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# 2 The Mental Health Expert's Many Possible Roles<sup>1</sup>

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As suggested in Chapter 1, the mental health expert is brought in under many different circumstances when working with families of divorce. Each possible role is unique and requires the mental health expert to provide a different service to the individual or family in need. Oftentimes, the mental health practitioner is asked by the family to engage in more than one role. As noted in Chapter 1, the complications and risks of blending or changing roles far outweigh any possible benefit to the family. In this brief chapter, I will outline the various roles that mental health practitioners may experience, suggesting styles of practice that work for each role. The chapter will end with a continued discussion of the risks associated with dual relationships, especially those related to custody evaluations.

Some mental health roles are therapeutic in nature and some are forensic in nature. S. Greenberg and Shuman (1997) wrote about the “irreconcilable differences” between forensic and therapeutic roles. They identified the differences along many dimensions, including but not limited to the differences in understanding who the client is, differences in dealing with confidentiality, differences in competency required by the professional, differences in the nature of hypotheses to be tested in the role, differences in the nature and degree of “adversarialness” in the relationship, differences in the goal of the professional in each type of relationship, and differences in the impact of the professional’s judgment on the relationship. I urge anyone who has not read this article to find and read it, as it remains the clearest and most comprehensive article on the topic ever written, in my opinion.

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## Therapists

Traditionally, a therapist for an individual will see her role as being that of an advocate for the mental health needs of that individual. The therapist gets to know the inner thoughts and feelings of her client, understands her client’s many conflicts, and truly understands her client’s strengths and weaknesses as an individual. The therapist will often hear about other family members through the eyes of her client, and will learn about her client’s perceptions of

the relationships the client has with his with spouse and children. A therapist gathers this information to understand her client's perceptions to help him with the problems he experiences in his life. Therapists recognize that the things the client says are a function of his perceptions, and not always the "truth." In our role as therapists, truth may not matter as much as perception, because the client's perceptions are of paramount importance as we try to help him with his internal and relationship conflicts throughout his life.

As noted in Chapter 1, an individual therapist would never make a recommendation regarding custody to the court because the individual therapist has not met all of the parties, has not evaluated relationships, does not know objectively the strengths and weaknesses of both parents, and cannot know what is in the child's best interests. Additionally, therapy is typically seen as a confidential relationship, and if a therapist were to make such a recommendation, even with the authorization of her client, it could open up the therapy to complete disclosure to the other side and to the court. Based on my experience and based on a standard of care informed by the Association of

A person who has been a therapist for any member of a family should avoid becoming a child custody evaluator.

Family and Conciliation Courts' (AFCC) *Model Standards of Practice for Child Custody Evaluation* (2006), the American Psychological Association's (APA) *Guidelines for Child Custody Evaluations* (2009), and the *California Rules of Court* (2009), I suspect that such an

action would invite a complaint from the therapist's licensing board. Always check with your malpractice carrier before writing such a letter to the court.

As a child's therapist, we may be trying to help the child with specific behavioral problems, or, during a particularly messy divorce, we may be helping the child find refuge from the tensions in her life. We need to be very careful when asked to be a child's therapist if the parents are divorced or in the midst of an ongoing divorce battle. It is important to ascertain that we have the permission of *both* parents, and we need to be clear that we will be providing treatment to the child, not providing information to be used in a custody dispute. It may be best to have a court order to provide the therapy so that neither parent can terminate the therapy without getting a new court order.

A child going through the divorce of her parents often needs the assistance of a therapist to help sort out her feelings, not a therapist who is caught in the advocacy of her parents. She may need the therapist to be an advocate in communicating with her parents about her fears, feelings, and more, but not participate in the acrimonious battle between the parents. When she works with her client's parents, the child's therapist is an advocate for the child, and assists the parents in issues of parenting and improving the communication and relationship between the child and her parents. Again, the child's therapist is an advocate for a single member of the family, and she recognizes that her information is the result of the child's perceptions, not always a complete measure of the truth. In fact, many children, when they perceive the therapist to be in the middle of her parents' custody disputes, are unwilling to trust in the therapeutic alliance any longer.

A growing form of child therapy is referred to as “safe haven” therapy. In such therapy, which is almost always court ordered, the therapy is guaranteed to be kept from the court litigation. In high-conflict families, the court will order a child taken to therapy, and order that neither parent can try to influence the therapy or bring information from the therapy to court. Such a therapist would be unable to speak as a collateral witness to a child custody evaluator or Parent Coordinator (see later this chapter) without court authorization, because the therapy is protected. If appointed to this role, you will need to understand critical issues involved with high-conflict families of divorce.

Just like an individual adult therapist, the child therapist should never write a letter to the court recommending a particular custody plan. In an ongoing informal survey of judges,<sup>2</sup> judges have expressed almost universal frustration over getting such letters, even though regular family law judges may get several of those letters in a month. Again, I would urge anyone considering writing such a letter to consult with one’s malpractice carrier, regardless of whether or not one or both parents have asked for such a letter.

A family therapist, while aware of more of the family’s “truths” because she sees the entire family together, also has a primary focus. That focus is clearly to assist the family system to improve its functioning, with more open communication and often less overdependence between family members. The goals of the family therapist are usually to bring about change within the family dynamics and to help members function more autonomously, while simultaneously improving unity and communication and encouraging more functional dynamics for the family. Often the family therapist is trying to help the family to stay together and, as such, is unprepared to tackle the complex issues of the divorce and recommend for “the best interests of the child.”

A couples’ therapist focuses on the marital relationship, trying to help spouses learn to communicate better, and assist the individual adults to work toward an improved marital relationship. While the therapist may have talked about the children, she usually does not really know too much about each of the children and their individual needs. Clearly, she knows a lot about the marital partners, how they communicate, and what their issues have been. Yet, she, too, is not in a position to make recommendations about custody/access because there are too many gaps in her knowledge. Again, if you are in that role, even if both parents want you to do so, consult with your malpractice carrier before writing such a letter to the court.

Finally, it is important to recognize that, as with custody evaluators and other professionals, there are good therapists and therapists who contribute to the family’s problems. It is important for the court to be aware of the impact of the child and adult therapy on the overall family dynamics. If necessary, the court (and the evaluator in her recommendations) might want to consider removing a therapist who is causing more problems than being helpful in a given case. For more information on this topic, see the article by L. Greenberg, Gould, Gould-Saltmann, and Stahl (2003).

Therapists must avoid writing letters to the judge with custody recommendations, even if urged to do so by their client or a parent.

## Therapeutic Reunification

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When there has been a long history of little or no contact between a parent and a child, the court may appoint a reunification therapist to build, or rebuild, the relationship between the parent and child (see, e.g., Deutsch, 2008). Perhaps there has been a period of no contact due to allegations of abuse. If the abuse allegation has been ruled against by the court, the court will typically order contact to resume. However, the judge may want to rebuild the relationship slowly and with the help of a therapist. Similarly, when there has been limited contact between a parent and child due to the estrangement or alienation of the child, therapeutic reunification may be ordered to start the process of reconnecting parent and child. The therapist can work with both parent and child, usually with a combination of individual and conjoint work, to help rebuild the relationship.

Similarly, it would not be uncommon if there has been no contact between a parent and child for a therapist to be appointed to help build the attachment. This might be done in paternity cases where there has been no contact for several years, and then the biological father petitions for contact. When this happens, the therapist is needed to help the child and the parent to get to know one another. After some time, the parent and child can begin the process of increasing time together and taking the relationship outside the therapist's office.

Just as other therapists should avoid getting involved in the decision of when and how much parenting time each parent should have (i.e., custody and access decisions of the court), reunification therapists should resist the request of the court to "decide" when there should be an increase in the estranged parent's parenting time. Perhaps the best situation is to have a collateral role with a court-appointed Parent Coordinator (discussed later) in which the therapist informs the Parent Coordinator how the therapy is progressing and then lets the Parent Coordinator make a decision or a recommendation to the court. Otherwise, if the child or either of the parents is not happy with the recommendation of the therapist, it could sabotage the therapeutic efforts.

## Collaborative Law Coach

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According to Tesler (2004), collaborative law is a

dispute resolution model in which both parties to the dispute retain separate, specially-trained lawyers whose only job is to help them settle the dispute. If the lawyers do not succeed in helping the clients resolve the problem, the lawyers are out of a job and can never represent either client against the other again. All participants agree to work together respectfully, honestly, and in good faith to try to find "win-win" solutions to the legitimate needs of both parties. No one may go to court, or even threaten to do so, and if that should occur, the Collaborative Law process terminates and both lawyers are disqualified from any further involvement in the case.

Mental health professionals get involved with collaborative law in the role of a collaborative law coach. Coaching is a form of consultation. Oftentimes, the adults in collaborative law will have their own coaches, and it is not uncommon for parents to work together with a different child coach. The adult coach helps the client reduce the stress associated with divorce, stay focused on the conflict-resolution process by identifying and prioritizing goals, maximize communication with the spouse and attorneys, and assist in negotiation, and also supports the client through the divorce process in a less adversarial and more productive way, with less reaction to emotions. The child coach helps parents understand the child and her developmental, social, academic, and psychological needs; develop a functional parenting plan; remain focused on the child and improve communication about her needs; and learn to work together in a productive parenting manner.

Collaborative law coaches will never write a report to the court or make recommendations to the judge, though coaches may write letters to the collaborative attorneys or participate in collaborative meetings with the attorneys if that will benefit the adults or child client whom they serve.

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## **Psychologist Evaluator/ Psychiatrist/Vocational Evaluator**

In a recent child custody evaluation, one of the parents had undergone an Independent Medical Examination (IME) by a psychiatrist to help understand a history of significant emotional and potentially suicidal feelings. In a different evaluation, the parent who wanted to move underwent a vocational assessment to help in understanding her earning capacity in both her current and proposed locations. In a third evaluation, the child had undergone an assessment for her Individual Educational Plan (IEP) and to understand her special education needs for school. Each of these unique assessments had an important role within the family, but would not be used instead of a child custody evaluation to help in understanding custody and access decisions for the court.

For a variety of reasons, an individual may have undergone a psychological or other type of evaluation. Other examples could include the child, who may be evaluated because of school or behavioral problems, or as part of an overall diagnostic assessment prior to beginning therapy; or the adolescent or adult with drug or alcohol problems who has participated in a psychological assessment as part of the initial determination of appropriate treatment planning for her substance abuse. Similarly, an adult who has been hospitalized for an acute depressive reaction may have completed a psychological evaluation in order to assess his psychological condition, or a woman with a chronic mental illness may have had several psychological evaluations over time in order to assess any change in her functioning as part of ongoing treatment plans. As with the previously described therapist role, the goal of these psychological evaluations is clear: to assess an individual's cognitive and/or emotional functioning, usually

for the purpose of assisting in the development of appropriate interventions. Although the client is usually part of a family, the individual psychological evaluation is not related to family functioning in any comprehensive way. The evaluation is an analysis of the individual, not within the context of the family. As such, the psychologist evaluator is not in a position to make an assessment of the complex issues of custody and/or access.

At the same time, this psychologist will often be a collateral witness in the evaluation. Either the child custody evaluator will want to talk with the psychologist who performed the individual assessment as a collateral witness, or at the very least, she will want to use the report for adjunct collateral information in the context of the overall custody evaluation.

## Mediator

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A mediator is directly involved in the divorce process, either court-connected or in private practice, to assist the divorcing couple to settle their many disputes and reach solutions that assist in conflict reduction during the divorce process. In most states, the mediation process is confidential, which prevents the mediator from participating in the adversarial court process. This confidentiality enables the mediator and the couple to work more effectively in trying to resolve conflict, without fear that things said in mediation can be used against the other person in litigation. Many mediators view such confidentiality to be essential for mediation to result in a successful outcome. California has a unique family court system in which mediation may not be confidential and may result in a recommendation for a custody and access plan. While I recognize the need to get relevant information to the court in these circumstances, I am concerned that these recommendations may yield a recommendation made on the basis of very limited information.

Regardless of the confidentiality, a mediator's primary objectives are to help the couple reduce conflict while reaching solutions about the many issues on which they disagree. More often than not, mediation focuses on the custody disputes, and the mediator will try to use her knowledge and negotiation skills to assist a couple in coming up with their own parenting plan. Whether such mediation takes place in a private mediator's office or in a court-connected setting, the goal of mediation is to assist the couple in developing their own parenting plan for the children, without any recommendation from the mediator. In the event that the couple cannot reach an agreement, local court rules may allow the mediator to provide information regarding the family dynamics so that the judge can make an order regarding the custodial arrangement. Regardless, because the mediator will have had prior contact with the parents, the mediator is not an appropriate resource for evaluating the family. As such, the mediator should decline any referral to be the court-appointed child custody evaluator. The mediator, like most of the other persons listed in this chapter, is likely to be a collateral witness for the child custody evaluator, unless confidentiality precludes such involvement by the mediator.

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## Consultant to Attorney/Expert Witness

A family law attorney and a mental health practitioner may develop a working relationship in which they periodically consult with one another on more complex cases. I have been asked by attorneys to review custody evaluations, not necessarily to critique the evaluation, but to help the attorney understand some of the dynamics involved in a particular family matter. I have also been asked for my perception of the risk to children based upon limited information, to see if a custody evaluation might be in order. There is a growing use of experienced custody evaluators to critique the custody evaluation or other work product of a neutrally appointed evaluator to assess its thoroughness and to determine whether the recommendations made by the evaluator are consistent with the data collected in the evaluation. This is a unique field and is increasingly being used in cases that go to trial rather than settle after mediation or the completion of a child custody evaluation.

Similarly, during litigation, the court may require the expert testimony of a psychologist or other mental health professional to assist in understanding certain factual information in the case. In this situation, I am referring to testimony not derived from the completion of a custody evaluation, but simply connected to one's knowledge of problems of divorce, general psychological principles, child development, or some specific divorce-related matter, such as relocation. I have seen psychologists provide testimony to the court to assist in determining whether or not a custody evaluation is necessary. On other occasions, I have known psychologists to provide expert testimony associated with some aspect of child development that is quite complicated, and therefore a significant issue for the court's understanding. In such instances, the mental health expert is providing a specific function to the court in the absence of direct knowledge of a particular case. The consultant may be asked to provide expert witness testimony about issues in front of the court, such as relocation, child development and overnights with young children, domestic violence, or alienation. This expert would avoid making specific recommendations about the best interests of a child she has not evaluated, though it may be appropriate to discuss relevant risks and benefits of various custodial options based on hypothetical questions posed by the attorneys. As with the other roles, this expert will not be able to provide the complete neutrality that is necessary in custody evaluations, should the case be referred for one.

Although many mental health experts will not engage in unilateral assistance of one attorney, there are occasions where it may be very appropriate, as long as the consultant does not make specific recommendations regarding custody or access. The goals for such consultation will be to assist the attorney in understanding the aspects of family dynamics while providing suggestions to the attorney about how to proceed in her case. While colleagues express a certain degree of risk in such consultation, I have found that, as long as the psychologist adheres to her ethical principles, she can provide consultation to the attorney that is ultimately useful for all members of the family, not just the attorney and her client. This role will be discussed in greater length in Chapter 16.

## Parent Coordinator

In growing numbers, mental health professionals are being asked to take on the role of Parent Coordinator. Their tasks are generally the same, though different jurisdictions identify these individuals in different ways. For purposes of this section, my use of the term *Parent Coordinator* will also refer to terms that some states use or have used, such as Special Master (California), Mediation/Arbitrator (Colorado), Family Court Advisor (Arizona), or Wise Person (New Mexico). AFCC (2005) has also promulgated *Guidelines for Parenting Coordination*.

Often, the Parent Coordinator is appointed following the completion of a custody evaluation when the evaluator recognizes that the parents will need someone outside of the court to continue in an ongoing way to monitor or settle issues between them. In some states, the role of Parent Coordinator is defined by statute, and refers to the quasi-judicial task of hearing all sides to a dispute and making binding decisions upon the parties. In many instances, the task of the Parent Coordinator is narrowly defined, such as to address issues of transportation and monitoring the dropping off/picking up of the children. In other situations, the role of the Parent Coordinator is broadly defined, such as to address all outstanding disputes between the parents, help them to settle,

The Parent Coordinator can be invaluable in helping parents learn to reduce conflict and work toward resolving their disputes, and in keeping children out of the middle of the conflict.

and if they cannot, to order binding decisions upon them. California and most other jurisdictions do not allow a judge to “order” a couple to hire a Parent Coordinator to assume judicial authority, instead only allowing for the Parent Coordinator to be appointed by stipulation of both parents. In practice, the best method may be to stipulate that the

Parent Coordinator’s order will become binding unless appealed by either party within a defined reasonable period of time (e.g., 20 days).

In my experience, the Parent Coordinator’s actual task is complex and involves the skills of detective, evaluator, therapist, educator, teacher, parent, mediator, and judge, depending on the issues that need settlement. In my various appointments over the years, I have helped parents with the following tasks:

- Choosing a child’s school
- Determining a child’s involvement in extracurricular activities (where, what activities, when)
- Adjusting the parenting time schedule when one parent had a variable work schedule and they were trying to maintain a relatively equal parenting plan
- Determining whether a child would see a therapist and who the therapist would be
- Helping the parents learn to communicate with one another in a civil manner



- Helping parents see when their communications were hostile and inappropriate
- Ensuring that the nonresidential parent received all of her parenting time, and making sure that appropriate makeup time was enforced if the regular time was missed
- Generally resolving issues so that parents stayed out of court

My experience with other Parent Coordinator appointments included the following tasks:

- Monitoring drug/alcohol tests and ensuring that the testing protocol was appropriately followed
- Monitoring compliance with other court orders
- Making necessary decisions to help children's lives move seamlessly forward

Because the Parent Coordinator's authority extends only as far as the parents are willing to agree, the Parent Coordinator needs to use all of her skills to keep the family out of court and focused on the needs of their children. In my experience, the stipulation and appointment of a Parent Coordinator, especially when the role is carefully defined, is a useful way for encouraging some of the more litigious clients to learn more cooperative ways of co-parenting or parallel parenting, stay out of court, and lower the economic and emotional costs of their divorce. Finally, although the Parent Coordinator cannot become an evaluator because of the need for complete neutrality, when a subsequent evaluation is needed, the Parent Coordinator's input as a collateral witness would be valuable. For more information on the role of the Parent Coordinator, see P. Stahl (1995), Coates et al. (2003), Sullivan and Kelly (2001), and the Special Issue on Parenting Coordination of the *Journal of Child Custody* (Vol. 5, Nos. 1–2, July 2008).

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## The Custody Evaluator

When a mental health professional is given the task of completing a custody evaluation, that evaluator must come into the process completely neutral, without hidden bias, and with no prior contact with any member of the family. Such an ethical position would preclude anyone who has been a therapist, mediator, consultant, expert witness, psychologist evaluator, or Parent Coordinator to anyone in the family from being the neutral, court-appointed evaluator. Unlike the other professional roles outlined, it is the task of the evaluator to assess the entire family objectively, focusing on the dynamics of the family, the individual strengths and weaknesses of each parent, and the functioning of the children, while making recommendations to the court

regarding the best interests of the child. It is a unique role, and must, in my opinion, be kept separate from the other roles outlined.

## Dual Relationships

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As noted in Chapter 1, there are now several professional associations that have ethical rules regarding custody evaluations. For many evaluators, the simple rule is “never conduct a custody evaluation when the evaluator has had a prior relationship of any kind with any member of the family.” Thus, if the evaluator has given expert testimony to the judge related to a particular family’s dynamics, or if he has been a therapist to any member of the family, or a mediator, or a consultant to one of the attorneys for this family, it is inappropriate to conduct a custody evaluation. As mentioned in Chapter 1, a custody evaluation must be completed by a neutral, impartial mental health expert who gathers facts about the family and its individual members in order to make a recommendation for the custody and access plans of the family. Prior knowledge of any family member would make such neutrality impossible.

In many situations, it may be perfectly helpful for the other mental health expert, usually a therapist or mediator, to talk with the child custody evaluator, and provide her input to the evaluation process as a collateral witness. In such circumstances, the evaluator will need to gather such information as an adjunct to the rest of the facts of the case.

There may also be times when the other mental health professional may not want to talk with the evaluator. In those circumstances, the other mental health professional may compromise himself and could possibly violate his client’s rights if he is not careful. There are at least two such instances that come to mind. One is the mediator who has ensured the confidentiality of the mediation process from the litigation. Even if both parents sign a release of information authorizing the evaluator to speak with the mediator, the mediator is likely to claim confidentiality, as her knowledge was gained with confidentiality in mind. Providing information to the evaluator while knowing that the evaluation could ultimately end up in litigation could therefore be a mistake. In addition, if, following the evaluation, the couple were to go back to mediation, it would be difficult to trust the mediator in the future if confidential material had been disclosed.

A second instance where this is critical is with the child’s therapist. As noted earlier, some children’s therapists are appointed to perform “safe-haven therapy” and will have the confidentiality confirmed by court order. At other times, however, the therapist is working with a child whose parents are in the midst of a heated custody dispute and the primary task of the therapy is to provide a safe place for the child to express herself. Even if this therapy is not court-ordered as safe-haven therapy, the therapist in such a case will most likely want to ensure the child’s confidentiality in order to protect the

child's emerging thoughts and feelings. Even though parents may authorize the release of information, there are times when maintaining our silence is critical so we can assist the child in staying out of the middle of the parental dispute. If the child fears that her communications could end up being divulged to the evaluator, or to her parents, this child is likely to hold back from sharing necessary feelings and thoughts with her therapist. By ensuring confidentiality, and maintaining it even when an evaluation is in progress, we are providing a place of safety for the child. Obviously, there may be times when it is critical for the therapist to talk with the evaluator, such as when she feels that there is a degree of risk for the child in relation to one of his parents. Clearly, the therapist must balance the child's right to privacy and need to stay out of the middle of the conflict with the need for the evaluator to have crucial information about the child and his relationships. As noted in Chapter 1, California Rule of Court 5.220 addresses this issue by requiring court-appointed child custody evaluators to ensure the confidentiality of communications between the therapist and the child.

To safeguard the need for confidentiality of the child's therapy, in many jurisdictions the court will become the holder of the child's psychotherapeutic privilege. Then, when a dispute arises regarding this question, the judge will make a decision about confidentiality and the extent to which the child's therapist should provide information to the evaluator, and whether this information should be safeguarded, sealed by the court, and kept out of the report and the legal proceedings.

Similarly, the individual therapist of an adult client may wish to maintain confidentiality from the evaluator. A therapist may feel that he cannot divulge confidential information, even when a release was signed, because it would interfere with his ability to be a therapeutic advocate for his client. At all times, the evaluator needs to be sensitive to the ongoing goals and needs of the other mental health experts when consulting with or seeking information about the family or an individual member of the family.

Another possible source of controversy among evaluators is the blending of the roles of evaluator and mediator. On occasion, especially in California where recommending mediation is common, after being appointed to conduct the evaluation, an evaluator who also does mediation may find that a particular couple may not be that far apart and could benefit from mediation rather than going through the evaluation process. Many attorneys and court personnel would suggest that the evaluator could easily shift roles and try to mediate the issues between the parents. After all, a working alliance is being established, and some would argue that the evaluator would be the best person to attempt such mediation.

While I agree that the timing may make sense, it is my belief that if a mental health professional is appointed by the court to do a custody evaluation and the evaluator senses that mediation would be more appropriate, she should suspend her evaluation and refer the couple to a willing mediator and assist that mediator in understanding the dynamics that suggested that such

mediation could be successful. The primary reason that I am opposed to changing roles in the middle is that should mediation efforts fail, it will be difficult for the evaluator to reestablish the necessary impartiality to complete the evaluation. It is my belief that once we blend roles, we lose effectiveness in whatever role we end up taking. By maintaining the integrity of a single role from beginning to end, we can assure the family that we are undertaking that role to the best of our ability, with no other agenda in mind. When objectivity and neutral impartiality are required, it is easy for the evaluator to *always* maintain it, as long as she never changes roles during the evaluation process.

At the same time, it has been argued (Barsky, 2007) that there is a place for the blending of mediation and evaluation. Barsky refers to the process as “mediative evaluation” and suggests that if an evaluator were to offer the role, it should be defined as distinct from either mediation or evaluation and provide clear and distinct informed consent of the process at the outset. He adds that it is a potentially dual role and should be offered only if all the parties recognize the inherent risks involved, and if there is both a grievance procedure and a method for terminating the process. While believing that the role is a valid one, and not automatically a dual role, Barsky does recommend referral to others, especially in those situations where the mediative evaluator is concerned about risk.

Finally, after completing my evaluation, I have often been asked to follow my evaluation role and become a mediator, therapist, or a Parent Coordinator. While I recognize that a certain degree of flexibility is in order once the evaluation has been completed, I have come to the conclusion that it is best for me not to mix roles even after the completion of an evaluation. Oftentimes I am asked to complete an updated evaluation at a later date, and again, if I have shifted roles after the completion of an evaluation, I can no longer maintain the necessary neutral impartiality. Similarly, I have seen many cases go to trial as long as a year to 18 months after the completion of an evaluation. If I have taken on another role in that time, and my testimony related to the evaluation is necessary, it is likely that this testimony will be compromised by my new role in the case. The more I see the possible complications of blending roles, the more I am convinced that it is safest to maintain rigid boundaries after completing the evaluation. The only time I would recommend that an evaluator shift roles after an evaluation has been completed is in those geographic areas where there are few experts, and where the shifting of roles may be necessary in order to provide the necessary therapeutic, mediation, or other dispute resolution assistance after an evaluation has been completed. Even in such circumstances, it would be wise to caution the family and to seek the advice of the court prior to undertaking such a shift in roles.

It is my firm belief that, as mental health professionals, we must keep separate our many possible roles when working with divorcing families. During the course of an evaluation, we seek information from other professionals who have worked with various family members, and confidentiality may be more important than assisting an evaluator with her assessment. Once we have

begun an evaluation, it is my belief that as evaluators we must not change roles, though a suspension of the evaluation might be in order if efforts toward mediation could become successful. Finally, except in rare circumstances, it is best if an evaluator does not change roles even after the evaluation so that he can maintain his evaluator integrity in case there is a need for updated evaluations or future testimony associated with the prior evaluation.

### THE BOTTOM LINE

- Psychologists and other mental health professionals have a variety of roles that they can participate in with families of divorce.
- There are substantial differences between therapeutic and forensic roles, differences that lead to the structure and process of each type of role.
- These roles should rarely, if ever, be blended or mixed, and professionals should avoid switching roles unless absolutely necessary.
- There is a significant risk of licensing board complaints if a person in one role switches roles inappropriately.
- It would be considered a switch of roles if a child's therapist were to provide a custody recommendation to the court. Not only might this violate confidentiality, but it would reflect the professional's mixing of therapeutic and forensic roles.

### Notes

1. Much of the information in this chapter has been taken from P. Stahl (1994).
2. When teaching judges in the National Judicial College courses related to family law, I commonly ask judges whether they get letters from therapists and their perception of the value of those letters. Over the 10 years of doing this informal survey, I have yet to hear a judge say that she has found them helpful. On the contrary, all of the judges describe that they interfere with the judicial process; many judges state that such letters have led them to remove the child's therapist from that role.

