



ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



eNEWS

Ask the Experts

### **Research in a Strained System—When and How Can it Be Useful?**

#### **Top Ten Tips to Help Professionals Use Research Effectively**

By Lyn R. Greenberg, PhD, Leslie M. Drozd, PhD and Mary Catherine M. Bohen, Esq.

*Nineteen-month-old Johnny and his three-year-old sister Sally need a parenting plan. Both are having difficulty with transitions. Father alleges that Mother is limiting his access to the children and interfering with the crucial development of the children's bond to their father. Father believes that his parenting time should be increased, to include overnight time with the children. Mother distrusts Father's parenting skills. Mother has read that children should never be separated from their mothers before the age of 5. Each parent has brought an article from a website to court, suggesting that "science" supports that parent's position.*

As thousands of families pass through courtrooms every day, can research be of use to the court in determining what to do for these children? What core concepts will help professionals to use the available research most effectively?

#### **1. Avoid believing that "If it's published, it must be quality research."**

Based on a critical appraisal of 60,352 articles from 170 journals, McKibbin, Wilczynski, & Haynes (2004) found that only 6.8% of published articles were deemed "high quality" studies. Not all studies are created equally. Published reports can make erroneous claims that may not be based on high quality evidence. Contradictions in research findings may reflect differences in the quality of the research, the populations studied, the sample size, the research design used, and the accuracy with which it is reported. With the increased use of open source publishing (e.g., publishing material on the internet), it is easy to find at least one "study" to support just about any theory. Science can help us understand complex relationships so it should neither be discounted nor used without critical appraisal (Drozd, Olesen, & Saini, 2012).

#### **2. Avoid the twin temptations of adopting oversimplified rules and disregarding science altogether. If it looks too simple to be true, it probably is.**

Legal professionals often prefer simple, clear statements, and may perceive mental health professionals who present nuanced statements to be waffling or defensive. Social science is complicated, because children and families are complicated. Care is essential to determine which findings best apply to the family at hand. It is prudent to be cautious when polarized or politically driven extremes are presented (Johnston, 2007; Gelles, 2007). Research allows one to discover the full continuum of solutions as a means to navigate around ideological wars (Saini, 2012).

#### **3. Summaries of the research can be handy, but are often misleading.**

Because summaries may not accurately reflect the findings in the primary studies, they should be used with great caution (Saini, 2012). Does the author who conducted the review have an evident bias or agenda? Is the author articulating the limits of the research in the summary or acknowledging findings that point in different directions? Popular press articles and brief research summaries often present oversimplified results with considerable overstatement. They may fail to distinguish between research findings and statements of theory or opinion—presenting findings that support the author's perspective as

immutable facts and even omitting limitations cited by the original researchers (Greenberg, Drozd & Bohlen, 2012). For example, it is no less misleading to say that “the research” supports overnights for young children than it is to say that “the research” establishes that young children below age 5 should never spend the night away from their mothers. Studies suggest different conclusions and different issues to consider, depending on the family’s situation and characteristics. A closer look at the details can guide us to the issues most important and relevant to a particular child and family.

**4. Look for experts and authors who put the limitations of their results out front, from the outset.**

Banner headlines and broad, uncomplicated statements may be appealing but are often misleading. Many families do not have the funds to challenge material presented as “sound bites” or “headlines.” Harm can be done to families in between the overly broad statement and the presentation of context or amplifying material. That is one reason why psychologists have an ethical obligation to articulate the limitations of opinions they present and to take steps to mitigate any misrepresentation or misunderstanding of their work. Which expert would you find more credible—one who notes the limitations immediately, or one who is forced to do so under challenge from other experts or a cross-examining attorney?

**5. Avoid considering research in a vacuum.**

Consider the other variables, such as general child development issues, that may impact or inform the immediate issues. If the allegation in the case involves alienation, it is essential to also consider what we know about child development, violence, maltreatment, parent-child relationships and attachment. This approach will minimize the risk of neglecting the whole child in favor of focusing on contested issues.

**6. Findings that appear to conflict may actually provide context or applicability.**

When the expert looks more deeply at the findings, the various factors at play that provide the different findings may become evident and, in turn, may help the expert, and ultimately the court, see the family before them more clearly and accurately. Caution must prevail, given that the factors found in other domains related to child custody may not take into consideration the confounding effects of separation, conflict, and involvement with the family court system (Saini, 2012). Thus, extrapolating the evidence needs to be tentative and framed within the context that a given family finds itself in.

**7. Push back from overgeneralizations and cookie-cutter approaches to solve complex problems.**

Determine whether the studies cited are similar to the family and children in the case before the court. Consider the context and complexity of individual experiences of children and families in assessing the applicability of research findings (Drozd, Olesen, & Saini, 2012; Greenberg, Drozd & Bohlen, 2012.). If children in the case under consideration are ages 3 and 5 and the subjects in the studies looked at are teenagers, one might question the generalizability of the study to the children in the instant family.

**8. Avoid phrases like, "the research says" given that the research rarely speaks with a single voice. Instead consider "the trends suggest..."**

Even when there is broad agreement on general issues, details vary. Rarely is there agreement across all research on a given topic. The findings of individual studies are more likely to differ than to be identical. The differences in the research findings may be critical to crafting plans and interventions for a specific family. By way of example, while there is general agreement among mental health professionals that exposure to parental conflict may be harmful to children; the best plan for a family will depend on the type of conflict presented, the resources available, and the strengths and weakness of each family member (Kelly, 2007).

**9. Seek research to inform about the possibilities, rather than narrowly looking at research to support one view. Seek research that challenges your preliminary opinion.**

When an expert, an attorney, or even a judge has a pre-existing view, the temptation is to consider and give weight only to information that supports that point of view. “Check yourself before you wreck yourself.” Experts may present more polished versions of the material that Johnny and Sally’s parents found on their preferred websites, though experts can be effectively challenged about their choices of source material, and whether they sought information about other possibilities. Systematic bias can be

even more harmful at earlier stages of the process when a consultant's report of the research may impact a family's decision to settle or pursue litigation.

#### **10. Therapy, parenting coordination and other interventions should also be “scientifically informed.”**

Too often, we expect a research base for the "big issues" that are the focus of litigation, and neglect the available research when deciding how to assist families. Controlled studies of specific interventions may not be available, but we can draw on research about domestic violence, children's development and adjustment, components in children's decision-making, suggestibility, and other related issues in crafting or providing interventions. There is a broad knowledge base in the mental health professions about many of these issues, and research from a variety of perspectives about what is essential or useful to promote behavior change in adults and progress in children. "What works" (and does not work) from the available research can help in assessing whether it may work as part of the interventions stipulated to by the parties or ordered by the court (Greenberg, Doi Fick, & Schnider, 2012; Greenberg, Gould, Gould-Saltman & Stahl, 2003).

While the volume of social science literature has increased dramatically over recent decades, important questions persist about applicability and whether the research can offer anything to Johnny and Sally's family. Undoubtedly, there are some findings that can be helpful in decision-making, *if used appropriately*. Skilled professionals can provide context to splash headlines on websites, educating parents to more accurate information relevant to their family. This may provide the basis for compromise and cooperation, with professional assistance. If the decision must be made by the court, research presented in the context of the family may assist the court. Conversely, decisions based on splash headlines or biased summaries may do more harm than good for the family.

Conscientious custody professionals look for consistent findings and themes across the professional literature. They look at the strengths and weaknesses of the studies, and the relevance of the findings to a particular family. They make deliberate attempts to contain bias, by seeking material inconsistent with their own prior opinions. Practitioners providing services to these families also have a responsibility to be familiar with the research that is relevant to their work and to practice in a scientifically defensible manner (AFCC Guidelines for Court-Involved Therapy, 2010). Failure to do so risks enormous harm to the children and family. The applicability and implications of various studies may be debated for years in professional meetings and journals, with each new finding augmenting or complicating what was known before. Occasionally, but rarely, the bulk of available research will point in a single direction; just as rarely, a new finding will lead professionals to rethink prior assumptions and change practice.

Generally, the best use of psychological research is gradual, cautious, and nuanced. Used carefully and throughout the process, research may have much to offer to families. As with most tools, irresponsible use can lead to harm. Please see the following page for a list of references.

*The authors will present on these issues at the upcoming AFCC 10th Symposium on Child Custody Evaluations, along with Hon. R. John Harper, Kathryn Kuehne, Nancy Olesen, Michael Saini, Hon. Harvey Silberman, and a host of other distinguished experts.*

*Mary Catherine M. Bohan, Esq. is a Certified Family Law Specialist practicing in Downtown Los Angeles. She can be reached at [mcb@bohenfamilylaw.com](mailto:mcb@bohenfamilylaw.com).*

*Leslie M. Drozd, PhD is the editor of the Journal of Child Custody and co-editor of Parenting Plan Evaluations: Applied Research for Family Courts (Oxford, 2012). She maintains a clinical and forensic practice in Newport Beach, CA. Her website is [www.lesliedrozd.com](http://www.lesliedrozd.com).*

*Lyn R. Greenberg, PhD practices forensic and clinical psychology in Los Angeles, specializing in child custody and juvenile dependency cases. She has written and presented widely on variety of issues related to court-involved families, and co-edited the Journal of Child Custody's special issue on court-involved therapy. She can be reached at [lyn@greenbergphd.com](mailto:lyn@greenbergphd.com).*



## Reference List

- Drozd, L., Olesen, N., & Saini, M. (in press). Parenting plan evaluation decision tree. Sarasota, FL: Professional Resource Press.
- Gelles, R. J. (2007). The Politics of Research: The Use, abuse and misuse of social science data - the cases of intimate partner violence. *Family Court Review*, 45, 42-51.
- Greenberg, L. R., Drozd, L., & Bohlen, M. C. (2012, July 19). Science and parenting plans: One size does not fit all. *San Francisco Daily Journal*, pp. 6.
- Greenberg, L. R., Doi Fick, L., & Schnider, R. (2012). Keeping the Developmental Frame: Child-Centered Conjoint Therapy.
- Greenberg, L. R., Sullivan, M. J., & Fidnick, [Hon.] L. (2011). Association of Family and Conciliation Courts approved guidelines for court-involved therapists. *The Family Psychologist*, 27(1), 20-22.
- Greenberg, L. R., Martindale, D. A., Gould, J. W., & Gould-Saltman, D. J. (2004). Ethical issues in child custody and dependency cases: Enduring principles and emerging challenges. *Journal of Child Custody*, 1, 7-30.
- Greenberg, L. R., Gould, J. W., Gould-Saltman, D. J., & Stahl, P. (2003). Is the child's therapist part of the problem? What judges, attorneys and mental health professionals need to know about court-related treatment for children. *Family Law Quarterly*, 37, 241-271.
- Johnston, J. R. (2007). Introducing perspectives in family law and social science research. *Family Court Review*, 45, 15-21
- Kelly, J. B. (2007). Children's living arrangements following separation and divorce: Insights from empirical and clinical research. *Family Process*, 46 (1), 35-52.
- Kuehnle, K. & Drozd, L. (Eds) (2012). Parenting Plan Evaluations: Applied Research for the Family Court. Oxford University Press. New York: Oxford University Press, Inc.
- McKibbin, K.A., Wilczynski, N.L., & Haynes, R.B. (2004). What do evidence-based secondary journals tell us about the publication of clinically important articles in primary healthcare journals? *BMC Medicine*, 2:33 doi:10.1186/1741-7015-2-33
- Mnookin, J. L., & Gross, S. R. (2003). Expert information and expert testimony: A preliminary taxonomy. *Seton Hall Law Review*, 34, 139-185.
- Zervopoulos, J.A., (2008). A Legal Perspective. In J.A. Zervopoulos, *Confronting Mental Health Evidence: A Practical Guide to Reliability and Experts in Family Law*. Chicago: American Bar Association Section of Family Law.