

# High Conflict Divorce Impact & Dynamics: Effective Role/Strategies for Adult & Child Clinicians



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# Differences



- Specialty Guidelines/Standards- APA,NJ BOPE, AFCC, AAML, and APSAC.
  - Forensics
  - Custody Evaluations
  - Termination of Parental Rights Evaluations
  - Court Involved Therapy
  - Child Abuse/Sexual Abuse Interviews & Evaluations
  - Brief Focused Evaluations
- Knowledge base, training, and Experience

# Differences



- Record keeping
  - Retainers
  - Agreements/consents
  - Releases
  - Records
- Liabilities/Fear Factor – Not for Everyone!

# Similarities



- **Overlapping populations – Impossible to avoid or anticipate**
  - 50% 1<sup>st</sup> Marriage divorce rate
  - 60% 2<sup>nd</sup> Marriage divorce rate
  - 85% Remarriage rate/blended family issues abound

# Forensically Attuned Practice for Clinical Psychologists



- **Anticipate**- Any case can morph into a litigation involved matter.
  - Beware of the back door phenomena – manipulation
- **Adult Clients**
  - Unhappy individuals->unhappy relationships & marriages=divorce
  - Accidents, P.I. Cases
  - Domestic Violence
  - Malpractice
  - DUIs
  - Sexual Assault/Rape
  - Work related litigations –LAD
  - Criminal Matters

# Forensically Attuned Practice for Clinical Psychologists



- **Children**

- Impacted by parental conflict & angst
- Caught in the middle
- Divergent/competitive parenting
- Custody Disputes
- Adjustments, loss issues, 2 homes
- Abuse
- Bullying
- Accidents, P.I. cases

# Rules, Guidelines and Standards of Practice



- Legal Issues

- Legal custody/Decision Making
- Residential Custody/Parenting Plans
- Case Law –
  - ✦ Removals- Baures v. Lewis
  - ✦ Confidentiality – Kinsella v. Kinsella
  - ✦ Grandparents rights

# Legal Issues



- Confidentiality – changing July 2016 –Homogenizes all Mental Health Practitioners under one rule, weakening psychologists prior position.
  - Can be waived and pierced
    - ✦ Civil Commitments.
    - ✦ Proceedings against a patient who has committed a crime.
    - ✦ Competency to stand trial in criminal situation.
    - ✦ Establishing validity of a Will.
    - ✦ All court ordered psychological evaluations (unless judge specifies otherwise) or Court rules.
    - ✦ Assessments of a person's competency to make a valid contract.



# Legal Issues



- ✦ During mental health services sought or received in aid of commission of a crime.
- ✦ Proceedings against provider (suits, board complaints).
- ✦ Proceedings for application for firearms.
- ✦ Reports of child or elder abuse.
- ✦ Tort cases of psychological damages.
- ✦ Will pierce the privilege once granted marital therapists especially in Tevis cases, etc.

# Legal Issues



- Court Orders – Obtain always
- Releases
  - One parent pre-divorce.
  - Two parents in joint legal custody.
  - Adolescents -> 14 years of age
  - All communication/Collaterals
- Best Practice/Children
  - Switzerland Stance
  - Buy in from both
  - Child's Safe Haven
  - Alternate bringing
  - Joint Feedback best
  - Recommend a parenting coordinator –
    - ✦ Don't become one - Let P.C. make recommendations.

# Dual Roles/Conflicts



- To be avoided always
- Cannot serve in two roles simultaneously.
  - Adult/Child therapist
  - Marital/Couples /Individual
  - Therapist/P.C./Mediator
  - Therapists can never serve as evaluators, as parenting coordinators, or mediators – nor can they make recommendations regarding visitation/custody.
  - In feedback to court can only give progress, dynamics, diagnosis and prognosis. Only regarding Individual you have seen/treated.

# Dual Roles/Conflicts



- Evaluators can become therapists or parenting coordinators with mutual agreement and understanding that they can never become an evaluator again.
- Evaluators cannot become mediators but can participate in settlement based processes.

# Scope of Practice



- **Staying within areas of expertise especially:**
  - Child Abuse/Sexual abuse
  - Domestic Violence
  - Substance Abuse

# Communication/Coordination



- Only with releases and Court Orders.
- Importance of neutrality/objectivity
- Avoidance of alliances especially in visitation refusal/alienation cases and high conflict clients.
- Importance of coordination with other clinicians.
- Teaming rather than being drawn into the conflict and sides.
- Don't be venue to litigate.

# Record Keeping



- Dilemma of process notes, HIPPA Compliance and no confidentiality in some forensic matters
- Parallel files indicated for therapy cases.
- Forensic files should be extremely detailed and well documented.

# Depositions & Subpoenas - Orders



- **Discuss with clients and clients attorney only.**
  - Go over file with both.
  - Nothing can be eliminated or modified.
  - Whole file can be court ordered for in camera review or deposition.
- **Resist all attorney only orders .**
  - Must however respond and seek to quash.
  - If court ordered must comply unless harm a factor.



# Depositions & Subpoenas - Orders



- **Custody Evaluator's Requests**
  - Can refuse altogether – raises suspicions at times.
  - Discuss with client and focus of issues relevant to parenting only.
  - Can only discuss and comment on those you have seen.
  - Preferably respond in writing.
  - Regardless – you can ask to review what is summarized for the report.

# High Conflict Divorce



- We increasingly are searching for more child sensitive approaches and interventions to avoid litigation and High Conflict.
  - Courts have become more settlement oriented – Mediation, Parent Coordination, collaborative law, parenting workshops, etc.
  - More reliant on mental health professionals with the goals of quicker response time and buffering the children better from the conflict – and removing them from the court system and litigation.

# High Conflict Divorce



- **Burgeoning research in the field has guided these efforts .**
  - Type/structure of parenting plans not as significant for outcomes.
  - Using Neurodevelopmental research to craft parenting plans
  - Children do best with frequent/consistent access to both parents.
  - How parents relate to one another and their children post-divorce is more important than the specific amount of time.  
Quality vs. Quantity.
  - Children do best in situations where conflict is low, life is normalized/predictable and parents observe the three C's – communicate, cooperate, and co-parent.

# How to Identify by Behavior?



- Represents 10-15% of the population post-divorce
- Perpetual Use of Litigation, Attorneys and Court System to Resolve Issues
  - Abundance of lawyers
  - Choice of litigators not collaborators
  - Record of significant lawyer contact over trivia
  - History of having been fired by attorneys

# How to Identify High Conflict by Behavior?



- **Inability to Adhere to Court Orders or Interventions to Date**
  - Visitation Issues
  - Child Support/Finances Disputes
  - R.O.'s/Consent Orders
  - Telephone access problems
  - History of professional shopping and multiple therapists/interventions

# How to Identify High Conflict by Behavior?



- Overt/Covert Acting Out of Anger through children & anything they can identify to act out revenge.
- Covert
  - Passive-Aggressive
  - Clothing
  - Control children's time - like activities
  - Rigid/inflexible time
  - Withhold information
  - Refuse to Communicate/Blocking Access
  - Unilateral decision making
  - Premature introductions of significant others
- Overt
  - Fighting, arguing in front of children, over phone, through relatives.

# How to Identify High Conflict by Behavior?



- **Over-reactive to everything, most negative spin and obsessively monitoring the other parent.**
  - Can't say or see anything positive about the other parent or parent's role.
  - Refer to other parent in 3<sup>rd</sup> person, as Mr. or Mrs. or pet derogatory name.
  - Jekyll and Hyde comments/Splitting/Black or White thinking.
  - Project entire blame/Accept no responsibility.

# How to Identify High Conflict by Behavior?



- False Allegations (Domestic Violence, Child Abuse, Sexual Abuse, Substance Abuse, Internet/Pornography Abuse)
  - Narcissistic injury > being acted out
  - Loss issues
  - Paranoia
  - Lack of trust



# How to Identify High Conflict by Behavior?



- **Extreme Competitiveness resulting in win-loss mentality.**
  - Blinded by their hurt and anger at each other – bigger than their love of their children.
  - Confuse and generalize adult/spousal roles with parenting role and need to be able to separate these.

# How to Identify High Conflict by Behavior?



- **Alienating Behaviors**

- The ultimate outcome in unresolved anger & enmeshment in divorce bitterness.
- Ranges from subtle degenerative to total alienation (Most frequently Multi-Determined).

# Impact of High Conflict on Children



- 1.) Tremendous anxiety and insecurity
- Producing
  - Separation/Individuation problems (clingy; transition trauma)
  - Sleep disturbances
  - Fears; phobias
  - Lack of concentration/school difficulties

# Impact of High Conflict on Children



- **2.) Depression/Loss Issues**
  - Can be exacerbated by multiple losses (extended family, peers/school, and revolving door of significant others and unpredictable access to parent.
  - Removals a huge problem in this area
  - Pathological grieving
  - Anger/Aggressive
  - All symptoms of depression

# Impact of High Conflict on Children



- 3.) Behavioral problems related to inconsistent parenting/competitive parenting. No limits.  
Polarized parenting.
  - Defiant/oppositional
  - Poorly developing conscience, lying, manipulation
  - Extreme attention seeking behaviors
  - Spoiled, indulged kids

# Impact of High Conflict on Children



- 4.) Loss of Sense of Self due to parents needs and hatred taking precedence over child's needs (i.e. Parent views time as his/hers and not child's; won't take to activities; insists child conform to his/her schedule).
  - Pleasers/overly compliant
  - Dependent/non-assertive
  - May rebel in adolescence

# Impact of High Conflict on Children



- 5.) Identification with aggressor in feelings and/or behavior.
  - Acting Out
  - Splitting

# Impact of High Conflict on Children



- 6.) Loyalty conflicts
  - Exacerbated by age/cognitive issues; as a means of resolving internal conflict for child.
  - Transition/separation problems
  - Severe missing of other parent that interferes with parenting time (i.e. excessive cell phone contact).
  - Visitation refusal
  - Parental estrangement
  - Alienated parent



# Interventions



- Collaborative Law – Divorce Coaches and Child Specialists
- Traditional Mediation/Dispute Resolution
- Therapeutic Mediation
- Parent Coordination
- Arbitration

# Interventions



- **Evaluations**
  - **Emergency Stabilization/Case management assessments/consultations (Jurisdiction).**
  - **Risk Assessment/Problem Focused Evaluations (Sexual Abuse, Domestic Violence, Substance Abuse, Parental Alienation).**
  - **Early Neutral Screening Evaluations**
  - **Visitation Refusal Evaluations**

# Interventions



- **Evaluations Continued**
  - **Bonding/Attachment Evaluations/psychological parent.**
  - **Relocation Evaluation**
  - **Comprehensive Custody/Visitation Parenting Time Evaluations (To develop plan, removals, etc.)**
  - **Custody/Visitation Settlement Evaluations (To develop plan).**
  - **GAL**

# Interventions



- **Treatment**
  - Forensically Informed Treatment; Psychotherapy (Not to answer visitation/parenting time question).
  - Therapeutic Supervised Visitation
  - Therapeutic Reunification/Recontact/Family Interventions
  - Family Intensives
    - ✦ Overcoming Barriers
    - ✦ New ways for Families
    - ✦ Stable Pathways
    - ✦ Families Moving Forward
    - ✦ Build Family Resilience

# Day to Day Management



- Seek consultation and early intervention.
- Don't reinforce/encourage hostile stance.
- Appeal through focus on children's advocacy.
- Neutrally be a reality tester.
- Deal with your counter-transference constructively. Don't go on attack.
- Assume a firm, consistent, but supportive & empathetic stance.
- Set boundaries & rules in writing.



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# Questions

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