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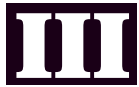
Framing



To facilitate the evaluation and increase the utility of the final product, articulate clearly the obligations of the parties, their attorneys, and the evaluator:

A. The parties shall:

- provide information as requested and appropriate;
- sign cm (5699 Tj 9.0630007 c7 2ent 0 10.07 296.08115 656.05817artTj f) Tj 9.0630007 or89.5



Safety First



Determine Whether to Admit the Report into Evidence

Read the Report Critically

(Note: The factors listed in this section could be used to determine the admissibility requirements under your state's rules of evidence.)



The hand symbol is used throughout this tool to bring readers' attention to issue areas related to safety for victims of domestic violence and their children.

★ Asterisks denote points at which it may be particularly helpful to refer to the accompanying supplementary materials.

Card III Side 1

Reading the Report

- Does the content of the report raise immediate concerns about the existing safety of the parties or their children?
- Does the fact that each party will be given access to the report raise additional safety concerns that should be addressed before the report is shared?

Apart from the task of framing final orders, immediate safety concerns may require you:

- to schedule a hearing pursuant to your state's laws and issue a restraining/protection order, or make a referral for safety planning or other needed services; or
- to involve child protective services in accordance with your state's reporting laws if you conclude from the report that a child is at imminent specific risk of physical or emotional harm.

It is important to remember that custody evaluation reports are a form of evidence, either written or oral, which requires an admissibility determination. Check your state's rules of evidence. See also the Federal Rules of Evidence (FRE): **FRE 401 and 402 (relevance), FRE 403 (probative value), and FRE 702 (experts)**. (See supplemental material, **PARENT ALIENATION AND THE DAUBERT STANDARD**, p. 24.)

From the report, you should be able to determine whether the evaluator:

- **responded to each area of inquiry** detailed in your appointment order;
- **provided you with sufficient information to make a determination on the operative legal principles present in the case;**
- **described instances** where a child has directly witnessed, been exposed to, or been affected by incidents of domestic violence perpetrated by one party against the other;
- **explained the context of the evaluation**—i.e., at what point in the couple's separation process the evaluation took place and the possible impact of that timing on the findings and recommendations; and
- **properly reflected the limited scope of the task** assigned in cases where his or her function is one of investigation rather than evaluation.

To assess the weight to give to the report, you will need to determine whether the report contains sufficient information for you:

- **to rule on potential evidentiary concerns raised by the report:**
 - ◆ Was the information obtained directly from individuals interviewed, documents examined, or observations made by the evaluator? Is the source of each piece of information identified?
 - ◆ Is any information vulnerable to challenge because it was obtained "second-hand"? If so, is that indicated in the report?
 - ◆ Is the information in the report relevant to the legal issues raised by the case?
- **to assess the thoroughness of the factual investigation: ★**
 - ◆ Have relevant collateral sources been interviewed?
 - ◆ Have relevant written records been reviewed?
 - ◆ Have important facts been corroborated?
- **to assess the accuracy of information from the parties and their children:**
 - ☞ Have the safety needs of each member of the family been recognized?
 - ◆ Has the evaluator avoided creating opportunities for intimidation and coercion?

Read the Report Critically (cont.)

- **to determine whether the factual investigation has been even-handed:**
 - ◆ Can you determine if fair consideration was given to the claims and concerns of each of the parties, including giving each the opportunity to respond to allegations made by the other?
 - ◆ Does the report assess the strengths and deficiencies or vulnerabilities of each parent and each parent/child relationship?
 - ◆ Does the report consider the particular cultural context of the parties' parenting and the relationship between the parties and their children?
 - ◆ Has the evaluator explored all possible interpretations of the information?
- **to identify what information was not available, and why:**
 - ◆ Does the report allow you to determine the extent to which missing information limits the value of the evaluator's conclusions or recommendations?
- **to determine, in cases where the evaluator has conducted an investigation and analyzed, interpreted, or drawn conclusions from the data:**
 - ◆ that the evaluator has fully reported the underlying data, with each source identified and relevant documents or records attached?
 - ◆ that the evaluator has clearly distinguished between the facts and the analysis, interpretation, or conclusions he or she is deriving from them?
 - ◆ that the underlying data support the analyses, interpretations, or conclusions from which they are drawn?
- **to determine, in cases where an evaluator employs specialized mental health expertise:**
 - ◆ that the evaluator has the appropriate training, qualifications, and experience to employ any specialized data-gathering procedures used?
 - ◆ that any psychological tests administered offer relevant information and that the evaluator satisfactorily explained their relevance?
 - ◆ that the tests employed have received appropriate professional endorsement for use in this context (understanding that psychological testing is generally not appropriate in domestic violence situations)?
 - ◆ that the evaluator has the requisite mental health expertise to analyze, interpret and draw conclusions from the available data?

(For more information on reading the report critically, see the supplemental information regarding confirmatory bias, page 25; see also Card IIA, Side 1, SOURCES OF INFORMATION, and corresponding supplemental material, page 19-21.)

Assess the Recommendations

If domestic violence is identified as an issue, you will need to determine whether a qualified evaluator: ★

- ★ demonstrated an understanding of the ongoing safety risks;
- offered recommendations that provide the security needed to allow healing from any existing trauma associated with abuse or exposure to abuse;
- considered the full range of protective options, including:
 - ◆ supporting relocation of the vulnerable party and the children to a secure location;
 - ◆ otherwise shielding the vulnerable party from contact with or direct communication from the abusive party;
 - ◆ placing total or partial, permanent or provisional, restrictions on contact between the abusive party and the children;
 - ◆ imposing formal or informal supervision of visitation, or of transfer/exchange; and
 - ◆ conditioning visitation rights on compliance with safety-related conditions; and
- offered recommendations that limit ongoing harassment or coercion.

★ *Asterisks denote points at which it may be particularly helpful to refer to the accompanying supplementary materials.*

