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Assessment of Child Custody Disputes (Using Psychological Testing and Interview)

Ludwig.F. Lowenstein Ph.D

Southern England Psychological Services

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Abstract and Summary

The author has learned from experience to be cautious and comprehensive in the manner in which child custody cases should be handled. He considers that it is vital to reduce the mistaken assumptions and decisions to a minimum i.e. err on the side of caution. He also considers the value of psychological testing and interviews and their limitations. A few tests or interview techniques have been shown to be of value, but whatever the assessment used, interpretations must be done with care. This is even the case with such well researched tests as the MMPI and PAI. Such testing must be combined with structured and non-structured interviewing. What is frequently the case is that the very trauma of facing the loss of children creates personality traits that in themselves influence the outcome of both psychological testing and interviewing. Finally, a summary of do's and don'ts are provided relating to preventing contact disputes. A possible interview evaluation illustration is presented in appendix 1.

Assessment of Child Custody Disputes (Using psychological testing and interview)

As one who uses psychological tests or inventories to assess clients involved in child custody disputes, I have learned to be cautious in interpreting the results of such tests. What follows will present a more reasoned approach or cautious approach to making any decisions based on assessments carried out.

There have been a number of, (fortunately relatively few), case where very young children have suffered serious abuse at the hands of a parent and/or their partners. There will probably always be cases that will fall through the net of failed scrutiny by Social Workers and experts such as Paediatricians, Psychiatrists, Psychologists and others. It is important therefore, to make the assessment as stringent as possible and to always err on the side of caution. Following an evaluation of the current ways of evaluating child custody disputes via psychological inventories or tests and the interview we will consider the do's and don'ts of parental behaviour influencing those who assess parents and children.

The use of psychological tests or inventories

There are a number of tests available which assess clients in order to predict, if it is possible, whether they are likely to suffer from personality disorders which would interfere with their acting as effective or good parents. The most acceptable tests in current use are: 1) Minnesota Multiphasic Personality Inventory (MMPI-2), and 2) the Personality Assessment Inventory (PAI).

MMPI second edition

The MMPI is a most commonly used test, not only in the case of child custody evaluations, but in cases dealing with personal injury, malingering, violence and risk assessments, competency to stand trial, substance abuse issues etc. Again it is based on American norms and this needs to be considered when using it outside of the United States. Many of the items overlap. Efforts have been made to restructure the MMPI to include the MMPI- RC (reconstructed) (Tellegen et al, 2003). One of the main criticisms of the MMPI is that it is very long, consisting of 557 true or false questions.

This long inventory attempts to obtain much information in three main areas of psychopathology: emotional externalising dysfunction, thought dysfunctions, behavioural externalising dysfunction. There are validity scales, these being the 'F' scale examining faking, the 'L' scale examining lies, the 'K' scale indicating defensive reactions and a number of other scales to measure traits that could interfere with the validity of the test being administered. The test also assesses neurotic tendencies, somatic complaints, hostility, antisocial behaviour, paranoia, obsessive-compulsive tendencies, unconventional schizoid attitudes, lack of impulse control as well as introversion/extroversion. Other traits are also assessed including anxiety, depression as well as proneness to becoming addicted to alcohol or drugs.

One has to be extremely careful or cautious in how the traits measured are interpreted. In my own assessments, it has become clear that parents seeking custody and/or contact with their children, suffer in many ways from traits closely associated with their concerns relating to these important issues. They therefore are frequently suspicious (paranoid) due to their personal experiences in dealing with authority. They frequently have similar reactions to other psychopathological traits but these reactions are directly connected with anxieties or concerns about future contact with their children.

The Personality Assessment Inventory (PAI)

Frequently this test and the MMPI are used together in order to obtain verification. The once popular Millon Clinical Multi-Axial Inventory III is no longer recommended to be used in child custody evaluations (Ackerman, 2010). The reason for this is the fact that the test emphasises abnormalities and is unlikely to present evidence of normal behaviour (Lally, 2003; Rogers, 2003).

The PAI test is the second preference for use in child custody evaluations in combination with the MMPI. The use of this test is that it is somewhat shorter than the MMPI-2. The PAI has a number of validity scales, much as the MMPI, including: inconsistency, infrequency of items, providing negative and positive impressions.

The clinical scales include somatic complaints, anxiety and anxiety related to disorders, depression, mania, paranoia, schizophrenia, borderline disorders such as unstable personal relationships and impulsivity. There is also a measure of antisocial features including a lack of empathy as well as alcohol and drug issues. The test provides treatment scales for aggression, suicidal ideation, stress and feelings of rejection. Finally, there are scales for dominance (controlling behaviour) as well as warmth in personal relationships. Efforts to dissimulate or malingering are also included in the inventory.

Concerns and criticism about psychological testing.

As previously mentioned there may be similar reactions in the form of negative traits in taking such tests which are directly connected with the anxieties the individuals feel as a result of their lack of contact or contact disputes over children. One could well conclude from this did such individuals not have such unfortunate, if not traumatic, experiences, they would probably not suffer from a variety of "abnormal traits" as measured by such inventories.

Careful assessment of clients using in-depth interviews (to be discussed later) are therefore much more important, or equally important, in order to provide a true account of personalities of such parents.

Parents therefore should not be misjudged by the result of such objective and scientifically validated inventories. Such tests frequently provide one with false certainties of abnormalities which disadvantage clients of misrepresent their actual personality.

Their actual personality could well be distorted in many traits which are represented by the psychological testing. The distorted result could well be due to the trauma of child custody disputes. In other words had they been tested by such inventories without having been faced with child custody

disputes, their personality assessment would be very different in such areas as antisocial attitudes, ideas of persecution, dysfunctional negative emotions, aberrant experiences, anxieties, anger proneness etc. etc.

These are natural emotions resulting from a combination of stress, frustration, grief, powerlessness, and numerous other emotions. Such feelings and the expression of such feelings via anger and irrational demeanour have nothing to do with the basic personality of the individual.

Alternative to psychological tests and inventories

Having provided reasons why the result of psychological testing must be treated with caution in child custody disputes, we now turn to possible alternative approaches. These approaches must include the background history of parents and what is revealed by intensive in-depth interviewing of the client. We will first consider the past major events in the client's life followed by the interview.

Background history

The background history needs to include information on the client's own relationship with their parents and other significant adults. Also important is the medical history of such individuals and whether there has been a history of mental illness, especially psychoses, substance abusing (alcohol or drugs) and whether this is a continuing influence at present.

The interview should also substantiate whether the client has a sincere desire to co-operate in a process of mediation with a partner or former partner. This can only be ascertained once the mediation has been used. This is in order to determine custody and custody arrangements. Information concerning this is important for the fact that it will reveal the capacity of the individual who co-operates rather than dominate or eliminate another partner. Where there is but one parent, the capacity for co-operation with the authority also provides valuable information about the client.

The interview

The interview must be conducted with great sensitivity and awareness in what and how the individual replies to questions and how he/she is responding to the trauma of being faced with child custody difficulties. It is important to concentrate on the 'hear and now'. Parenting attitudes and skills need to be analysed. Of the greatest importance is how the individual responds to positive advice being given by the interviewer and how the individual response to negative statements being made. This will reveal whether the individual concerned has poor parental attitudes and behaviour or the reverse.

The interview approach is often viewed or criticised as not being objective or scientific. This idea can be answered by the fact that the client's responses via intensive interviews may well be more valid in some cases than via personality testing. This is because there is an opportunity during the interview to pose follow-up questions on answers given. The questions asked will be relevant to what the interviewer has already discovered through questioning earlier on. This is not possible via psychological tests where items are ticked and there can be no elaboration as to why the client selects specific items and agrees/disagrees with the items.

A parent seeking custody of a child when questioned about physical threats of punishment for example towards a child is likely to be aware what answers are expected and will benefit him/her. Parents will make judgments based on their desire for the right outcome and it may not necessarily indicate whether the parent is fit to act as a parent. The interview could be superior in evoking from a parent just how that parent would discipline a child, as an example, at a particular age. If the punishment is not a physical one, one could then ask what would the approach of the parents actually be!

The interview could be more precise by focusing on specific questions that are truly relevant to the children of a particular age and in relation to the questions previously posed to the parent. Specific events could be presented of a child doing something which could evoke anger in a parent or result in a particular emotion and behaviour. It must also be noted that doing nothing when a child offends and requires disciplining could be as maladaptive or reprehensible as excessive punishments. Through the interview, some very valid qualitative information can be ascertained. In the appendix of this article will be found a child custody evaluation scheme with parents involved in contact disputes as well as their children. This interview as outlined is by no means perfect in every way. It can however be used in

different ways with different situations and different parents or children especially. It is merely an outline of what questions could be asked or should be asked.

What parents should be aware of

Ackerman (2008) provides some very important “do’s” as well as “don’ts” concerning which a custody evaluator should be aware. Let us look at each in turn.

What should occur

1. Attempts at mediation or collaboration should always precede litigation if at all possible .
2. Understanding from the outset that two parents living apart will not see their children as frequently as those living together.
3. It is likely that parents living apart will incur more expenses than when they live together.
4. Joint custody arrangements are always preferable to giving custody to one parent only.
5. If possible parents should share holidays rather than alternating between them.
6. Always speak to children together with your partner or former partner about separation and divorce and the reasons thereof.
7. It is important to provide security for the children, or as much as possible, by not removing oneself while allowing a partner to remove themselves geographically unless it is absolutely necessary.
8. Always be sensitive to one’s children and their needs rather than your own.
9. It is important for parents when separated or divorced to consult with each other in advance concerning placement visitation of children etc.
10. It is vital for parents to stringently observe time schedules but at the same time be flexible when it is necessary.
11. It is important to avoid hostility and anger towards one’s partner especially in the presence of one’s children.
12. Do not give children too much opportunity to make decisions.
13. It is important to tell children that although their parents cannot be living together or love one another the two parents together will love the children, despite divorce or separation.
14. Some children may require some form of therapy as a result of the separation or divorce.
15. It is important to provide children with the opportunity of loving both their parents and spending time with both parents
16. Always be united in the way children’s problems are handled and this includes discipline problems.
17. Encourage a good relationship between the child and the other parent and the extended family of the other parent.
18. Always encourage children to remember that the other parent has special occasions such as birthdays, Christmas etc. and the children should make contact with that parent via telephone, cards or otherwise.
19. Calls to children by telephone should be made on the basis of when they are necessary and not used excessively.
20. It must be remembered that children will initially feel powerless and helpless as well as being very vulnerable due to the separation or divorce of their parents.
21. It is important to make children feel secure even if they develop negative patterns of behaviour which could require therapy.

22. Be good role models for the children to emulate.

23. Always allow children to make sure that the other parent has access by encouraging good relationships between the children and the other parent and his/her extended family.

24. Whatever differences that exist make certain that visits to schools and conferences are peaceful between the parents.

25. Always recognise the rights and responsibility of the other parent in relation to the education of a child and reports being made available to both parents.

26. Always notify a parent of any medical emergencies, doctor's appointment surgery and dental care, as well as hospitalisation.

27. Allow grandparents of both former partners to be involved with the children.

28. Communicate regularly with the other parent in order to avoid misunderstandings as these will be harmful to the children.

29. Make plans with the other parent but do not use children as go-betweens.

30. Live as closely as possible, geographically speaking, in order to make communication and handover of children to the other parent easier.

31. Attempt to maintain household routines similar to what the children are accustomed to experiencing.

32. Have rules to which both parents agree on how children should be dealt with.

What should not occur

1. Avoid making children feel guilty about the divorce of separation.

2. Always insist that the children should visit the other parent even if they refuse to do so.

3. Prevent children from showing hostile acting-out behaviour towards the other parent.

4. Avoid taking sides about parenting issues in front of children.

5. Avoid putting children in the middle when arranging visitations.

6. Do not communicate with the other parent via the children.

7. Avoid arguing or showing hostile behaviour and denigrating the parent who is no longer with the children, in front of the children.

8. Always be certain to keep appointments and not arrive late in relation to the children.

9. Avoid discussing financial matters in front of the children including support, maintenance etc.

10. Communications between parents should be direct rather than through the children. Children should not be used to express anger towards the other parent

11. Do not create a situation where children are required to be grown-up with responsibilities that are beyond their years.

12. Avoid children being involved in focusing on arguments between the parents.

13. Do not allow children to spend too much time with a mentally ill patient or one who has been diagnosed as being mentally ill.

14. Try not to separate the children but keep them together as a family with separated parents.

15. Children should not be witnessing sexually intimate behaviour between parents or between a parent and a new partner.

16. Avoid involving children in keeping secrets from the other parent.

These are but some of the ways in which contact disputes can be improved despite divorce or separation. Parents should have access to someone who can solve their problems and who both parents could consider as an independent individual eager to help children to grow up sensibly and with emotional security. This could be a psychologist, personal friend, relation or member of the church.

APPENDIX 1

Child Custody Evaluation of Parents and Child in Contact Disputes – An Interview Approach

Evaluation of adults

Questions to ask

1. Can you tell me a little about what you know about why we are meeting today.
2. How often have you moved home?
3. What is the current living environment like?
4. What is your job? How long have you been there? How satisfied are you with your work?
5. What is your employment history? List this from when you left school.
6. May I contact your current and past employers if necessary?
7. What kind of relationship do you have with your child?
8. What is the level of education you have reached?
9. Are the children living at home or elsewhere? Why? Can you give me any other information?
10. Has either of you, (parents) undergone psychological or psychiatric treatment with medication being given at an in or out-patient centre? Has either of you (parents) been in trouble with the law? Can you tell me what kind of trouble?
11. What is the familial history of alcoholism, suicide, mental illness, divorce etc. on either side of the family.
12. Is there a history of sexual abuse which you or your partner have suffered in the past.
13. What is the current situation (marriage, divorce, separation) in relation to the children and where they are?
14. How much time do you as a parent spend with your child/children? If you spend little or no time with your child/children why is this the case?
15. Has there been acrimony between you and your partner (other parent) and what kind of acrimony was it? How much acrimony was there? When did this happen? Why did this happen?
16. Has mediation been used between you and your partner? What was the result of such mediation?
17. Has there been contact at all with your child/children? What kind of contact was this? How have the contact visits worked out?

18. Have there been any problems with contact? Can you describe the situation at present.

Evaluation of the child

1. What are your feelings about the divorce/separation/of your parents. What are your views of the current contact arrangements you have with the absent parent?

2. What is your relationship like with your mother? What is your relationship like with your father?

3. (For young children) Do you think that you are able to have a good relationship with both your mother and your father even though they are apart? What is the relationship currently with your mother? What is the current relationship with your father? Do you think this will change? If so, why will it change?

4. (For the older child 9-12) How did you learn about the divorce/separation of your parents? Who do you blame for this?

5. How are you coping with the separation of your parents?

6. Was your relationship different with your mother/father before the separation. What went on at home?

7. How are you getting on at school? Do you think the separation has affected your work at school? Do you still participate in extra-curricula activities. Is this better than before the separation or not as good?

8. Do you think you are able to provide all the information that I am asking you to tell me? Is this how you really feel?

9. Do you think your mother treats you in the same way as your father? In what way is it different?

10. How would you feel if the Judge asked you to live with your father/mother. Why or why not?

11. When you do something wrong what does father do?

12. When you do something wrong what does mother do?

13. Did your mother ever hurt you?

14. Did your father ever hurt you?

15. Did your father ever hurt your mother?

16. Did your mother ever hurt your father?

17. Did both father and mother hurt one another?

18. Do you do well in school or not? (Child may require an intellectual and educational assessment).

19. What did your father or mother tell you to be sure to tell me today?

(Note whether the child reveals a long litany of events that appear to be well rehearsed. Are the events similar to the mother's/father's statement?)

20. When your father talks about your mother what does he say?

21. When your mother talks about your father what does she say?

22. Have you ever seen your mother drunk due to use of alcohol or drugs?

23. Have you ever seen your father drunk due to the use of alcohol or drugs?

24. Does your mother or father talk to you about their problems or problems with one another?

25. What kind of activities does your mother do with you?

26. What kind of activities does your father do with you?
27. Who takes you to school?
28. What kind of activities do you share with grandparents, uncles, aunts, cousins of your father?
29. What kind of activities do you share with grandparents, uncles, aunts, cousins of your mother?
30. Who takes you to the doctor?
31. What are the rules of what to do or what not to do at home?
32. Who enforces rules and how are these enforced at home?
33. When you have problems who do you discuss them with?
34. Who buys your clothes for you?
35. When you stay in father's house what does he cook for you?
36. Do you have anything else you would like to say or ask.

The following are points that should be considered and noted:

NB. Very young children aged 3-5 are best seen again without parents being present i.e. in a neutral situation. Some of the above questions may not be applicable. It is for the interviewer to judge)

Which parent is willing to have child interviewed only if they are present? If it is only with themselves present? Why? What has led to this?

How does child respond if asked whether he/she wishes to live with either parent? Why does the child respond in this way?

How much (in time) does the child wish to see each parent.

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