

**Parental Gatekeeping and Child Custody/Child Access Evaluation: Part I:
Conceptual Framework, Research, and Application¹**

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Abstract

Parental gatekeeping refers to parents' attitudes and actions that serve to affect the quality of the other parent's relationship and involvement with the child. It captures a common statutory best interest factor that often becomes the center of child custody disputes, especially in relocation cases. Gatekeeping research is reviewed for its relevance to family court and child custody evaluation. Divorce conflict and litigation is expected to be associated with negative, restrictive gatekeeping. A conceptual framework for gatekeeping is presented for child custody evaluation. Scholars have proposed a gatekeeping continuum varying from very restrictive to very facilitative in coparenting attitudes and actions. Research allows for a general prediction of potential harm to the child when there is substantial restrictive gatekeeping. The concept of social capital is proposed as an efficient explanation of the "gatekeeping effect" on children of divorce. Evaluators are cautioned not to confuse restrictive gatekeeping attitudes and behaviors. Restrictive/negative attitudes are normative among custody litigants. Children's adjustment will be affected more by the level and quality of parental involvement than by parental gatekeeping attitudes. Evaluators are encouraged to identify specific gate-closing and gate-opening behaviors in a gatekeeping assessment. Implications for crafting parenting plans are discussed.

Organization

This article is Part I of a series of articles on parental gatekeeping that explores gatekeeping as a unifying concept for understanding and evaluating child custody and access disputes. It is directed primarily to custody evaluators, but we suggest the conceptual framework for a gatekeeping analysis will also be useful to judges, legal practitioners, parenting coordinators, and mediators. We first describe the concept and supporting research on gatekeeping and present a framework to guide custody evaluators in their behavioral assessments of mutually supportive parenting and coparenting behaviors. We offer an explanation of the

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“gatekeeping effect” in terms of the resource-availability or social-capital perspective and describe the legal context of a gatekeeping dispute.

Parent alienation behaviors will be described as a form of restrictive gatekeeping. We will illustrate the conceptual and practical overlap between gatekeeping and alienation by describing several appellate cases in which the issue of alienation was raised, with an emphasis on the context of relocation.

Subsequent articles will describe (1) the concept of Protective Gatekeeping in the context of allegations of intimate partner violence; (2) how the gatekeeping model applies in child custody relocation cases; (3) a gatekeeping analysis when there have been allegations of child sexual abuse in a custody context; and (4) a forensic protocol for the assessment of gatekeeping in child custody evaluations, and guidelines for integrating the gatekeeping assessment into the crafting of parenting plans.

A Conceptual Framework for Gatekeeping

Parental gatekeeping encompasses attitudes and behaviors by either parent that affect the quality of the other parent-child relationship and/or level of involvement with the child. This *research-based concept* was initially examined in intact couples from the perspective of mothers' influence over father-child relationships through her role as primary caregiver and therefore “manager” or “protector” of the child (e.g., Allen & Hawkins, 1999; Lamb, 1981). Maternal gatekeeping focuses on women's “beliefs and behaviors that ultimately inhibit a collaborative

effort between men and women in family work by limiting men's opportunities for learning and growing through caring for home and children" (Allen & Hawkins, p. 200). Recent conceptual efforts have emphasized the need to view gatekeeping as potentially involving both parents, as part and parcel of coparenting and sharing responsibility for the raising of children (McBride & Rane, 1998; Pruett & Pruett, 2009; Austin, 2012; Ganong, Coleman & McCaulley, 2012), and as a bidirectional process of influence and control over the other parent's involvement (Trinder, 2008; Adamson, 2010).

Such influence is arguably present in any dual parenting relationship as the parents attempt to define how the exercise of parental responsibilities will be shared. The reasons that gatekeeping develops vary based on parents' own parental identities, sex role expectations and preferences, and feelings about the other parent's competence (*see* Pruett, Arthur & Ebling, 2007 for a fuller discussion). Negotiations about the other's influence on the child, the extent and type of hands-on involvement each parent "should" have, and the degree to which the child requires some protection from the other parent's behavior or permissiveness are a natural part of coparenting (Pruett & Pruett, 2009), with mothers often adopting and being assigned the role as primary gatekeeper in the family, especially for young children. The concern in family law arises when the influence of one parent on the other unduly detracts from the other's relationship with the child. In response to this concern, a few studies (Pruett, Williams, Insabella & Little, 2003; Trinder, Beck & Connelly, 2002; Trinder, 2008) and family law clinician-scholars (Austin 2005a; 2005b; 2008a; 2010; 2012; Austin, Eidman, Gould & Kirkpatrick, 2006; Austin, Flens & Kirkpatrick, 2010; Pruett, Arthur & Ebling, 2007) began deliberating about the potential role of gatekeeping in child custody/access disputes.

Gatekeeping is a general construct (Hage, 1978) that has been described and examined in terms of specific variables and dimensions (Austin, 2005a; Austin, et al., 2006; Pruett et al., 2007; Gaunt, 2008; Ganong et al., 2012), including:

- cognitive (i.e., gatekeeping attitudes) and behavioral (Austin, 2005a; 2012; Pruett et al., 2007; Allen & Hawkins, 1999; DeLuccie, 1995; Fagan & Barnett, 2003) indicators;
- an expression of parental identity (Allen & Hawkins, 1999; Gaunt, 2008; Adamson, 2010);
- reflections of parental personality characteristics, mental health, and self-esteem (Cannon, Shoppe-Sullivan, Mangelsdorf, Brown et al., 2008; Gaunt, 2008);
- descriptive poles ranging from facilitative to restrictive (Austin, 2005; Pruett et al. 2007; Trinder, 2008) and passive versus active (Trinder, 2008);
- evaluative poles ranging from positive to negative and justified (i.e., protective) versus unjustified (Trinder, 2008; Austin et al., 2006; 2010; Austin, Fieldstone & Pruett, 2012).

Gatekeeping in the Context of Custody Litigation

Best Interests Factor

The overriding legal standard that governs child custody/access disputes is the best interests of the child in all of the states in the United States as well as Australia, Canada,

England, and New Zealand.² Many states do not specifically define best interest, but instead provide a list of factors to be considered in each case. A common statutory best interest factor in many states is the extent to which each parent can support the other parent-child relationship (SOPCR). For example, in Florida this factor is described as “[t]he demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship to honor the time-sharing schedule, and to be reasonable when changes are required” (FLA. STAT. §61.13(3)(a) (2013)). This factor is similar to the language in legislative declarations on the value to both parents being substantially involved with their children following separation and divorce (COLO. REV. STAT. § 14-10-124(1) (2013)). Research showing that children of divorce have better overall adjustment when they enjoy quality relationships with both parents provides scientific support for the legislative goal and social policy (Hetherington & Kelly, 2002; Amato & Sobolewski, 2001).

We propose that parental gatekeeping is important in a best interests analysis in child custody disputes. Mutual parental support is the factor that speaks to the parent-parent-child triadic relationship operative in most families in conflict and is often strongly influential, if not determinative, of nonresidential parent-child relationships. It captures a key family dynamic that must be assessed by a custody evaluator. The gatekeeping concept encourages the *presentation of specific behavioral data* on each parent’s valuing or devaluing of the other parent’s contributions and the extent to which each parent promotes the other parent’s involvement with the child. Mutual support (SOPCR) may become the focal issue in litigated cases as parents in

² Different legal contexts affect how the best interest standard is applied. For example, in postdecree cases for modification of a parenting plan there may be a requirement to show a change of circumstances for the child or residential parent, and the state statute may require a showing of significant harm before a substantial change in parenting time can be ordered. A pattern of restrictive gatekeeping might provide a basis for modifying the parenting plan.

conflict make allegations against each other for being unsupportive, impeding parenting time, or trying to “alienate” the child. In the language of gatekeeping, one parent is acting as a restrictive gatekeeper.

Research on gatekeeping has focused almost exclusively on maternal gatekeeping, within both intact and postdivorced family contexts. Following separation and during parenting plan negotiations, both parents are vulnerable to engaging in nonsupportive gatekeeping behaviors. However, mothers are more often in the role of hands-on caregiver, so in the postseparation context they will often be the parent questioning the other parent’s competence and the optimal amount of time share.

When a mother is unsupportive of the father, the mother’s attorney may assert there were sound and rational reasons for her not to be supportive, or that her desire to limit or supervise the father’s parenting time is justified. To wit, it may be asserted that the father abused alcohol, used harsh discipline, or was a perpetrator of intimate partner violence. Drozd (in Austin & Drozd, 2006) proposed the term *protective gatekeeping* to refer to instances where the restrictive gatekeeper believes there are sound reasons for limiting the other parent’s parenting time and involvement due to the risk of emotional or physical harm to the child. Each parent will view the circumstances from different, often polarized, vantage points; thus one parent’s protection may be the other parent’s gatekeeping. Bear in mind that there may be sound reasons for a mother wanting to limit paternal access, or vice versa. For example, if in a relocation case the moving parent proposes limited compensatory summer parenting time for a competent, involved, nonmoving parent of an eight-year old, it would seem that the moving parent does not appreciate the stress placed on the parent-child relationship by long distance and the downturn in the other parent’s regular involvement. Then, the concept of gatekeeping emerges as a salient aspect of the

dispute. Only after data gathering will it seem reasonable to interpret each parent's legal position on the other's time share as relevant to the issue of coparenting and gatekeeping.

Custody Evaluations

Custody and child access disputes can be interpreted as "gatekeeping disputes" because the issues in question pertain to each parent's access and involvement with the children.

Parenting plans by court order establish the structure for each parent's physical and psychological involvement with the children, a map for future involvement. Parents are in court because they could not successfully negotiate how to share in the exercise of parental responsibilities as part of the family reorganization process. A gatekeeping analysis can be a useful tool for the fundamental task of custody evaluators to make long-term behavioral predictions on parenting and co-parenting behaviors and child outcomes. While the changing dynamics of separation and divorce allow for the possibility of behavioral change, such as the common dynamic of the father who shows more interest in his child once the marital rupture is effected, it is also well-established that the most useful prediction of future behavior is *past behavior*. The degree of support or lack thereof in co-parenting, based on behavioral data, becomes a consideration in the prediction about future coparenting probabilities that arise out of a family dispute evaluation.

The primary task for the custody evaluator is to make short and long-term predictions about the child's adjustment and developmental outcomes while living under one parenting arrangement versus another. In custody evaluations, the evaluator's role is to help the court visualize what life will be like for the child while living in varying residential living arrangements, e.g., primary mother-custody, primary father-custody, or some nature of shared

custody, which may or may not constitute a 50-50 time share. This is the “fundamental comparison” that evaluators need to make for the court. The evaluator must identify factors that are most relevant in the case and use data collected to make the predictions. In research terms, these factors function like independent or predictor variables, with the child’s predicted outcomes being the dependent variables. Gatekeeping provides a predictor construct and set of variables that can be assessed attitudinally and behaviorally.

A Facilitative-Restrictive Continuum

Previous contributors to the gatekeeping and child custody literatures have proposed the inclusion of a gatekeeping continuum with emphasis on restrictive maternal gatekeeping (Allen & Hawkins, 1999; Austin, 2005; Austin et al., 2006; 2010; 2012; Pruett et al., 2003; Pruett et al., 2007; Trinder, 2008; Ganong et al., 2012). Building on these previously proposed continua, Austin and colleagues (Austin, 2005; Austin et al., 2006; 2010; 2012) proposed a continuum of gatekeeping pertaining to legal contexts, ranging from facilitative to extremely restrictive gatekeeping (see Table 1).

Table 1

GATEKEEPING CONTINUUM		
Ranges in Attitudes/Behavior from Facilitative Gatekeeping (FG) to Restrictive Gatekeeping (RG)		
Very Facilitative → Cooperative → Disengaged → Restrictive → Very Restrictive		
Proactive Toward Other Parent	→	Severely Alienating Behaviors
Inclusive of Other Parent	→	Marginalizes Other Parent
Boosts Image of Other Parent	→	Derogates Other Parent
Ongoing Efforts at Communication	→	Refuses to Communicate
Flexible Time-sharing	→	Rigid Adherence to Parenting Time Schedule
Ensures Child's Opportunity to Develop Relationship with Other Parent	→	Severe Child Alienation
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Facilitative gatekeeping is defined as proactive, constructive attitudes and behaviors that are supportive of the other parent-child relationship. Facilitative gatekeepers recognize the value of the other parent's contribution to the child and are openly supportive of each other. A parent can be proactive and facilitative while also holding a difference of opinion on the best parenting time schedule and parenting plan. It is expected that two facilitative gatekeepers would settle their differences with respect to parenting schedule and issues and reach an agreement on a parenting plan without the need for litigation.

Facilitative gatekeeping is comparable to, and may be empirically redundant with, proactive and cooperative co-parenting. When two facilitative gatekeepers in a postdivorce context enter into a "co-parenting partnership" (Whiteside, 1998), it is likely that such ex-spouses had a low-conflict and "good divorce" (Ahrons, 1994). Facilitative behaviors within the

context of custody disputes include: flexibility on changing parenting time; encouraging phone calls and other techno-social contact with the other parent; expressing support to the child for the other parent's disciplinary decisions; keeping the other parent fully informed on children's needs, events, friends, etc.; positive comments to the child about the other parent; and facilitating contact with other extended family members.

On the other end of the continuum, restrictive gatekeeping is defined as a set of attitudes and behaviors that inhibit the other parent's involvement with the child and the quality of the parent-child relationship. A moderate to severe degree of restrictive gatekeeping by both parents would likely be accompanied by a high degree of enduring, reciprocal conflict. Restrictive gatekeeping is likely in a highly conflicted coparenting relationship. Research on gatekeeping and coparenting styles report similar frequency distributions across types of gatekeeping (Allen & Hawkins, 1999) and coparenting styles (Maccoby & Mnookin, 1992; see, for a review, Whiteside, 1998).

Restrictive, inhibitory behaviors include: engaging in relitigation; maintaining rigidity in compliance with/strict adherence to the parenting time plan; ignoring phone calls or techno-social communications from the other parent; making intrusive phone calls to the child at the other residence; or withholding information or informing the other parent at the last minute about the child's activities or needs. In the extreme case, the restrictive gatekeeper sees little or no value in the relationship offered by the other parent to the child, or abducts the child to keep him/her away from the other parent. Examples of extreme restrictive gatekeeping are severe alienating behaviors by a parent or child abduction.

Evaluators may find different degrees of gatekeeping by each parent for each of the children in the family. Mothers may be more likely to limit or restrict the other parent's access when they have very young children, for example, through a dispute concerning overnights (Pruett et al., 2007; Christoffersen, 1998). They could cite authorities in the field who would advocate for a conservative approach to ordering overnights for fathers with very young children (Solomon & Biringen, 2001). As noted above, it should be cautioned that whether a mother's position on overnights is viewed as restrictive depends on the facts, such as the father's experience with basic parenting skills. Parents may have more difficulty in sharing time when a child has special needs, or has personalities and interests similar to their own. Parents who rely on a child for emotional support after divorce may find it more difficult to let that child go to the other parent's residence than to let younger siblings go.

Gatekeeping as a Continuous Variable and Behavioral Specificity

A cardinal rule in both research and scientifically grounded forensic assessment is that the prediction of outcomes will be enhanced by defining variables as continuous, or in degrees, as opposed to categorical definition and measurement (Hage, 1972). The advantages in predictive accuracy in using continuous versus categorical definitions and measurement are found throughout psychology and child custody, such as attachment and intimate partner violence. For example, authorities have debated the utility of categorical types of child-parent attachment (see Fraley & Spieker, 2003; Cummings, 2003). For long-term predictions, it might be more efficient to describe the degree of quality in the parent-child relationship as opposed to the category of attachment security. Similarly, in the area of intimate partner violence (IPV), it has been proposed that predictions on violence risk, parenting and co-parenting quality, and child adjustment will be more accurate if continuous variables in relevant behavioral dimensions are

used as opposed to a subtype of IPV (Austin & Drozd, 2012). Similarly, the evaluator is more likely to make accurate predictions about future gatekeeping and be more helpful to the court by assessing the degree of gatekeeping negativity, or restrictiveness, rather than simply applying the label of “restrictive gatekeeper.”

Moreover, it will be helpful to the court if the evaluator can investigate and record with specificity past restrictive gatekeeping behaviors, so the evaluator can differentiate in what areas or circumstances the gatekeeping has occurred and the coparenting relationship broken down. This will allow for remedies that have a corresponding specificity, fitting the intervention and wording of the parenting plan to problematic behaviors. Parents’ restrictiveness may consist of generalized negativity, or it may be limited to one behavioral domain. For instance, a parent may be hindering telephonic access and withholding information, but does not derogate the other parent and cooperates with the parenting time schedule.

Social Capital Perspective: Explaining the “Gatekeeping Effect”

The concept of social capital – also described as resource availability – is widely used in the social sciences (Coleman, 1990; Field, 2003; Lin, 2001) to explain long-term outcomes for children and adults in school and occupational achievement, health, and psychological well-being domains (McLanahan & Sandefur, 1994; Parcel, Dufur & Zito, 2010). Social capital refers to the benefit a child derives from the social and psychological resources available to him or her in a particular living environment, community, or family, especially in the most significant relationships for the child. It is derived from parents, extended family, siblings, peers, teachers, coaches, etc. and is accrued in the form of positive models, trust, values, financial resources,

commitment, instruction, discipline, and friendship. Some living environments will be richer than others in the depth and breadth of social capital available.

In divorce-related research, scholars have explained the benefit to children from quality relationships with their nonresidential parent (e.g., Coley, 2001) using social capital theory (Amato & Sobolewski, 2004; Hetherington, 1999a). The well-known statistical differences between children's adjustment in intact families versus all other family structures is parsimoniously described by differences in levels of resource availability or social capital, especially by "weakening the connection between the child and the father" (McLanahan & Sandefur, 1994, p. 3). By emphasizing the resources available to the child from a continuum of important relationships, the SC-RA approach applies an ecological perspective to child custody (Whiteside, 1998; Whiteside & Becker, 1998).

From this perspective, restrictive gatekeeping concerns a parent trying to limit the flow of resources from the other parent to the child. If there is a hypothetical "gatekeeper effect" on children's adjustment, positive or negative, then it is attributable to the degree of access to parental resources and the quality of the resources the parent potentially has to offer the child (Austin, 2008; 2012; Austin & Gould, 2006). Hetherington (1999a) suggested that there could be negative as well as positive social capital, meaning that the psychosocial resources associated with that parent are a detriment to the child, or create a risk of harm. Parental misconduct creates negative social capital and so restrictive gatekeeping can be justified.

Parental behaviors that could be expected to severely damage the other parent-child relationship and/or diminish the parent's involvement and influence with the child pose a risk to disrupting the social capital and flow of resources to the child from the parent. From this

perspective, the concepts of parent-alienating behaviors, child alienation, and estrangement (Kelly & Johnson, 2001; Drozd & Olesen, 2004) can be viewed as by-products of restrictive gatekeeping.

Why Assessing Gatekeeping is Important

The reasons for assessing gatekeeping in an evaluation are straightforward. First, nonresidential parents, usually the fathers, matter to children and their optimal development. Research has demonstrated that children benefit from positive father involvement (Amato & Sobolewski, 2004; Flouri, 2005; King & Sobolewski, 2006), and children of divorce fare best when children have a quality relationship with both parents under conditions of low exposure to parental conflict (Amato & Sobolewski, 2001). Even with significant levels of parent conflict, children show better adjustment with father involvement if fathers have an authoritative parenting style that includes showing warmth to the child (Sandler, Miles, Cookston & Braver, 2008).

Second, fathers' involvement, especially postseparation, is affected by mothers' attitudes and behaviors towards him. Mothers' attitudes about fathers' involvement and coparenting, and her behaviors in supporting fathers' involvement, are significantly correlated with father involvement in terms of both limiting involvement and promoting it (Allen & Hawkins, 1999; Beitel & Park, 1998; DeLuccie, 1995; Fagan & Barnett, 2003; Futris & Schoppe-Sullivan, 2007; Hamer, 1998; Seery & Crowley, 2001; Schoppe-Sullivan, Brown, Cannon & Mangelsdorf, 2008). For example, her support for his parenting stems directly from her sense of his parenting skills and competence as a parent (King & Heard, 1999; Madden-Derdich & Leonard, 2002; Wolchik, Fenaughty & Braver, 1996; DeLuccie, 1995). Mothers' concerns about fathers'

competence reflect perceptions of parenting skill deficits as well as gender role expectations about the primacy of a mother's role versus a father's (Herzog, Uman-Taylor, Madden-Derdich & Leonard, 2007; Sano, Richards & Zvonkovic, 2008; Trinder, 2008). Also, fathers' own sense of competence as a parent is related to perceived social and emotional support for parenting from the mother (Belsky, 1984; Hoffman & Nye, 1975). When she is satisfied with his involvement, she engages in less restrictive gatekeeping (Herzog et al., 2007; Kulik & Tsoref, 2010). When the mother is satisfied with both the father's parenting skills and the custodial arrangement, there may be less conflict and a more facilitative gatekeeping relationship (Blackwell & Dawe, 2003; Madden-Derdich & Leonard, 2002; Ganong et al., 2012; Madden-Derdich & Leonard, 2002). It appears that mother's gatekeeping attitudes also serve as a mediating factor between paternal attitudes about being involved with the children and the level of father involvement that materializes (McBride, Brown, Bost, Shin et al., 2005). The attitudes of both parents about the role of fathers affect paternal involvement (Moon & Hoffman, 1999; Palkowitz, 1984).

With most of the research focused on mother's gatekeeping attitudes about father involvement, it is assumed in the literature that restrictive attitudes will lead to gate-closing behaviors and facilitative attitudes to gate-opening behaviors. This is probably true in intact families. In the context of divorce, especially among litigating parents, negative attitudes about the other parent, his or her parenting competency, and the coparenting relationship are normative. Available coparenting alliance instruments measure (e.g., Abidin & Konold, 1999) attitudes about the quality of the other parent's parenting skills and the other parent's ability or interest in cooperatively childrearing, e.g., "You and the other parent make a good team as parents" or "I believe the other parent is a good parent." Responses typically take on a negative evaluative tone during ongoing litigation and conflict. Both parents may register fairly negative

attitudes on such measures. A common mistake by evaluators is to view a parent as nonsupportive when the parent holds a critical attitude toward the other parent. Evaluators need to discern which parents can be supportive of the other parent in their actions, even if they hold a negative attitude towards their ex-partner. Pruett and colleagues' research (2003; 2007) showed that through intervention, parents became more aware of their restrictive gatekeeping tendencies, and open gatekeeping was associated with benefits to the parental relationship, father-child relationships, and indirectly on the child's well-being.

A third reason gatekeeping is important for custody evaluators to assess emanates from research that establishes a correlation between the quality of the coparenting relationship and children's adjustment following divorce (Sobolewski & King, 2005; Amato & Sobolewski, 2004; Whiteside & Becker, 2000; Camara & Resnick, 1989). When children are caught in the middle of parental conflict, especially if the conflict is about the child, harm can occur (Sandler et al., 2008; Buchanan, Maccoby & Dornbusch, 1996; Tschann, Johnston, Kline & Wallerstein, 1989). These findings provide the rationale for postdivorce family interventions and educational programs designed to promote positive coparenting (Cowan, Cowan, Pruett & Pruett, 2007; Pollett & Lombreglia, 2008). Interventions specific to higher-conflict divorce, such as parenting coordination, aim to regulate parental conflict and reduce restrictive gatekeeping.

Assessing a Temporal View of Gatekeeping

It can be helpful to evaluators to assess the pattern of preseparation coparenting and gatekeeping to predict postseparation gatekeeping. Research shows that the quality of the preseparation coparenting relationship is associated with the difficulty of the subsequent divorce legal proceedings (Baum, 2003). Views of how one was treated in the marriage also affect each

parent's subsequent behavior toward an ex-spouse during the divorce process (Pruett et al., 2007). In the predecree context, a mother's difficulty in sharing the child and supporting the father may reflect her genuine belief that the father is not competent to handle the responsibilities involved in extended parenting time, especially when the father has not been very involved or the child is very young. However, such restrictiveness may also reflect vindictiveness, or a continuing process of power and control. Conflict begets restrictive gatekeeping, and such gatekeeping fans the flames of conflict. Mothers who held negative views about the father's treatment of her during the marriage may retaliate and try to impede his access after the marriage ends (Van Egeren, 2004; Pruett et al., 2007). A hypothesis that awaits testing is that in a nonegalitarian marriage with respect to female or male-dominant distribution of power and influence during the marriage (see Gray-Little & Burks, 1983), there is more likely to be postseparation restrictive gatekeeping.

Evaluators need to determine if gatekeeping is mostly litigation-related or symptomatic of an enduring pattern that is likely to persist. In a modification, postdecree case there will be more data to assess gatekeeping. In such a case, a primary reason for the litigation may be the allegation of restrictive gatekeeping occurring within the structure of a court-ordered parenting plan. The evaluator will want to determine if the restrictive gatekeeping is related to psychological or interpersonal dynamics that would continue to fuel a restrictive mindset for enduring gatekeeping. In a modification case, if the data show a pattern of continuing restrictive gatekeeping, then it would be predicted to continue and would constitute a reason for addressing the problem through intervention, changing primary custody, or modifying the parenting schedule.

As custody evaluators conduct a gatekeeping assessment, they also examine the parents' ability to coparent cooperatively and maintain a functional parenting alliance despite their residual acrimony towards each other. Research suggests it is not necessary for parents to have satisfaction in their relationship in order to achieve a workable parenting alliance (McBride & Rane, 1998). They can behave collaboratively, even they don't feel that way. The evaluator must ferret out to what extent the parents are capable of separating their attitudes from their behaviors, and to what extent they can begin to function with a more open gate than they had previously. Their attitudes towards the other parent's role in the child's life provides a key; it will strongly influence their motivation to open the gate wider or to leave it locked shut (Trinder, 2008).

Gatekeeping and Conflict

Postdivorce restrictive gatekeeping and parent conflict are intertwined. When embodied in a legal position of a parent or inhibitory actions, restrictive gatekeeping fuels conflict and litigation. It is well established that exposure to conflict is associated with poorer child outcomes (Pruett & Barker, 2009; Amato & Keith, 1991). Frequency of conflict is less important than the qualitative ways it is expressed with verbal attacks, threats, and avoidance (e.g., refusing to communicate about the child) being more problematic (Camera & Resnick, 1989). When children are shielded from conflict, they show levels of adjustment similar to low-conflict families (Pruett & Barker, 2009; Hetherington, 1999b). When children are the focus of conflict, negative effects on the children are likely to be more severe since they will be in the middle of it (Buchanan, Maccoby & Dornbusch, 1991; Hetherington, Cox & Cox, 1982). Gatekeeping conflicts place the child squarely in the middle. Restrictive gatekeeping places the child at risk due to both diminished social capital if the gate-closing behaviors continue and from exposure to parents' conflict.

Gatekeeping and Alienation

The gatekeeping framework applies aptly to alienating behaviors by a parent (Saini, Johnston, Fiedler & Bala, 2012). Behaviors described as alienating can be examples of unjustified restrictive gatekeeping (Austin et al., 2012). Such behaviors are “alienating” because they have the potential to negatively affect the quality of the other parent-child relationship. In cases of actual alienation rather than partial estrangement, the child may lose complete access to the positive social capital/parental resources from the other parent.

Potential exists to integrate the conceptual frameworks of parental gatekeeping and alienation (Kelly & Johnston, 2001) to assist custody evaluators and judges. This conceptual advancement will be addressed in Part II of this article. All situations involving significant alienating behaviors by a parent will involve restrictive gatekeeping, but not all restrictive gatekeeping will be characterized as alienation.

Illustrations from Case Law

Appellate case law has sometimes addressed parental gatekeeping and alienation in tandem, frequently in the legal context of relocation and long distance parenting plans. In some relocation cases, behaviors that are described as “alienation” would be more accurately described as restrictive gatekeeping, with one parent not supporting the other parent’s relationship with the child and/or making access difficult. Two Colorado cases demonstrate this point. In one case (*In re Marriage of Steving*, 1999), the court found that the mother had indeed been engaging in alienation (i.e., actually restrictive gatekeeping), but she was the primary source of emotional security for the very young child. The trial court’s ruling not to change the residential parent was affirmed, but the mother was ordered to receive mental health counseling to learn how to

coparent cooperatively. In another case (*In re Marriage of Hatton*, 2007), the trial court's ruling was partially affirmed on the finding that the egregious alienating behaviors shown by the mother and her older children justified designating the father as the residential parent, restricting the mother's contact with the child, and not allowing the older stepchildren to have any contact with the child. However, the Colorado Court of Appeals ruled that a less detrimental alternative solution to the alienation (e.g., extreme restrictive gatekeeping) required that the trial court should have first ordered (and tried) supervised parenting time and other interventions as solutions.

In a prominent California relocation case (*In re Marriage of LaMusga*, 2004), the case and conclusions of the California Supreme Court centered on the "alienating behaviors" by the mother who wanted to move out of state with the children. The custody evaluator described the alienating behaviors and how they would likely continue in the future and negatively impact the children's relationship with their father. The behaviors probably would have been more accurately described as restrictive gatekeeping. The gatekeeping was the basis for the Court's denying relocation, and support for the other parent-child relationship was included in a list of relocation factors to consider in future litigated relocation disputes. The opinion in *LaMusga* cited another California case (*In re Marriage of Abargil*, 2003), where "the mother respected the father's relationship with his son and was likely to foster continuing contact between them, noting her past efforts to nurture that relationship, and contrasting the father's disparagement of the mother's parenting skills" (p. 1298). Facilitative gatekeeping was thus the basis for allowing the child to relocate to Israel with the mother in a case the *LaMusga* court described as one that "would challenge the wisdom of King Solomon" (p. 1091).

Austin (2008b) proposed that facilitative gatekeeping is the key factor in predicting children's satisfactory adjustment to relocation. When the moving parent can be inclusive of the distant parent and is proactive in co-parenting, the risk of harm to the nonmoving parent-child relationship will be greatly diminished in a long-distance parenting arrangement.

Gatekeeping and Other Potential Caregivers

Gatekeeping attitudes and behaviors can be directed towards other potential caregivers such as grandparents and stepparents, who in turn, can also act in ways that either promote or diminish the quality of a parent-child relationship. For this reason gatekeeping takes on an added dimension from the complementary concept of coparenting. "Grandparent gatekeeping" actions have corresponding effects on children in the context of larger divorcing/post-divorce family systems. Research attests to the importance of grandparents (Barnett, Neppl, Scaramella, Ontai & Conger, 2010) as a source of social capital and resource for child adjustment, especially following divorce (Dunifon, & Kowaleski-Jones, 2007; Lussier, Deater-Decker, Dunn & Davies, 2002). Litigation involving parents and grandparents, or other third parties, usually involves disputes about grandparents wanting access to the child when a parent is preventing access. It can be framed as a gatekeeping dispute with the parent wanting to keep the gate closed, or to be able to exercise complete discretion over the gate. In a grandparent visitation dispute, the court is being asked to open the gate and order a schedule for the grandparent visitation/access (Holtzman, 2011). When grandparents get involved in divorce litigation as "special respondents" to try either to secure primary custody or schedule access time, resulting family system disharmony can have negative effects on the children and contribute to parent-other extended family relationships becoming more adversarial than cooperative. If children are likely to be exposed to conflict, then the costs associated with grandparent "visitation" may outweigh the

benefits, depending on the facts. In *Troxel v. Granville* (2000), the U.S. Supreme Court established the primacy of parent's rights compared to grandparents' rights to access the child. State statutes were subsequently revised to reflect this interpretation of parents' right to have "care and control" over the child, while at the same time respecting the important contribution of grandparents. Martindale (2005) discusses the costs and benefits associated with postdivorce grandparent litigation and concludes that children's welfare may be better served if the courts were not involved.

Any discussion about other caregivers could also be couched in terms of a social capital analysis. The custody evaluator can describe for the court what additional sources of social capital are available in the child's life from contact with extended family. The *Troxel* decision basically endorsed parents as being the primary source of social capital for the child while acknowledging grandparents as an important source of "secondary social capital." Part of the evaluator's investigation, then, concerns how each parent will function as a responsible gatekeeper concerning these other relationships.

In relocation disputes, state case law and statutes often list presence of extended family in each community as a relocation factor to consider (*D'Onofrio v. D'Onofrio*, 1976; COLO. REV. STAT. § 14-10-129(1)(a)(II)(c)(V) (2013)). The evaluator will be helpful to the court by identifying potential gains in social capital from extended family relationships and potential lost or diminished social capital associated with the child being closed off from extended family.

Other caregivers, acting in concert with one of the parents, sometimes participate in restrictive gatekeeping actions directed at the other parent. It is not uncommon in high-conflict divorce situations to see a stepparent supporting the restrictive gatekeeping directed at the ex-

spouse parent. Similarly, grandparents and stepparents sometimes join in criticizing and derogating the other parent. Grandparents can sometimes be observed to hold negative gatekeeping attitudes about the other set of grandparents in the proverbial family feud (“tribal warfare”) situation (*see* Johnston & Campbell, 1988).

On the other hand, stepparents and grandparents can be part of a process of positive coparenting and sharing of the time and experience with the child. Stepparents certainly can have friendly relations with their spouse’s ex-partner and can be supportive of that parent’s relationship with the child. Stepparents often make clear to the other parent and the children that they are not a “replacement parent” but are instead a new resource in the child’s life. Divorced parents who feel secure in their relationship with their children, in turn, can be supportive of the children developing a positive relationship with their new stepparent. Grandparents, too, often continue to get along quite well and are supportive of an ex son-in-law or daughter-in-law, who in turn, can be facilitative gatekeepers towards the “other grandparents.” Facilitative gatekeeping parents also will encourage children to continue contact with aunts, uncles, cousins from their ex-spouse’s family, and for the ex-spouse to continue to have relationships with his or her extended family. Astute and mindful parents will realize that children have enough love to go around and their children will benefit from a wide array of positive caregiving relationships.

Final Cautions Regarding Gatekeeping Analysis in Custody Evaluation

Authorities have suggested that the gatekeeping research literature is not very “robust” (Pleck & Masciadrelli, 2004), but considering the larger literature on co-parenting, it would seem there is sufficient scientific basis for evaluators to consider gatekeeping behaviors and the associated coparental relationship in legal contexts. However, caution is appropriate in

considering the role of gatekeeping in custody evaluations. Care has to be taken not to use the concept of gatekeeping and the empirical studies to paint a negative view of mothers and their coparenting behaviors. The potential negativity inherent in the concept of restrictive gatekeeping needs to be tempered by early research that showed that mothers generally value fathers' involvement (Pleck, 1985; Thompson, 1991; Haavind, 1984; Marsiglio, 1991; Fagan & Barnett, 2003), even if fathers tend to be relatively more supportive of mothers (Gable et al., 1995; Smyth & Weston, 2004). Mothers often do the emotional work necessary to promote father-child relationships in intact families (Ganong et al., 2012), and many mothers will continue to do so in the postdivorce context. Research also shows that mothers can be facilitative even when fathers have not satisfied their child support obligation (Trinder, 2008; Sano et al., 2008). In addition, when applying findings from aggregate research (i.e., group averages) to the individual case, one needs to appreciate both the value and limitations of utilizing a "research hypothesis" (Robinson, 1993; Austin, 2008). While the research hypothesis is helpful in educating judges and guiding evaluators, all custody disputes are necessarily fact-specific and case-specific for determining a best interests parenting plan.

We believe it is vital for custody evaluators to be mindful of the protective aspect of restrictive gatekeeping, often framed by the maternal perspective. Pruett and Pruett (2009) propose that restrictive gatekeeping behaviors in intact families may have a protective motivation and be related to concerns about the father's competence. Trinder (2008) described examples of "justified" gatekeeping in her sample based on mother's belief that the father was abusive to the child. There may be a range of reasons for why a parent wants to limit the involvement of the other; there may be a history of partner violence or child abuse, punitive parenting, substance abuse/alcohol dependency, or a mental disorder (Sano et al., 2008; Roy & Dyson, 2005;

Hardesty & Ganong, 2006; Laasko, 2004). Relatedly, a mother may have valid reasons for questioning the father's readiness to assume childrearing responsibilities for an extended period of time. At the time of separation, when there has been a traditional arrangement with a primary caregiver-mother, the father may be raw and inexperienced in how to manage the child's needs and the thought of their one-year-old child spending overnights with the father may evoke anxiety in the mother. With older children, the mother who has handled the vast majority of parental responsibilities may have sound reasons for questioning the father's parent-management skills and being sufficiently attuned to the child's needs, routines, etc. Mothers' resistance to parenting time by the father may be based on their perceptions of his parenting competence (Wilcox, Wolchik & Braver, 1998). She may be the main source of emotional security for the child (Davies & Cummings, 1994), and so there is good cause to resist the idea of parenting time demand by the father that does not adequately take these factors into account.

The motivation to close the gate may also be to bolster one's legal strategy by limiting the other parent's involvement with the child. Allegations of child sexual abuse that surface within a custody evaluation could be part of a legal strategy and be a false allegation, but more frequently they will represent the valid fear by a mother that the child has been molested by the other parent. The evaluator needs to determine the credibility of the parent's assertions and the relevance to the parenting plan, usually using a risk-assessment approach, when concerns about potential harm and safety are raised. When the allegations are supported and the risk is substantial, then less parenting time or restrictions (i.e., supervised parenting time) may be recommended.

Practice Implications for Evaluators

In light of the foregoing discussion, Austin (2012) offers the following suggestions to custody evaluators for considering the issue of gatekeeping:

- Assess past patterns of involvement by each parent.
- Assess the type of gatekeeping that occurred during the marriage and separation.
- Distinguish between gatekeeping attitudes and behaviors.
- Determine if the restrictive gatekeeping attitudes seem to reflect short-term and litigation-related distress, or if they are likely to become part of a pattern of enduring conflict and entrenched gatekeeping behaviors.
- Ascertain if the parents can see value in the other parent despite their negative attitudes and feelings towards their ex-partner, and whether they can compartmentalize feelings from coparenting behaviors.
- Be mindful that litigating parties' reports of gatekeeping behaviors may be distorted and exaggerated.
- Look for corroborative collateral data to confirm gatekeeping behaviors.
- If there are restrictive gatekeeping attitudes and/or behaviors, do the data show they are justifiable?
- Expect to see protective gatekeeping in cases involving allegations of intimate partner violence.
- Distinguish between protective gatekeeping and unjustified gate-closing behaviors.

Implications for Creating Parenting Plans

When the facts show there is a cooperative co-parenting style between parents and cooperative or facilitative gatekeeping, then shared decision-making/joint legal custody is generally warranted. When the forensic investigation confirms there has been a significant degree of restrictive gatekeeping that is unjustified by the facts, there are implications for creating a best interests parenting plan. It is important for the evaluator to try to determine if the gatekeeping is likely to be enduring as opposed to being primarily litigation-related. First, with substantial restrictive gatekeeping by one parent directed at a competent parent, it is a signal for the court to consider guaranteeing the receiving parent substantial parenting time. A very specific and detailed parenting time schedule becomes a structural correction for the problem, though the restricting parent is likely to be highly reactive to the solution. Second, when the restrictive gatekeeping has been significant, but mild to low moderate in degree, then it can be addressed through parenting education. Gatekeeping can become an educational tool and centerpiece of a coparenting education intervention (Pruett & Pruett, 2009). Parents in conflict can benefit from learning about research that shows the value of both parents being consistently involved with the child and the need to keep the child from being exposed to conflict. Third, the gatekeeping perspective can be useful to mediators and parenting coordinators because restrictive parents often need help with sharing their children following separation and divorce. Parents also need help in not being overreactive in response to restrictive gatekeeping so they, in turn, do not reciprocate in kind. Professionals can steer parents in conflict towards cooperative coparenting and facilitative gatekeeping despite the bitterness and hard feelings that may exist, so the parents see that it will be a win-win-win option for parents and children.

Implications for Judges

- A restrictive gatekeeping analysis can help with decision making about parental access and shared decision-making.
- Litigating parents need to be encouraged to strive for facilitative gatekeeping and cooperative coparenting and to take required coparenting education classes seriously.
- In high conflict cases, judges will want to implement orders with greater specificity.
- Specific restrictive gatekeeping behaviors need to be identified and addressed. Be mindful of the danger of just labeling a parent as a “restrictive gatekeeper.”
- The metaphor of specific gate-closing and gate-opening behaviors may be helpful in addressing coparenting issues and conflict.
- Mothers often have concerns about the father’s parenting competency with very young children that may need to be addressed through parenting skill training and/or a graduated increase in the father’s parenting time as the child matures.
- It is important to distinguish between gatekeeping attitudes and behaviors and to encourage parents to compartmentalize the latter so that children’s exposure to conflict is minimized.
- It can be helpful to conceptualize the value of each parent’s contributions to the child in terms of the psychosocial resources or social capital that are made available to the child through parental involvement.

- A gatekeeping analysis is a central concern in a relocation dispute. Judges will want to be convinced that the moving parent can be a facilitative gatekeeper and proactively inclusive of the other parent.
- The term alienation is often used loosely and inaccurately in litigation, but extreme alienating behaviors by a parent are a form of unjustified restrictive gatekeeping.

Summary

The preceding conceptual framework is presented for custody evaluators, judges, and other family law professionals to use in considering and assessing gatekeeping issues in evaluations. Evaluators are urged to (1) differentiate between gatekeeping attitudes and behaviors and recognize that negative attitudes are not always synchronous with restrictive gatekeeping behaviors; (2) identify specific gate opening (i.e., supportive) and gate closing (i.e., inhibitory) behaviors; (3) assess the degree of restrictiveness of gatekeeping; and (4) assess the reasons for a parent appearing not to be supportive of the other parent and/or trying to impede access to the child to determine if the restrictiveness serves a protective function. It is also important to assess how *both parents* and the extended family network (e.g., grandparents and stepparents) are trying to influence the other parent's involvement with the child, either in a supportive or inhibitory direction. Children will adjust much better to parental separation when they observe that their parents respect each other and can work together as needed to provide and care for them going forward.

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