

The IASA Family Court Protocol: Assessing Attachment for Family Court Proceedings

Introduction: evidence-based assessment

The International Association for the Study of Attachment (IASA) recommends a specific protocol for gathering and interpreting information about attachment for family court proceedings. The protocol was developed over a three-year period by a multi-disciplinary, multi-national committee of IASA and then approved by the full Board of IASA.

Requests to assess attachment appear in most letters of instruction, statements and reports that come before the court. IASA believes that having valid and testable information about attachment relationships, together with the means for interpreting it, will assist the Court to make the best possible decisions for children and their families. Attachment theory can help to explain behaviour that threatens, challenges and troubles professionals entrusted with crucial decisions about children and their families. Enabling the Court to have evidence-based information requires:

Standardized attachment assessments with published research relevant to validity

Delivered by authorised professionals (with a dated certificate)

The availability to the Court of the assessment itself, for examination by other experts.

The IASA Family Attachment Court Protocol will assist Courts to obtain valid information that is relevant to placement decision-making.

The IASA Family Attachment Court Protocol

The Assessments

These recommendations refer to a defined set of Dynamic-Maturational Model of Attachment and Adaptation (DMM) assessments, but are also relevant to other assessments of attachment.

Assessment	Age range
------------	-----------

Infant CARE Index (ICI)	Birth to 15 months
Toddler CARE Index (TCI)	16-72 months
Strange Situation Procedure (SSP)	11-17 months
Preschool Assessment of Attachment (PAA)	18-72 months
School-Age Assessment of Attachment (SAA)	6 years – puberty
Transition to Adulthood Attachment Interview (TAAI)	16-25 years
Adult Attachment Interview (AAI)	25+ years
Parents Interview (PI)	All ages, whole family

B. Who may need to be assessed

1. All family members, both parents, all children
2. All potential alternate caregivers, particularly family members and foster parents

C. Coding and Coders

Administering and Interpreting assessment of attachment

Assessments of attachment should be administered by professionals trained and certified to deliver the assessment. IASA has and is expanding its network of certified professionals.

Assessments be classified and interpreted by professionals authorized at Level 1 (of 4 levels) reliability. Each DMM assessment has a process for assessing and maintaining coders' reliability. IASA recommends that coders working in court settings maintain the highest levels of reliability.

2. Maintaining coder objectivity

Coders should have no information about the individuals being assessed and the reasons for the assessment (other than knowing that the assessment is part of a Court case). Prior knowledge of the history of the person being assessed or their family can bias the assessment.

D. Interpreting the assessments

In practice that means that where DMM attachment assessments are used, reports will either be done by:

1. The person who coded and classified the assessment, after they have been given the case history.
2. Someone trained in the assessment who did not code it. It is expected that they will discuss the interpretation with the person who coded it.

SEQ CHAPTER \h \r 1U.S. Evidentiary Standards for Expert Testimony

Rules governing the admissibility of expert evidence in the U.S. involve some combination of standards from *Frye v. United States*, 293 F.2d 1013 (D.C. Cir., 1923),

Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), and/or some version of Federal Rules of Evidence 702 to ensure reliability and helpfulness (relevance).

Frye merely requires the science and theory be generally accepted in the relevant community.

Daubert sets forth a non-exclusive checklist to help courts better assess reliability:

1. Whether the expert's technique or theory can be or has been tested and can be challenged in some objective sense, or is instead simply a subjective conclusion that cannot reasonably be assessed for reliability (validity would be the relevant term for mental health professionals);
2. Whether the technique or theory has been subject to peer review and publication;
3. The known or potential rate of error of the technique or theory when applied;
4. The existence and maintenance of standards and controls; and
5. Whether the technique or theory has been generally accepted (by a majority or recognized minority) in the scientific community. (FRE 702, committee notes.)

Expert evidence need not be provably "accurate" (difficult to attain in human assessments), but when opinions diverge, more weight is usually given to the more reliable testimony (*Daubert*).

Federal Rules of Evidence 702 broadens *Daubert* and allows a witness to testify from knowledge, skill, experience, training, or education about facts, opinions or "otherwise" if testimony is:

1. helpful
2. based on sufficient facts or data
3. the product of reliable principles and methods
4. reliably applied to the facts of the case.

Reliability is enhanced if the methods and standards are transparent, *Kasten v. Saint-Gobain Performance Plastics Corp.*, 556 F. Supp. 2d 941 (W.D. Wis. 2008), alternative explanations are accounted for, *Claar v. Burlington N.R.R.*, 29 F.3d 499 (9th Cir. 1994), and each stage of methodology is properly conducted, *Heller v. Shaw Industries, Inc.*, 167 F.3d 146, 160 (3d Cir. 1999). The facts and data may be required to be disclosed if requested or inquired about during cross-examination, Federal Rules of Evidence 705.

The IASA Family Attachment Court Protocol meets all of these evidentiary standards.

Conclusions – Issues for the Future

Although the aim is to set a standard for assessing attachment in family court proceedings, it is recognised that there are steps that still need to be taken in order to achieve this. The aim is not to discredit work which falls short of this protocol for understandable reasons, but rather to set a standard by which the information given to the court can be evaluated. When assessments deviate, that can be stated clearly. Clarity and transparency can enable the court to take this into account when weighing the value of a particular assessment.

Here, coding refers to expert techniques for extracting information from the assessment and integrating it to yield an overall description of the individual's attachment. These techniques are contained in written

manuals, whose references can be provided to the court.