

**RELOCATION, RESEARCH, AND FORENSIC EVALUATION:
PART II: RESEARCH IN SUPPORT OF THE RELOCATION
RISK ASSESSMENT MODEL**

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The forensic risk assessment model for child custody relocation cases was described by Austin (2000a, 2000b). It is a research-based, actuarial predictive model designed to assist evaluators in organizing data for the complex relocation case. It is only the first step in the forensic relocation analysis. The model can serve as a heuristic for decision makers who are in a position of trying to resolve the decisional dilemmas associated with relocation. The research basis for the model is more fully described. The fact-driven nature of relocation cases is emphasized. Evaluators and decision makers are also encouraged to integrate descriptive data that allow for a psychological cost/benefit analysis or the relative advantages/disadvantages to the children and parents associated with relocating or not relocating. The model is intended to facilitate the process of careful investigation by evaluators and to provide a scientific framework for the forensic analysis necessary for the crafting of appropriate parenting plans.

Keywords: risk assessment; relocation; child custody; research; forensic evaluation

**REVIEW OF THE RESEARCH SUPPORTING THE RELOCATION
RISK ASSESSMENT MODEL**

Part I of this article, on the problem of relocation and child custody disputes, reviewed the research literature on the effects of residential mobility on children of divorce. This second part presents, for the first time, an extensive review of the research in support of the actuarial forensic relocation risk assessment model for child custody evaluation (Austin, 2000a, 2000b, 2005, 2006, 2007; Austin & Gould, 2006). Research relevant to each of the risk and protective factors is presented. As revealed in Part I by the research review on residential mobility, moving residences and economic changes explain the most variance on children's adjustment following divorce. Children's adjustment is multidetermined, with many other variables also interacting to explain outcomes for the child in the individual case.

The view of children's adjustment to divorce, in terms of risk and resiliency, identifying factors that increase the risk of harm and those that have a buffering effect, has been used successfully to summarize the divorce effects research literature (Kelly & Emery, 2003) and to present and explain original research findings (Hetherington & Kelly, 2002; Rogers & Rose, 2002; Zaslow et al., 1999).

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The Relocation Risk Assessment (RRA) is applied to the individual case for the purpose of organizing research-based factors to enhance the ability of the evaluator to make predictions for the court. The model was derived from the general paradigm of forensic mental health evaluation, where risk assessment is commonly applied in various types of cases, most typically in violence risk assessment (Lidz, Mulvey, & Gardner, 1993; Borum, 1996; Monahan, 2003). Risk assessment is also a viable and efficient way to approach specialized topics that surface with child custody evaluation, where the evaluator needs to make a prediction of the likelihood of harm to the child. It is appropriate for issues of partner violence (Austin, 2001; Drozd & Olesen, 2004), substance abuse (Schleuderer & Campagna, 2004), and child sexual abuse (Kuehnle & Kirkpatrick, 2005). A fundamental task for forensic evaluators is to make predictions for the court concerning child outcomes. The language of harm may be more appropriate when the salient issue before the court is to reduce the risk of negative outcomes for the child versus maximizing the likelihood of positive outcomes, or better adjustment. Harm is the conceptual obverse to the concept of psychological best interests (Austin, 2000b), just as the legal concept of a least detrimental alternative can be subsumed under that of best interests (*In re Marriage of Martin*, 2002; *In re Marriage of Hatton*, 2007).

Risk in this context refers to the probability of harm associated with relocation. Harm represents the assignment of the consequences to the child in terms of adjustment to life circumstances or developmental outcomes. The consequences can be predicted by the evaluator for the child's short- or long-run experience. Risk is not to be equated with the experience of stressful events (Rutter, 1987), though the probability of negative developmental outcomes is expected to be correlated with the child's exposure to psychosocial stressors and risk factors.

The RRA identifies the following risk factors associated with relocation: age of the child, distance of the move, individual psychological resources of the child/individual differences/temperament/special developmental needs, degree of nonresidential parent involvement, psychological resources/mental stability/coping skills of the relocating parent, parenting effectiveness of both parents, degree of interparental conflict/history of domestic violence, ability of the residential parent to support the relationship between the child and nonresidential parent, ability to be a responsible gatekeeper, and recentness since marital separation and divorce.

The RRA also includes buffering, or protective factors. These factors often are the same as the risk factors, but at the other end of the continuum of the variable. For example, the emotionally stable and temperamentally easy child is a protective factor, whereas the child who is "temperamentally difficult" is a risk factor (Hetherington, 1989, 1991). Protection in the face of relocation is generally afforded by developmental maturity (though adolescence creates its own risk), shorter geographical distance, higher psychological resources and good coping skills of the relocating parent, effective parenting, history of low conflict and good communication between parents, and the ability of the relocating parent to be a responsible gatekeeper and not hinder the other parent's access to the child.

The main protective factor is the quality of the relationship between the child and the residential/relocating parent. Research has identified the importance of this factor in assuaging the child's adjustment to divorce. When the child has a positive relationship with one caregiver, who shows warmth to the child and exercises an effective and authoritative parenting style, then adjustment is enhanced (Kelly & Emery, 2003; Hetherington & Kelly, 2002). This factor was at the heart of the contentious California debate on relocation, with Wallerstein (Wallerstein & Tanke, 1996) pointing to the importance of the custodial

parent–child relationship as *the* main factor to consider, seemingly to the exclusion of others. The obvious problem with this singular approach to predicting a child's adjustment to relocation is that, in the individual case, it will be a combination of risk and protective factors that ultimately describe the child's outcome with divorce (Hetherington, 1999a) or relocation (Kelly & Lamb, 2003). The research literature cannot be plausibly interpreted to mean that this one factor so effectively insulates the child that the level of risk is minimal in light of the survey research on residential mobility (Part I). While this factor is very important and might serve as a basis for justifying relocation in a case, it is clear that children are more likely to follow a normal developmental course if they can benefit from quality relationships with two biological parents under conditions of low exposure to conflict (Amato & Sobolewski, 2001; Hetherington & Kelly, 2002). When circumstances require a child to relocate with a parent, and there have been two highly involved parents, then the revised parenting plan always needs to be based on a goal of harm mitigation (Austin, 2000c; Austin & Gould, 2006). When the nonresidential parent is not a viable candidate to become the residential parent, then the focus needs to be on how to maximize the likelihood that the child will have a successful relocation and achieve a healthy adjustment. This goal will usually revolve around how to facilitate the child's access to the resources of the nonrelocating parent and other important sources of social capital for the child (Austin, 2005; see Hetherington, 1999b; Amato & Sobolewski, 2004).

The RRA model allows the evaluator to take a hierarchical approach to the predictive task of recommending how the child is likely to adjust to relocation or in the scenario of relocation being denied (Austin, 2000a). As more factors are added to the equation, they are additive to the level of risk, or they may start to balance each other in an expected countervailing effect when a significant number or degree of protective factors are simultaneously present. In this manner of analysis, the case data allow the evaluator to better inform the court as to whether the proposed relocation is likely to be successful for the child's predicted adjustment (Austin, 2005). For example, if there is a very young child, an interstate move, a highly involved nonresidential parent, restrictive gatekeeping by the residential parent, a special developmental need of the child (such as attention deficit hyperactivity disorder), and considerable stress in the residential parent–child relationship, then the level of risk is naturally high. With a school-age child who has an easy, adaptable temperament, a move within the state, a very healthy residential parent–child relationship, a high level of involvement by the nonresidential parent (so the parent will stay involved), a history of effective co-parenting, and the residential parent has demonstrated responsible gatekeeping in the past, then the level of risk is much lower, and probably tolerable, in the evaluator's prediction and judge's decision. These two scenarios represent the extremes on the continuum of the possible combinations of risk and protective factors.

FUNDAMENTALS OF RISK ASSESSMENT

A risk assessment analysis begins by specifying the population or comparison group to which the individual demonstrates the most similarity. In a forensic analysis, this might include psychiatric patients, sexual offenders, other schoolchildren, or a geriatric group. In custody evaluation, the comparison group is children and parents of divorce or never-married parents whose partnership ended. The evaluator next needs to be informed, to the extent research allows, on the base rate for adjustment, which operationally is defined by a combination of factors that can be measured. The evaluator is theoretically making predictions as to these dependent measures or outcomes. They include internalizing and

externalizing behaviors, school academic performance and behavioral problems, emotional distress/well-being, adolescent decision making (substance abuse, school dropout, teenage pregnancy), and long-term adjustment into adulthood. The issue of base rate of potential harm, due to residential mobility for children of divorce, is reviewed in Part I.

The risk assessment literature classifies risk factors into *static* versus *dynamic* in quality, which refers to their changeability (Heilbrun & Heilbrun, 1995; Douglas & Skeem, 2005). Historical or demographic factors are static, which means they cannot be changed. The child's age at the time of the relocation is unalterable. A history of partner violence cannot be changed. Other risk factors are subject to modification and so have a dynamic quality. Conflict between parents can be modified through intervention or the structure of a parenting plan. Research shows that most parents learn to lessen their conflict after the first few years (Hetherington, 1999a). Anger control problems can be reduced if the parent is amenable to treatment. Some factors have both a static and dynamic component. If a parent has interfered with the other parent-child relationship and has been a restrictive gatekeeper (Allen & Hawkins, 1999), then past behavior is the fact pattern. However, if the parent changes the behavior so the other parent can be substantially involved with the child, even if hostility remains, then the child's adjustment is more likely to be positive (Pruett, Williams, Insabella, & Little, 2003). Most risk factors have a static (or historical/demographic) aspect, but have a fluid or changeable dimension when considering possible future behaviors. Most custody reports contain recommendations for behavioral changes by the parents.

The evaluator can be most helpful to the court by communicating both an estimate of the *risk* (i.e., probability) and likely short- and long-term *consequences* of the alternative residential arrangements in the relocation context. This can be characterized as a *risk times stakes* analysis (Austin, 2000b),¹ so that the decision maker is presented with information on these two dimensions. Thus, in a case of a high probability of a low level of harm, this may be tolerable. If the evaluator feels there is only a moderate risk, but the stakes are great, then this may not be tolerable. If the negative adjustment for the child is predicted to be short term, then the decision maker may be swayed toward allowing the move.

UTILIZING THE RESEARCH HYPOTHESIS IN CHILD CUSTODY EVALUATIONS

The forensic scientist-practitioner approach is based on the utilization of scientifically developed data-gathering techniques, where possible, the application of substantive research on relevant factors, the use of systematic and standardized clinical techniques to acquire data, the use of a multihypothetical approaches to assess rival alternative hypotheses, and a recognition that there is both an art and a science component to competently conducted child custody evaluations (Gould, 1999, 2004; Gould & Stahl, 2000; Gould & Martindale, 2007; Kuehnle, 1998; Martindale & Gould, 2004; Kirkpatrick, 2004; Austin & Kirkpatrick, 2004; Kuehnle & Kirkpatrick, 2005).

When empirical research findings are applied to the individual evaluation, its contribution is restricted to the generation of hypotheses for the case. The research hypothesis can then be compared with the data gathered in the case to determine if it is relevant. Drawing upon the research literature on relevant factors, the evaluator can establish an actuarial basis for the forensic predictions. This should improve the stability and accuracy of the behavioral forecasts. It is well established that actuarial predictions are more reliable than those based on clinical impressions (Meehl, 1954; Dawes, Faust, & Meehl, 1989), but it is also recognized that the clinical aspect of gathering data and making predictions is

essential (Skeem, Schubert, Stowman, & Beeson, 2005; Hanson, 1998). Research-based factors are one of the pillars in a custody evaluation, but they are only the starting point. The evaluator also needs to gather data on factors deemed relevant by statute or case law, and there may not be a research basis for some of these factors, or a tenuous one at best. The individualized assessment also needs to include data on practical and unique factors for the case. In this way, the evaluator gathers contextual information to show to what degree the research hypothesis can be applied to a case and how it should be qualified in light of the case-specific data. To make one-to-one predictions, from the research generalization to the individual child or family, creates an error of reductive reasoning because the research findings are based on aggregate or group average data. To rely solely on the research hypothesis would be to commit what statisticians call the “ecological fallacy” (Robinson, 1950; Ostroff, 1993). Inevitably, the child’s adjustment to divorce and/or relocation will reflect a complex interaction of factors that the evaluator needs to assess, only some of which will be research based—the art and the science of the evaluative enterprise (Gould & Stahl, 2000). Courts remind us of the need for “individualized determinations” in relocation cases, even when the legal standard might be a presumption in favor of relocation by the custodial parent (*In re Marriage of Burgess*, 1996; *In re Marriage of Francis*, 1996; *Baures v. Lewis*, 2001).

RISK, RISK FACTORS, AND PROTECTIVE FACTORS

Within the context of a forensic scientist-practitioner approach to child custody evaluation (Kuehnle, 1998; Austin & Kirkpatrick, 2004), the RRA model was presented in 2000. It was presented as a research-based actuarial model, but the supporting research was not fully described. The RRA model is not a scientific instrument that might be subject to an admissibility test as part of a legal standard of evidence (e.g., *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993). It is a framework to help the evaluator organize the case data so that predictions can be made concerning child outcomes and the relevant decisional alternatives that are available to the court. It also is a heuristic to help the court process the relevant factors for the case on the relocation question.

1. Age of the Child. More risk is associated with very young children and with adolescents relocating following divorce. Kelly and Lamb (2003) summarized the theory and research relevant to very young children. The risk follows from research which shows the potential long-term negative effects from disrupted attachments (Bowlby, 1973; Greenberg, 1999). In practice, it may be that evaluators overestimate the risk to the child due to threatened or disrupted attachment relationships. Long-term child outcomes are multidetermined and, for this reason, the quality of early attachment may not adequately predict children’s adjustment in later years (Thompson, 1999). The risk assigned to age is also associated with nonresidential fathers playing a diminished role or dropping out after a geographical distance is created (Hetherington & Kelly, 2002) and not contributing social capital for the child when there is a divorce and relocation (Amato & Sobolewski, 2004; McLanahan & Sandefur, 1994; Hetherington, 1999b; Coley, 2001). While the issue of disrupting established attachment relationships (or not allowing them to form with infants) is a basic concern, it needs to be kept in mind that children of divorce will generally show a satisfactory adjustment if they have a secure attachment with one consistent caregiver (Kelly & Emery, 2003). They will do even better, though, with quality relationships with two involved parents (Amato & Sobolewski, 2004).

A further complicating factor, with age and relocation, is that a high percentage of mothers who wish to relocate with their very young children will be quite young themselves, and a majority with children under 6 years of age will be living below the poverty level (Teachman & Paasch, 1994). As discussed in Part I, the potent effect of postdivorce economics on child adjustment is well established (McLanahan & Sandefur, 1994; Hetherington & Kelly, 2002).

The young child's limited sense of time and immature ability to hold images in visual memory without frequent exposure to the attachment figure inevitably weakens, and sometimes will extinguish, the attachment relationship (see Kelly & Lamb, 2003 for a discussion). If the 6-month-old child relocates out of state with the residential parent and does not have at least biweekly contact with the other parent, the emotional and cognitive connection is unlikely to be sustained. The parent becomes a stranger as a result of the prolonged separation. When there is an infant or toddler at the time of relocation, the risk of long-term developmental harm is high because of the likelihood of the child–nonresidential-parent bond never forming. The child then loses out on the potential social capital or noneconomic human resources the nonrelocating parent has to offer. Child support can be paid or collected, but it is the loss of the nonresidential parent's social and psychological involvement that creates the harm. With very young children, then, the challenge on how to sustain the nonmoving parent–child relationship, and therefore create a viable long-distance parenting time plan, can be daunting.

Fathers are still much more likely to be the nonresidential parent. The importance of fathers to stabilize the potential adolescent turbulence has been demonstrated (Buchanan, Maccoby, & Dornbusch, 1996; Hetherington, 1993; Videon, 2002). The vulnerability of adolescents to both divorce and relocation is associated with the disruption of stable peer relationships, school involvement, and social activities. Hypotheses concerning the adolescent's response to relocation and a new living environment are based on the loss in social capital and the likelihood of falling in with the wrong peer group in a new community (South, Haynie, & Bose, 2005; South & Haynie, 2004). When parents are divorcing, peer support is an important mediator of the effect of low parental support and availability that often accompanies this transition (Rogers & Rose, 2002). When the transition is due to relocation, and there is not an established peer network available, then this peer cushion will not be available. It needs to be recreated in the new community. The hypothesis of a "relocation window," with better adjustment in the 8–12-year-old age range (Haveman, Wolfe, & Spaulding, 1991), deserves further attention. This general prediction is one of a curvilinear relationship between age and child adjustment to relocation. It appears the high-risk groups are ages 0–6 and 12–16, but there still is a substantial rate of academic and behavioral problems associated with relocation in children of divorce in the 7–12 age group, an effect size of 13% compared to intact families (Tucker, Marx, & Long, 1998). It would be a mistake to conclude that there is a minimal risk in this 7–12-year-old age group, but it may be a time when the children may be more developmentally adaptable in response to relocation. Every relocation will be complex and unique. It would not be uncommon for there to be children in very different developmental levels in the same relocating family unit (e.g., ages 3 and 10).

On a practical level, many adolescents may refuse to cooperate with a proposed relocation and will want their preference or voice heard on the issue (Kelly, 2002, 2005; Smart, 2002; Warshak, 2003). It will be very difficult to force relocation on a resistant adolescent. Forensic lore suggests it will not be uncommon when a residential parent has little flexibility not to move (e.g., remarriage) that the teenager will stay behind in the home community

to complete high school, stay on the same athletic teams, and so on and that there would be a change in primary custody or the child might stay with extended family (see Maccoby & Mnookin, 1992 on shifting de facto custodial arrangements). One child may stay behind to finish high school, while siblings move to the new community with the moving parent.

2. Geographical Distance and Travel Time. Geographical distance and time create practical obstacles to the continuation of the child–nonresidential parent relationship by limiting the degree of parental involvement. Hetherington found that a distance of 75 miles between the child and parent, or more than a comfortable day trip, often resulted in the parent dropping out of the child’s life (Hetherington & Kelly, 2002, p. 134). Hetherington found that relocation by one of the parents will not be unusual, and it is one contributing factor to the research findings that show that a significant percentage of fathers have little involvement with their children (Amato & Sobolewski, 2004; Coley, 2001).

Braver, Ellman, and Fabricius (2003), in a preliminary study, found that the relocation of either parent of one hour away, or more, resulted in further negative long-term outcomes for the child, again pointing to the importance of distance and time associated with travel. In urban areas, moves that are ostensibly “local” or “regional” are likely to be viewed as very substantial and disruptive to the existing pattern of relationships (Shear, 1996). Tucker, Marx, and Long (1998), in a large sample survey of school-age children, found distance produced a significant, but weak effect, with a large sample size ($p < .05$), on children’s school adjustment. McKenry, Price, Fine, and Serovich (1991) report data that is consistent with this literature, while controlling for other factors. They report that fathers’ geographic proximity to their children has a direct, and logically predictable, empirical effect on their degree of involvement: “geographic proximity seems to facilitate a father’s ability to engage in a meaningful role with his noncustodial children” (p. 315).

A number of states have statutes that require notice of relocation if the move is 100 miles or more (Arizona; Michigan; Tennessee). Thus, as a matter of social policy in these states, a move of less than this distance is not considered sufficiently harmful to the child to be viewed as a legal relocation. Recent high court opinions in Vermont recognized the importance of distance and suggested a shorter distance would help buffer the harm associated with relocation because there would be a less deleterious effect on the child–nonresidential parent relationship when there had been a high level of involvement. The factors of distance and level of exercised parenting time were posited to interact in anticipating how satisfactory an alternative parenting plan could be (*Lacaille v. Hardaker*, 2005; *Hawkes v. Spence*, 2005). Model parenting plans for long-distance arrangements are based on an assumption of geographical proximity, so the parents could meet halfway for weekend exchanges (Arizona Supreme Court, 2002).

3. Psychological Stability of the Relocating Parent and Parenting Effectiveness of Both Parents. Psychological stability and resourcefulness of the relocating parent will help position the parent to aid the child in coping with the stress associated with the potentially negative life transition event of relocation. This is a resource availability perspective and assumption on children’s adjustment to relocation (Hetherington, 1999a, 1999b; Austin, 2005). If the parent is clinically depressed or has a personality disorder, then he or she will not be in a good position to manage his or her own affairs (new job, residence), cultivate new resources (social network, new school for the child, new activities), and generally help the child deal with change and stress. The evaluator will best assess this factor by investigating the parent’s coping skills, generally, as well as specific life management skills.

This will translate to the degree of parent management skills. How the parent has been coping with the stress involved with the transition period of marital relationship termination will suggest how adequately he or she will manage the challenges presented by the subsequent transition associated with relocation. The evaluator will be most helpful by providing a functional analysis of the parent's coping skills and resourcefulness, rather than presenting a clinical diagnosis or psychodynamic formulation.

Research shows the importance of the custodial parent's psychological stability for child adjustment after divorce (Hetherington, 1999a; Emery, Waldron, Kitzmann, & Aaron, 1999; for a review of the literature, see Hetherington, Bridges, & Insabella, 1998; Kelly & Emery, 2003). Greater custodial-parent symptomatology is correlated with poorer child adjustment (Pruett et al., 2003). Parents, including the mother with primary custody, tend to be less available to children, show more emotional problems, and are less effective in their parenting in the first 2 years after separation and divorce (Hetherington & Kelly, 2002; Hetherington, 1999a; Kelly & Emery, 2003). They are less involved in parenting, compared to parents in intact families, though the effect size is only about 5% (McLanahan & Sandefur, 1994). It is less likely that the divorced mother will be exercising an effective style of authoritative parenting during this time frame (Hetherington & Kelly, 2002). The extent of parental supervision of children is an important component of parenting effectiveness and this tends to diminish with divorce and residential mobility (McLanahan & Sandefur, 1994). Research shows that fathers, on average, have a buffering effect against maternal depression in intact families for child adjustment (Kelly & Emery, 2003). This is less likely to occur following divorce and with relocation cooccurring with divorce.

4. Individual Resources/Individual Differences in the Child Temperament/Special Developmental Needs. Rutter (1987) proposed that preseparation, individual differences in the child would be an important determinant of the child's subsequent response to trauma, including divorce. Specifically, it was predicted that children with a "difficult temperament" would show more behavior problems and be less resilient. Block, Block, and Gjerde (1986), in a longitudinal study with young children, found preseparation measures of psychological functioning, for some children, predicted postdivorce adjustment, rather than the effect of the divorce per se. This was particularly true for boys. It was concluded that children who were "difficult," in the form of externalizing behaviors, such as aggression and defiance, showed the poorest adjustment following divorce. Hetherington (1989, 1991) presented longitudinal data to further confirm this hypothesis. It was found that one cluster of children consisted of those who were not coping well with divorce, and these were the ones who showed the most problems before the divorce. Children in this cluster, again, were more likely to show externalizing behaviors and to be male. Thus, temperamental differences predicted postdivorce adjustment and boys were at greater risk. With younger children, then, difficult temperament and being male are significant risk factors. There is reason to believe that children with poor coping skills and internalizing behaviors (i.e., anxious-fearful children) would also show worse adjustment to divorce and, by implication, relocation. Children with an easy temperament are more adaptable and show fewer adjustment problems in response to divorce (Hetherington, 1989, 1991). Their temperament acts as a buffering factor, as predicted by Rutter (1987), because they elicit positive responses and reinforcement from adults and peers.

Cognitive ability appears to be a consistent predictor of better adjustment, so information from school records is important. A child's "social-emotional IQ" also would be important

data. Thus, collateral interviews with teachers, coaches, and so on would be helpful in anticipating how the child might adjust to new circumstances. Higher cognitive functioning and emotional maturity can be expected to promote resilience and be a protective factor (Masten & Coatsworth, 1998; Hetherington, 1989).

With older children, it can be expected that personality attributes and self-efficacy will mediate stress associated with the transition stemming from relocation, either positively or negatively. Resiliency in older children can be assessed. Adolescents vary greatly in their competencies due to their level of psychosocial maturity (Cauffman & Sternberg, 2000). Even if there is a high level of cognitive resources, the tendency of adolescents to engage in risky behaviors and make poor decisions can detract from their level of competency (South et al., 2005; Cauffman & Sternberg, 2000), and this can be determined in the individual case.

5. Involvement by the Nonresidential Parent. This factor has been extensively examined in the divorce-effects research literature (Hetherington et al., 1998). Early studies, conducted in the 1960s and 1970s, found little benefit to children's adjustment associated with the frequency of father contact with children and an alarmingly high percentage of fathers with little or no contact (Furstenberg & Nord, 1985; see Coley, 2001 for reviews). While some of these studies utilized large representative survey samples, they were methodologically flawed by using only mothers as informants, and the measures of paternal involvement were superficial (Coley, 2001). This research was also conducted in a historical period that preceded the change in social parenting roles between mothers and fathers, with greater numbers of women entering the labor force, going to graduate school, and so on. In two-parent households, fathers have become more involved in the day-to-day shouldering of parental responsibilities, as documented by diary studies on parenting behaviors (Amato, 1998; Amato & Sobolewski, 2004). Nevertheless, mothers continue to generally take primary responsibility for "parenting duties," including direct child care, and more so when the children are very young (Demo & Acock, 1993; Pleck & Masciadrelli, 2004). More contemporary and methodologically superior studies on divorced families show that frequency of contact is not so important as quality and consistency (for meta-analytic review, see Amato & Gilbreth, 1999; Amato & Keith, 1991; Hetherington et al., 1998; Amato & Sobolewski, 2004; Warshak, 2000). The data could not be clearer on the issue that children of divorce show the best long-term adjustment when they enjoy quality and meaningful relationships with both biological parents in the presence of low conflict (Amato & Sobolewski, 2001; King & Sobolewski, 2006). In addition, theory and research on the role of fathers shows the importance for children in having nonresidential father involvement (Lamb, 1999). A tangible benefit, and impressive research finding, is the benefit to children's educational achievement from nonresidential father involvement, perhaps something as seemingly simple as attending parent-teacher conferences, and especially if the parent plays an advocacy role for the child's educational needs (Nord, Brimhall, & West, 1997). Newer research shows there remain a substantial percentage of fathers who are missing in action or minimally involved, but there is an increased percentage who are consistently and highly involved. There appear to be two groups of nonresidential fathers, one that is highly involved and one that is minimally involved (Amato & Sobolewski, 2004). This may be why studies have found that frequency per se did not significantly correlate with overall child adjustment. For example, there may be a bimodal distribution on father involvement. The two groups may have cancelled each other out in terms of the aggregate average effect of father contact (McLanahan &

Sandefur, 1994). Hetherington's longitudinal study (Hetherington & Kelly, 2002) found that, over the decades, fathers showed more involvement in the lives of their children. Fathers provide an important source of social capital to children (Coley, 2001). There needs to be a minimal level of frequency of contact for the nonresidential parent to bring the child under his meaningful sphere of influence and for resources to be made consistently available. When this process of consistent involvement is hindered by relocation, then social capital is reduced and the effects can show up years later, as suggested by the preliminary data in the Braver et al. (2003) and Hetherington studies (1999a, 1999b; Hetherington & Kelly, 2002).

The key question for the evaluator and the court, when considering this factor, is to ask to what extent relocation is expected to diminish the nonresidential parent-child relationship following relocation. If the estimate is that it would be reduced by 10%, in the case of a father who had not been very involved, then there would not be a conclusion of significant detriment. If it was 25%? 50%? If the child was 10 years old and relocating with the custodial parent from Chicago to Milwaukee, the degree of detriment would be manageable. If the nonrelocating parent had been highly involved and the 2-year-old child was relocating from New Orleans to Guam, then the risk-times-stakes prediction would be an extreme level of detriment.

6. *Gatekeeping and Support for the Other Parent-Child Relationship (SOPCR)*. This is a statutory factor to consider in custody cases, in many states, in keeping with the legislative goal of each parent encouraging the "love and support" of the child. Research findings have begun to emerge that support the wisdom of including this factor. Research shows that, when the residential parent is more satisfied with the other parent, the child shows better adjustment (King & Heard, 1999). When there is a positive relationship between the parents, the level of paternal involvement will be greater (Coley & Chase-Lansdale, 1999; McKenry, Price, Fine, & Serovich, 1991). When the nonresidential parent/father perceives he is not shutout from the child and is being treated fairly concerning visitation, then more child support will be paid (Braver et al., 1993). It was posited that when the nonresidential parent feels he has more control over access to the child, it is more likely that there will be higher levels of paternal involvement (Braver et al., 1993).

Research on the residential parent encouraging or facilitating involvement in the parenting process by the other parent has been summarized under the concept of gatekeeping. Almost all of this research involves intact families (Cowan & Cowan, 1992; Allen & Hawkins, 1999; DeLuccie, 2001; Fagan & Barnett, 2003). Gatekeeping is defined by Fagan and Barnett as "mothers' preferences and attempts to restrict and exclude fathers from child care and involvement with children" (p. 1021). Gatekeeping is seen as only one cause of limitations to paternal involvement with child care giving and family work (Pleck & Masciadrelli, 2004). Cultural and sex role adaptation are other reasons. Research has been limited to the actions of mothers in controlling access of fathers to home responsibilities, but there is no reason it cannot apply to fathers who carve out their niche and sphere of influence within the family. Fathers are often content in playing a secondary parenting, and home helper, role and working in concert with their spouse to limit their own involvement (Allen & Hawkins, 1999).

Pruett has studied gatekeeping in recently divorced parents of young children, under 6 years of age (Pruett et al., 2003). Research has involved only mothers as the gatekeepers. The concept is usually operationalized to refer to that subset of mothers who are *restrictive* in allowing father involvement; maternal gatekeeping is the focus.

Allen and Hawkins (1999) found, in a cluster analysis, that 21% of mothers in intact families could be characterized as restrictive. A plausible hypothesis is that restrictive gatekeeping would be more frequent in divorced families because of the overall higher ratings parents give to themselves in parental competence, compared to the other parent (Braver et al., 1993) and the level of conflict following separation and divorce (Hetherington, 1999b). Among divorced parents involved in custody litigation, it would be expected that gatekeeping on average would be even more restrictive because this is an extreme subgroup of divorcing parents with higher levels of conflict and domestic violence (Newmark, Harrell, & Salem, 1995).

There are behavioral and cognitive-affective dimensions to gatekeeping. The behavioral component refers to actions that hinder contact, inhibit information about the children being made available, and a derogation of the parent in front of the child. The Pruett et al. (2003) research appears to show that the behavioral component is the most important dimension concerning the children's adjustment. When the father is allowed to have significant involvement, even with conflict and a negative attitude toward the other parent, the child does reasonably well. The implications for custody cases and relocation are clear. If there is restrictive gatekeeping (the behavioral dimension), then children are at greater risk. By shutting the father out, the child is denied the benefit of resources that the father brings to the relationship. There is diminished social capital. Gatekeeping is probably the key to a successful relocation (Austin, 2005, 2006). If the residential parent can promote access and be verbally supportive of the other parent, then this will maximize the likelihood of a quality relationship between the child and nonrelocating parent, which means the flow of more resources to the child.

7. Interparental Conflict and Domestic Violence. The research literature on the effects of conflict on children of divorce is complex, but there is consensus that direct exposure of children to verbal conflict is detrimental, and exposure to violence between parents even more so (Hetherington, 1999b; for reviews, see McIntosh, 2003; Kelly & Emery, 2003; Lamb, 2002; Kelly, 2000; Cummings, 1998; Holden, Geffner, & Jouriles, 1998). When conflict is encapsulated so that children are not exposed, then there may be little effect on child adjustment (Hetherington, 1999b, p. 97).

It is often assumed that conflict reaps its inertia from two embattled parents, but Kelly and Emery (2003) propose that the hypothesis of protracted conflict is often propelled by one angry parent who has not yet emotionally disengaged from the other, while the other parent is moving on with matters and tries to shield the child from conflict. When it is this type of angry, conflict-initiating parent who wants to relocate with the child, then restrictive gatekeeping is more likely, and this generally would not be a positive scenario for relocation (Austin, 2005). There is almost no research on the adjustment of children to relocation who have been exposed to high versus low parental conflict. A recent study (Fabricius & Braver, 2006) found that when one of the parents relocated, so that there was a long-distance parenting plan in place, adult children and the parents reported that there had been higher levels of conflict.² Distance, it would seem, is not necessarily a buffer against conflict, but in some instances it may make it easier to shield the children. It would seem that relocation, indeed, would make it easier to encapsulate the conflict (Hetherington, 1999a) with fewer transitions and so on. It may be that, when parents are having more conflict, one parent is more likely to relocate and that relocation itself is not likely to cause more conflict. At the same time, relocation itself seems to engender conflict as the nonmoving parent feels shut out or the moving parent feels it is unfair not to be able to relocate with the child.

Courts have not established firm guidelines for handling the domestic violence issue within the context of litigation and a custody evaluation (Dalton, Drozd, & Wong, 2006). The recent and prominent California case, *In re Marriage of LaMusga* (2004), which lightened the burden to successfully oppose relocation, pointed out (in footnote #5) that their analysis of relocation did not apply when there had been domestic violence in the family. Tennessee, in its statute, similarly stipulates that domestic violence necessitates a different analysis of the relocation problem (Tennessee Domestic Relations Law, Parent Relocation, TENN. CODE ANN., § 36-6-108(c)(10) (2007)). Michigan includes domestic violence as one of its relocation factors and explicitly added it to the four *D'Onofrio* factors³ that were adopted in case law and statute (Child Custody Act of 1970, MICH. COMP. LAWS § 722.31(4)(a)–(e) (2007)).

How to consider the factor of a history of partner violence is an exceedingly complex issue in a relocation analysis. Research establishes the potential damage to children if they have been exposed to family violence in the past or if there is a risk of future exposure (Holden, Geffner, & Jouriles, 1998). It stands as a significant risk factor evaluators always want to consider. A separate risk and safety assessment is needed when this is an issue (Austin, 2001; Drozd & Olesen, 2004). If there is a more serious subtype of partner violence, and there are continuing residual pathological behaviors present (intimidation, harassment, stalking), then there is an argument for relocation in order to geographically shield the children and enhance parenting effectiveness by the custodial parent. It is often asserted that mothers are at greatest risk of violence at the time of the marital separation (Fineman, 2002; Geffner & Pagelow, 1990). So there is likely to be more weight assigned to this factor (more risk) at the time of dissolution, even though, paradoxically, the children may be at greater risk of harm associated with relocation when it occurs at the time of dissolution (see below). In the context of legal action to modify a parenting plan, if the violence is historical only, and without residual pathological behaviors, and there has been a stable parenting plan in place for a long time, then its relevance to the relocation issue may be limited. As with local parenting plans, the research guides the evaluator in making recommendations about access and parental responsibilities that will maximize the strength of the shield against exposing the children to interparental conflict. Because conflict may foster restrictive gatekeeping, this will need to be assessed by the evaluator. With a history of domestic and/or partner violence, this process might be construed as protective gatekeeping or to have a rational basis (Austin & Drozd, 2006).⁴ Relocation then may be part of a safety plan that is recommended by the evaluator and endorsed by the court.

8. *Recentness of the Marital Separation.* In considering the timing of relocation, research shows that conflict will be higher and more frequent during the process of divorce and litigation (Hetherington, 1993) and in the first 2 years of postseparation (Hetherington, 1999a; Hetherington et al., 1998). Hetherington found that 15–20% of divorced couples still exhibited substantial conflict after this time frame (Hetherington, 1999a). A hypothesis follows from the above study and Hetherington's long-term longitudinal research (Hetherington & Kelly, 2002) that relocation occurring at the time of divorce will be more likely to contain higher conflict, less authoritative parenting, greater parental stress, and poorer adjustment by the children. Hetherington and Kelly (2002) caution: "Normally, change should be avoided after a divorce. At a time when their world is in flux, children need the stability and continuity conferred by familiar relationships and settings" (p. 114). This statement appears to assert a "familiarity hypothesis," but it would seem to more accurately reflect the benefit to the child from consistent association with his or her sources of social capital (Hetherington, 1999a, 1999b). Thus, it is not just that relocation will occur within

the context of conflicting parents at the time of divorce, but it will be more likely that the parenting practices will be less effective (Hetherington & Kelly, 2002; Austin, 2005).⁵

ULTIMATE ISSUE OPINIONS

Relocation is one area where the complexities involved with evaluators issuing opinions on the ultimate issue are revealed. This is a topic of continuing controversy in the field of child custody, with Tippins and Wittmann (2005) cautioning evaluators against opining on the specifics of a parenting plan and others pointing out that decision makers want evaluators to make specific recommendations on custody and access (Bala, 2005). The RRA approach is not a precise scientific instrument, but it is a framework that allows the evaluator to take an approach that is “scientifically grounded” (Gould & Martindale, 2007), so the court can be scientifically informed. This perspective is close to that espoused by Tippins and Wittman (2005), who encourage evaluators to make frequent trips to their research libraries. The evaluator, who relies on hypotheses that are both research and fact based (derived from careful investigation), can lead the court right to the edge of where judicial predictions and decisions need to be made about the child’s long-term welfare.

Relocation cases operate under the umbrella of strong social policy issues and the need for courts to balance competing interests of parents and children (*In re Marriage of Ciesluk*, 2005; *Watt v. Watt*, 1999; *Jaramillo v. Jaramillo*, 1991). While relocation is partly about one parent’s asserted opportunities for life enhancement, what is most salient is the potential for detriment to the child and whether a suitable alternative parenting plan can be crafted. Issues of values and pragmatic considerations in forging a long-distance parenting time plan are common in relocation cases. How does the court make it work when the mother and 5-year-old daughter now live in rural Wisconsin and the father lives in Denver? How about with the addition of separation anxiety issues with mom and homesickness with the daughter? I have found, in giving expert testimony in different states, that some jurisdictions prefer to receive opinions about the relocation issue (California), while others would like specific recommendations on a parenting plan only after the relocation issue is decided (New York).

The evaluator can help the court by making predictions about the degree of risk for what level of long-term harm, or developmental outcomes for the child, that are likely to be associated with the decisional alternatives. Only the decision maker can determine if the level of predicted risk and stakes surpasses a “threshold of harm” (Austin, 2000b), to deny the child’s relocation, and if needed, to change the primary residential parent. The nexus between best interests and least detriment is central to the process where mental health expert analysis becomes transformed into judicial prediction and decision. In the end, the trier of fact makes a discretionary decision if relocation would be expected to produce a sufficient level of harm to the child to deny the move or if the data suggest there is likely to be a successful relocation. The evaluator’s risk analysis and behavioral descriptions of the family can help the decision maker reduce the level of uncertainty in resolving the relocation dilemma.

PRACTICE TIPS

The research and evaluation model discussed above allow for a number of practical applications for evaluators. They should be mindful of base rate data on the effects of relocation on children of divorce. The evaluator should be cognizant of the potential danger

of bias on the relocation issue and take a balanced approach to predictions about children's adjustment. Helping the court anticipate if the factors and data uncovered suggest whether the child can have a successful adjustment to relocation in the short and long run is a way to guard against the potential cognitive process of confirmatory bias (Martindale, 2005) against relocation, especially for very young children. Being knowledgeable about a risk assessment approach, and the research basis for the risk assessment model, will enhance the quality of testimony. The possibility of prediction errors and the consequences of over- or underpredicting relocation-engendered harm should be kept in mind. Evaluators probably make false positive errors on the degree of harm associated with relocation without thoroughly exploring ways to mitigate the harm. On the other hand, evaluators may make false negative predictions when it will be difficult to facilitate contact between the child and nonmoving parent due to practical considerations of travel, time, cost, and so on and when the moving parent is likely to be a restrictive gatekeeper. Being aware of developmental issues relevant to children's ability to cope with relocation and loss is important. Evaluators will assist the court by making predictions on potential harm⁶ to the child associated with each of the decisional alternatives that can be considered according to legal precedent or statute. Evaluators should expect that relocation evaluations usually require an extensive amount of investigation on issues, allegations, and practical matters (such as travel arrangements). Evaluators need to gather descriptive data on a number of important practical issues, such as relative advantages/disadvantages of moving or staying, quality of schools, employment opportunities, and the details about how a new alternative parenting time plan would work. It will be helpful if evaluators conduct a psychological cost/benefit analysis for the court concerning the options of the child moving or staying. Similarly, this supplemental analysis to the risk assessment will help the court determine if a suitable alternative parenting time plan can be developed in light of the data or to conduct a relocation feasibility analysis. Finally, evaluators should present data on all relevant factors and explicitly describe data on any factors required by statute or case law.⁷

The research relevant to and supporting the RRA model was presented. This is a forensic actuarial approach and, as such, represents only the first stage in the evaluation process. It allows for the generation of multiple hypotheses on the likely impact of specific risk and protective factors and an overall prediction of risk and degree of harm to the children associated with the four decisional alternatives in a relocation case. Understanding the research basis for the model will allow the evaluator to better inform the court about the bases for predictions and opinions. It would be a mistake to assume there is anything close to a scientific formula for the decision maker. There are dimensions of both science and art in the child custody evaluation process (Gould & Martindale, 2007) and the need for wide latitude in judicial discretion. Every child custody evaluation, including ones for relocation cases, necessarily involves a comparative analysis of the relative resources available to the child, net advantages/disadvantages, and psychological costs and benefits associated with the alternative residential arrangements under consideration. Much of this data gathering and analysis is implicitly a social capital analysis (Field, 2003) applied to the "best interests of the child" determination of child custody.

NOTES

1. This heuristic is borrowed from Grisso and Appelbaum (1992).

2. This study was a reanalysis of the Braver et al. (2003) data set with some new data gathered from the same subjects.

3. *D'Onofrio v. D'Onofrio*, 365 A.2d 27 (N.J. 1976).
4. The term “protective gatekeeping” was offered by Dr. Leslie Drozd.
5. Recent case law in Colorado (*In re Marriage of Spahmer and Gullette*, 2005) establishes that the relocation issue in the pre-decree context is not to be treated as a relocation case and the relocation factors do not need to be explicitly considered. The statute was interpreted as intending that a “true relocation case” occurs only in a modification or post-decree context (*In re Marriage of Ciesluk*, 2005). At the time of original orders, the court evaluator must assume each parent is residing in their designated community. Thus, a pre-decree relocation becomes easier at a time when the child is at greatest risk, or the “*Spahmer paradox*” (Austin, 2005).
6. Note that predictions of harm, as opposed to the child’s best interests, is simply a shift in the language that best fits some custodial contexts and harm is the conceptual obverse of best interests (Austin & Gould, 2006). In relocation the court is making a determination that is the least detrimental of the alternative residential placements.
7. For example, in Colorado, new case law requires the court to explicitly consider all 20 factors contained in the statutes, 11 “best interests factors” and 9 “relocation factors” (*In re Marriage of Ciesluk*, 2005). In Mississippi, 16 factors are stipulated for relocation cases with an “*Albright analysis*” (*Giannaris v. Giannaris*, 2006). In Rhode Island, new case law (*Dupré v. Dupré*, 2004) specified 15 relocation factors plus 8 best interests factors, or *Pettinato factors* (*Pettinato v. Pettinato*, 1990).

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