Dr. William G. Austin

- Psychologist licensed in Colorado and North Carolina, specializing in the evaluation of child custody and controversy consultation.

- Part of his practice focuses on: examining and reviewing social/institutional custody evaluations; developing successful parenting and/or custody skills; early intervention for healthy conflict resolution in custody matters; and coordination services for highly conflictive custody situations.

- Dr. Austin has developed forensic evaluation models for use by custody evaluators and family courts, considering relocation disputes, domestic violence, and gatekeeping.


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Relocation and Child Custody: Research and Forensic Evaluation

William G. Austin, Ph.D.
wgaustinphd2@yahoo.com
www.child-custody-services.com

Learning Objectives

1. To Understand the Dilemmas Relocation Presents to the Court and Evaluators

2. To Understand the Risk Assessment Forensic Model and how to apply to litigated cases

3. To Understand How to Manage the Risk to children due to relocation and long distance parenting arrangements
Relocation and Parental Gatekeeping
Forensic Evaluation Models as Complementary

Quality of gatekeeping almost always the focus in relocation disputes

General Comments
About your Presenter

What I do
Case Example
- Myriad of considerations in every relocation case; “delicate” fact patterns
- Life of the airline pilot
- Repartnering; propose move out of state
- Number of Moves
- Managing risk of harm

Part I: Broader Picture
- Forest vs the Tree
- Family Law System vs Individual Child Custody Case
- Uniqueness of Family Law
- General Legal Standard of Best Interests
- Role of Experts
- Role of Research
Divorce & Unpartnering Rates

- Hovers around 50% on divorce for many years in most Western countries
- Unpartnering: % of nonmarried parents
- Data on the rates?
- Puerto Rico statistics?
- Nonmarrieds in litigation – commonplace

Custody litigants as a Population

- Extreme in many ways
- About 90% cases settle
- High conflict by definition
- Personality Disorders common?
- Two-tiered grouping on financial means
- A lot of money + lot of anger + personality dysfunction = protracted litigation, custody evaluation, experts
- Likely to involve one of the complex issues
Complex Issues in Child Custody Disputes

■ Relocation; Intimate Partner Violence; Restrictive Gatekeeping & Alienation; Overnights
■ Model Standards call for a Systematic Approach
■ Forensic Models offer Systematic Approach

FORENSIC INVESTIGATION

■ Careful Investigation needed in all cases involving the Complex Issues
■ Especially True for Relocation Cases
■ Helping Court Visualize Alternative Residential Living Arrangements
■ Austin & Kirkpatrick (2004)
■ Always about the Facts
■ Addressing the Practical Issues in Long Distance Parenting Arrangements
Applying Scientific Research

- Issues with the Individual Case
- Between Group & Within Group Variance
- Qualitative vs. Quantitative Research
- Relocation cases “Ripe” for opportunities to apply research
- Admissibility Issues
- Instructional Testimony

Residential Mobility Rates

- Relocation vs. Residential Mobility
- Very high in Western countries for many years
- Last U.S. Census shows some decline
- Around 33% of households
- Highest with separated, younger parents
- Group with higher percentage young children
Mobility and Puerto Rico

- Economic Opportunities? Noted in "Uniform Custodial Parent Relocation Guide"
- "Delicate social situation on the Island"
- Natural Disasters as Destabilizing
- Broad View: Immigration, Emigration, Migrating Peoples
- Relocation and Military Families: Why so Different?

There are moves, then there are moves

- All moves are not alike; qualitative differences
- Local vs Long Distance Moves
- Problems with U.S. Census data on differentiating types of moves
- Multiple moves as very important
- Puerto Rico off-island moves
- International Moves
Effects of Relocation on Children of Divorce

- Austin (2008b)
- Residential Mobility
- Relocation as Adverse Childhood Event (ACE)
- Austin change in view on the relocation effect
- Hyper-mobile at highest risk
- Social Capital analysis; extended family?
- Most children will do okay after relocation

Real World Research: Families who Litigate

- Patrick Parkinson, JD & Judith Cashmore, Ph.D.
- 80 families involved in relocation litigation
- 50% of relocations approved by court
- Very long distance moves
- Longitudinal: followed over 3-years
- Qualitative research; most kids did fine
- Can new partner move to home community?
- Parkinson, Cashmore, Taylor & Austin (2016)
Research on Shared Parenting

- Children of Divorce show best long-term adjustment with quality relationships with both parents
- Also a Legislative Declaration to promote continuing contact with both parents
- Controversy on frequency/amount of contact by fathers vs quality issue

Sole vs Joint Custody

- Shared Parenting Time does not mean equal parenting time
- Different meanings of “joint”
- Puerto Rico meaning
- Can you have joint custody with long distance?
- Joint decision-making/legal custody issue
Constructing Local & Long Distance Parenting Plans

- Shared = Substantial = Meaningful Opportunity for Involvement
- Shared Definition: 35% Timeshare; 5/14 overnights
- Plus other times; holidays; summers
- Long Distance & Developmental Stage
- Arizona Supreme Court Model Parenting Plans

Part 2: Forensic Evaluation for the Relocation Case
Child Custody Evaluation Perspective

- Forensic Method
  - Usually court-appointed
  - Answering the court’s questions
  - Investigative rather than therapeutic
  - Multiple sources of information
  - Credibility of information is assessed
  - Evaluation of hypotheses
  - Expert opinions & recommendations

Factorial Analysis

- First step in relocation analysis
- Gather the data
- Best Interest Factors (Sanchez case)
- Relocation Factors (UCPRG)
- Tremendous Variation between states
- Puerto Rico: the new statute; how compare?
- Parkinson & Cashmore proposal
- Austin Comment
Anti-Relocation Bias

- Example of Confirmatory Bias
- By Judges, Evaluators, Mediators
- A Common Cognitive Bias
- Defined: (Mis)Interpreting facts/data to support a preferred hypothesis; preconceived mindset
- Not considering alternative hypotheses

Even Playing Field?

- Case Law: Put Parties on an even playing field or “equal footing”
- Relocation as Incongruent with Social Policy of continuing contact with both parents?
- Juxtapose countervailing parental rights
- Open-mindedness vs. Bias
Help the Court Visualize

- Based on careful investigation and fact gathering
- What life would be like for the child and parent in the alternative living arrangements
- What will life be like in Orlando?
- Practical considerations if long distance

Relocation & Comparative Analysis

- Four Possible Alternatives
- Status quo: both parents continue in home community
- Relocation allowed, parent & child
- Relocation denied: parents chooses not to move
- Relocation permitted; both parents relocate with child
Relocation & Risk Management

- How to manage risk of harm to the nonmoving parent-child relationship?
- Relocation as Depriving Child of the other parent’s social capital
- Indirect Harm to the Child
- Long distance parenting plan is key to the risk management; Access plan
- Quality of Gatekeeping is the 2nd key

Social Capital & Ecological Comparison

- In both local & long distance parenting plans
- Richness & Opportunities for the child’s development & Adjustment in the two residential environments and communities
- Presence of extended family; educational opportunities; differences in parenting styles
Social Capital: Explaining the “Gatekeeping Effect”

- Social Capital refers to the psychosocial resources that a child derives from the important relationships and experiences in his or her life associated with an identified social environment. Sources include parents, siblings, extended family, teachers, peers, coaches.
- Positive & Negative Social Capital
- Part of the Fundamental Comparison made in custody determinations

Ambiguities in Relocation Law

- Variation between State Laws
- Can the court consider if the parent would move without the child?
- Can Court just deny relocation without changing custodial parent?
- California: Court must assume each parent will be living where they state they intend to live
- So it becomes designating the custodial parent and risk management in every analysis
Forensic Evaluation Models & Frameworks

- Special and Complex Issues
- Research-Based
- Examples:
  - Relocation Risk Assessment
  - Parental Gatekeeping
  - Integrated Model for Intimate Partner Violence and Child Custody

Relocation Risk Assessment Model (Austin, 2000a; 2000b; 2008a; 2015a)

Survey study: model widely used by evaluators (Austin, Bow et al., 2016)

Research-based
Gatekeeping as Key Factor

- Ability to Support Other Parent-Child Relationship always central to a relocation analysis
- Often a statutory or relocation factor by case law
- A Facilitative Gatekeeper creates less risk; history of restrictive gatekeeping creates more risk of harm to the nonmoving parent-child relationship

Risk & Protective Factors

- Age of Child
- Distance of Move
- Past Involvement by both parents
- Individual Psychological Resources of both
- Individual Psychological Resources of child: resiliency; temperament; special needs?
- Degree Parent Conflict; history IPV
- Recentness since separation
Additional Factors

- Number & Type of Past Moves
- Is the child introverted
- Loss/Gain in Social Capital
- Ability of moving parent to cultivate new sources of social capital
- Is nonmoving parent a viable candidate to be the custodial parent?

Relocation Risk Assessment Model

- Since 2000; revised 2008; supporting research for risk and protective factors
- See reading list
- Model is being revised by Bill Austin
- Forensic model as a first step
- Structures data gathering
- Use in concert with legal factors
- It’s always about the facts in relocation cases
Cogency Test

- Court wants to know if the proposed relocation makes sense and will be in the child’s best interest
- Reasons for the move
- Degree of Realistic Flexibility on moving issue
- Relative Advantages and Disadvantages of moving vs. not moving

Development of the Integrated Forensic Model

- Start with Relocation Risk Assessment Model
- Identify Relative Advantages/Disadvantages with Relocation or denial of relocation
- Consider “forensic guideposts” (Austin, 2015)
- Practical Analysis
Forensic Guideposts for Evaluators

- Quality of Gatekeeping
- Research on effects of relocation on children
- Taking a Systematic Approach to evaluation, including forensic models and risk/protective factors
- Consider relocation legal factors
- Consider patterns of high conflict and IPV
- Cogency Test

What if IPV & proposed Relocation?

- If past substantial/severe IPV and relocation co-occurring?
- Cannot expect the victim-parent to be the facilitative gatekeeper or “friendly parent”
- IPV as justifying relocation?
Austin Publications on Child Custody, Relocation, Parental Gatekeeping, Intimate Partner Violence available at:
www.child-custody-services.com
www.parentalgatekeeping.com