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Poor Planning Produces (Predictably) Poor Results: Systematic Intervention Planning

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Families in conflict are frequently referred for services designed to reduce parental conflict, or to protect children from its detrimental effects. A developing professional literature, including *AFCC Guidelines for Parenting Coordination* (2005), *AFCC Guidelines for Court-Involved Therapy* (2010) and other resources, underscore the range of interventions that may assist conflicting parents and promote the healthy development of their children, as well as the enormous consequences to children when these issues remain unaddressed. The variety of models available provide options for families, but also can create a confusing smorgasbord through which services are ordered or engaged with little planning or systemic thinking. Even when the individual professionals engaged are talented and ethical, poorly coordinated interventions may lead to wasted resources, an escalation of family conflict and greater risks or emotional harm to children.

Interventions with high conflict families take place against a background of system stresses and professional controversies. When poorly constructed interventions fail, that failure can be used to justify generalizations about the ability of parents and children to change, the ability of such interventions to facilitate that change, and whether it is worthwhile to even make the attempt. Psychological science has not yet advanced to the point that we can identify precisely which combinations of services will work for each particular family. Nevertheless, considerable research exists both from studies of separated families and studies of child development and other interventions with families, which provide guidance for how to both select interventions and structure them to promote success. Moreover, the experience and knowledge of legal and judicial professionals allows them to identify common issues that may arise in contested cases and lead to protracted conflicts and delays in services actually provided for the benefit of children (Greenberg, Gould-Saltman & Gottlieb, 2008).

At the upcoming AFCC 50th Anniversary Conference in Los Angeles, the authors will present a workshop on systematic intervention planning, focusing on assessing the effectiveness of ongoing interventions and dealing with parental dissatisfaction or attempts to remove a professional. It is our position, however, that interventions are most likely to fail when inadequate attention has been devoted to the initial design and structuring of the plan. Issues to be addressed range from the process for selecting the professionals to drafting the orders or consents guiding the intervention, attention to the parties' rights, the underlying orders and provisions to support the changes needed by the family and intended by the court. While it is tempting to presume, or hope, that a detailed stipulation or order will be unnecessary, particularly when parties appear to be agreeing to the services or are on their best behavior in court, those hopes can prove ill-founded.

Unfortunately, a number of obstacles and areas of resistance may emerge in between the court's general order (or strong suggestion) that the parties obtain services such as counseling, and the parties' actual selection of a therapist (or parenting coordinator), signing of appropriate consents, providing payment, scheduling and, finally, participating in appointments. These tasks, in turn, simply set the stage for the more emotionally demanding requirements of making an intervention work (i.e. providing information to the professional, setting and keeping appointments, tolerating information or perspectives that are

different from one's own, learning to recognize the children's needs, and mastering the skills needed to reduce conflict and support the child's development). In some cases, parents will need to communicate more promptly with each other and make concerted effort to coordinate important child-centered activities such as school functions and extracurricular activities. In others, parents who have been heavily focused on the deficiencies of the other parent or household will need to learn to disengage. When parents begin services, many disagree about the nature of the problems, are unclear about the changes expected by the court, and are reluctant and resistant to believe that their own parenting behavior needs to change. Their experiences with the legal system may leave them focused on the "ultimate issues" and legal labeling that are often the focus of court hearings (e.g., which parent has "primary custody," whether the other parent has "visitation" or a "custodial time-share," whether the allocation of parental decision-making authority is labeled "joint legal custody"), rather than on the daily activities and decisions that are often much more important to children. Even with the best of intentions, disputes about these and other issues may prove fatal to effective treatment or dispute resolution. If the parties must return to Court to clarify the meaning of the court's order or the structure for services, precious time, energy, and resources may be lost and children's problems may become more entrenched and resistant to change. Un-coordinated services may also lead to conflict among professionals that mirrors dynamics in the family.

Consideration of past problems

While the best approach is to avoid failed interventions, families do often come to court with histories of failed attempts, or raising current obstacles to making a plan work. Have past plans broken down due to scheduling disputes, parents scheduling conflicting activities for the children, or refusing to provide the information needed to solve problems promptly? Counsel may wish to ask the adult client all of the methods that might be used by the *other* parent to sabotage the intervention, then suggest provisions for the stipulation to prevent such occurrences (Greenberg & Bohlen, 2013).

A Detailed Court Order: Why and how?

The creation of a detailed intervention plan may initially seem more time consuming, but "is more than an academic exercise" (Cf. *In re Marriage of Seagondollar* (2006) 139 Cal. App. 4th 1116, 1132 regarding an inadequately specific order appointing a custody evaluator). The process facilitates clarity as to each person's responsibilities, the expectations of the court, and initial steps for addressing any problems that arise later. In the best of circumstances (i.e. when parents sincerely want to assist the child) the first impulse may be to adopt a *laissez-faire* approach to the specifics of the intervention. A detailed order, however, helps parents to think through the commitment they are making and communicate about the best provisions to support the child. When parents are more resistant to change, the detailed stipulation provides clarity and promotes accountability. The process of developing the order may also reveal if the initially-conceived intervention plan is adequate to meet the family's needs.

Experienced professionals will often have encountered interventions that have gone awry, or have become the subject of controversy. Model orders identify issues that should be addressed, including initial steps that should be taken if a problem or concern arises later. These issues might include, but are not limited to:

A) Selection of the Professional

The court should require that the professional has minimum necessary education, experience, and training qualifications. If the court determines that a team should be appointed (e.g. high risk issues, such as allegations of abuse or alienation), the court should provide detailed orders for structure of the team including how the team is constituted. If the team will be PC led, one should choose a PC with sufficient expertise in court-involved treatment. If the parents won't stipulate to a PC, a court appointed family therapist may be able to lead, but only with strong support from the court (Greenberg & Sullivan, 2012; Greenberg, Doi Fick & Schneider, 2012).

B) Goals for the Intervention

It is suggested that these be as specific and behavioral as possible. The court may consider involving the professional via conference call to set goals that are appropriate to the boundaries of the professional role and relevant ethical standards. It is rarely helpful to include blanket directions such as "reduce parental conflict" as it is rarely necessary for children's development

that the parents agree about everything. It is often important, however, that parents be able to attend a child's school performances or athletic practices without engaging in open conflict. A therapist can help parents understand the child's need to see that parents can control themselves, and may help develop specific behavioral advice for events that both parents attend. A PC may be needed to direct the decision-making process used for selecting a child's activities, and to set expectations about parental behavior. The overall aim is to create a "space" in which the child can achieve healthy development and adjustment. Parents may generally like this idea, but disagree about how to accomplish this or lack the skills to genuinely place the child's needs first. Specificity aids the development of appropriate plans, and also provides the mental health professional, the attorneys, the parents, and the court with a gauge to measure the effectiveness of the intervention (Deutsch, Coates, & Fieldstone, 2007; Greenberg & Sullivan, 2012; Greenberg, Doi Fick & Schnider, 2012).

C) Payment Responsibilities

High conflict families may be heavy consumers of professional services, and may in fact benefit from between-session services to help them remain "on track." Greater coordination among professionals and review of documentation may be required and the court can never assume insurance coverage. Orders should therefore include:

- Detail as to the types of services that may be required (attachment of the provider's fee agreement may be helpful).
- Specificity regarding who is responsible for payments.
- Options available to professionals if services are suspended for nonpayment—should the court be advised?
- Possible requirement of advance payments or other mechanisms for enforcement/consequences.

D) Procedures and Discretion for the Professional

Qualified professionals may need flexibility on issues such as:

- Procedures for the intervention
- Appointment setting
- Determining who should participate in meetings
- When a child's behavior has been at issue, the order should explicitly require:
 - that the parent use his/her parental authority to gain compliance by the child,
 - that the parent cooperate with the professional,
 - that the intervention be a top priority.

E) Identify the client

Identification of the client may have important consequences for how information is handled. Is the "family" considered to be the client, or are the parents being asked to participate in services for the benefit of the child? The court may consider involving the professional in this discussion.

F) How is information handled?

The order needs to identify any of the information that is privileged and, if so, which components if there is a PC involved. That may allow each parent and the child to retain some privacy in treatment, with the PC serving as the conduit of necessary information between team members and to the court. Such a structure may be also attempted with a court-appointed family therapist. The court should consider whether there can be protections for the child but accountability for the parents, and if the intervention fails or a party returns to court, what information (if any) can be released and to whom. Each jurisdiction may have their own rules for children testifying in court, but a parent may propose that a child address the court. In that case, should information from the professionals be involved in this decision, and if so, how?

Underlying Court Orders

In crafting a detailed court order, it is critical that professional role boundaries are maintained. It is a common mistake to appoint a conjoint or reunification therapist and authorize that therapist to determine

the pace at which parenting time resumes. This is inconsistent with the therapist's role, may constitute an ethics violation or an improper delegation of the court's authority (as this goes to press, the authors note [the order of the Pennsylvania Supreme Court](#) April 23, 2013, vacating, statewide, PC orders on the basis of concern as to improper delegation of decision-making) and may fatally compromise the intervention.

Nevertheless, freezing the current schedule for long periods may also prevent progress. Options may include:

- 1) A PC who can order changes within limits,
- 2) A pre-set schedule for progress determined by the court,
- 3) Short review dates,
- 4) Provisions to allow participation in other aspects of parenting, such as attendance at school events, unless there are safety concerns, and
- 5) Inducements to cooperate and/or sanctions if a parent does not comply.

Finally, the court may consider how a parent may terminate the intervention and/or professional. The court may want to outline a plan that directs the parent to participate in particular problem-solving strategies before the parties return to court.

Well planned interventions for families in conflict often require the coordination of the court and the professional team. As we prepare for a conference focused on moving forward and expanding choices, it will be important to consider the role of adequate preparation and detail in selecting and planning interventions. Detailed court orders that include provisions for selection of the professional, goals of the intervention, payment responsibilities, procedures for the professional, identification of the client, and a process for sharing of information are most helpful in advancing the intervention.

References

- Cf. *In re Marriage of Seagondollar* (2006) 139 Cal.App.4th 1116, 1132 regarding an inadequately specific order appointing a custody evaluator)
- Deutsch, R, Coates, C, and Fieldstone, L (2007). Parenting coordination: An emerging role. *Interventions with High Conflict Parents*.
- Greenberg, L. R., Bohen, M. C. (2013). Effective psychological intervention in high-conflict cases: Selecting and designing the right services. *Journal of the California Association of Certified Family Law Specialists*, Winter No.1.
- Greenberg, L. R., Doi Fick, L. and Schnider, R. (2012). Keeping the developmental frame: Child-centered conjoint therapy. *Journal of Child Custody*, 9, 1-30.
- Greenberg, L. R., & Sullivan, M. J. (2012). Parenting Coordinator and Therapist collaboration in high conflict shared custody cases. *Journal of Child Custody*, 9, 85-107.
- Greenberg, L. R., Gould-Saltman, D. J., & Gottlieb, M. C. (2008). Playing in their sandbox: Professional obligations of mental health professionals in child custody cases. *Journal of Child Custody*, 5(3), 192-216.