Association of Family and Conciliation Courts

Guidelines for
Court-Involved Therapy - Draft for Comment

Developed by

The AFCC Task Force on the Court-Involved Therapy

February 2010

The AFCC Task Force on Court-Involved Therapists, Co-Chaired by Matthew Sullivan, Ph.D. and Hon. Linda Fidnick, was given the task of defining guidelines for the professional practice of therapists working with court-involved families. A draft document is now available for comment.
To view the draft, click here (we will insert the link).
To comment, please send an email to comments@lyngreenbergphd.com.

In emails offering comment, please use a subject line that refers the specific guideline and section you wish to comment about. This allows the comments to be sorted electronically and applied to the correct section. Please provide suggested language for any revisions that you are requesting/ recommending.

The deadline for comments Monday April 5, 2010

INTRODUCTION

The following Guidelines for Court-Involved Therapists (hereafter the CIT) have been formulated to assist members of the AFCC and other members of the professional community who provide treatment to court-involved children and families. The Guidelines are also intended to assist consumers of these mental health services - including parents, attorneys and judicial officers-in promoting effective treatment, assessing the quality of treatment services, and establishing the structured plans and/or underlying court orders which may be necessary for effective treatment.

While this document provides guidelines rather than mandatory standards of practice, it is intended as a best-practice guide to therapists who provide treatment to court-involved families, or are appointed by the court to provide specific therapeutic interventions. While available resources and local jurisdictional expectations may influence the types of therapeutic services that a CIT can provide, the goal of these guidelines is to highlight common concerns, to apply relevant ethical and professional guideline, standards, and relevant research whenever a therapist works with a court-involved family.

BACKGROUND AND PROCESS OF THE TASK FORCE AND GUIDELINE DEVELOPMENT

The Guidelines for Court-Involved Therapists are the product of the Interdisciplinary Task Force on the Court-Involved Therapist, appointed by AFCC President Robin Deutsch in 2009, and charged with developing guidelines for therapists involved in child custody or juvenile dependency cases. The guidelines were developed to established best practices for therapists handling court-involved cases, or those cases likely to result in court involvement. The members of the AFCC Task force on Court-Involved Therapists were: Hon. Linda S. Fidnick, *Co-Chair;* Matthew Sullivan, Ph.D., *Co-Chair;* Lyn R. Greenberg, Ph.D., *Reporter;* Paul Berman, Ph.D.; Christopher Barrows, J.D.; Hon. R. John Harper; Hon. Anita Josey-Herring; Mindy Mitnick, M.Ed.; Hon. Gail Perlman.

The process for development of these guidelines involved review of relevant professional literature, as well as statutes, case precedents, court rules, and local practices relevant to court-involved treatment. Members of the task force also reviewed relevant professional standards and guidelines for general mental health practice and mental health roles related to the courts. The source information reviewed was vetted by task force members and considered or incorporated into the final draft.

The draft guidelines were subject to peer review. The Association of Family and Conciliation Courts posted the draft Guidelines on its web site and widely circulated them for comments, to make them available for peer review by both legal and mental health professionals. On (date) the draft guidelines were circulated among the membership of the Association of Family and Conciliation Courts and other interested

professionals. The comment period ended on date. The comments were reviewed and considered by the task force, and the guidelines were finalized on date.

PREAMBLE

Court-involved therapists are mental health professionals who provide therapeutic services to children, adults, and families involved in child custody or juvenile dependency court processes. Given the high rate of parenting conflict in these situations, it is likely that most therapists will, at some point in their careers, work with parents or children who are involved with the family or juvenile dependency court. Most of these cases proceed without litigation and involve issues related to parenting time or responsibility. A relative minority of child custody cases involve mediation, evaluation, court-ordered intervention, or litigation. But the cases that do involve these services introduce factors and dynamics that must be considered in the treatment process. Both the process of treatment and the information provided to the therapist are likely to be impacted by the fact that the family is involved in a legal process. Similarly both appropriate and inappropriate treatment may impact the court processes and outcomes for children and families. Appropriate treatment can offer considerable benefit to children and families, while inappropriate treatment may escalate the conflict and cause significant harm to families. Either effect may occur whether or not the therapist provides testimony in the case.

Many therapists become involved with a child, adult, or family before anyone has even considered divorce or legal action. These therapists become “court involved” only after parents decide to separate and legal processes ensue. For example, therapists may be sought out by distressed parents to address their own emotional concerns, or may be asked by the parents to provide treatment to children in the midst of marital conflict. The consideration and/or initiation of legal processes by a parent impacts the therapy. One or both of the parents may ask the therapist to become involved in decisions regarding the children or decisions involving the parenting plan (i.e., the parents’ decisions regarding access and time-sharing arrangements, sharing of rights and privileges, and decision-making). The court-involved therapist must be able to differentiate between issues on which the therapist can offer suggestions to the parents and children, and the broader, psycho-legal issues that are beyond the therapist’s role. Similarly, once court involvement has begun, parents, attorneys or the Court may attempt to involve the therapist in the legal process. This change in context and demands on the treatment role may never have been considered at the start of treatment but must be clearly addressed by the therapist who has now become “court-involved.”

Another court-related situation faced by therapists occurs when parents seek treatment after court involvement has begun, or when they expect it to begin. Parents may seek such treatment out of a genuine desire to assist their children. Nevertheless, they may also have motivations and expectations regarding the therapist’s direct or indirect participation, or potential influence in, the decision making process about the child’s

parenting plan. For example, a parent may expect that the therapist will speak to a child custody evaluator, intervene with the other parent, support what the parent believes is the child's desire, make recommendations to the Court or custody evaluator or take other actions that impact the child custody dispute.

In still other circumstances, a therapist with specialized forensic training may be appointed by the court to provide treatment to a child, co-parenting counseling, or conjoint therapy between a child and one or both parents. Such specialized treatment may be structured with limited confidentiality and there may be an expectation that the therapist will provide testimony or reports to the court as a *treating expert.* In other circumstances, parents may be asked to waive privilege regarding previously-confidential therapy, so that the therapist can provide information to another professional or the court.

These guidelines are intended to assist and guide therapists in any court-involved therapeutic role. While therapists may come to these roles with different levels of experience and expertise, the general concepts embodied in these Guidelines are applicable whenever therapists work with a court-involved family.

Court-involved therapists function in an interdisciplinary environment. These Guidelines are intended to be useful to all professionals who function in that environment. For example, non-mental-health professionals may need to question and test the reliability and usefulness of information and opinions provided by a court-involved therapist. Similarly, they and the court may have to make decisions or resolve conflicts as to whether a CIT's intervention has been, or continues to be, useful and appropriate for a family. There are likely to be multiple other ways in which a CIT's work will be subject to review and questioning by non-mental-health professionals, and in which non-mental-health professionals need to understand the work of the CIT.

1. SERVICES & FUNCTIONS

1.1. The court-involved therapist should understand the differences between court-involved treatment and traditional treatment, as practiced in the broader community outside of legal involvement. The CIT should understand the impact of court processes on both the treatment of the client and the demands on the therapist

(a) *Traditional community treatment* may be defined as the normal range of cases that a mental health professional may expect to encounter in the course of a career, particularly in dealing with children, families, and distressed parents.

(1) Traditionally, treatment is sought voluntarily by an adult who is feeling distressed or wants to change something in his/her life.

(2) Treatment is traditionally provided to children and adolescents in an attempt to assist the child or adolescent with a problem. While children and adolescents may independently seek treatment, it is typically a parental decision.

(3) The goal of treatment is improved functioning of the client, both individually and in other systems such as family and work environments.

(4) The client or referring parent is presumed to be motivated to present accurate information to the therapist, to improve the chances that the therapist can assist the client.

(5) Services are typically confidential/privileged and information is assumed to be confined to the clinical purposes of the case.

(b) *Court-involved treatment* may be defined as any therapy that involves a client who is involved in a court or legal process. This may include treatment that begins when a client is already involved in a Court/legal process, treatment that begins when a client is likely to become involved in a Court/legal process, or therapy that is ongoing when a client becomes involved in a legal process. If the client or family is separating, involved in legal processes, or contemplating legal processes, the therapist should presume that the case is court-involved. The therapist performing services in such a case is a court-involved therapist (CIT).

1.2. In assessing the degree to which legal processes will impact the treatment, therapists should consider a variety of issues that may impact the client or parent's functioning in treatment, and the implications of treatment interventions on the legal processes.

(a) It may be tempting to assume that a particular client would not change his or her behavior, perceptions or information in therapy due to court involvement. Nevertheless, court involvement is stressful, and parents do not usually

become engaged in legal processes unless the issues or potential outcomes are of critical importance to them. Therefore, the court context can generate conscious or unconscious distortion of information and changes in the clients' or parents' expectations of the therapist.

(b) The CIT's natural alliance with the client, and the desire to promote the client's therapeutic best interests, may lead the therapist to align with the client's position in the legal dispute. This may impair the therapist's ability to prepare the client to cope with likely outcomes and stresses in the legal process.

(c) While a client may equate his/or her best interests with prevailing in the legal dispute, therapists must remain cognizant of the fact that their role is to promote successful psychological functioning in the client, not to serve as an advocate or a forensic expert or produce a particular outcome in the legal process.

(d) Assessing court involvement when the client is a child or family

(1) A parent may have a genuine desire to obtain treatment or provide it to a child, but may also have expectations about the therapy supporting the parent's own goals in the legal conflict.
(2) Particularly when a child or adolescent is expressing a "position" regarding a contested issue in the legal conflict, it may be easy to overlook external influences on the child's perceptions, or the impact of developmentally unhealthy coping skills on the child's statements and development.
(3) While it is common in traditional treatment for one parent to be more involved in treatment than the other, this therapy structure creates a risk in court-involved treatment. Consideration of both parent-child relationships, and the encouragement of perceptions or information from both parents are particularly important in court-involved treatment.

1.3. Cases may have different degrees of court involvement, and may also change or vary along this continuum over time

(a) For Example:
(1) A parent involved in a court case recognizes his/her own or child's distress and seeks treatment.
(2) A parent seeks therapy for him/herself or a child, in hopes of improving his/her own position in the court case and securing the therapist's direct or indirect participation (report to a custody evaluator, etc.).
(3) Parents are ordered to "get some therapy" for themselves or a child, but select from community practitioners with no specific agenda, reporting expectation or requirement.
(4) The court orders therapy to address particular issues, such as child

distress, high-conflict dynamics, reunification, etc. The order may include some degree of reporting requirement, or contingencies allowing reporting.

(b) The CIT should obtain information about how the decision to enter therapy was made, who was involved in the decision, and what is expected from the treatment by parents, other professionals, or the Court.

(c) The CIT should request copies of any court orders relevant to the treatment, and/or to the parent's authority to consent to treatment on behalf of a child.

1.4. Differentiating forensic experts from treating experts

(a) The *Forensic* expert –The forensic expert conducts forensic evaluations or provides expert testimony/psychological data to assist the Court. A Forensic evaluator may express opinions on psycho-legal issues such as parenting plans. He/she generally has access to broader data, and may be governed by regulations requiring balanced procedures and neutrality.

(b) *Treating* expert – The treating therapist who provides testimony is generally considered an expert because he/she possesses specialized knowledge beyond that of the lay person, but his/her range of appropriate testimony/reporting/opinion is limited. The treating therapist generally has more focused, but longitudinal knowledge. The treating expert can provide expert opinion regarding a parent or child's psychological functioning over time, progress, relationship dynamics, coping skills, development, co-parenting progress, or need for further treatment, as appropriate to the therapist's role. Because the treating expert's information is limited and he/she has not completed an evaluation, the treating expert generally does not have the information base or objectivity necessary to make psycho-legal recommendations, such as specifying parenting plans, legal custody, or decision-making authority.

1.5. The CIT should be able to differentiate between court-involved, court-ordered and court-appointed treatment

(a) *Court-involved* treatment may be any therapy having an impact on, or being impacted by, ongoing legal processes;

(b) *Court-ordered* therapy is a situation in which a parent is ordered to obtain treatment, or provide treatment to a child, perhaps to address specific issues. This therapy may or may not involve permeable privilege or a reporting requirement.

(c) In *Court-appointed* treatment, a specific therapist is appointed to address specific treatment goals, which may be identified by the Court or by an evaluator.

1.6. The CIT may interact with professionals and nonprofessionals in addition to the identified clients who may rely on, or be impacted by, the CIT's information and actions. For purposes of these guidelines, these roles are defined as follows:

(a) *Client* - the person or persons who are intended to be the direct recipients or beneficiaries of the CIT's services. In some cases the client will be an individual child or adult. In other cases, the client may be a pair of individuals (such as a co-parenting relationship), a group, an individual or the family.

(b) *Collaterals* - others who may be involved with the therapist but are not the therapist's client. In some cases, the interests of the collateral will be the same as the interests of the client. In other cases, the client and collateral will have different and sometimes conflicting interests. Examples of collaterals include a child's parents, when the child is in treatment, or the new spouse of a parent who is involved in treatment.

(c) *Other "consumers"* include all of the professionals and non-professionals who may use, or rely on, the CIT's information or opinion. This may include attorneys, judicial officers, non-mental-health-professionals or others who are involved with the child.

1.7. Special considerations for court-involved roles with children:

(a) When children are to be involved in treatment, the CIT has an enhanced obligation to avoid biasing conditions in their work such as involvement with only one parent, and must be alert to biasing conditions that may be outside of the CIT's control. Examples may include missing information, external influences on a child, or other exposure to the parental conflict.

(b) Children's behavior and statements may vary markedly based on the circumstances of treatment.

(c) The CIT has an enhanced obligation to consider multiple treatment hypotheses and be knowledgeable about children's developmental tasks and needs.

(d) The CIT should use particular caution to ensure that he/she has adequate data on which to base any opinions or assessments, and to form and express such opinions only within confines of the therapeutic role and available information

(e) The therapist must use particular caution in considering statements by children that express positions on adult issues, to avoid inaccurate or incomplete assessment of a child's needs and feelings

2. Responsibilities

2.1. Adherence to professional standards

(a) A CIT should be thoroughly familiar with professional and ethical standards, recognizing that rules and procedures may vary among jurisdictions.

(b) A CIT should maintain the highest level of adherence to professional and ethical standards.

2.2. A CIT should establish and maintain appropriate role boundaries

(a) A CIT should inform potential clients and consumers of the nature of the services offered and the limits thereof. This includes providing a thorough informed consent to clients/parents and appropriate information to other "consumers" of the therapist's information, such as attorneys, parenting coordinators and the court. (See Guideline 6).

(b) A CIT should recognize that informed consent is an ongoing process, and that it may be necessary to review this type of information with clients and other consumers more than once. (See Guideline 6).

(c) A CIT should resist pressure to provide services antithetical to the therapeutic role, as defined by recognized professional and ethical standards or guidelines.

(d) A CIT should explain to clients and/or consumers any decisions to decline to provide certain services, to the degree permitted by the treatment order or waivers of privilege.

(e) A CIT should be prepared to modify elements of the therapeutic process, if appropriate, and to explain the necessity for the modification. This should not be confused with undertaking conflicting roles, which may be problematic and/or ethically prohibited.

(f) A CIT should apprise the Court of any conflicts between the Court's expectations and the ethical and professional obligations of the therapist.

2.3. A CIT should demonstrate respect for parties, families, the legal process and its participants, by:

(a) Communicating respect for the legal system to clients, collaterals, and consumers.

(b) Encouraging parents to obtain a thorough explanation of court-ordered services.

(c) Encouraging parents to consent to services only after being thoroughly informed.

(d) Encouraging parents to consider consulting with counsel before signing legal documents.

(e) Communicating, within the limits of any applicable privilege, with attorneys and other non-mental health professionals regarding the limits and responsibilities of the therapist's role.

(f) Respecting each parent's rights, as defined by relevant orders or law, regarding knowledge of, consenting to, and/or participating in a child's treatment.

(g) Maintaining appropriate expectations for developmentally acceptable behavior in children while respecting their independent feelings, perceptions, and needs.

(h) When in a neutral role and authorized to communicate with counsel, doing so in an evenhanded manner.

2.4. When appropriate and permitted by applicable privilege, a CIT should provide clear communication of observations and opinions to adult clients, the parents of child clients, and other professionals. This includes communicating in jargon-free language and with clear references to the behaviors observed that led to the therapist's analysis or opinion.

2.5. A CIT should maintain professional objectivity.

(a) A CIT should actively seek information that will provide the most thorough understanding of his/her client's circumstances and issues, while remaining within the limits of the therapist's assigned therapeutic role in the case.

(b) A CIT should make efforts to consider and assess treatment issues from the perspective of each involved individual. This does not preclude maintaining an alliance with a parent in individual therapy, but may require exploring with the client the ways that others may perceive the issues.

(c) A CIT should consider more than one hypothesis as to the cause of specific behaviors or difficulties in the child or family, and seek information that will support or disconfirm each therapeutic hypothesis. The therapist should not confuse his/her role with that of an investigator or evaluator, but should consider seeking information directly relevant to treatment that may assist in the process. In many cases, this information will come from the client, parents, or immediately- involved collaterals such as teachers.

(d) When children are involved in treatment:

(1) A CIT has an enhanced obligation to consider multiple treatment hypotheses. This likely involves seeking information and involvement from both parents.

(2) When children are to be involved in treatment, a CIT has an enhanced obligation to avoid biasing conditions such as involvement with only one parent. The CIT must also bear in mind that children's statements and presentations can vary markedly based on the circumstances.

(3) The CIT must be alert to the biasing effects of one-sided or limited information.

(e) To the degree possible in the given therapeutic role, the CIT should remain aware of the information emerging in the legal process in order to assist the client in coping with it.

(f) The CIT should maintain awareness of the limitations of the therapeutic role and the therapist's knowledge of case-relevant information, particularly

(1) The impact of the therapeutic alliance, particularly when one is treating or involved with only one parent; and

(2) The fact that, based on the limits of the therapeutic role, the CIT may not have all relevant information.

(g) The CIT should strive to recognize and manage personal bias.

2.6. The CIT should manage relationships responsibly.

(a) The CIT should avoid conflicts of interest by:

(1) Refusing to assume a therapeutic role if personal, professional, legal, financial or other interests or relationships could reasonably be expected to impair objectivity, competence or effectiveness in the provision of services.

(2) Identifying a real or apparent conflict of interest as soon as it becomes known to the CIT.
(3) Communicating with the client or potential client or counsel, and, if necessary, with the Court, the existence of the conflict
(4) Recognizing that the appearance of a conflict of interest, as well as an actual conflict of interest, can diminish public trust and confidence both in the therapeutic service and in the Court.
(5) Differentiating between conflicts which require declining to assume or withdrawing from the therapeutic role, as opposed to multiple or sequential roles that may be undertaken with waivers from the client or parent.
(6) Recognizing the risks of undertaking conflicting roles, even if the client or parent signs a waiver.
(7) If a conflict is waived, clearly documenting the disclosure of the conflict, the consumer's ability to understand it, and the consumer's waiver.

(b) A CIT should recognize that the dynamics of a court-involved case may create conflicts or disagreements that do not necessarily constitute conflicts of interest. Therapeutic confrontation of a parent or a child, or a refusal to accede to the wishes of a parent or child, may frustrate that individual's desires but does not necessarily constitute a conflict of interest. Such therapeutic confrontation may be therapeutically appropriate or even essential. In such a situation, withdrawing from the may be antithetical to the interest of the child or family.

(c) A CIT should recognize that the therapeutic relationship may change as a family's involvement with the Court changes or as the therapist communicates to other professionals, collaterals or the Court.

(d) If a parent or family who has not previously been court-involved becomes involved in a legal process and asks the therapist to continue services, the CIT should discuss with the relevant family members the potential effect of court involvement on the therapy. This should include discussion of potential requests for release of therapeutic information to others including a child custody evaluator, parenting coordinator, other professionals, or the Court.

(e) If a CIT who has not previously been involved with a client's ongoing litigation is asked to provide information or have other involvement in the legal process, the CIT should provide information to consumers about the potential impact (on the therapy and on the court case) of providing the information.

(f) The CIT should clearly document informed consent on these issues.

(g) A CIT should form and express opinions responsibly by considering available

data and alternative hypotheses and remaining within the therapist's role, and considering the impact that his/her opinions may have on the client and other consumers. (Please see Guidelines 3, 7 and 8.)

2.7. A CIT should maintain accountability.

(a) The therapist in a child-centered role should recognize that active intervention may result in the dissatisfaction of one or both parents, but should nevertheless maintain focus on the welfare of the child client.

(b) If disputes arise regarding interpretation of Court orders governing treatment, the CIT should seek direction or clarification from the Court and/or from the child's counsel or parenting coordinator who may be able to provide such direction.

(c) The CIT should recognize that others in the legal system (for example, the child custody evaluator, parenting coordinator, child's counsel or the Court) may have a role in monitoring or reviewing the therapist's conduct.

(d) The CIT should maintain sufficient records to support accountability for the treatment process. (See Guideline 9)

3. COMPETENCE

3.1. A CIT has a responsibility to develop and maintain specialized competence sufficient for the roles they undertake. While specialized training may not be required for all treatment of court-involved families, the highest-conflict and most complex cases often require therapists with specialized training and knowledge comparable to that of the forensic evaluator or expert.

3.2. Gaining and maintaining competence

(a) A CIT has a responsibility to obtain education and training, and to maintain current knowledge, in areas including but not limited to:
   (1) characteristics of divorcing/separated families and children
   (2) knowledge of family systems and other systems in which court-involved families interact
   (3) effective interventions with divorcing families
   (4) adaptations of traditional therapy approaches that may be necessary to work with divorcing or separated families
   (5) characteristics and needs of special populations who may be involved in treatment

(6) ethical issues and local legal standards

(b) A CIT should utilize continuing education and professional development resources to acquire current knowledge of issues relevant to court-involved treatment.

(c) A CIT may also gain some of the required knowledge through experience and consultation with colleagues; however, clinical experience should not substitute for knowledge of the underlying science, relevant research, legal issues and standards of practice

3.3. Areas of competence

(a) *Competence regarding psychological issues*. The CIT should maintain knowledge and familiarity with current research in areas including, but not limited to:

(1) Child development and coping, including developmental tasks
(2) Child interviewing and suggestibility
(3) Children's decision-making ability, including appropriate means of understanding children's abilities and interpreting expressed preferences or opinions
(4) Factors in divorcing families that increase risk to children, or promote resilience in children
(5) Domestic violence
(6) Child abuse
(7) High conflict dynamics, including risks to children from exposure to parental conflict, parental undermining, alienation and estrangement
(8) Treatment approaches, including both traditional methods and adaptations for divorcing or separated families
(9) Parenting and behavioral interventions
(10) Special needs issues, including medical issues, psychiatric diagnoses, substance abuse, learning or educational problems, developmental delays, etc.
(11) Ethnic and Cultural differences among families.

(b) The CIT should remain aware of issues that may arise, and become a focus of conflict, when children or adults in the family have other diagnoses and/or special educational, medical, or developmental issues. The CIT should become reasonably familiar with special-needs issues arising with the families they serve, and/or obtain appropriate consultation from other professionals or care providers involved with the family.

(c) Knowledge of Legal/Ethical Issues

(1) The CIT should remain reasonably familiar with the laws in his/her jurisdiction relevant to court-involved therapy. This may include:
(i) Relevant statutes in the therapist's jurisdiction

(ii) Case precedents relevant to court-involved treatment
(iii) Interactions and potential conflicts between governing mental health practice and family court expectations or family law statues.
(iv) Local court rules relevant to court-involved treatment.
(v) Legal resources for consultation or collaboration the CIT should remain thoroughly familiar with ethical and professional guidelines and standards applicable to the role of the CIT, obtaining ethics consultation as appropriate

3.4. Understanding of professional roles and resources

(a) The CIT should be familiar with the roles of other professionals who may interact with both the therapist and the court-involved family, and should develop the ability to collaborate effectively with other professionals.

(b) The CIT should have an understanding of alternative dispute resolution methods such as co-parenting counseling, parenting coordination, mediation, etc., and offer such referrals as may be helpful to the family

(c) The CIT should understand the role of the child custody evaluator and the impact that the appointment of such an evaluator may have on both the process of therapy and the privacy of therapeutic information.

(d) The CIT should understand the roles of the minor's counsel, best-interest attorney, and guardian at litem, including the handling of children's treatment information when one of these professionals is appointed.

(e) The CIT should develop the ability to communicate effectively with the court and with other professionals who may be involved in the case, as consistent with applicable privilege.

3.5. Representation of competence, state of professional knowledge

(a) The CIT should accurately describe his/her areas of competence, advise consumers if an issue arises that is beyond the CIT's knowledge and expertise, and initiate appropriate consultation and/or referral.

(b) The CIT should use caution in articulating his/her opinions, whether to clients, collaterals, other professionals or the court. The CIT should understand the limits of scientific knowledge and use caution to avoid overstating the certainty of professional opinions. (See Guideline 10)

3.6. Consideration of impact of personal beliefs and experiences

(a) The CIT should remain familiar with current research on the impact of personal bias, personal beliefs and cultural and value differences, factors that may contribute to bias, and efforts that may be undertaken to contain or manage potentially biasing conditions in their work.

(b) The CIT should recognize and acknowledge that powerful issues may arise in court-related cases that generate personal reactions in the therapist or others, and take steps to counterbalance exposure to information or otherwise manage these issues.

(c) The CIT should obtain appropriate consultation to assist in maintaining professional objectivity.

4. ROLE DIFFERENTIATION & BOUNDARIES

4.1 Court-involved therapists should recognize that the treating expert's role is fundamentally different from the role of the forensic expert, parenting coordinator, and other professionals involved in the case.

(a) The CIT should understand and articulate the differences among these roles to the client (and parents, if the client is a child) through informed consent at the outset of the treatment, and as necessary throughout treatment.

(b) The CIT should recognize and explain to clients and consumers the differences between the role of the CIT and that of other professionals.

(1) The role of the CIT is to assist the client or family, which often requires forming an alliance with clients and participants in the counseling.

(2) The role of the CIT is in contrast to the role of the forensic evaluator, who maintains a neutral stance, functions in the role of investigator rather than provider of treatment, and gathers a broader range of information than is generally available to the CIT. Forensic evaluators are explicitly charged with expressing opinions and making recommendations regarding psycho-legal issues such as parenting competence, decision-making authority and parenting time.

(3) The CIT generally has access to a more longitudinal, but narrower base of information, and is expected to have therapeutic alliances with his/her clients. While a therapist can assist parents and children in making healthy decisions and can make suggestions to strengthen relationships or aid treatment, he/she does not have the neutrality or information base necessary to make recommendations on psycho-legal issues such as parenting plans.

(4) The CIT should recognize that the requirements of the CIT role are inconsistent with serving in a decision-making role for the family. Decisions regarding issues such as parental decision-making authority and parenting plans are generally reserved to other professionals such as parenting plan coordinators and ultimately the Court.

(c) The CIT should explain to families, and other consumers, the reasons that the therapeutic role is inconsistent with other professional roles.

4.2 Therapeutic role and process

(a) The CIT has a responsibility to identify both the intended clients and any others intended to be the beneficiaries of the intervention.

(1) When the intended beneficiary of the intervention is an individual client, the primary focus of the therapist is the client's welfare and treatment is implemented for the benefit of the client. Therapists with different treatment orientations may identify different treatment goals, but all focus on improving client's functioning.

(2) In other cases, a relationship or the family unit may be identified as the the "client," or as the participants in counseling, but the goal may be to reduce conflict or promote behavior change for the benefit of the child. Co-parenting or conjoint/reunification therapy are examples of such interventions.

(3) The CIT should clearly identify the goals, procedures and beneficiaries based on any relevant orders and in collaboration with the client(s) and other professionals as appropriate, and should clearly communicate this information to participants in the therapy.

(b) The CIT should understand that the information provided by the client during the course of the treatment is based upon the client's experience and perspective, which may sometimes be distorted. Similarly, the CIT should recognize that the information provided to him/her by therapy clients is not balanced and comprehensive.

(1) The CIT should strive to retain professional objectivity, and to remain aware of the impact of the therapeutic alliance on the therapist's information and perspective.

(2) The CIT should actively consider alternative hypotheses regarding the information (i.e., data) he/she receives in the treatment.

(3) The CIT should strive to be aware of societal and personal biases and continuously monitor his/her actions for evidence of potential bias. Awareness of research and focus on the treatment data inform the CIT and help limit the potential for bias. The CIT should consider withdrawing from a case when he/she is unable to manage a known bias and/or is unable to maintain objectivity.

(4) The CIT should be aware that the treatment may be influenced by the client's or family's involvement in legal processes, and that the legal process may be influenced by the actions of the therapist.

(5) The CIT must constantly guard against/protect his/her work from threats to professional objectivity and role boundaries.

4.3 Multiple Relationships – Multiple relationships occur when the CIT is in two or more professional roles (e.g., CIT and evaluator, CIT and Parent Coordinator) at the same time or sequentially, or when the CIT is in a personal or professional relationship with someone closely associated with or related to the client with whom the CIT is professionally involved.

(a) The CIT should avoid multiple relationships whenever possible.

(b) The CIT should disclose to all relevant parties any multiple relationships that cannot be avoided and the potential negative impact of such multiple roles. The CIT should clarify the expectations of each role and take reasonable steps to avoid or minimize the negative impact of assuming multiple roles.

(c) The CIT who discovers that he/she is in a multiple relationship should take reasonable steps to resolve the conflict in a manner that is least harmful to the client.

(d) The CIT should recognize that relationships with clients are not time limited and that prior relationships, or the anticipation of future relationships, may have the same deleterious effects upon the CIT's objectivity as current relationships would have.

4.4 **Testimony and reporting. The CIT should recognize the limits of his/her knowledge, should be aware of the potential impact that testifying in court or providing feedback to other court-connected professionals (for example, a mediator, an evaluator, etc.) may have on the client, and should discuss these issues thoroughly with the client.**

(a) The CIT should articulate the limits of his/her knowledge and opinions in any communications with counsel and with the court, and specifically differentiate the role of the therapist from the role of an evaluator. .

(b) The CIT should limit testimony and reporting to that which is consistent with his/her role and available data.

(c) The CIT should consider alternative hypotheses for behaviors he/she has observed and information he/she has received, make every effort to maintain objectivity in reports and testimony, avoid bias, state the grounds for his/her opinions, and avoid offering opinions that go beyond the data obtained during the course of the treatment.

(d) The CIT should anticipate that clients, attorneys, and the Courts may ask the CIT to testify beyond the limits of his/her knowledge and should respectfully decline to express inappropriate opinions.

(e) The CIT should recognize that the trier of fact may make the ultimate determination as to whether the CIT is a fact or expert witness. In any event, the CIT should be mindful of the significant difference between a fact witness and an expert witness and any limits on the scope of permitted testimony.

(1) Fact Witness – Fact Witness testimony involves reporting facts and/or events observed within the treatment. No opinions or conclusions may be offered by a fact witness and no special expertise is required.

(2) Expert Witness – Expert witnesses are designated by the court as such and, therefore, have been found to have relevant scientific, technical, or other specialized knowledge which may assist the trier of fact. An expert witness may provide an opinion as long as the testimony is based upon sufficient facts or data and is based on reliable principles and methods.

(3) Different jurisdictions may have different rules regarding expert testimony; before testifying, the CIT should become aware of those rules.

(f) The CIT should possess specialized clinical knowledge and may, therefore, be considered to be a Treating Expert.

(g) The CIT should remain vigilant to the differences between a Treating Expert and a Forensic Expert. When the CIT is designated as an Expert Witness by the Court, he/she may offer relevant clinical opinions within the scope of the CIT's expertise including, among others, diagnosis, changes observed in treatment, treatment plan, prognosis, coping and developmental abilities, and interventions that may aid treatment. The CIT, however, is not a forensic expert and therefore should not render opinions on psycho-legal issues (e.g., parental capacity, child custody, validity of an abuse allegation) that are beyond the scope of the treatment role. The CIT should recognize that his/her judgments, reports, testimony and opinions may have a profound impact on outcomes for children and families. The CIT should exercise caution in forming and expressing opinions, and should use particular caution in drawing conclusions from limited observations or sources of information.

5. Fee Arrangements

5.1 The therapist should establish a clear written fee agreement with the responsible parties prior to commencing the treatment relationship. Approaches may include:

(a) Sending a written fee agreement to the parties and/or client(s) prior to commencing treatment.

(b) If the case is already court-involved, or there is a reasonable expectation that it will become court-involved, sending the fee and consent agreements to counsel.

(c) If the case is not court-involved, discussing the terms and fee requirements of treatment directly with the parties and/or client.

5.2 The CIT should provide to each responsible party written documentation which includes the following:

(a) A description of the treatment services to be provided, including all of the elements of informed consent described in Guideline 6.

(b) A fee agreement.

(c) The fee agreement should contain, at a minimum, the following information
- (1) Description of all services and charges
- (2) Expectations regarding payment, including, if
  - (i) fees associated with missed or cancelled sessions,
  - (ii) costs/fees generated by one parent,
  - (iii) consequences of non-payment, including its potential impact on continued provision of services,
  - (iv) the use of collection agencies or other legal measures which may be taken to collect the fee; (see attached sample agreement)
- (3) Policies with regard to insurance reimbursement, if any. This should include issues such as identifying the person responsible for submitting the insurance form, payment for covered and non-covered services, responsibility for submitting treatment plans (if required by the insurer) and the consequences of using insurance.
- (4) Policies regarding advance payments, if any, for treatment services and the use of those payments
- (5) A procedure for handling of disputes regarding payment

(d) If the therapy is court-ordered, the CIT should provide to the court all information required to engage the CIT so that the court can issue an appropriate and comprehensive order. The written fee agreement may be incorporated into the court order that initiates the therapy. The therapist should request that the court specify the party responsible for the payment or the specific apportionment between the parents or parties. In the event that the court order fails to address the issue of fees adequately, the therapist should take appropriate steps to obtain clarification from the court before providing services. Arrangements should be sufficiently clear to prevent or resolve most fee-related disputes, and for a future judicial officer or reviewer to be able to resolve any such disputes submitted to the court.

(e) If treatment is terminated or suspended due to non-payment, the CIT should conduct any termination or suspension in accordance with the order, fee agreement and ethical principles.

(f) The CIT should maintain complete and accurate written records of all amounts billed and all amounts paid.

6. INFORMED CONSENT

(a) At the outset of therapy, the CIT should obtain verbal and written informed consent from the client(s), parents, or legal guardian (if the client is a child). The informed consent should use language that is understandable and includes, at a minimum, information about the nature and anticipated course of the therapy, risks and benefits of the therapy, fees, the potential involvement of other individuals in the therapy, and a discussion of confidentiality. Particularly with high conflict parents, it may be important to discuss fees in detail, including issues such as payment responsibility for individual parent sessions, child sessions, for parent-child sessions. Provisions regarding insurance reimbursement and responsibilities for copayments should be clear. The CIT should be aware of state laws which impact confidentiality and access to records and these should be incorporated in the informed consent. Clients or their counsel should have an opportunity to ask questions, obtain answers, and discuss their concerns. These discussions should be documented in the CIT's record.

(b) If a child is to be involved in treatment, the therapist should request copies of court orders or custody judgments documenting each parent's rights/authority to make decisions regarding treatment or have access to treatment information. Therapists should generally avoid accepting a child into treatment without notifying or consulting with both parents. In rare and urgent cases, it may be acceptable to accept a child in treatment at the request of

one parent, pending efforts to either notify the other parent or obtain permission from the court.

(c) When children are involved in treatment, the CIT should explain the nature and purpose of the treatment to the child in age-appropriate language. It may be necessary to revisit these issues as treatment proceeds.

(d) Therapists sometimes become involved in treatment at the request of a third party such as the court, an attorney, or a social service agency. In these situations, the CIT should be especially sensitive to informed consent issues.

(1) The CIT should make a special effort to explain his/her role to the client(s), specifying the third party who requested the services and any impact this may have on the treatment.

(2) If an adult client or parent does not sign the informed consent, or otherwise has significant disagreements with the treatment process, the CIT should defer providing services and refer the parent back to the third party agency or the Court for clarification.

(3) If the therapist has been appointed by the Court to provide treatment to one or more adults, but an adult refuses to sign consent documents, the CIT should not provide services until the issue has been resolved and the CIT has obtained consent. If the order appointing the CIT allows the CIT to convey this information to the court, the CIT may advise the Court of the situation.

(4) If a CIT is asked to provide treatment to a child but is faced with conflicting positions on the part of the parents (i.e. one parent supports treatment but the other refuses to consent), the therapist should refer the parties back to the Court so that the Court may resolve the dispute between the parents, and then proceed as the Court directs.

(5) When treatment is proceeding as the result of a court order, it is recommended that that the CIT require a specific treatment order, specifying the nature of the services to be provided and the parameters of treatment, before proceeding with treatment. This is particularly important if a consent dispute, such as a dispute over treatment of a child, has preceded the therapist's involvement.

(e) A CIT should discuss the limits of parental involvement and confidentiality with the parents or guardians of a child or adolescent involved in treatment.

(f) When more than one individual participates in the therapy, the CIT should clarify with each person the nature of the relationship, the CIT's roles and responsibilities, the anticipated use of information provided by each person, and the extent and limits of confidentiality. If the parent/ client is represented by counsel, the therapist should encourage the person to consult with counsel before signing a therapy/informed consent agreement.

(g) If the CIT's level of court involvement changes or requests are made to change the CIT's role, the CIT should discuss these changes with the clients including the impact on the treatment and the potential risks and benefits. Before contemplating a change in role that might create a conflict of interest or alter therapeutic alliances, it may be wise for the CIT to obtain professional consultation. If the CIT becomes aware of potentially conflicting roles, he/she should take reasonable steps to disclose, clarify and discuss the potential conflicts and any potential negative impact. The CIT should take reasonable steps to minimize any negative impact, including withdrawing from the case, if appropriate. If the parties consent to the therapist assuming a different role that could alter therapeutic alliances or obligations, the CIT should document the revised informed consent process in the therapist's record.

(h) The CIT should be particularly sensitive to the possibility that in any court-related therapy, the CIT may be asked to provide feedback to third parties such as attorneys, mediators, parenting coordinators, evaluators, and/or the Court, or to testify as a witness. As soon as the therapist becomes aware of these possibilities, he/she should take reasonable steps to clarify the limits of the therapeutic role, the potential scope of information to be released, and the potential implications of the release of information or the testimony for the client. This may include advising the client to seek counsel before providing a release allowing disclosure of treatment information. The CIT should take reasonable steps to minimize any negative impact, including requesting assistance from the Court, or withdrawing from the case, if appropriate.

7. PRIVACY, CONFIDENTIALITY AND PRIVILEGE

7.1 Introduction

While psychotherapy is traditionally confidential, the involvement of a family in legal processes may change the degree to which treatment information can be kept confidential. Laws and standards vary markedly among jurisdictions, and there may be conflicts in the law within a single jurisdiction. A CIT is not expected to have extensive knowledge of the law, but should be aware of the important questions that should be asked and factors to consider when faced with an issue related to confidentiality or privilege. A CIT should also be aware that ethical, clinical, and legal issues related to confidentiality/privilege may differ depending on whether a parent, child, couple or family is in treatment. The CIT should be aware of the laws that govern the right to waive privilege in his/her jurisdiction.

7.2 General concepts regarding mental health information

The CIT should understand concepts relevant to the use and sharing of treatment

information among professionals, and general issues that should be considered in all court-involved treatment.

(a) Confidentiality is a common law legal construct designed to protect communications between certain professionals and their clients. In the context of mental health services, therapists are generally prohibited from disclosing information shared by individuals in therapy or treatment. This obligation to maintain client confidentiality endures beyond the clinical relationship and the therapist is required to obtain client consent before releasing or discussing client information, even including disclosure of the existence of a client-therapist relationship.

(b) The question of who may be considered a client varies from jurisdiction to jurisdiction, as do legal provisions about whether therapy in the context of child custody litigation is privileged, and who is empowered to waive or assert that privilege. Therefore, a CIT is encouraged to obtain appropriate legal consultation and become aware of both law and professional standards applicable in his/her jurisdiction.

(c) The terms confidentiality and privilege are often used interchangeably. The principles underlying both these terms are designed to create safeguards for those seeking help, so that they can fully disclose information to their therapists without compromising their individual privacy interests.

(d) In Court-involved cases, where the goal is to protect the interests of the child, the Court may have the power to order disclosure of treatment information, or to order treatment or other interventions that have limited or no confidentiality.

7.3 Impact of the court context on decisions about treatment information.

Even if an adult client, or the parent of a child client, has the right to assert or waive privilege regarding treatment information, the CIT should be aware of situational pressures that may affect the client or parent's judgment on this issue. These may include requests from the court or other professionals with power in the legal proceedings (custody evaluator, parenting coordinator, etc.) that the parent waive his/her own or the child's privilege as to the treatment relationship. The CIT should also be aware that a client's or parent's case may be impacted either by the decision to release information or the decision to decline to release it, and should encourage the client/parent to seek appropriate legal consultation before making this decision. The CIT is aware that in certain jurisdictions and in certain cases, parents do not hold the right to waive or assert privilege in court-involved treatments.

7.4 Obtaining appropriate consultation

When a CIT is in doubt as to whether information requested about treatment can be released, the CIT should seek legal advice or request direction from the Court.

7.5 Ethical and professional standards regarding treatment information

A CIT should be familiar with relevant legal, ethical and professional standards regarding the handling of information obtained while treating children or adults. Since there can be many exceptions to the basic expectation of confidentiality, a CIT should have basic familiarity with laws, court rules, and case precedents that may change the degree to which treatment information can, or should, be kept confidential.

7.6 Obligation to inform client regarding limitations on confidentiality/privilege

A CIT has a professional obligation to inform the client of the limits of confidentiality and privilege, and what exceptions may apply.

(a) Such explanations should occur at outset of the therapeutic relationship, and should be documented in the CIT's record.

(b) The CIT should adapt explanations to the needs of children.
   (1) When working with child clients, the CIT should clarify the limits of confidentiality in developmentally appropriate language.
   (2) A CIT should avoid making blanket promises, particularly to children, that treatment information will be confidential.

(c) The CIT should revisit the discussion of confidentiality with the client as circumstances change, or as issues arise in therapy that may result in the sharing of treatment information.

7.7 Special issues in children's treatment

(a) The CIT should be familiar with general provisions governing confidentiality of children's treatment information, including:

(1) Who holds the child's privilege and how a child's privilege can be waived or asserted;
(2) Under what circumstances a child or adolescent may have a role in this decision;
(3) How the CIT should respond if he/she receives conflicting instructions from the parents.

(b) At the outset of a child's treatment, the CIT should clarify the provisions of the order or therapy agreement regarding the child's treatment information. These issues include, but are not limited to:

(1) How information about a child's progress will be shared with parents;
(2) Whether the consent of one or both parents will be required to release information about the child's progress;
(3) The role that the child's thoughts and feelings will play in determining what information is shared, and how it is shared;
(4) Circumstances in which the CIT may be required to release information.

(c) The CIT should prepare the child client for the release of treatment information, address the child's feelings about the issue, and assist the child in coping with any stressors that may result.

7.8 On a case-specific basis, the CIT should explain to the client the way in which treatment information will be handled. If the therapy is court-ordered, or if there is a dispute regarding handling of treatment information, the CIT should seek clarification from the court, using whatever procedures are appropriate in that jurisdiction. Issues to be clarified may include, but are not limited to:

(a) Circumstances in which children's treatment information will be released to the parents, or to other professionals;

(b) Whether the consent of one or both parents will be required to release information from conjoint, co-parenting or marital therapy;

(c) Whether information will be released to a child custody evaluator, parenting coordinator, the Court, or any other individual, and the limits of the information to be released;

(d) Whether, and how, the CIT will communicate to the Court in the event that one or both parents do not cooperate with treatment;

(e) What information can be released to insurance companies, the court, the other parent, or other entities to enable the CIT to collect his/her fees**.**

7.9 Considerations for therapists covered under the Health Insurance Portability and Accountability Act (HIPAA)

If the CIT covered as a HIPAA entity, he/she must be aware of their obligations under the act, and how those obligations may change if the client or family becomes involved with the court. Where requirements under HIPAA appear to be in conflict with other laws or court orders, the CIT should seek appropriate consultation.

7.10 Responding to requests for treatment information from third parties

If a CIT receives a request for treatment information from a third party, such as a child custody evaluator,

(a) The CIT should request a copy of the release signed by the client, former client, parent, or other authorized person. Absent a release from the client or other person authorized to allow release of information, the CIT should use caution about even acknowledging that he or she has provided treatment to the person;

(b) Prior to providing any client information, the CIT should inform or attempt to inform the client or former client that the CIT has received a request for release of information;

(c) If at all possible, the CIT should inform the client or former client of the nature of the information that may be released if the client chooses to waive privilege. If appropriate, the therapist should also refer the client or former client to his/her attorney to assist the client in making this decision.

(d) Before releasing information, the CIT should consult any agreement or court order that governs the treatment, since a release does not supersede a Court order.

7.11 Responding to a subpoena.

(a) A CIT should be aware of differences between subpoenas and court orders. A CIT should not automatically respond to a subpoena by simply disclosing written or oral information. Conversely, a CIT should not ignore a subpoena.

(b) A CIT who has received a subpoena should strongly consider promptly consulting with an attorney who is familiar with both legal issues in the jurisdiction related to mental health law, and the requirements of the court in which the family is involved. Procedures, requirements, and the CIT's options will vary depending on the jurisdiction, whether the case is being heard in a family court or juvenile dependency court, and many other issues.

(c) If a CIT receives a subpoena regarding an adult client's treatment, he/she should notify the client or former client of the fact that the subpoena was served, the scope of information sought, and the type of information that is contained in the CIT's record. The client should be advised of his/her right to consult counsel to determine how to best respond to the subpoena.

(1) If records are being requested from the attorney representing an adult client, the CIT may, with the consent of the client, cooperate with the attorney. A CIT should obtain written consent for all such releases of information, and document actions taken.

(2) If an adult client's records have been subpoenaed by opposing counsel, the CIT may, with consent of the client, cooperate with the client's attorney to devise a strategy for response to the subpoena. For example, it may be possible to negotiate a limited response to the subpoena which preserves much of the client's privacy.

(3) If a child's records are subpoenaed by either parent, the CIT should use considerable caution in taking any action which might involve unilateral communication with either parent's attorney, or creating an appearance of allying with one parent's counsel against the other parent or counsel. The CIT may wish to consider communicating bilaterally to the parents, or to their attorneys if releases have been signed, articulating the nature of the request received and the potential consequences to the child of releasing information.

(4) If a child's records are subpoenaed and the CIT is concerned about the content or form of the requested release, or potential consequences to the child, the CIT should exercise the procedures appropriate to that jurisdiction for protecting the child and his/her treatment information. In some jurisdictions, this may include bringing the matter to the attention of the court and requesting an independent advocate or guardian to take control of the child's privilege.

(5) The CIT should recognize that he/she likely has access to only limited information relevant to the family's situation and the issues being considered by the Court. Ultimately, others may be in a better position

to determine whether release of the CIT's records or information is necessary for the Court to make the best decisions on behalf of the child.

(6) The CIT should consider the potential impacts of releasing a child's treatment information, and should be prepared to explain those risks and benefits to the person authorized to waive or assert a child's privilege. Relevant factors may include the child's wishes, the impact of various decisions on the child's ability to trust therapy, and the child's potential need to have his/her voice heard in the court-related matter. The nature of the risks may vary among jurisdictions. The CIT should be able to anticipate and present the risks and benefits of various approaches to disclosing or protecting a child's information.

7.12 Responding to a court order for release of treatment information.

(a) If the CIT is ordered by the court to release information, particularly over the objection of one of the parties, the CIT should request a written order specifying the parameters of information to be released.

(b) If there are outstanding legal questions regarding what information can be released (such as whether the CIT can release information from other agencies or child protective services), the CIT may wish to obtain the assistance of an attorney who can bring these issues to attention of the Court and obtain clarification or direction.

8. METHODS AND PROCEDURES

The CIT should adhere to the methods and procedures generally accepted in his/her particular discipline. In addition, the CIT should maintain methods and procedures consistent with being involved in a situation which may include litigation, testimony, and the reporting of various matters to Court, parties, or their attorneys.

8.1 Prior to court involvement

When a CIT has begun work with a client prior to the commencement of any court involvement but can reasonably expect the client will become involved in legal processes, the CIT should revisit the informed consent procedures outlined in Guideline 6.

8.2 Once the client is involved with the court

When a therapist is working with a client who has become court–involved, the CIT should use appropriate clinical methods to guide his/her diagnosis, treatment planning and treatment.

8.3 Obtaining necessary information if the therapy is court-ordered.

The CIT should obtain all information necessary to conduct the court-ordered therapy and should discuss the goals of the court-ordered therapy with client.

(a) The CIT should request copies of any court orders governing or relevant to the treatment, including any orders identifying treatment goals.

(b) As appropriate, the CIT should request documents that may be relevant to treatment. These may include prior therapy records, evaluations, orders, or reports by a Guardian at litem.

(c) The CIT should ensure that his/her role is clearly defined and consistent with the therapeutic role and the CIT's expertise.

(d) If the CIT is unable to obtain information from the parties or counsel that is reasonably necessary to conduct treatment, the CIT may consider applying to the Court for further direction. Application to the court should be preceded by proper notice to the parties and counsel, and only if the therapist has obtained appropriate releases.

8.4 Use Appropriate Methods

(a) A CIT should not exceed the bounds of his/her professional competence in his/her diagnosis, treatment planning and treatment of clients.

(b) A CIT should use methods or interventions that are generally accepted within their professional communities, and should apply methods or interventions appropriate to the the situations and characteristics of court-involved families. . A CIT should be able to justify and explain the choice of methods based upon the current state of professional knowledge and research.

(c) A CIT should use particular caution in interpreting behaviors, such as children's play behavior or behavioral symptoms, that may have many causes or meanings.

(d) A CIT should exercise caution in forming opinions or structuring therapy based on limited or one-sided information.

(e) A CIT should maintain current knowledge about the validity (or lack of validity) of using specific behaviors as a basis for diagnosis or treatment.

8.5 Critical examination of information

(a) A CIT should be aware that the nature of a therapeutic alliance may produce bias towards the client and the client's views. A CIT should critically examine information received from a client before formulating or offering a clinical opinion.

(b) A CIT should recognize that loss of therapeutic objectivity may harm a child or family, whether or not the therapist reports or testifies about the therapy. Therapists should avoid inappropriate bias by actively considering, and exploring, rival hypotheses about a client's difficulties.

8.6 Consider clinical implications of information release

A CIT should consider clinical issues that may be relevant to an adult or child client's requests that information be shared/released. Clinical issues should also be considered as the therapist responds to requests from others. These issues include, but are not limited to, the following:

(a) An adult client requesting the release of information may not fully attend to or understand the basis for the CIT's caution regarding the risks and benefits of releasing information, the nature of the information in the client's records, the CIT's obligation to provide complete answers when questioned under oath, and the CIT's obligation to avoid misleading other professionals to whom the

CIT may be authorized to release information. This may lead to distress in the client or damage to the therapeutic alliance, if the client is surprised by the therapist's information or opinion.

(b) A parent who feels shut out of a child's treatment may resort to legal proceedings in order to get information about the child's progress or to ensure some accountability for a CIT who the parent believes is harming the child or the parent's case. In such a situation, a subpoena for the child's records may be avoided by negotiating the parent's involvement and managing the sharing of information.

(c) A child may be developmentally motivated to avoid sharing information with a parent based on the child's realistic or unrealistic fears about the parent's response to the information, based on the child's own emotional issues or difficulty in expressing feelings, or due to other issues. Some children may ultimately be empowered or protected by having the CIT share information on the child's behalf. Other children may need protective measures to prevent harm resulting from the sharing of therapeutic information. The CIT should consider the various clinical possibilities for the child's behavior, implications of disclosure for the child, and available therapeutic options in dealing with the child's information.

(d) The CIT should make efforts to prepare both adult and child clients for the sharing of information, including anticipating problems that the client may experience as a result.

8.7 Ethical and statutory requirements

A CIT should be cognizant of and follow all relevant ethical and statutory requirements regarding release of information. This applies to persons or agencies, such as the court, who have not received services from the CIT. When there is an apparent conflict between ethical or legal requirements and court orders or subpoenas, the CIT should seek clarification from the Court and comply with the Court's orders. (See Guideline 7).

8.8 The CITshould clarify issues regarding documentation with the client(s) and/or parents.

(a) When the client is a child, the CIT should ascertain who has the authority to consent to release of records. A minor may have the legal prerogative to consent to treatment, but the parent may nevertheless seek access to the records. A CIT should verify parents' statements of having the sole authority to consent to or block release of records.

(b) When the CIT has multiple clients, such as when a parent participates in therapy with the child, the CIT should clarify as part of the informed consent procedure how the records are kept and who can authorize their release.

(c) A CIT should clarify any costs associated with providing copies of records and follow relevant statutes regarding fee arrangements. A CIT should not refuse to release records needed for emergency treatment because a client has not paid for services.

(d) Even when clients are participating in therapy pursuant to a court order, the CIT should clarify policies, procedures and fees associated with the release of records and confidentiality.

8.9 Seek appropriate assistance

When in doubt about an appropriate course of action, the CIT should consider seeking legal advice or assistance from a licensing board or professional organization. The CIT should understand that they may be required to release information to persons or agencies who have not been clients. The CIT should understand that ignoring a subpoena may result in penalties from the Court.

9. DOCUMENTATION

A CIT should recognize the need for documentation sufficient to enable the Court to understand the treatment process and progress.

9.1 Establish and maintain a system of record keeping.

A CIT should establish and maintain a system of record keeping that is consistent with applicable law, rules, and regulations, and that safeguards applicable privacy, confidentiality, and legal privilege. A CIT should keep and create records reasonably contemporaneously with the provision of services.

(a) In deciding what to include in the record, the CIT may determine what is necessary in order to

(1) Provide good care;
(2) Assist collaborating professionals in delivery of care;
(3) Provide documentation required for reimbursement or required Administratively under contracts or laws;
(4) Effectively document any decision making, especially in high-risk Situations; and
(5) Allow the CIT to effectively answer a legal or regulatory complaint.

(b) In some situations, the client may request limited record keeping as a condition of treatment, and the CIT should explain that his/her record keeping must meet professional standards.

9.2 Records should be organized and sufficiently detailed

A CIT should maintain records that facilitate the provision of later services by both the CIT and by other professionals, ensure accuracy of billing and payments, and ensure compliance with ethical requirements and laws. Records should be kept in sufficient detail, legible and stored in a manner that makes expeditious reproduction possible. Records should be made available in a timely manner to those with the legal authority to inspect them or possess them, provided that appropriate releases have been obtained. A CIT should clarify with clients and with others requesting records any costs associated with their reproduction.

9.3 Confidentiality of records

A CIT should ake all reasonable efforts to maintain confidentiality in creating, storing, accessing, transferring and disposing of records under his/her control. This includes case notes, correspondence, reports, and billing information, whether in hard copy or electronic form.

9.4 Maintain security

A CIT should maintain active control of his/her records and take reasonable care to prevent the loss or destruction of records.

9.5 Ethical and statutory requirements

A CIT should be cognizant of and follow relevant ethical and statutory requirements regarding maintaining records and release of information. This applies to persons or agencies, such as the court, who have not received services from the CIT. When there is an apparent conflict between ethical or legal requirements and court orders or

subpoenas, the CIT should seek clarification from the Court and comply with the Court's orders. (See Guideline 7).

9.6 Communicate and clarify recordkeeping and release policies with the client.

The CITshould clarify issues regarding documentation with the client(s) and/or parents.

(a) When the client is a child, the CIT should request any orders establishing who has the authority to consent to release of records. A minor may have the legal prerogative to consent to treatment, but the parent may nevertheless seek access to the records. A CIT should verify parents' statements of having the sole authority to consent to or block release of records by requesting relevant documents.

(b) When the CIT has multiple clients, such as when a parent participates in therapy with the child, the CIT should clarify as part of the informed consent procedure how the records are kept and who can authorize their release.

(c) A CIT should clarify any costs associated with providing copies of records and follow relevant statutes regarding fee arrangements. A CIT should not refuse to release records needed for emergency treatment because a client has not paid for services.

(d) Even when clients are participating in therapy pursuant to a court order, the CIT should clarify policies, procedures and fees associated with the release of records and confidentiality.

9.7 Seek appropriate assistance

When in doubt about an appropriate course of action, a CIT should consider seeking legal advice or assistance from a licensing board or professional organization. A CIT should understand that he/she may be required to release information to persons or agencies who have not been clients. A CIT should understand that ignoring a subpoena may result in penalties from the Court.

10. PROFESSIONAL COMMUNICATION

Communication from a CIT to another therapist, the client, parents, counsel, or the Court carries with it a burden to ensure that the communication is authorized, clear, and accurate. A CIT

should recognize the adversarial nature of the legal system and the potential impact of the therapist's observations and opinions.

10.1 Authorization to communicate

A CIT should take reasonable steps to ensure that he/she is authorized to communicate with a third party, as described in Guideline 7.

10.2 Accuracy in communication

(a) In communication with others, a CIT should take reasonable steps to ensure that he/she is accurate in communicating:
   (1) The nature of the service provided.
   (2) His or her opinions on diagnosis, prognosis, and/or progress in treatment,
   (3) His or her opinions on appropriate actions that would support the therapy
   (4) His or her understanding of the role the therapist has with the family and in the Court process

(b) The CIT should make reasonable efforts to ensure that information regarding his or her services, including treatment, reports and testimony is communicated in language that can be understood by consumers and limits potential for misuse of the therapist's information.

10.3 Communicating limits and distinctions

A CIT should communicate the bases and limitations of observations and opinions.

(a) In all communications, especially in reports or testimony, the CIT should distinguish between observations, verbatim statements, inferences derived from his or her sources of information and conclusions or assessments reached.

(b) A CIT should articulate the limits of any communications. A CIT should decline to communicate opinions, recommendations, or information requested:
   (1) When there is insufficient data on which to form a reliable opinion;
   (2) When there is no authorization to do so; or
   (3) When the opinion requested is inconsistent with the role of the CIT.

(c) Where the information available to the therapist might support more than one therapeutic assessment or opinion, the CIT should present and acknowledge the alternate possibilities and any treatment data or research supporting

them.

(d) When necessary/appropriate, a CIT should be prepared to explain the limits of the CIT's role and the reasons it is inappropriate to give testimony or opinions in violation of that role.

10.4 Appropriate parties to include in communication

A CIT should carefully consider who should be aware of and involved in each professional communication. For example, the CIT should consider whether one or both counsel, a guardian at litem, child's counsel, other CITs, or parenting coordinator should be included in the communication. A CIT who receives a request from a client's attorney to write a report should discuss with the client the possible loss of all confidentiality once the report is issued. To avoid appearance of bias and contain potential for actual bias, therapists in neutral roles, such as that of the child's therapist, should generally avoid unilateral communication with either parent's attorney.

10.5 Testimony

(a) A CIT should recognize the limits of his/her knowledge, and the potential impact that testifying in court may have on the client, and on treatment. A CIT should thoroughly discuss these issues with adult clients, and should engage in age-appropriate preparation of child clients, before testifying.

(b) A CIT should articulate the limits of appropriate testimony by a therapist, and in particular should seek to clarify the differences between the role of a therapist and the role of a forensic evaluator.

(c) A CIT should comply with any limits on the scope of his or her testimony which have been specified by a judicial officer, in conjunction with any applicable ethical code.

(d) A CIT should consider alternative hypotheses for behaviors observed in therapy and for information provided to the therapist. A CIT should make every effort to maintain objectivity in both treatment and testimony, state the grounds for his or her opinions, and avoid offering opinions that go beyond the scope of data obtained during the course of the treatment.

(1) A CIT should anticipate that clients, attorneys, and the Courts may ask the CIT to testify beyond the limits of his or her knowledge and role, and should respectfully decline to provide information or opinions that exceed the treatment role or the CIT's knowledge base.

(2) A CIT should seek to clarify any conflicts between the testimony requested by the Court or counsel and any limitations imposed by professional ethics codes or licensing regulations.

(3) A CIT should understand the difference between a Treating Expert and a Forensic Expert (See Guideline 1.4). When the CIT is designated as an Expert Witness by the Court he or she may offer relevant clinical opinions including diagnosis, changes observed in treatment, treatment plan, prognosis, coping and developmental abilities, within any ethical limitations. The CIT, however, is not a forensic evaluator and therefore, should not render opinions on psychological issues (e.g., parental capacity, child custody, validity of an abuse allegation, joint or sole custody) that are beyond the scope of his or her treatment role.