp.usdoj.gov/press.htm](http://www.ojp.usdoj.gov/press.htm), click "First Annual Symposium on Violence Against Women."

20. Wellesley Centers for Women, Battered Mothers' Testimony Project, *A Human Rights Report on Child Custody & Domestic Violence in the Massachusetts Family Courts* (2002) [hereinafter *BMPT Report*], available at [www.wcwonline.org/wm/batteredreport.html](http://www.wcwonline.org/wm/batteredreport.html).

21. AMERICAN LAW INSTITUTE, PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS 126 (2002).

22. Carol S. Bruch, *Parental Alienation Syndrome and Parental Alienation: Getting It Wrong in Child Custody Cases*, 35 FAM. L.Q. 527 (2001).

23. 96 FCDR 1027 (1996).

24. See [www.nowldef.org/html/njep/curric.shtml](http://www.nowldef.org/html/njep/curric.shtml).

25. COLORADO REPORT, *supra* note 9, at 41.

26. *BMPT Report*, *supra* note 20, at 76.

27. A model for such a commission is the Committee to Certify Law Guardians for Appointment in Domestic Relations Matters, established and monitored by the New York State Appellate Division, First Judicial Department. See also RULES OF THE SUPREME COURT, Appellate Division, pt. 614.