

Family Law 2026:
A brief overview with resources
 Alaska Bar Association
 Anchorage, Alaska
 06/05/2026

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 Hollis, New Hampshire

1

**Beware the siloed
 family law professional!**

2

FamilyLawConsulting.org
 Access resources, publications,
 and learn about Dr. Garber's services



3



Benjamin D. Garber, Ph.D.
Family Law Consulting, PLLC
http://www.familylawconsulting.org

Publications

Family Law Consulting.org

PUBLICATIONS



4

Association of Family and Conciliation Courts (AFCC)

www.afccnet.org



5

BestInterests Listserv

Hosted by Bud Dale, J.D., Ph.D.
<https://www.bestinterests-talk.com/listserv-application>



6

OurFamilyWizard.com

Facilitating co-parent communication



7

Hearsay.com

useHearsay.com

Chain of custody organized text message, email, social media, and phone records



8

Soberlink.com

Real time monitoring of alcohol use



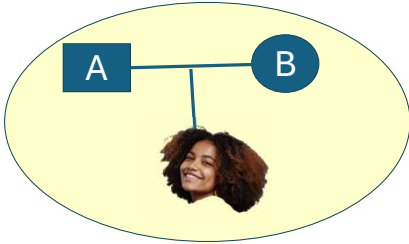
9

Family SYSTEM?

How do relationships fit
(or not fit)
together?

10

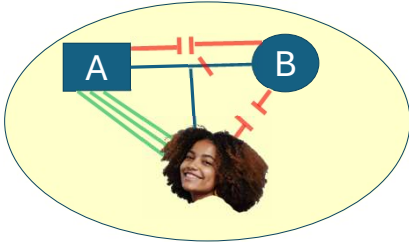
A simple family system



The diagram shows a yellow oval containing a smiling woman's head at the bottom. Above her is a horizontal line connecting a blue square labeled 'A' on the left and a blue circle labeled 'B' on the right. A vertical line descends from the center of this horizontal line to the woman's head.

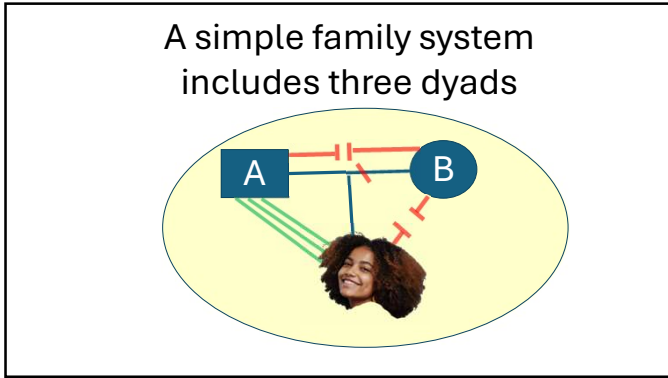
11

A simple **CONFLICTED** family system

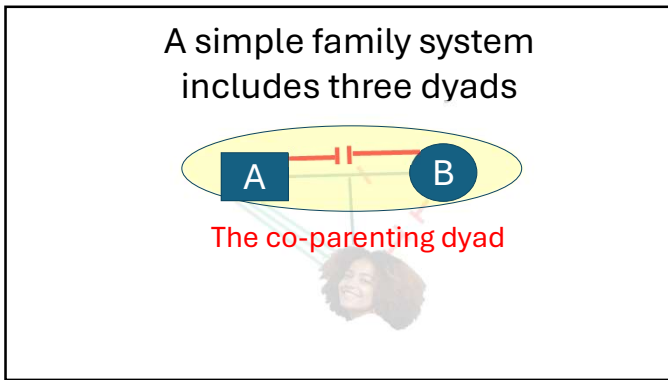


The diagram shows a yellow oval containing a smiling woman's head at the bottom. Above her is a horizontal line connecting a blue square labeled 'A' on the left and a blue circle labeled 'B' on the right. A vertical line descends from the center of this horizontal line to the woman's head. The horizontal line between A and B is red and has several short vertical red dashes across it, indicating conflict. Additionally, there are three green lines connecting 'A' to the woman's head.

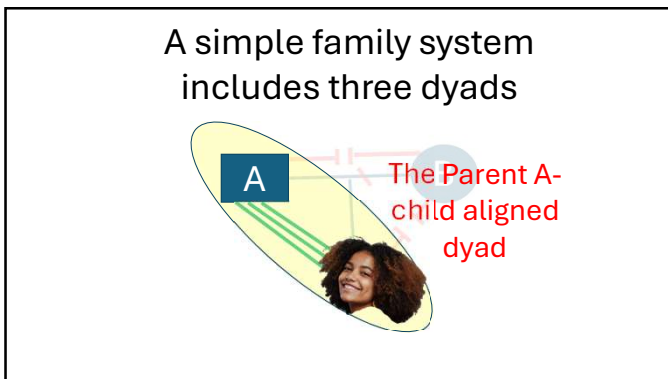
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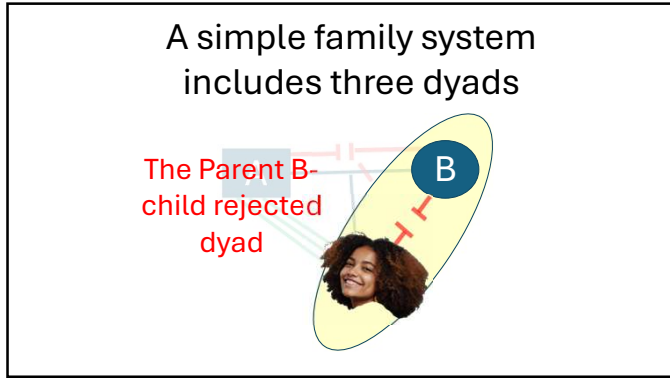
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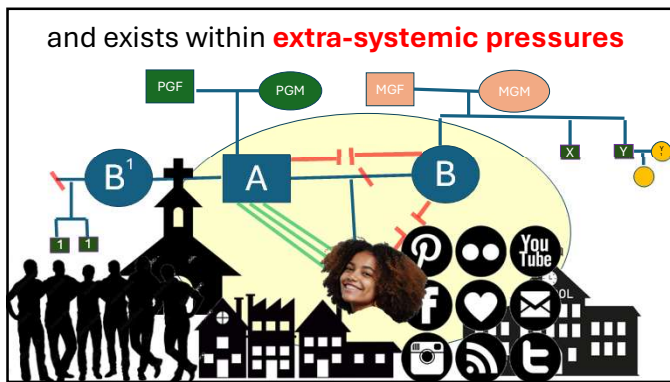
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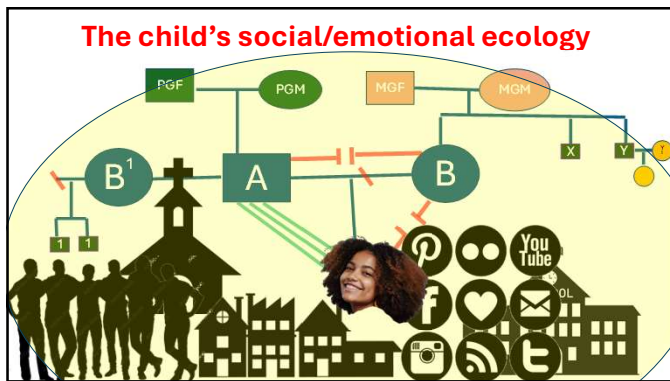
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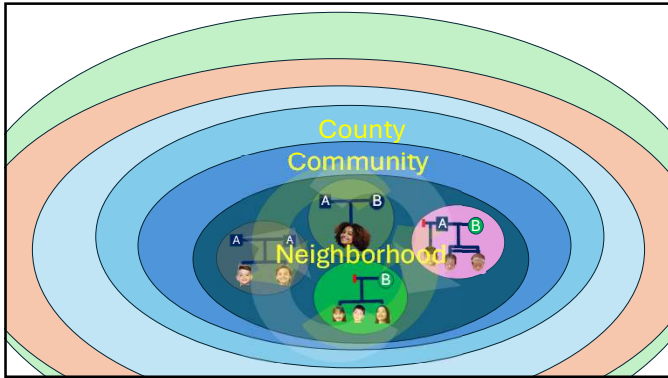
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For example:

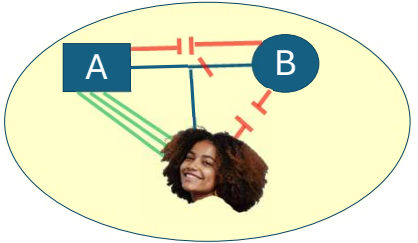
If we want to know why Suzy resists/refuses contact with Parent B

20

Its necessary, but not sufficient to look at the parent B-child dyad

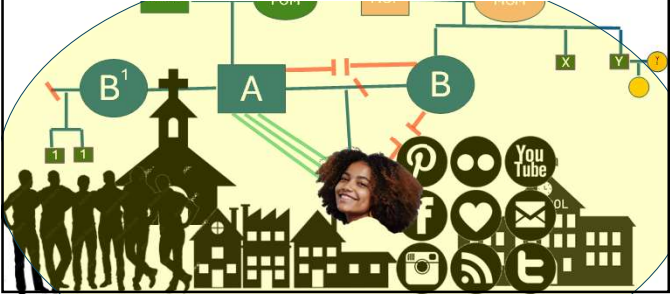
21

Its necessary, but not sufficient
to look at the family system

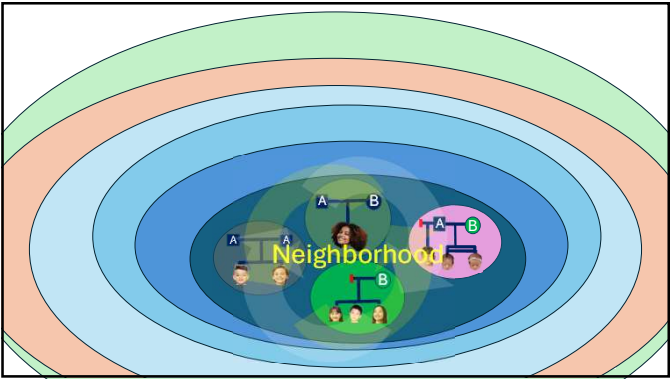


22

We must look at
the child's entire social/emotional ecology



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Coercive control:
Hierarchies of power and control within family systems

25

Systems must be understood in terms of the **hierarchical distribution of resources including power and control.**

```
graph TD; CEO[Chief Executive Officer] --> VP[VP President of Human Resources]; CEO --> RD[Recruitment Director]; VP --> DHR[Director of Human Resources]; DHR --> HRM1[Human Resource Manager 1]; DHR --> HRM2[Human Resource Manager 2]; DHR --> PM[Payroll Management]; RD --> RC[Recruitment Coordinator]; RD --> AR1[Add'l role]; RD --> AR2[Add'l role]; HRM1 --> HS1[HR Specialist]; HRM1 --> HS2[HR Specialist]; HRM1 --> AR3[Add'l role]; HRM2 --> AR4[Add'l role];
```

© 2024 B.D. Garber PhD Conceptualize dynamics

26

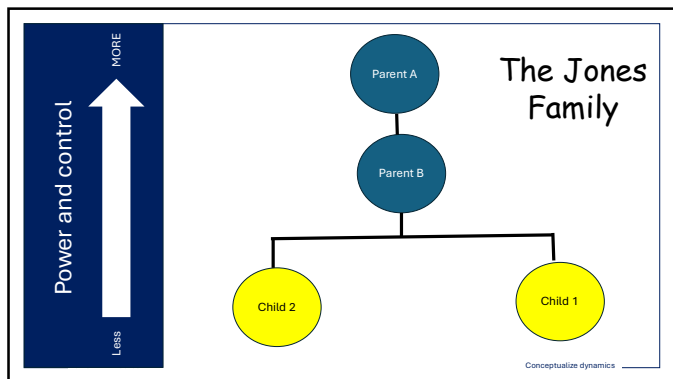
Power and control ↑ MORE
↓ LESS

The Smith Family

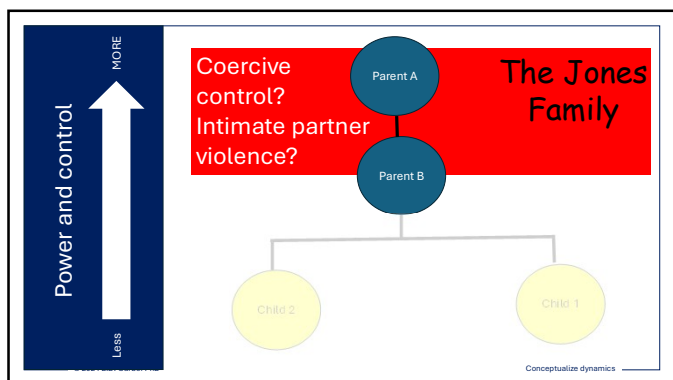
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graph TD; PA((Parent A)) --- PB((Parent B)); PA --- C2((Child 2)); PB --- C1((Child 1));
```

Conceptualize dynamics

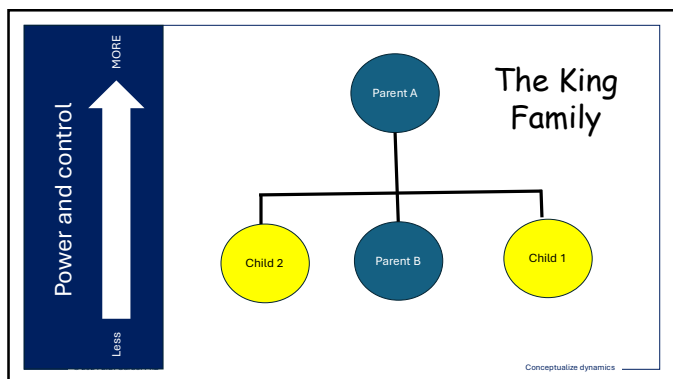
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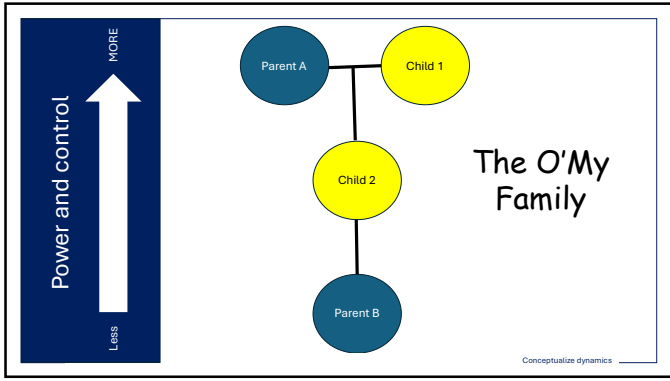
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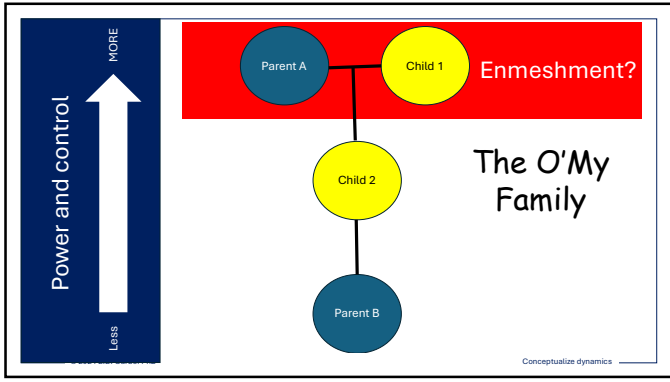
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The Query Grid:
A non-leading means of
understanding the child's
experience

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Billy H.
07.09.2025
8 yo

GENERATING HYPOTHESES:

- ✓ How balanced are responses across emotional experiences?
- ✓ How balanced are responses across contexts?
- ✓ Can the child differentiate flavors of non-happy?
- ✓ Can the child offer insight into WHY each feeling?
- ✓ Is the child's vocabulary congruent with age and education?
- ✓ Is there evidence of anxiety triggers?
- ✓ What content requires follow-up?

HOME WITH DAD	When my friends come over.	When I yell at my dad.	When she grounds me.	When I'm scared almost all the time.
---------------	----------------------------	------------------------	----------------------	--------------------------------------

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Billy H.
07.09.2025
8 yo





	Happy	Sad	Mad	Scared
HOME WITH DAD	Always !!!	Never !!!	Never !!!	Never !!!
SCHOOL	Always !!!	Never !!!	Never !!!	Never !!!
HOME WITH MOM	Always !!!	Never !!!	Never !!!	Never !!!

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Billy H.
07.09.2025
8 yo

	Happy	Sad	Mad	Scared
HOME WITH DAD	Always !!!	Never !!!	Never !!!	Never !!!
SCHOOL	Friends	Friends Don't invite me	Friends Whisper about me	Friends Prank me ... one time you'll never guess what Billy did ...
HOME WITH MOM	Never !!!	Always !!!	Always !!!	Always !!!



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Billy H. 07.09.2025 8 yo	 Happy	 Sad	 Mad	 Scared
Home with Dad	Never !!!	Never !!!	Never !!!	Never !!!
School	Always !!!	IDK ???	IDK ???	IDK ???
Home with Mom	Never !!!	Never !!!	Never !!!	Never !!!

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Billy H. 07.09.2025 8 yo	 Happy	 Sad	 Mad	 Scared
Home with Dad				
School				
Home with Mom		When we're not together all the time		

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Billy H. 07.09.2025 8 yo	 Happy	 Sad	 Mad	 Scared
Home with Dad				When he forgets his meds
School				
Home with Mom				

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Billy H. 07.09.2025 8 yo	😊 Happy	☹️ Sad	👎 Mad	👁️ Scared
Home with Dad				
SCHOOL				
Home with Mom			When she doesn't pay us alimony	

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Billy

Time 1: Accompanied by dad					Time 2: Accompanied by mom				
😊	☹️	👎	👁️		😊	☹️	👎	👁️	
X						X	X	X!	
SCHOOL					SCHOOL				
Home with Mom		X	X	X!	Home with Mom	X			

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Billy **Sally**

Billy H. 07.09.2025 8 yo					Sally H. 07.09.2025 8 yo				
😊	☹️	👎	👁️		😊	☹️	👎	👁️	
X						X	X	X!	
SCHOOL					SCHOOL				
Home with Mom		X	X	X!	Home with Mom	X			

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**Adult psychometric testing
in family law:**
DYNAMICS
not
DIAGNOSES

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**The rationale against using adult
psychometrics in PPEs:**

1. We must distinguish psychometric instruments (“tests”) from questionnaires and structured interview/observation tools.

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**The rationale against using adult
psychometrics in PPEs:**

2. Questionnaires and structured interview/observational tools are extremely useful in PPEs.

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The rationale against using adult
psychometrics in PPEs:

3. A **diagnosis** is a consensually determined (and often empirically grounded) pattern of thinking, feeling, and behavior WITHIN an individual.

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The rationale against using adult
psychometrics in PPEs:

4. A **dynamic** is a consensually determined (and often in need of empirically grounding) pattern of thinking, feeling, and behavior between individuals (i.e., in a relationship).

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The rationale against using adult
psychometrics in PPEs:

5. Tests and inventories generate diagnoses.

51

The rationale against using adult
psychometrics in PPEs:

6. Family law is about relationship “fit.”

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The rationale against using adult
psychometrics in PPEs:

7. There is no empirical connection
between any diagnosis and a parent’s
ability to understand and meet Billy’s or
Sally’s needs (i.e., parent).

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The rationale against using adult
psychometrics in PPEs:

8. There is very little (and often no)
empirical connection between any
diagnosis and a parent’s ability to
cooperate and communicate with his/her
co-parent.

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The rationale against using adult
psychometrics in PPEs:

9. Using tests exclusively to generate hypotheses costs precious time and dollars and often generates distracting “red herrings.”

55

The rationale against using adult
psychometrics in PPEs:

10. Bottom line:

If the job is to assess Billy’s relationship with mom and dad, then finite resources (e.g., time, money, and stress) are better spent directly assessing the relationships for “fit” than the individuals.

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Advance Orientation
in family law:

Why the heck aren’t
we doing this already?


57

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Providing custody litigants a road map to the legal process



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Advance Orientation (AO)

Informs the consumer of a service about the structure (limits, boundaries, roles, routines) of that service prior to commencing, i.e., a road map of what lies ahead.

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


Advance Orientation (AO)



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
60



Advanced d orientation

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Garber, B.D. (2024). Why the heck aren't we doing this already? Advance orientation (AO) can improve the efficacy and efficiency of court-ordered family evaluations and interventions. *Family Transitions*, 65:5, 403-408.

Garber, B.D. and Deck, P. (2025). Advance orientation (AO) improves efficacy, efficiency, and consumer satisfaction: "Preparing to Participate in a Court-ordered Parenting Plan Evaluation (PPE)." *Journal of the American Academy of Matrimonial Lawyers*, 38, 39-59.

Deck, P., Garber, B.D., and Ray, A. (in press, 2026). Advance Orientation (AO) in Family Law: A Conceptual Overview and Future Avenues for Inquiry. *Elgar Research Handbook on Family Law and Mental Health*.

144_38_2025 Advance Orientation 38

**Advance Orientation:
Preparing Parents to Participate
in a Court-ordered Parenting
Plan Evaluation**

By
Benjamin D. Garber* and Pamela Deck**


Abstract

When divorcing parents litigate their children's custody, many consent to the family to participate in a Parenting Plan Evaluation (PPE). Research shows that a Child Custody Evaluation (CCE) is a expensive, intensive, time- and dollar-expensive process intended to determine the family's interests in an attempt to assist the court in deciding the children's best interests. Cases that do family-oriented PPEs in litigations already undergoing economic, social, emotional, parental, and financial upheaval. There is more to consider the ecological validity of the data than obtained. When the PPE process encompasses these stresses, ecological validity is further compromised. Research spanning more than 80 years across a wide variety of fields consistently finds that programs that assist consumers to advance participating in an unfamiliar and stressful event decrease engagement, anxiety, and improve cognitive skills, choice, efficiency, and satisfaction with outcomes. Similar to these findings, the article introduces Advance Orientation (AO) to family law in general and to PPE in particular. AO is distinguished from informed consent on one hand and from coaching on the other. An AO program for parents related to participation in PPE is described. A research program intended to document associated improvements in the ecological validity of PPE data is discussed.

* Ph.D., Family Law Consulting, PLLC, Seattle, New Hampshire
** Ph.D., Family Law Consulting, PLLC, Seattle, New Hampshire
*** Ph.D., J.D., J.A.C.M. SD Family Services Center, Massachusetts (2025)

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
Extensive literature from allied fields demonstrates that

advance orientation

diminishes anxiety
and thereby
improves efficacy, efficiency, and
participant satisfaction.

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
Advance orientation

is called many different things across fields

- Prehabilitation
- Anticipatory socialization
- Role induction
- Task-specific training
- Familiarization

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Advance orientation

is provided in many different modalities

- Documents (e.g., brochures)
- Spoken by assistant
- Spoken by evaluator
- Video instruction
- Video role models
- Virtual reality
- Augmented reality
- Smart phone video games

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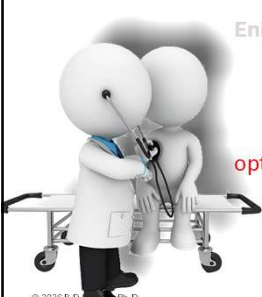
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In medical settings,
advance orientation
facilitates
patient compliance,
recovery,
and satisfaction

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Enhanced Recovery After Surgery (ERAS)
advance training protocols
“reduce the patient’s surgical stress response, optimize their physiologic function, and facilitate recovery”



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Dental procedures
“Children in the test group had significantly less anxiety after watching the video than children in the control group throughout the subsequent dental procedure... presumably because the test group were aware of what was going to happen to them after watching the modelling video”

Al-Namankany, A., Petric, A. & Ashley, P. Video modelling and reducing anxiety related to dental injections – a randomised clinical trial. *Br Dent J* 216, 675–679 (2014). <https://doi.org/10.1038/bjd.2014.497>

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
68

Dental procedures
“Children who viewed the videotape demonstration of a peer model coping with dental procedures showed significantly fewer fear-related disruptive behaviors during restoration of lesions. .”

Melamed BG, Weinstein D, Katin-Borland M, Hawes R. Reduction of fear-related dental management problems with use of filmed modeling. *J Am Dent Assoc.* 1975 Apr;20(4):822-6.

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Genetic screening for cancer risk


“Use of the video was ... associated with greater satisfaction

Advance orientation improves satisfaction regardless of outcomes

Cull, A., Miller, H., Porterfield, T. et al. The use of videotaped information in cancer genetic counselling: a randomized evaluation study. *Br J Cancer* 77, 830-837 (1998). <http://doi.org/10.1038/bjc.1998.135>

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
Public health preparedness

“When individuals are well-informed about the causes, transmission, prevention, and treatment of COVID-19, they are more likely to feel confident in their ability to protect themselves and others, thereby alleviating anxiety.”

Zemni I, Gara A, Nasrroui H, Karim M, Maatouk A, Trimeche O, Abroug H, Freij MB, Benassalallah C, Dhouib W, Bouanneh I, Belgueth AS. The effectiveness of a health education intervention to reduce anxiety in quarantined COVID-19 patients: a randomized controlled trial. *BMC Public Health*. 2023 Jun 26;23(1):1188.

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Inpatient psychiatric care

Advance orientation to inpatient psychiatric care via virtual (VR) reality tour:

“the VR orientation approach is helpful in reducing patients' anxiety while also improving their level of understanding about the ward.”

Lau WC, Choi KS, Chung WY. A virtual psychiatric ward for orientating patients admitted for the first time. *Cyberpsychol Behav Soc Netw*. 2010 Dec;13(6):637-48. doi: 10.1089/cyber.2009.0107. Epub 2010 May 3. PMID: 21142988.

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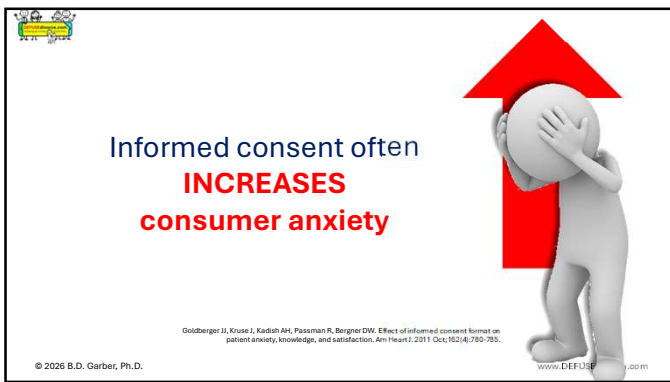


Across guilds, guidelines, and jurisdictions informed consent is designed to serve legal needs.

Informed consent is NOT designed to serve the evaluatee's emotional needs.

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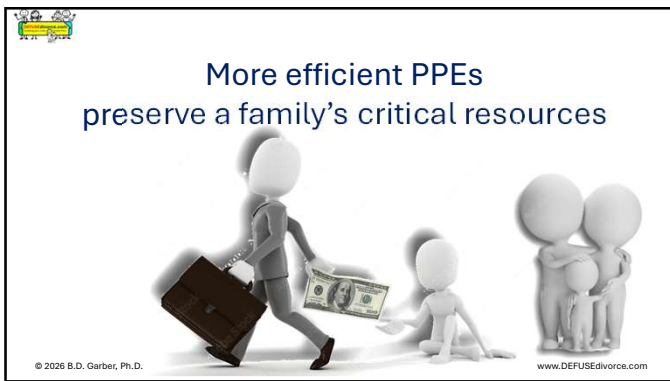


Informed consent often **INCREASES** consumer anxiety

Goldberger JJ, Kruse J, Kadish AH, Passman R, Berger DW. Effect of informed consent format on patient anxiety, knowledge, and satisfaction. Am Heart J. 2011 Oct;152(4):750-755.

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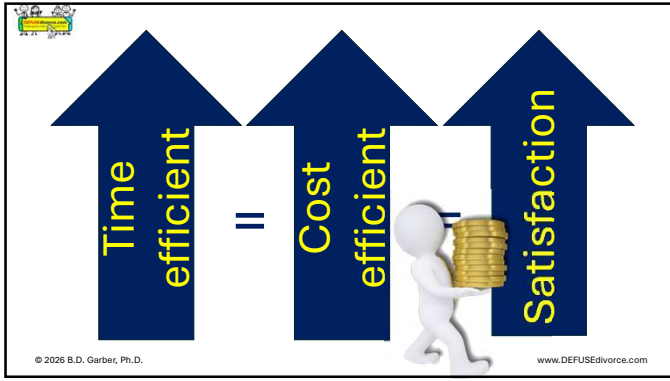
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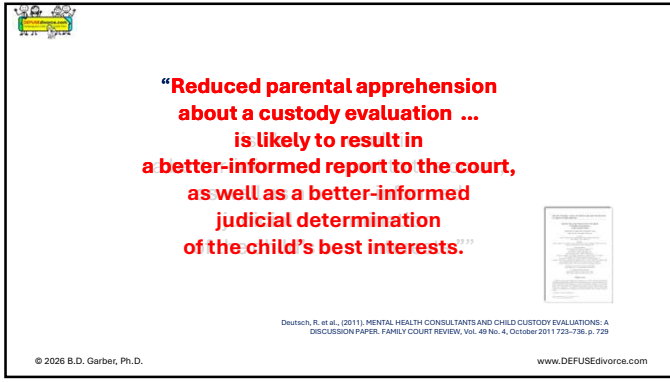
More efficient PPEs preserve a family's critical resources

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“.. satisfied patients
 were also
less likely to sue
 for malpractice.”

Smith, M. A., Schüssler-Florenza, C., & Rockwood, T. (2006). Satisfaction with Care. In R. L. Kane (Ed.), *Understanding health care outcomes research* (2nd ed., pp. 185-216). Jones and Bartlett Publishers.

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View Your Library

Become a better child advocate:
Defuse divorce-related anxiety

Parenting your kids through separation and divorce: The Choice-Consequence Approach

Get answers!

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Separation, divorce and domestic violence:
Safety first and foremost



The information contained on this website is general in nature and should not be used as a substitute for legal advice. Please consult with legal and mental health professionals about your situation.
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The anatomy of a parenting plan

Proactively creating structures that put the kids' needs first

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Stories from the courtroom:
A former family court judge talks to divorcing and custody litigating parents.

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Keeping your kids' needs first.

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Relocation and long-distance parenting

Meeting children's needs when parents live far apart

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Keeping your kids' needs first.

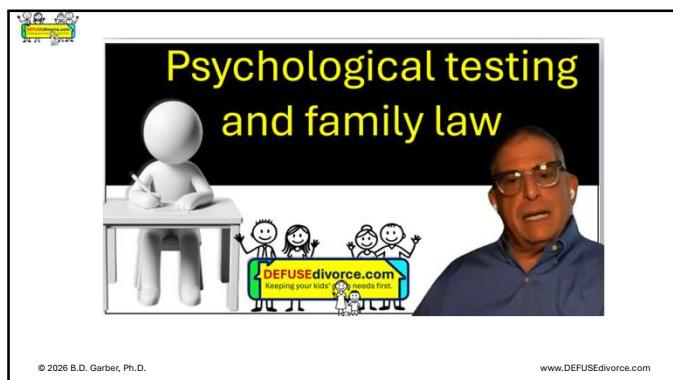
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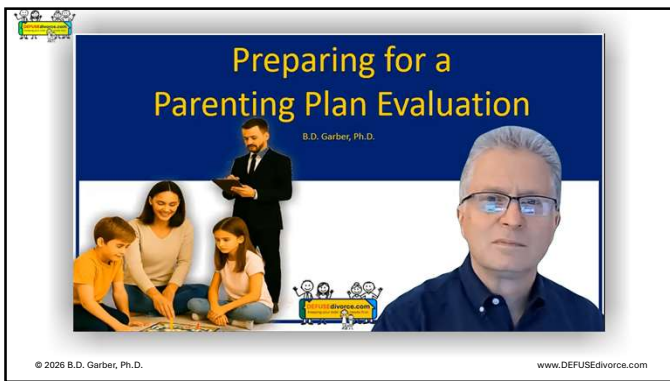
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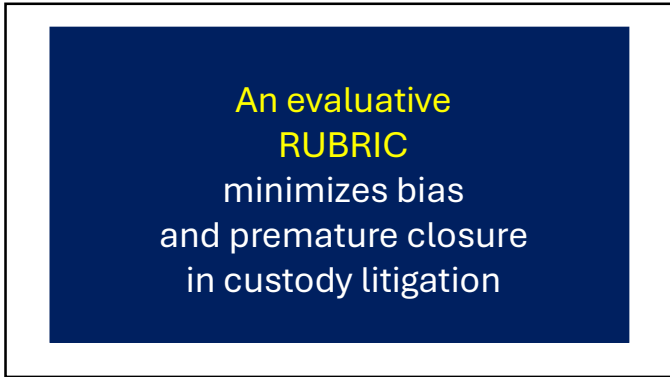
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The rubric requires consideration of **six domains of variables**

1. Incidental sensory, temporal, and proximal factors
2. Child variables
3. Child-Parent A dyadic variables
4. Child-Parent B dyadic variables
5. Systemic variables
6. Extra-systemic variables

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WPCOD April 23-24, 2026

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You must taste all six before you decide on a snack



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1. Incidental sensory, temporal, and proximal variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance recent and abrupt? If so, what triggers?	<input type="checkbox"/>
(b) Is the child's resistance event-time- or place-specific?	<input type="checkbox"/>
(c) Is the child's resistance associated with access to peers, siblings, step- and half-siblings?	<input type="checkbox"/>
(d) Is the child's resistance related to her negative experience with or expectations about a third party or animal associated with Parent B (e.g., new partner, neighbor, pet)?	<input type="checkbox"/>
(e) Is the child's resistance related to sensory (i.e., visual, olfactory, auditory, tactile, and/or gustatory) experiences at transition or anticipated in Parent B's care that may be subjectively aversive or overwhelming?	<input type="checkbox"/>

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2. Child variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance associated with temperament?	<input type="checkbox"/>
(b) Does the child resist change, transition, and/or separation across contexts (i.e., not exclusively when transitioning between care environments)?	<input type="checkbox"/>
(c) Is the child's resistance due to diagnosed/ diagnosable social, emotional, behavioral, and/or cognitive differences?	<input type="checkbox"/>
(d) Is the child's resistance due to a history of trauma not exclusively associated with either adult?	<input type="checkbox"/>

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Anxious?
Cautious?
Slow-to-warm?
Separation anxiety?
Autism spectrum disorder?

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3. Child-Parent A dyadic variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance due to a relationship affinity appropriate to the child's experience, development, and culture?	<input type="checkbox"/>
(b) Is the child saying and doing what the Parent A needs to hear and see in order to maintain love and/or avoid anger and rejection? Does the child respond in a similarly chameleon-like manner with others?	<input type="checkbox"/>
(c) Is the child's resistance associated with Parent A's threats, promises, and/or bribes as in "If you don't tell the evaluator you want to live with me I'll kill myself" or "If you tell the GAL you want to live with me I'll get you a car."	<input type="checkbox"/>
(d) Does the child resist all separations from Parent A but manages separations from others?	<input type="checkbox"/>
(e) Enmeshment: Are the interpersonal boundaries between Parent A and the child appropriate to the child's developmental capacities and the ambient culture? Is the child adultified, parentified, and/or infantilized in this relationship?	<input type="checkbox"/>

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✓ Developmentally
expectable affinity?
✓ Chameleon-like
responding?
✓ Adulthood or
parentification?



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4. Child-Parent B dyadic factors

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Did the child ever have a relationship of any sort with Parent B?	
(b) Does the child experience Parent B's behavior, language, habits, beliefs, or activities as foreign, unacceptable, or embarrassing?	
(c) Estrangement: Has the child directly experienced Parent B as insensitive, unresponsive, abusive, or neglectful toward her ?	
(d) Estrangement: Has the child directly experienced Parent B as insensitive, unresponsive, abusive, neglectful, destructive or threatening toward others including animals and objects (i.e., vicarious exposure)?	
(e) If the child has direct or vicarious negative experiences associated with Parent B, do these constitute trauma that trigger extreme anticipatory anxiety, dissociation, flashbacks, resistance and/or refusal of contact?	

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Direct experience of
insensitive,
unresponsive care



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Vicarious experience of insensitive, unresponsive care



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5. Systemic variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance to Parent B associated with an avoidance of the (emotional, verbal, and/or behavioral) conflict that erupts when the two adults are face-to-face?	
(b) Is the child's resistance to Parent B an effort to avoid "culture shock"?	
(c) Does the child experience the culture in one home as more aversive than the other? For example, teenagers may gravitate toward a permissive parent's home and away from an authoritarian's parent's home.	
(d) How has each parent scripted the adult separation, the adult conflict, and the other parent's role in the child's life for the child?	
(e) Is the child escaping the adult conflict by arbitrarily picking sides?	
(f) Alienation: Is this child's resistance/refusal of Parent B associated with her exposure to Parent A's (direct or indirect, intended or incidental) negative words, behaviors, and/or emotions about Parent B? This includes Parent A's effort to enroll the child as her spy, courier, or go-between to the extent that these actions communicate that Parent B is not safe or trusted.	

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Alienation?



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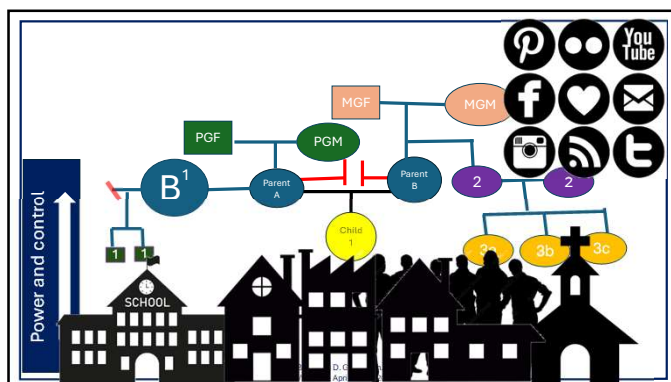
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6. Extra-systemic variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Extended family influences including grandparents, step-parents, uncles, aunts, siblings?	<input type="checkbox"/>
(b) Professional helper bias including teachers, coaches, clergy, and THE SILOed THERAPIST	<input type="checkbox"/>
(c) Is the child missing desired activities in Parent A's community while with Parent B?	<input type="checkbox"/>
(d) Is the child avoiding undesirable activities in Parent B's community while with Parent A?	<input type="checkbox"/>
(e) How do media and other models influence the child's choices?	<input type="checkbox"/>



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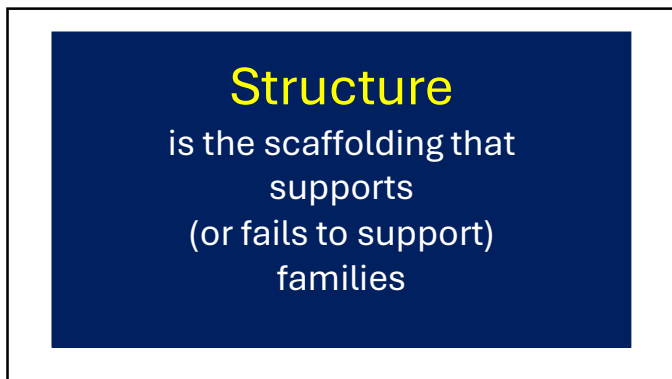
The silo-ed therapist
 is one common example of an
 extra-systemic influence that
 must be considered.

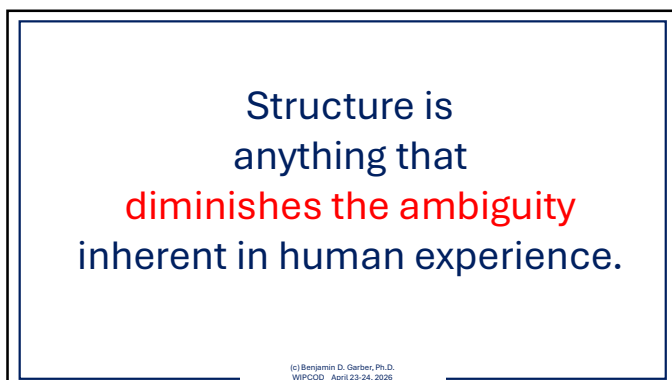
Greenberg, L. R., Gould, J. W., Gould-Saltman, D. J., Shahi, P. (2003). Is the child's therapist part of the problem? What judges, attorneys, and mental health professionals need to know about court-related treatment for children. *Family Law Quarterly*, 37, 241-271.

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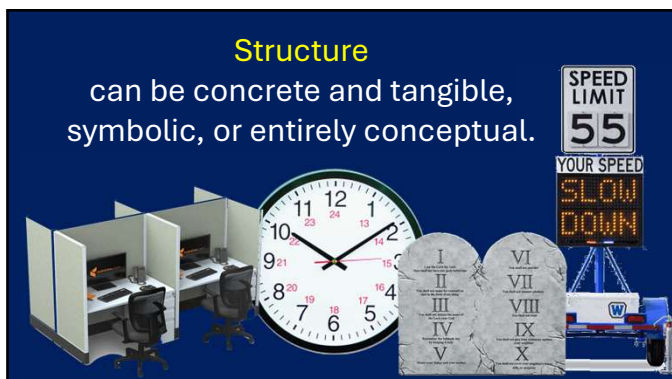
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Structure means

Calm
Clear
Consistent

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Four types of structure

Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships
Think Baumrind's parenting typology	Physical boundaries within and between homes	Hierarchical distribution of resources? Co-parenting? Enmeshment?

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Four types of structure

Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships	Routines and rituals define time
Think Baumrind's parenting typology	Physical boundaries within and between homes	Hierarchical distribution of resources? Co-parenting? Enmeshment?	How predictable is the child's world?

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These are the variables we must examine in order to **understand a family's dynamics.**

Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships	Routines and rituals define time
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These are the variables we must manipulate in order to **serve the best interest of a child.**

Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships	Routines and rituals define time
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These are the variables we must manipulate in order to **take care of ourselves.**

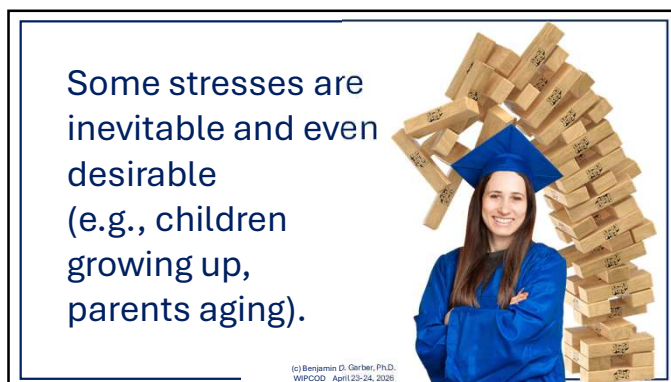
Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships	Routines and rituals define time
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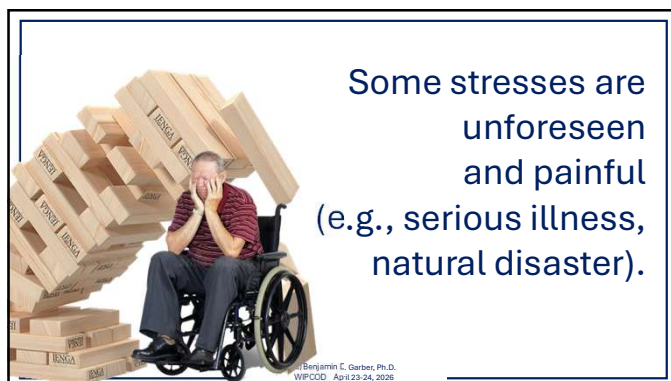
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New balance means redefining structures.

Limits and associated consequences define behavior


When and how will we communicate?
Who will pay child support and what if its late?
Where and when will we meet to hand-off the kids?

Boundaries define Space	Roles define relationships	Routines and rituals define time
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Limits and associated consequences

Negative consequences (i.e., punishments) may have a more immediate impact (but don't teach alternatives).		Positive consequences (i.e., rewards) are healthier for the system in the long run.
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New balance means redefining structures.


Limits and associated consequences define behavior	Boundaries define space	What's mine? What's yours? Which home am I in? How is privacy defined?	Roles define relationships	Routines and rituals define time
--	-----------------------------------	--	--------------------------------------	--

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Boundaries define space

- ❖ Answers “where” and “belonging” questions
- ❖ Defines “in” versus “out”
- ❖ Establishes physical containment



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New balance means redefining structures.

Are we co-equals?
How is decision-making defined?
What about new partners?

Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships	Routines and rituals define time
--	-----------------------------------	--------------------------------------	--

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New balance means redefining structures.

When are the children in my care?
How will I/we establish bedtime? Wake-up?
When can the kids call/text/FT with you?

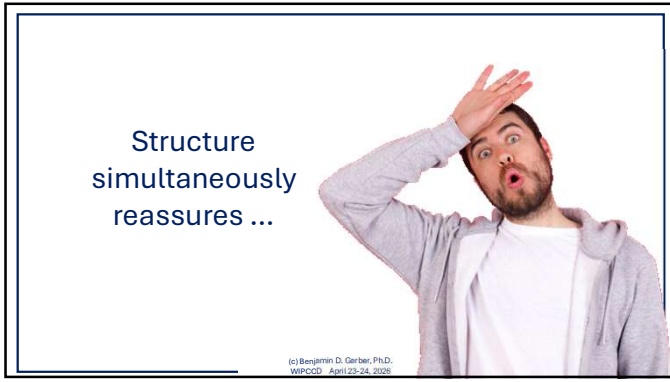
Limits and associated consequences define behavior	Boundaries define Space	Roles define relationships	Routines and rituals define time
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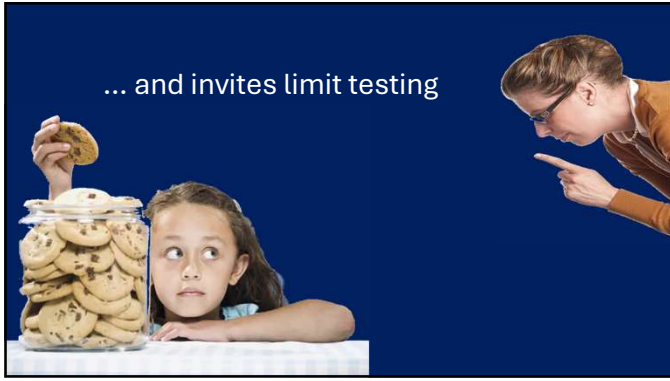
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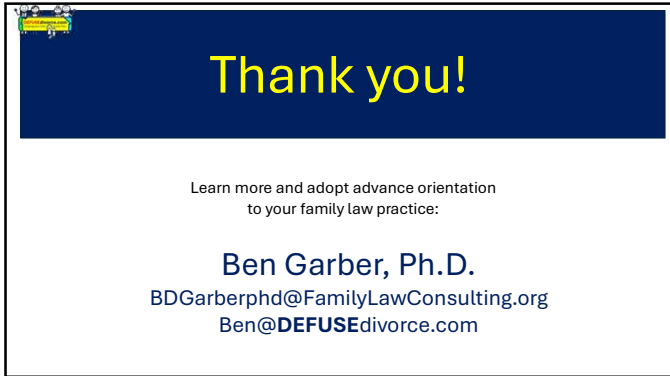
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Thank you!

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to your family law practice:

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