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Best Practices for Tele-Forensic Methods of Gathering Data in Child Custody Evaluations

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Forensic data collection changed in the wake of COVID-19. This article begins with advantages and disadvantages of remotely gathering data via telehealth. The article then provides a discussion of ethics in the form of best practices, sufficient practices, and insufficient practices. A thorough discussion of the support for gathering data through interviewing parents, interviewing children, testing, and collecting collateral data follows.

Keywords: Telehealth, Teleforensic, Child Custody Evaluations

INTRODUCTION

There are many terms that describe what we will address in this article: video conferencing, telehealth, tele-forensic, telepsychological practice, telepractice, telemedicine, telebehavioral health, and probably many others. Most of these terms include “tele” (which comes from the Greek meaning ‘far’), and all refer to using video and audio communication over the internet via computers, tablets, phones, or other devices. For this article, we will use the term telehealth, but for all intents and purposes, these terms are largely interchangeable as the focus of the article is on tele-forensic data gathering methods for child custody evaluations (CCEs).

When COVID-19-related restrictions were implemented in early 2020, forensic evaluators scrambled to learn how, if at all, they might be able to continue to conduct CCEs in a reliable manner without placing the interviewee (or the evaluator) at risk. The field took a close look at the limitations of video conferencing and the research on various topics such as telehealth, interviewing, and psychological evaluation. Fortunately, we seem to have reached a general consensus that while conducting portions of CCEs via telehealth might be unadvisable, by and large, such a modality can be an acceptable tool that can facilitate conducting CCEs in an expeditious and reliable manner. Since that time, many of our colleagues have learned the skills required to use this technology to continue to conduct evaluations. The data collection methods that we employ via telehealth may be contested in court. The goal of this article is to discuss the use of telehealth in CCEs, and to discuss whether these decisions meet best practice, sufficient practice, or insufficient practice.

We begin by reviewing the benefits and disadvantages of telehealth. After a discussion of ethics, we evaluate several types of data gathering methods: interviewing parents, interviewing children, observing parent/child interactions, psychological testing, and gathering collateral data.

Benefits of Telehealth

There are four noteworthy benefits to telehealth.

1. First and foremost, during a pandemic, telehealth is safer than in-person meetings. While largely self-explanatory, this benefit allows sessions to be conducted in a manner that could reduce an evaluator's or parent's anxiety about COVID infection.
2. Second, telehealth allows us to overcome geographical barriers. Eliminating much but not all of the need to travel to a parent makes it possible for an evaluator to schedule sessions with distal clients, or even accept cases in areas of their practice jurisdiction they might not otherwise be able to manage.
3. Third, and related, it eliminates or reduces travel-related costs and scheduling issues. Eliminating the need to travel to the evaluator for many sessions makes the evaluations less burdensome on parents by possibly reducing the need for childcare or time off of work. The reduced need to accommodate for travel time to and from an office, for both a parent and an evaluator, adds flexibility to an evaluator's schedule.
4. The fourth benefit is that it can allow for more straightforward audio and video recording of sessions. In order to maintain a thorough record, evaluators are encouraged to record interviews. Audio recordings are common and strongly encouraged. Video recording, which was likely much less commonly done prior to the pandemic, is simple when making use of telehealth (in fact, it's *more difficult* to record only the audio portion of a video conference than to record both audio and video). Many video platforms, such as Zoom, have a “Record” button that has made it simple to record interviews.

Disadvantages to Telehealth

1. There's also a socioeconomic and financial component to utilizing telehealth. Telehealth requires hardware such as a computer, a smartphone, or a tablet; as well as a solid internet connection to transmit video.
2. Interviews via telehealth may miss non-verbal communication. Evaluators have to work harder to attend to nonverbal cues. It is much harder to watch the parent's non-verbal communication. Evaluators should be aware of this possible implication of telehealth interviews and may want to conduct shorter telehealth appointments to accommodate for such fatigue.
3. While we mentioned above that recording interviews has become easier, some platforms and some settings may result in video only being captured of the individual who is speaking. While this might not always be problematic, it could be that in reviewing a video, the video recorded at a particular moment of interest may only have been of the evaluator, as they were speaking at the time and the parent was not speaking.

Ethics

All of us should be familiar with the concept of Best Practices. Additionally, all of us should be familiar with the minimum standard of practice required by our jurisdictions. These two bars by which to evaluate our practices are critical. However, when considering how, when, and if at all to employ telehealth when conducting CCEs, it is recommended that a third bar be considered: that of sufficient practices.

All evaluators, whether they are aware of it or not, develop and conduct their evaluations with the idea of sufficient practices in mind. While an argument might be made that a complete and comprehensive evaluation of, say, a child, might include interviewing and administering rating scales to each of their current and past teachers, it can be the case that such a broad scope of data collection would not likely add any substantive data. What would probably be *sufficient* would be to collect this data from only a handful of teachers, selected for relevance.

A similar approach to employing telehealth in a CCE is recommended. For example, *best* practices for conducting an interview with an adult would be to be present in the room with him or her, where an evaluator could, say, more easily observe non-verbal cues, employ their own non-verbal cues to encourage elaboration, and be aware of and manage environmental distractions. However, it might be the case that it would be *sufficient* to explore a portion of interview topics via telehealth (e.g., reviewing employment or educational history, or collecting factual data about a child) in order to expedite the evaluation. Further, it would likely fall below the standard of practice to conduct other interviews via telehealth (e.g., interviewing a child, especially for the first time; or possibly reviewing a parent's trauma history in detail).

During an evaluation, it is the evaluator's responsibility to assess the variables and to make decisions on whether they want to employ telehealth tools. We are not advocating that all evaluators should begin utilizing telehealth for data collection in CCEs: there are many variables that are case-dependent and evaluator-dependent. However, we are encouraging evaluators to consider employing telehealth as an adjunct to their evaluation techniques as they determine to be appropriate. Evaluators will need to be prepared to defend their decisions to employ (or not employ) telehealth and explain why the decisions they made still produce reliable data, just as evaluators need to defend any other tools they use during evaluations (e.g., face-to-face interviews, telephone conversations,

psychological testing). Rather than considering the use of telehealth as a binary, all-or-nothing technique, our recommendation is that evaluators consider the appropriate usage of telehealth during CCEs as existing along a continuum, ranging from best practices to sufficient practices to minimum standard of practice.

“When properly used in a manner consistent with ethical principles and best practices and ethical principles established within the telemental health community, video conferencing in remote child custody evaluations generates valid, reliable, and trustworthy data and facts upon which evaluators can base their conclusions, opinions, and recommendations.”¹

Forensic evaluators must demonstrate competence in forensic assessments and in the application of telehealth in assessments.² For psychologists, and for social workers looking for guidance from other sources, the American Psychological Association has published Guidelines for the Practice of Telepsychology, which are helpful and aid our discussion.

Guideline 1. Psychologists who provide telepsychology services strive to take reasonable steps to ensure their competence with both the technologies used and the potential impact of the technologies on clients/patients, supervisees, or other professionals.³

Evaluators who use telehealth need to be competent in primarily two areas. They need to be competent in forensic assessment. They also need to be competent in using the technology. It is important that child custody evaluators obtain proficiency in using the technology to the point that they can instruct the interviewee in its use. Evaluators should also provide instruction to parents on how to address hardware or internet connectivity issues that may occur, including what to do if they get disconnected.

We encourage evaluators to practice using the technology with a colleague. Spending time on telehealth allows for practice, which is key to becoming competent.

The second APA guideline for telehealth is standard of care. Jurisdictional licensing issues aside, it is important to know where the parent is located for reasons related to acute care. Evaluators should have the parent’s phone number and address. Imagine a scenario in which an evaluator is interviewing a parent in the office. The parent begins to have chest discomfort, then shortness of breath. The parent breaks out into a cold sweat. Nausea and vomiting are next. In this scenario, the evaluator has hopefully called the paramedics. Once on the phone, the evaluator is able to quickly share their office’s location. Now picture this same scenario over telehealth. It may surprise you to know that evaluators may not have a phone number or the address of the person they are evaluating. We encourage that any time an evaluator starts a telehealth interview or evaluation, they ask for the person’s physical address, and an emergency contact just in case

¹ Dale, M. D., & Smith, D. (2021). Making the case for videoconferencing and remote child custody evaluations (RCCEs): The empirical, ethical, and evidentiary arguments for accepting new technology. *Psychology, Public Policy, and Law*, 27(1), 30.

² Adjorlolo, S., & Chan, H. C. O. (2015). Forensic Assessment via Videoconferencing: Issues and Practice Considerations. *Journal of Forensic Psychology Practice*, 15(3), 185-204.

³Joint Task Force for the Development of Telepsychology Guidelines for Psychologists. Guidelines for the practice of telepsychology. *Am Psychol*. 2013 Dec;68(9):791-800. doi: 10.1037/a0035001. PMID: 24341643.

something happens. They should also ask if the person is alone, and they should ascertain the degree of privacy the person has during the interview.

APA's fourth guideline has to do with confidentiality. When a parent is in an evaluator's office, the evaluator can close the door, turn on a white-noise generator, and be reasonably sure of privacy to protect the information that the person is sharing. When practicing telehealth, it is less straightforward to assess whether an interviewee is in a private or secure space. It's also important to know whether or not they feel safe in that space or whether the interviewee knows (or even merely believes) that a third party may be listening to the interview.

Travel/Interstate Guidelines

As noted above, one of the benefits of telehealth is the ability for evaluators to reach distal clients. With this benefit comes the challenge of working in unfamiliar jurisdictions. APA's eighth guideline encourages evaluators to be "familiar with and comply with all relevant laws and regulations when providing telepsychology services to clients/patients across jurisdictional and international borders." It is important for evaluators to be aware of and comply with practice requirements both in the jurisdiction in which they are physically located and in which the parent is physically located. In the case of evaluations being conducted under court-order, the evaluator should also be aware of the practice requirements of the jurisdiction in which the ordering court is located, and whether or not relevant licensing agencies believe they, too, have jurisdiction in such an instance. Additionally, evaluators should be aware that a court order to conduct an evaluation does not obviate jurisdictional licensing requirements; an evaluator may have an obligation to educate the ordering court on licensing issues and should even be prepared to ask for release from a court order should they not be sufficiently credentialed.

During the pandemic, licensing boards in some states had modified requirements related to telehealth, or even suspended enforcement of licensing requirements for telehealth activities. While each state's licensing board generally maintains a website with information relevant to the practice of telehealth, it is recommended that before beginning an evaluation, evaluators contact all possibly relevant licensing boards directly and obtain for their records a statement from each on what would be permissible practice.

A question that comes up frequently is, "Do evaluators need to be licensed in the jurisdiction in which everyone that they talk to is located?" A license is required in order to practice mental health. When conducting an evaluation, mental health services are being provided to the interviewee, not third parties (i.e., collateral interviewees), and so such interviews would not generally require the evaluator to be licensed to practice in the jurisdiction in which their collateral interviewees are located. When in doubt, however, it is always recommended to contact the relevant licensing boards directly for clarification.

TELEHEALTH METHODS

When evaluators conduct CCes for courts, collected data typically comes from one of the following categories:

- direct interview with parents
- direct interview with children
- psychological testing
- interaction observation
- interviews with collaterals and third parties
- record review

A key question for every child custody evaluator is whether evaluators can make use of telehealth in each of these categories.

“While there are scientific principles to guide portions of the work, a CCE is still a fact-intensive inquiry and investigation using multiple methods to seek an individualized answer. Diligently applying the conceptual model, the multitrait-multimethod data analysis, and the investigative mindset is the evaluator’s best defense against missing something or performing a less than adequate evaluation”⁴

Direct Interview with Adult Evaluatees

Clinicians have been utilizing telehealth for quite some time; it has been used to augment staffing at treatment centers, or to provide medical or mental health services to patients in remote locations. While there is not data specific to interviewing parents during a CCE via telehealth, a fair amount of data exists supporting the use of telehealth to conduct interviews with adult evaluatees:

In rural parts of Utah and Wyoming, telehealth neuro-psychology evaluations have been conducted for over 20 years, assessing evaluatees for various psychological and neuropsychological challenges. The data from studies of these evaluations suggest that neuropsychological tests maintain sufficient reliability and validity when conducted over telehealth, especially for verbal tests.⁵

The American Telemedicine Association began publishing outcome measures regarding telehealth-involved assessments and evaluations in 2013. Telehealth interviews are generally equivalent to face-to-face interviews in these studies.

Forensic telehealth interviews have been used and studied over the past thirty years. Miller et. al. 2005 described a model for forensic telehealth evaluations that “provided through a forensic clinic offer a contemporary method of giving standardized and universal coverage to clients in need of such services by linking the forensic clinic, the courts, and health care providers in their efforts to supply more effective and efficient services to the judicial system.”⁶ In 2006, a study published data that demonstrated “structured forensic interviews conducted with video conferencing equipment are generally comparable with interviews conducted in person.”⁷ Preliminary and earlier studies found similar results for forensic assessments administered via both face-to-face and video.^{8,9}

⁴ Dale, M. D., & Smith, D. (2021). Making the case for videoconferencing and remote child custody evaluations (RCCEs): The empirical, ethical, and evidentiary arguments for accepting new technology. *Psychology, Public Policy, and Law*, 27(1).

⁵ Brearly et al., 2017; Galusha-Glasscock, Horton, Weiner, & Cullum, 2016; Harrell, Wilkins, Connor, & Chodosh, 2014; Wadsworth et al., 2018; Cullum, Weiner, Gehrmann, & Hynan, 2006; Parmanto, Pulantara, Schutte, Saptono, & McCue, 2013; Smith et al., 2017; McGill, Dombrowski, & Canivez, 2018; Wright, 2018. Wright, 2022.

⁶ Miller, T. W., Burton, D. C., Hill, K., Luftman, G., Veltkamp, L. J., & Swope, M. (2005). Telepsychiatry: Critical dimensions for forensic services. *Journal of the American Academy of Psychiatry and the Law Online*, 33(4), 539-546.

⁷ Lexcen, F. J., Hawk, G. L., Herrick, S., & Blank, M. B. (2006). Use of video conferencing for psychiatric and forensic evaluations. *Psychiatric Services*, 57(5), 713-715.

⁸ Manguno-Mire, G. M., Thompson, J. W., Shore, J. H., Croy, C. D., Artecona, J. F., & Pickering, J. W. (2007). The use of telemedicine to evaluate competency to stand trial: A preliminary randomized controlled study. *Journal of the American Academy of Psychiatry and the Law Online*, 35(4), 481-489.

⁹ Nelson, E. L., Zaylor, C., & Cook, D. (2004). A comparison of psychiatrist evaluation and patient symptom report in a jail telepsychiatry clinic. *Telemedicine Journal & e-Health*, 10(Supplement 2), S-54.

There are a number of other studies that support the use of forensic interviews via telehealth.¹⁰ Dale & Smith (2021) articulated that two of the main things that evaluators can do in-person, like developing a working alliance and demonstrating empathy, can be done via telehealth.

The mechanics of telehealth interviews are important in developing a working alliance and in demonstrating empathy. Camera placement matters. Eye contact is important, which is admittedly awkward during telehealth interviews. It is difficult to look at the camera, and the screen, and to take notes at the same time during an interview.

Direct Interview with Child Evaluatees

Again, while there is not data on interviewing children for a CCE via telehealth, there is data particularly related to the utilization of telehealth when interviewing children as part of forensic evaluations.¹¹

The National Children's Alliance (NCA) created guidelines for conducting what they refer to as tele-forensic interviews with children. Their guidelines group three methods of interviewing children by how likely they are to recommend an interview setup. Their guidelines follow a three-prong categorization: More Likely, Sometimes, and Very Rare. The More Likely scenario occurs when the evaluator and the child are in the same building but in different rooms. In this setup, the child is interviewed via a video feed. We call this remote-in-office evaluation. It allows for the child's environment to be controlled. NCA refers to the Sometimes scenario when the child is in the office, clinic, or hospital room while the evaluator is at home or in a different location. NCA refers to the Very Rare scenario when the child is at home and the evaluator is at their home or at their office.

More Likely scenario: occurs when the evaluator and the child are in the same building but in different rooms. In this setup, the child is interviewed via a video feed. We call this remote-in-office evaluation.

Sometimes scenario: occurs when the child is in the office, clinic, or hospital room while the evaluator is at home or in a different location.

Very Rare scenario: occurs when the child is at home and the evaluator is at their home or at their office.

NCA's More Likely scenario controls the environment by conducting remote-in-office interviews. While it requires extra office space, during the pandemic most buildings had office space to share. If there is an available office in the evaluator's building, the child can be in that office while communicating with the evaluator, who is in an adjacent office. This allows the evaluator to control the environment while not directly breathing in the same air.

¹⁰ Ball et al. 1993; Montani et al. 1997; Ball & Puffet 1998; Kirkwood et al. 2000; Menon et al. 2001; Terje al. 2003; Hildebrand et al. 2004; Loh et al., 2004; Vestal et al. 2006; Cullum et al., 2006.

¹¹ Carlisle, L. L. (2013). Child and adolescent telemental health. *Telemental Health: Clinical, Technical, and Administrative Foundations for Evidence-Based Practice*. Waltham MA, 197-221.; Nelson, E. L., & Bui, T. (2010). Rural telepsychology services for children and adolescents. *Journal of Clinical Psychology*, 66(5), 490-501.; Slone, N. C., Reese, R. J., & McClellan, M. J. (2012). Telepsychology outcome research with children and adolescents: a review of the literature. *Psychological Services*, 9(3), 272.; Myers, K. M., Vander Stoep, A., McCarty, C. A., Klein, J. B., Palmer, N. B., Geyer, J. R., & Melzer, S. M. (2010). Child and adolescent telepsychiatry: variations in utilization, referral patterns and practice trends. *Journal of Telemedicine and Telearcare*, 16(3), 128-133.; Elford, R., White, H., Bowering, R., Ghandi, A., Maddigga, B., & John, K. S. (2000). A randomized, controlled trial of child psychiatric assessments conducted using videoconferencing. *Journal of Telemedicine and Telearcare*, 6(2), 73-82.; Stain, H. J., Payne, K., Thienel, R., Michie, P., Carr, V., & Kelly, B. (2011). The feasibility of videoconferencing for neuropsychological assessments of rural youth experiencing early psychosis. *Journal of Telemedicine and Telearcare*, 17(6), 328-331.

Forensic telehealth interview protocols, like the USC protocol, employ the remote-in-office setup. Evaluators wishing to employ the remote-in-office setup are encouraged to look at the various protocols created by the National Children's Alliance, the DC Children's Advocacy Center, the Baltimore Child Abuse Center, and USC. Some of these protocols discuss how to set up the camera, how to set up the room, and how to build rapport.

NCA's Very Rare setup occurs when the child is at home and the evaluator is at their home or at their office. There is a small but growing literature on interviewing children via telehealth in this manner. As far back as 2000, researchers investigated children's abilities to give evidence about a neutral event. They found the following:

“Face-to-face and video condition interviews did not differ in terms of: total correct information; relevant information given during narrative recall; or the style of questioning required. However, significantly more incorrect information was given during specific questioning in the face-to-face interviews, and younger children were significantly more resistant to leading questions in the video condition. Some gestural information was lost in the video condition due to camera angles. Furthermore, older children produced more information during free narrative recall in face-to-face interviews.”¹²

More recent research has “indicated that live video-feed interviewing was just as effective as face-to-face interviewing in terms of the accuracy and informativeness of children’s accounts.”¹³ Those researchers also found that the children who were more comfortable with technology provided more details in their answers. Researchers have found that during telehealth interviews, the interviewers needed to prompt children to clarify their answers more often. Available research indicates that children’s memory reports elicited in telehealth interviews are likely to be as good or better than those from face-to-face interviews.¹⁴

Forensic telehealth interviews of children require preparation, engagement, and rapport.¹⁵ In a study of 261 children, researchers compared children’s testimony via face-to-face and telehealth interviews to determine: how informative and accurate the children were in response to open-ended prompts about a target event; the percentage of children who reported accurate and inaccurate recollections, and how early in interviews they disclosed; the children’s ability to discriminate experienced from nonexperienced events; and the number of accurate and inaccurate responses to questions about peripheral event details.¹⁶

The study “did not find statistically significant differences across delivery modes for the accuracy of children's answers to open-ended prompts, the number or accuracy of touch disclosures, the accuracy of answers to source-monitoring questions, or the amount of accurate and inaccurate information provided in response to questions about event details. However, children in the telehealth condition were less talkative during the practice narrative phase, 4-, 5-, and 6-year-olds who spoke on screen continued to be less talkative in response to open-ended prompts about the target event, and these younger children less often reported the face touch and noncompleted handshake in response to earlier, less directive prompts. On the other hand,

¹² Doherty-Sneddon, G., & McAuley, S. (2000). Influence of video-mediation on adult-child interviews: implications for the use of the live link with child witnesses. *Applied Cognitive Psychology: The Official Journal of the Society for Applied Research in Memory and Cognition*, 14(4), 379-392.

¹³ Hamilton, G., Whiting, E. A., Brubacher, S. P., & Powell, M. B. (2017). The effects of face-to-face versus live video-feed interviewing on children's event reports. *Legal and Criminological Psychology*, 22(2), 260-273.

¹⁴ Brown, D., Walker, D., & Godden, E. (2021). Tele-forensic interviewing to elicit children’s evidence—Benefits, risks, and practical considerations. *Psychology, Public Policy, and Law*, 27(1), 17.

¹⁵ Brown, D., Walker, D., & Godden, E. (2021). Tele-forensic interviewing to elicit children’s evidence—Benefits, risks, and practical considerations. *Psychology, Public Policy, and Law*, 27(1), 17.

¹⁶ Dickinson, J. J., Lytle, N. E., & Poole, D. A. (2021). Tele-forensic interviewing can be a reasonable alternative to face-to-face interviewing of child witnesses. *Law and human behavior*, 45(2), 97.

older 7- and 8-year-olds who disclosed these events were more forthcoming on screen, suggesting there might be less social inhibition among older children in the tele-forensic condition.”¹⁷

However, there is an additional set of concerns that exist when conducting child custody evaluations. The extent to which these concerns may be relevant depends greatly from case to case, child to child, and between family systems. When an evaluator is conducting a telehealth interview in the Very Rare setup, they do not know who else is in the room. They cannot know if someone is on the other side of the camera, at the side of the computer, sitting and staring at the child, talking to the child and giving them answers. They do not know if there is anybody in the room, even if they ask the child to pick up the camera and sweep around so the evaluator can see the room. They do not know if, right before the interview, the parent said, "all right, I'll get to listen to you." A parent may have placed a recording device in the child's room prior to the interview, a parent may have enabled recording on the telehealth device itself, and a parent may even be able to 'eavesdrop' on the conversation from another device connected to the home network.

Some clinicians suggest having a child facilitate a video scan of the room (e.g., “hey can you pick up your tablet and show me around your room?”). However, if done unartfully, clinicians should be mindful that doing so may convey a message to the child that their setting might not be secure. Even if done well, such a practice does not necessarily lead to assurances that a child is not being monitored, and may not successfully address whether a child *believes* they are being monitored.

A group of researchers, experts, attorneys, and specialists from the FBI and Homeland Security Investigations determined that telehealth interviews of children "is an effective and legally defensible alternative to face-to-face interviewing when appropriate guidelines are followed and external factors that could impact the reliability of the children's testimony are effectively addressed"¹⁸ (p. 1). However, conducting interviews of children within the context of evaluations ordered as part of child custody litigation presents a set of concerns unique to that setting, and evaluators are advised to proceed with the Very Rare telehealth interviews with children only after careful consideration of the implications discussed above.

Interaction Observations

The evaluator's observations of interactions between each parent and each minor child are an essential part of the evaluation. The Association of Family and Conciliation Courts' (AFCC) Guidelines for Parenting Plan Evaluations in Family Law Cases direct evaluators not to become participants in the observation. The evaluator should attempt to create a context that represents how the parent and child interact in the real world as closely as possible.

While these observations can be conducted in offices, evaluators may conduct their interaction observations outside or in public places such as parks or even in shopping malls. While there is currently no standard in the field that addresses how or where to conduct the observation, evaluators can conduct observations via telehealth in a few different ways. The evaluator must determine whether such a method of observation is appropriate on a case-by-case basis, as there are notable drawbacks. For example, just like with interviews, the evaluator does not know who may be off camera, nor can the evaluator be sure everyone will stay on camera. The evaluator also cannot intervene if something bad happens during the observation.

¹⁷ Dickinson, J. J., Lytle, N. E., & Poole, D. A. (2021). Tele-forensic interviewing can be a reasonable alternative to face-to-face interviewing of child witnesses. *Law and human behavior*, 45(2), 97.

¹⁸ Emergency Tele-Forensic Interview Guidelines: A guide for the Children's Advocacy Center response during the COVID-19 pandemic.

<https://learn.nationalchildrensalliance.org/telefi#:~:text=Experts%20suggest%20that%20tele%2Dforensic,children's%20testimony%20are%20effectively%20addressed.>

A remote-in-office setup might work well for observing parents with their children because the evaluator can control the environment. In this setup, the parent and child are given a separate office to be in while the evaluator is in an adjacent office. If the parent and child's room does not have a one-way mirror, the parent and child's room is set up with multiple cameras connected to a telehealth connection. The parent and child can be guided to play specific games or activities.¹⁹ This setup allows for the observation to be recorded via the telehealth connection. The evaluator is then able to rewatch the observation at a later time.

One emerging data collection method requires parents to submit recordings of their interactions. One example of a parent submitting a recording of a child's interaction for assessment occurs in the Naturalistic Observation Diagnostic Assessment (NODA). This method has research to suggest that recordings can aid the diagnosis of autism. The NODA allows families to share videos with evaluators, who then score and interpret the child's behaviors. While this technology is interesting, major advancements will be required to inform evaluators about dyadic relationships. We are excited about such technologies possibly serving as an adjunct to more traditional interactions. It should be acknowledged that, just as with all other observations, it is not known whether such a recording is representative of their normal interactions. It will be important to monitor the research on video collection methods.

Of all the aspects of a CCE to do digitally, observations are probably most poorly suited for telehealth.

Testing

While there has been recent debate about the usefulness of psychological testing in child custody evaluations,²⁰ there is clear direction in administering tests via telehealth. The Joint Task Force for the Development of Telepsychology Guidelines for Psychologists published general guidance on telepsychological practice, *Guidelines for the Practice of Telepsychology* in 2013.

Guideline 7:

When a psychological test or other assessment procedure is conducted via telepsychology, psychologists are encouraged to ensure that the integrity of the psychometric properties of the test or assessment procedure (e.g., reliability and validity) and the conditions of administration indicated in the test manual are preserved when adapted for use with such technologies. (p. 798)

Dating back to 2013, the APA's guidelines for tele-psychology are clear. In aspirational terms, evaluators are encouraged to be aware of the unique issues that arise with testing instruments that are designed for in-person use. These administration guidelines reflect three ethical standards (American Psychological Association [APA], 2017) pertaining to assessments:

- (a) Standard 9.02 (requiring psychologists to administer tests or instruments “in a manner” that is “appropriate in light of the research on or evidence of the usefulness and proper application of the techniques”)
- (b) Standard 9.06 (requiring that, when interpreting assessment results, “psychologists take into account . . . the various test factors . . . that might . . . reduce the accuracy of their interpretations”)
- (c) Standard 9.11 (requiring psychologists to “make reasonable efforts to maintain the integrity and security of test materials”).

¹⁹ This setup is used in research and in therapies like Parent Child Interactive Therapy (PCIT)

²⁰ Garber, B. D., & Simon, R. A. (2017). Individual Adult Psychometric Testing and Child Custody Evaluations: If the Shoe Doesn't Fit, Don't Wear It. *J. Am. Acad. Matrimonial Law.*, 30, 325.; Rappaport, S. R., Gould, J., & Dale, M. D. (2017). Psychological testing can be of significant value in child custody evaluations: Don't buy the anti-testing, anti-individual, pro-family systems woozle. *J. Am. Acad. Matrimonial Law.*, 30, 405.

There are core elements that protect the interpretability of a test. Evaluators ensure the integrity of the psychometric properties are preserved when one moves from paper pencil administration to a computer administered test. The consensus is that indicates whether a test is completed on paper or on an electronic device makes no difference. The means, scores, and standard deviations associated with those means are not substantially different.

Another risk to consider is that the conditions of the administration also have to be persevered in order for the evaluator to be able to make inferences from test scores that were derived from validity evidence gathered under conditions that match what the test manual indicates are required. For example, test manuals often indicate a test needs to be administered in a context that is free of distractions, that is reasonably comfortable, and where the evaluator can confirm the identity of the person and monitor the person's engagement with the task. Test instructions in the test manuals often charge the administrator with ensuring that the test taker completes the items without coaching or other interference from a third party. The evaluator must also manage test security and ensure that the test taker does not take copies home with them or take pictures with their smart phones. These items are all achievable through telehealth administration.

Some interviewees may struggle with technology, or some people may have mental health concerns that cause the evaluator to be concerned about how they may respond after the evaluation. For example, the parent may have an emotional reaction to a question, and telehealth testing may not be appropriate for them. This reflects the standard of care guideline. Evaluators have to address whether it's ethical to administer tests online and think about the components, the core elements that protect the interpretability of tests. Evaluators need to ensure the integrity of the psychometric properties are preserved.

If evaluators do not preserve the conditions of administration, they cannot generalize from the validity evidence that was based upon the administration of the test under strict conditions. This means that if they modify the testing conditions too much, they cannot reliably interpret the data.

Proctoring the test in the office or remotely is an essential part of valid test administration. Evaluators cannot ensure that the conditions are proper and maintained if they are not witnessing them. To be clear, this has always been a concern, most often raised when an evaluator allows a parent to take the MMPI home or to complete the test in their waiting room. Corey and Ben-Porath (2021) published a paper on the steps evaluators can follow to ensure they are administering the MMPI appropriately via telehealth. Before administering the MMPI or PAI via telehealth, the evaluator should confirm who the test taker is, and confirm the conditions of the room, which, as mentioned above, can be done by asking the parent to provide an environmental scan of the room to see that no one else is present and it's free of distractions. The evaluator should maintain visual and auditory connection with the individual throughout the evaluation to ensure that they are not coached or interrupted. This helps to determine if the test taking conditions were similar to those if they were monitored in the office.

Pearson and PAR allow evaluators to email the MMPI and PAI before the evaluation. This presents significant concerns about test security as interviewees could begin to view the items without supervision. We encourage all evaluators to share the tests with the interviewee while maintaining a secure audio and video feed of the process.

Collateral Data

Gathering collateral information does not change much via telehealth. Evaluators have historically gathered collateral data on the telephone, through email, or through the mail. Prior to the pandemic, our first author sent collaterals online questionnaires to complete. He then followed up with a phone call or a telehealth interview. Our second author used email to make contact and then interviewed collaterals on the phone.

Evaluators are tasked with reviewing tremendous amounts of collateral data. Evaluators need to have a protocol they follow to accept and memorialize data. Evaluators are tasked with reviewing tremendous amounts of data from social networking sites. This data can be easily falsified and modified.²¹ Evaluators should cross-reference what they review. For example, when interviewing one parent who says, "Our house is blue on the outside," the evaluator asks the other parent what color the house was, and they say it was green, there are ways to follow up to see which parent is color blind. It's the same with this type of data. If somebody presents text messages, there's a recipient to those text messages. It is reasonable to ask the recipient to provide copies to see if they falsified anything. Just as text and social media can be modified, it is important to determine if emails have been changed or loaded into a word processor.

Ultimately, the collateral data evaluators review should be followed up in interviews in the same way it was handled before telehealth.

CONCLUSION

As evaluators adopt telehealth methods to conduct their child custody evaluations, they will be asked to defend their practices. Their rationalized methods may be guided by past research and practice, or their methods may be experimental. We encourage evaluators to clearly articulate their methods and their processes in their reports. Conducting family systems evaluations during a pandemic creates many complexities, some of which technology can assist.

²¹ Mulchay, C. & Knuth, S. (2022). How to deal with Social Networking Data: Authenticity and Implications. AFCC 59th Annual Conference. Chicago.

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