
OBJECTIVITY, BIAS, AND TRANSPARENCY IN EVALUATIONS

A major concern of anyone involved in an evaluation is whether the evaluator will rigorously and objectively obtain and interpret information on the case. It is easy to assume someone is biased simply because a report presents undesirable conclusions. However, it can be difficult to prove bias in a report even when it exists. This article has been prepared to help litigants think about objectivity in the evaluative process and ways to assure that they can challenge an evaluator they feel has been biased against them.

As a graduate student, I became concerned about how educated and intelligent researchers could come to such divergent opinions regarding issues in the psychological literature. This became the subject of my doctoral dissertation in which I was able to provide certain types of information that skewed the way in which such experts evaluated a series of research scenarios. I continue to be concerned about this issue.

Personal Biases

A main concern litigants and attorneys often have is whether the evaluator has some personal issue that clouds their ability to interpret data and make decisions in an objective manner. In a custody evaluation, litigants often wonder if the evaluator tends to favor one gender over another, has preconceived notions about certain custodial arrangement or schedules, has religious issues, and/or a host of other potentially biasing influences. Certainly, every experienced evaluator should become aware of how their personal views could cloud their objectivity. If an evaluator does act on the basis of personal bias, it may not be very evident in the evaluation and simply be the inference of the litigant or an attorney. Even in cross-examination, the evaluator may simply deny having been influenced by personal biases.

Logical Biases

Evaluators can make mistakes that can be lumped into the categories of errors or omissions. These mistakes often can be brought out in cross-examination. However, they are somewhat different by the more subtle logical biases that may exist in a report. One of the most common logical biases seen in custody reports is *confirmatory bias* (Martindale, 2005). *Confirmatory bias* occurs when an evaluator tends to favor information consistent with some prior belief. For instance, an evaluator may make a preliminary conclusion in the evaluative process and then try to confirm it as they review additional information. *Confirmatory distortion* is a related bias in which an evaluator actively seeks out information consistent with a pre-conceived notion or tends to avoid information to the contrary. These selective biases are more apparent and do offer fertile ground for cross-examination.

Transparency

The most meaningful “solution” to biased evaluative work is to assess its transparency. The California Rules of Court and most professional standards require that information in an evaluation be clearly described and discussed. This is often called transparency which can be split into two types.

The first type of transparency comes from a clear description of all procedures and data. If an evaluator writes only that, “Several persons interviewed supported concerns about the parent’s personality” there is no transparency. You do not know who the interviewee was or what they actually said. If an evaluator writes “Joe Smith said he observed the parent yelling at the children frequently” you do have transparency.

A second form of transparency comes from a clear description of the data and how they were interpreted. In some evaluations, the evaluator describes all kinds of information that were obtained. Then after limited discussion, several recommendations are written. Here you have no transparency. You do not know how the data and their interpretation led to the recommendations. If you see a clear discussion of the data relevant to some topic and how the data led to some conclusion, you do have logical transparency.

In evaluating the objectivity of an evaluation, transparency issues are most important. If the conclusions are not tied to a logical interpretation of a meaningful dataset, the report maybe sufficiently flawed to convince the Court to seriously down weight the conclusions. In this situation, it may not be necessary to address concerns about bias.

Reference

Martindale, D. A. (2005). Confirmatory bias and confirmatory distortion. *Journal of Child Custody*, 2(1/2), 31-48.