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The Unfinished Promise of Parenting Coordination

“Emergent behaviors, like games, are all about living within the boundaries defined by rules, but also using that space to create something greater than the sum of its parts”.
(Emergence, Steve Johnson, p. 181)

For some time now some courts in Colorado have assigned a professional (usually a mental health professional but on occasion an attorney) to manage parenting in high conflict divorce related matters. While there is no statutory authority to do so in Colorado, other states have begun to implement laws which provide such authority. Some Colorado courts and attorneys are reluctant to recommend a Parenting Coordinator (PC) precisely because there is no statutory authority. Others appoint a PC either without direct legal authority or indirectly tie such authority to another statute. In fact our state seems to be one of many which “borrow” the authority of related statutory concepts such as Special Advocate (section 14-10-116 C.R.S.), Special Master provisions (Rule 53 C.R.C.P.) or arbitrator (section 14-10-128.5 C.R.S.).

Currently Oklahoma, Idaho and Oregon have the only Parenting Coordinator statutes in the country. These laws allow for the appointment of PC’s after the court makes a finding that a family does indeed possess the characteristics of high conflict divorce (Oklahoma), when a post-judgment appointment is deemed necessary (Idaho), or to assist the court with the creation and implementation of a parenting plan or with conflict resolution (Oregon). Two other states, California and Arizona respectively, use special master authority or family court advisors (FCA) to perform essentially the same function as the PC.

Oftentimes PC work involves helping parents maintain a parenting plan. The PC provides parents with a framework for the day-to-day planning aspects of parenting. PC’s can also assist parents in learning how to avoid and contain conflict, share relevant child information, develop an ongoing dialogue in parental decision-making arenas, and decrease alignment/alienation states in children.

There are structural issues to be considered when defining the scope of the PC’s work with a particular family: the PC’s term of appointment, fee arrangements, procedures for the PC’s removal and/or resignation, defining areas of PC authority and provisions for PC access to

collaterals. The PC can assist parents in developing better communication and/or assist them in “fine tuning” inevitable changes in the parenting time schedule, only if these areas are designated ahead of time, and/or the PC is given defined authority.

Often the PC provides direct assistance to parents who have difficulty talking about such matters as making one time, situationally-driven changes to a defined parenting time schedule, or planning summer vacations with the concomitant trip-specific exchange procedures needed per summer season. These aspects of managing parenting time cannot and should not be the purview of the court. Inevitable adjustments to scheduling family-specific situations are micro-management aspects of a parenting plan which can never be written into a court order or the plan itself. Inevitable work hour changes, increased extracurricular involvement for a child, or setting parenting time around the death of a relative, are the types of experiences that high conflict families have difficulty managing. PC work is also useful when there are alignment or alienation findings by the court and there are specific court orders to “disentangle” such maladaptive responses to divorce. In short, for parents who cannot manage these adjustments, PC involvement is the intervention of choice.

Other aspects of communication problems, which are a part of co-parenting, are also within the purview of the PC’s work with a family. For example, the PC can assist the family in establishing and maintaining evolving telephone communication procedures between the homes, or in making minor but necessary adjustments to drop off and pick up times based on changing work, school or vacation schedules. The sharing of child related information during summer or during holidays is important. Such communication is often related to the coordination of how and when a child is to be transferred during these times. Once again, these procedures cannot be anticipated ahead of time in any document.

In Colorado there are two statutory intervention mechanisms for the assessment of divorcing or divorced families: section 14-10-116 C.R.S. (Special Advocate Investigations) and section 14-10-127 C.R.S. (Parental Responsibility Evaluations). The courts in Colorado have been using the Special Advocate statute for five years. This process has allowed mental health professionals or attorneys to study divorce and post-divorce families in conflict and make recommendations to the court in a timely and cost efficient manner. In a typical high conflict case or a complicated removal petition, the need for a full parenting plan evaluation must also be considered. The old “custody evaluation”, which is now referred to as a parental responsibility evaluation or a parenting plan evaluation, is part of the courts arsenal of attack on high conflict and entrenched high conflict matters or complicated modification petitions.

In entrenched conflict or problematic post-dissolution matters, however, the courts are often in need of ongoing information. The judicious use of the PC in post-dissolution cases can assist the courts greatly if the PC is given latitude to assist the family in conflict reduction and/or assist the courts in the development of a set of recommendations based not only on previous professional study of the high conflict family, but also on their ongoing interaction with that family.

What is needed in Colorado is the statutory authority to circumvent the hesitancy some courts have in ordering a PC to work with a family. Parenting coordination can be done in a parent agreed to arbitration model but can also work as an assessment – intervention process ordered by the court or stipulated to by the parents. The aggressive use of PC’s, especially in high

conflict post-dissolution or alignment-alienation matters, allows the courts to have “eyes and ears” in place for periodic review, given the potential for re-litigation. It also affords the family a more cost efficient and timely procedure for resolving conflict, whether the parents use the PC as an arbitrator under section 14-10-128.5 C.R.S., or the herein proposed model of ongoing assistance, monitoring and court access. PC involvement is clearly an improvement over never ending litigation and failed court efforts at resolution.

Assisting a family in making the transition through a divorce is best provided by a PC rather than a Special Advocate. In Colorado the Special Advocate statute is expressly for investigative and recommendation purposes. PC work is a more comprehensive service, which can provide the courts and the family with feedback as to how co-parenting has been managed over time and how children continue to be impacted by such parenting. Unless we have statutory authority, some courts will remain reluctant to order such a needed intervention.

Another matter for consideration is the development of PC functional protocols. There are models available across the country and in state¹. Much of the work involves PC directed circumvention of conflict in joint sessions with both parents. In effect, conflict is “bypassed” and other forms of communication are “substituted”. The PC must continually manage parent communication and parent-to-PC communication until the parents are able to do so themselves. The PC can keep explicit records, less so in terms of every issue or argument that comes up, and moreso in terms of agreements that are reached, or issue-driven procedures that are established by the PC over time.

I manage many PC families using a “Board of Directors” model: face-to-face parent meetings with a formal agenda, which includes a straightforward old and new agenda item format. The PC records highly specified agreements and/or arbitrated “mini-decisions” concerning various aspects of parenting time - summer parenting time, telephone communication, extracurricular activities, changes to drop of and pick up regimens, etc. After a PC meeting, the “minutes” are circulated and open to clarification or modification by either parent. A final set of notes is approved by the PC. When there is parent cooperation followed by a successful co-parenting experience, this model allows parents the opportunity to realize what gains have been made in regards to cooperation and containing conflict, through a simple review of the record. Models of past cooperative experience can be used to build additional successful experiences of co-parenting. It should be remembered that many high conflict post divorce parents have limited experience in cooperative parenting. The “Board of Directors” model allows parents to “review” a specific parenting event and how it was handled relative to the procedures put in place. Even with difficult parents, the PC can point to mini-successes at mutuality and slowly build upon them.

Other PC protocols can involve an ongoing review of all parent communication (often via email) with PC commentary, periodic PC-parent telephone conference calls, intervention with an alienated child and resolution of parent-child estrangement, situation-specific consultations when incidents occur or issues arise, ongoing review of parenting logbook communication with

¹ For a fruitful discussion of the variety of PC style and scope issues, consult Sydlik, B, cited at the end of this article.

periodic PC commentary, or long distance management² of developmentally based (and shifting) child requirements for residence and parent contact.

The model of PC intervention employed depends upon the family issues at hand and the idiosyncratic nature of each parent dyad. The challenge is always to remain open to each parent, to listen to their concerns and to respond in ways that make it better for family members, especially the children, to live together in a newly formed, two-home family system.

PC work is not for everyone. A PC mental health professional must be able to engage each parent meaningfully and challenge the same parent when needed. Providing parents with sanctions, if necessary³, is also part of PC family work. At the same time, the PC needs to keep an alliance alive with each family member. This is not always an easy task, as some parents will literally fight with any PC who disagrees with them at any time. Nevertheless, the PC must press on, tolerating parent rage and disapproval, while attempting to communicate, even with angry and difficult parents.

It is time for Colorado to enact such a law as Oklahoma's. We need statutory authority to encourage the use of PC's. We need emergent models of PC intervention to be disseminated and better descriptive materials developed which teach therapists how to actively engage family members, while simultaneously moving the family towards an adaptive, newly organized structure. We need better therapist-therapist and lawyer-therapist collaboration. We need the increased cooperation of all those involved in working with this difficult population in order to fashion a law which will allow for the use of PC intervention when the courts deem it appropriate.

The 1999 withdrawal of PC legislation in Colorado should not deter us. Issues concerning delimiting and defining PC authority are workable. We can learn from the experiences of other states. SA's can be used to assist the courts with recommendations needed to determine appropriate temporary or final orders or to make discrete recommendations based on changing family circumstances post decree. PC's can be used to enforce orders and assist parents in developing new, more respectful and less emotionally engaged communication. They can help parents build cooperative experience despite intense anger and distrust. They can be used with or without arbitration authority to help families unhinge themselves from ongoing conflict or debilitating alienation. Finally, it is noted that nationally "The PC model has been repeatedly recommended by professionals as an intervention to help families structure, implement, and monitor viable parenting plans and to reduce re-litigation rates where high conflict threatens the family adjustment process" (Sydlik 2002, pg. 1.).

² After divorce, one or both parents often move to another state or country with venue remaining in Colorado. PC work with these parents often involves managing the parenting plan through email, voice mail and telephone call communication. Over time child centered requirements for residential care or schedule changes inevitably occur.

³ Sanctions may involve fee assignment, penalties involving discreet changes in parenting time schedules, and the assignment of differential parenting tasks such as transportation.

References

Johnson, S. (2001). *Emergence: The Connected Lives of Ants, Brains, Cities and Software*. New York. Scribner.

Sydlik, B. (Fall 2001). *Parenting Coordinator: Overview of the Model & Implementation Issues*. AFCC Newsletter. p. 3 & 4.

Sydlik, B. (5/24/02). *Parenting Coordinator: Implementation Issues*. version #11. AFCC. Website: <http://www.afccnet.org>. *This draft article is the result of research compiled by the author while assisting an Oregon court with implementation of the PC model. The article has not been completed but is made available on the website in draft form for those who may benefit from the*