

CHILD'S VOICE RESEARCH SUMMARY

Presented to Texas Chapter of AFCC Board of Directors

3-15-2004

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RESEARCH QUESTIONS

1. What are the healthiest and most emotionally damaging legal options available for hearing a child's preference regarding access schedules from the perspective of attorneys, judicial officers, mental health professionals, other divorce professionals, as well as high-conflict parents going through the divorce process?
2. Do opinions regarding the options differ between the divorce professionals?
3. Are there correlations between the opinions of the professionals and their gender, age, and/or personal experience with divorce?

METHOD

A questionnaire was completed by over 400 participants at 6 professional conferences, an online professional organization website, and a project for divorcing parents. Questionnaire asked participants to rate 8 legal options available to hear the child's preference regarding access schedules. Participants consisted of attorneys, judicial officers, mental health professionals, other professionals involved in divorce work such as mediators who are not attorneys or mental health professionals, researchers, divorce planners, and school administrators, other professionals not involved in divorce work, and families going through the divorce process.

OUTCOME MEASURES

Respondents rated the following options from 1 (emotionally damaging to children) to 10 (healthiest option possible):

1. Child testifies in a trial
2. Child provides an out-of-courtroom deposition with the opposing attorney
3. Child interviews with judge privately
4. Child signs a legal affidavit with an attorney who submits to the court
5. Child expresses views to a guardian/attorney ad litem who testifies in court on the child's behalf
6. Child interviews with a mental health custody evaluator who testifies in court on what is in the best interest of the child
7. Child interviews privately with a family counselor who then consults with the parents and may also interview the child with the parents if helpful
8. Child participates in mediation either privately with the mediator or with parents or both

DATA ANALYSIS

- Descriptives were run to determine respondent population data.
- T-tests were run to determine the healthiest versus most emotionally damaging options. A mean rating of 5.5 was used to determine mean differences.
- One-way ANOVAs were run to determine the differences in the ratings between the professional groups.
- Correlations were run for each divorce profession to determine if there were relationships between the ratings and gender, age, and/or personal experience with divorce.

RESULTS

Demographics

The respondents included the following:

<u>Groups</u>	<u>Total</u>	<u>Gender</u>		<u>Age</u>		<u>Personal divorce experience</u>	
		<u>Male</u>	<u>Female</u>	<u>< 50</u>	<u>>= 50</u>	<u>No</u>	<u>Yes</u>
Divorce professionals:							
Attorney	161	74	85	101	59	25	135
Judicial officer	92	69	21	30	62	16	74
Mental health	204	63	139	86	118	19	183
Other	19	6	13	14	5	4	15
High-conflict divorcing families	26	12	14	26	-	-	26
Not involved in divorce work	28	6	21	25	3	2	26
Total	539	230	293	282	247	67	458

Mean ratings of legal options

Mean ratings of legal options by divorce professionals and high-conflict families follow:

<u>Legal option</u>	<u>Attorney</u>	<u>Judicial officer</u>	<u>Mental health</u>	<u>Other</u>	<u>High-conflict families</u>
Testify	1.963	2.770	2.151	1.895	2.840
Deposition	2.881	3.159	2.946	2.737	4.400
Private interview with judge	6.797	6.517	6.756	7.474	5.800
Affidavit	5.204	5.224	4.463	5.105	4.292
Guardian/attorney ad litem	7.715	7.069	7.023	7.158	5.560
Custody evaluation	7.362	6.419	7.449	6.842	5.880
Family counselor	7.098	6.236	8.120	7.974	7.840
Mediation (no attorneys present)	4.551	4.442	6.182	5.789	5.840

Healthy versus emotionally damaging legal options

As indicated in the following table, all groups of divorce professionals rated testifying in court and depositions with opposing attorneys as emotionally damaging to children. They also rated private interview with a judge, use of a guardian/attorney ad litem, custody evaluations, and working with a family counselor as healthy for children.

The professionals differed in how they rated affidavits and mediation. Mental health professionals rated affidavits as emotionally damaging when no other groups did, and attorneys and judicial officers rated mediation as emotionally damaging compared to mental health professional who rated mediation as healthy for children.

The high-conflict families rated only testifying in court as emotionally damaging to children and only working with a family counselor as healthy.

<u>Legal option</u>	<u>Attorney</u>	<u>Judicial officer</u>	<u>Mental health</u>	<u>Other</u>	<u>High-conflict families</u>
Testify	D	D	D	D	D
Deposition	D	D	D	D	
Private interview with judge	H	H	H	H	
Affidavit			D		
Guardian/attorney ad litem	H	H	H	H	
Custody evaluation	H	H	H	H	
Family counselor	H	H	H	H	H
Mediation (no attorneys present)	D	D	H		

H – healthy
D – emotionally damaging

Differences in ratings between divorce professionals

In addition to the differences noted above in how the professionals rated affidavits and mediation, the professionals differed significantly (p < .05) in how they rated all options except for depositions and private interviews with judges, which all groups noted as damaging and healthy, respectively. When legal professionals (attorneys and judicial officers) were combined and compared to mental health professionals, in addition to the affidavits and mediation differences, they differed in how they rated using guardian/attorney ad litem and family counselor. Legal professionals rated guardian/attorney ad litem higher and mental health professionals rated use of a family counselor higher.

Attorneys and judicial officers even disagreed on how healthy the options were, with attorneys rating testifying in court as more damaging and use of guardian/attorney ad litem, custody evaluations, and family counseling as more healthy for children.

<u>Legal option</u>	<u>All divorce professionals</u>	<u>Legal vs. mental health professionals</u>	<u>Attorneys vs. judicial officers</u>
Testify	F=2.982; p=.031	-	F=7.435; p=.007
Deposition	-	-	-
Private interview with judge	-	-	-
Affidavit	F=2.955; p=.032	F=8.960; p=.003	-
Guardian/attorney ad litem	F=2.879; p=.036	F=4.152; p=.042	F=4.401; p=.037
Custody evaluation	F=4.371; p=.005	-	F=8.131; p=.005
Family counselor	F=13.729; p=.000	F=32.076; p=.000	F=5.831; p=.016
Mediation (no attorneys present)	F=14.774; p=.000	F=43.896; p=.000	-

Correlations between divorce professional ratings and gender, age, and personal experience with divorce

Although there were some correlations between age and personal divorce experience, gender was most highly correlated with the response style, and mostly among mental health professionals. Female attorneys, judicial officers, and mental health professionals rated testifying as more damaging to children than men, and female attorneys and mental health professionals rated depositions as more emotionally damaging to children than men. Female mental health professionals also rated use of guardian/attorney ad litem, custody evaluations, and family counselors higher than men did. Female judicial officers rated the use of family counseling higher than men did.

Gender:

<u>Legal option</u>	<u>All divorce professionals</u>	<u>Attorney</u>	<u>Judicial officer</u>	<u>Mental health</u>	<u>Other</u>
Testify	r=-.235; p=.000	r=-.178; p=.025	r=-.279; p=.010	r=-.200; p=.005	-
Deposition	r=-.173; p=.000	r=-.162; p=.042	-	r=-.166; p=.021	-
Private interview with judge	-	-	-	-	-
Affidavit	-	-	-	-	-
Guardian/attorney ad litem	r=.131; p=.005	-	-	r=.198; p=.006	-
Custody evaluation	r=.173; p=.000	-	-	r=.194; p=.007	-
Family counselor	r=.250; p=.000	-	r=.224; p=.039	r=.197; p=.006	r=.756; p=.000
Mediation (no attorneys present)	r=.208; p=.000	-	-	-	r=.518; p=.023

There were few correlations between response style and age and personal divorce experience. Older mental health professionals rated testifying in court as more damaging than younger mental health professionals. Personal divorce experience appeared to impact only how attorneys and judicial officers responded to private interview with a judge. Attorneys with no personal divorce experience rated private interviews with judges as higher than those with personal divorce experience. Judicial officers with personal divorce experience rated private interviews with judges higher than those with no personal divorce experience.

Age:

<u>Legal option</u>	<u>All divorce professionals</u>	<u>Attorney</u>	<u>Judicial officer</u>	<u>Mental health</u>	<u>Other</u>
Testify	-	-	-	r=-.147; p=.039	-
Deposition	-	-	-	-	-
Private interview with judge	-	-	-	-	-
Affidavit	-	-	-	-	-
Guardian/attorney ad litem	-	-	-	-	-
Custody evaluation	-	-	-	-	-
Family counselor	-	-	-	-	-
Mediation (no attorneys present)	-	-	-	-	-

Personal divorce experience:

<u>Legal option</u>	<u>All divorce professionals</u>	<u>Attorney</u>	<u>Judicial officer</u>	<u>Mental health</u>	<u>Other</u>
Testify	-	-	-	-	-
Deposition	-	-	-	-	-
Private interview with judge	-	r=-.167; p=.035	r=.212; p=.049	-	-
Affidavit	-	-	-	-	-
Guardian/attorney ad litem	-	-	-	-	-
Custody evaluation	-	-	-	-	-
Family counselor	-	-	-	-	-
Mediation (no attorneys present)	-	-	-	-	-

DISCUSSION

Although there were a number of differences in how the professionals rated the legal options for hearing the child's preference regarding access schedules, divorce professionals across the board agree that the following options are emotionally damaging to children:

1. Child testifies in a trial
2. Child provides an out-of-courtroom deposition with opposing attorney.

They also agree that the following options are healthy for children:

1. Child interviews with judge privately
2. Child expresses views to a guardian/attorney ad litem who testifies in court on the child's behalf
3. Child interviews with a mental health custody evaluator who testifies in court on what is in the best interest of the child
4. Child interviews privately with a family counselor who then consults with the parents and may also interview the child with the parents if helpful

Attorneys and judicial officers rated use of a guardian/attorney ad litem as the healthiest option for children. Mental health and other professionals (as well as the high-conflict families) rated the use of a family counselor the highest.

The two options with the most significant differences in professional ratings were mediation and family counseling. Mental health professionals rated mediation as healthy for children; attorneys and judicial officers rated it as emotionally damaging. In addition, although all of the professions rated family counseling as healthy for children, mental health and other professionals (as well as high-conflict families) rated it much higher than attorneys or judicial officers. It appears that leaving the decision-making power with the families facilitated by a mediator or family counselor is not something that attorneys and judicial officers are as comfortable with as they are with options with heavier legal resources.

Gender appears to have a significant impact on how professionals, especially mental health professionals, make their decisions as to what is healthy for children in the divorce process. Female mental health professionals rated the emotionally damaging options more negatively than their male counterparts and the healthy options more positively than their male counterparts.

Age, on the other hand, did not appear to have much of an impact. Older mental health professionals rated testifying in court more negatively than younger ones did, but no other age correlations were noted.

Personal divorce experience appeared to impact only attorneys and judicial officers and only with regard to private interviews with judges. Attorneys with personal divorce experience rated the interview lower; whereas, judicial officers with personal divorce experience rated the interview higher.

Although divorce professionals differ in their perceptions of how healthy the different legal options are for children and are impacted somewhat by their gender, age, and personal divorce experience, there is across-the-board agreement that testifying in court, depositions, and even affidavits (which are all more adversarial in nature) are on their way out. The preferred options include attorneys working with mental health and other professionals to focus on making sure the child does not get hurt any more than he/she has to in the process. This is consistent with the Collaborative Law movement and is hopefully a better option for families as well as the professionals working in the divorce field.