



# Riegler, Shienvold & Associates

## Mental Health Quick Notes

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### Parents, Divorce and the Court System

When parents separate, it creates confusion, chaos and anxiety in all the members of the family. It is a time of great emotional upheaval and distress. One factor that creates some of the distress is the fear of entering the unknowns of the legal process of divorce. At the time one files for divorce and custody, the state becomes involved with the family to protect the interests of the children. To that extent, there are some mandatory processes in which the parents and/or children must participate, and some voluntary processes that are available to the family. This column will attempt to discuss some of these processes, with their benefits and risks, in the hopes of de-mystifying this dark time period.

#### Custody Conciliation Conference

When a divorce and custody action is filed with the court, the first process to which the parents are likely to be exposed is the custody conciliation conference. Most counties employ local attorneys to conduct these conferences. The conciliators are tasked with bringing the parties together to discuss their various grievances and desires regarding the best interests of their children, and to ascertain if a quick, mutually agreeable solution can be found to the custody conflict. The various conciliators conduct their conferences in different ways. Some conciliators only meet with the attorneys involved in the case while the parents wait in a different area. Other conciliators invite the parents into the conference and allow their participation. If an agreement is reached at conciliation, there is no need for further court action with respect to custody. If agreement is not reached, other processes may be recommended even before the parents go before a judge to decide what the final parenting arrangements might be.

#### Mediation

Following an unsuccessful conciliation conference, it may be recommended that the parents attend custody mediation to attempt to resolve their differences over an appropriate parenting arrangement. In some counties, it is mandatory that parents attend a mediation orientation session prior to going through with custody litigation with the hope that the parents will elect to use mediation to solve their dispute.

In mediation a neutral third party meets with the parents and attempts to help them find a solution to their differences regard-

ing custody. The mediator will most likely meet with the parents in a joint session, although some mediators have private meetings with each parent prior to meeting with them together. It is important to understand that mediators have no power to make a decision regarding custody. Rather, it is their job to help facilitate communication between the parents in an attempt to find common interests regarding the best interests of the children.

Mediation is a voluntary process which is completely confidential. In other words, if the mediation is unsuccessful, the conversations and proposals discussed in the mediation sessions cannot be disclosed to anyone outside of the mediation process, including the judge. If parents are able to reach a joint agreement regarding parenting arrangements for their children, the mediator will write-up the agreement in a "Memorandum of Understanding" which the parties, or their attorneys can file with the court as their final custody agreement.

#### Custody Evaluation

Occasionally, it is recommended either by the Court, the conciliator or the attorneys that the family undergoes a comprehensive custody evaluation (CCE). A CCE is a very detailed assessment of the family that focuses on what the most appropriate parenting arrangements are that meet the needs of the children. A custody evaluator has specialized skills for doing this type of an evaluation. The process takes a fairly long time because of all of the various components involved in the assessment.

During the course of a custody evaluation, the evaluator will conduct multiple interviews with each of the parents. They also may have a joint interview with the parents. The evaluator is likely to have individual sessions with each of the children, as long as they are of an appropriate age to do so, and the evaluator will conduct observation sessions of the parents with each of the children. Parents are likely to undergo psychological testing using instruments that measure a variety of different personality and parenting variables. Evaluators also will collect information from schools, teachers, doctors, therapists and various agencies and institutions in order to gain a complete understanding of the parenting competencies and the various factors affecting the parent's ability to nurture each of their children.

After all of the data collection processes are complete, the evaluator prepares a written report that is distributed to the parties, the attorney and/or the court. The report contains the evaluator's recom-

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recommendations regarding the best interests of the children and, hopefully, provides a template for the future settlement of the conflict. If the parties do not resolve their differences prior to a trial, the evaluator is likely to go into court and testify about his/her findings. It is important to remember that custody evaluations are not confidential and custody evaluators do not make final decisions regarding custody. They share their opinions with the court and the judge makes the final decision.

### Co-Parent Counseling

Up to this point, we have been discussing “pre-decree” processes. That is, processes that you are likely to experience before there is a final custody agreement. However, there are some processes that you may utilize after you have reached a custody agreement. These processes are recommended and used by parents to help them successfully implement the terms of their agreements so that the children are exposed to as little conflict as possible.

One such process is co-parent counseling. As the name implies, this is a type of counseling which is geared towards improving divorced parents communication with one another so as to help them collaborate and cooperate in the care of the children. The counseling is not used to rehash past problems in the relationship of the parents, and it is not used to do individual therapy for problems that the parents may be experiencing. The focus of this counseling is on helping the parents find pathways to work together for the benefit of their children. Being able to stay focused on the children following a break-up in a relationship is sometimes very difficult. Utilizing a third party to help parents remain focused and to educate them on ways to make joint parenting more successful can be very beneficial to both families.

### Parenting Coordination

Occasionally, the conflict between parents can be so great that they are unable to make joint decisions regarding their child's welfare. Each parent may want to do what is best for their child, but the hurt and anger from their relationship with one another interfere with their ability to do so jointly. If that problem comes before the court, it is possible that a recommendation to utilize parenting coordination will be made.

Parenting Coordination is a hybrid process in which a neutral third party becomes actively involved in coordinating the parents' attempts to do what is best for their children. The parenting coordinator uses such processes as parent education, me-

diation, and co-parent counseling in order to help the parents. The parenting coordinator also will talk with other professionals involved in the care of the children and family in an attempt to coordinate their efforts and work together for the good of the family. However, in addition to all of these other processes, the parenting coordinator is given the authority to make decisions and/or recommendations when the parents are unable to do so.

The decisions of the parenting coordinator are generally related to the welfare of the children, but do not interfere with the basic parenting plan. That is, a parenting coordinator cannot change the primary physical custody of a child, but they can temporarily change the schedule so that the child for example can attend a special family event. Decisions by a parenting coordinator have the power of a court order unless, or until the court changes the order. Parenting coordination is a relatively new process that courts are just beginning to use with families who need this type of intervention.

It is hoped that this brief article brings some greater understanding regarding the very confusing processes that may be ordered or recommended for your family during the course of deciding the most appropriate parenting arrangements for your children. If you have any questions about these processes, consult with your attorney or your counselor for further information.

by Arnold Shienvold, Ph.D.



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