

Martindale, D. A. (2007). The false promise of parenting coordination. *The Matrimonial Strategist*, 25:8, 1ff.

Page breaks are shown between bold brackets.

[1] In a three-part series in *The Matrimonial Strategist* (appearing in March, 2006, June, 2006, and March, 2007), Curtis Romanowski, a member of the newsletter's Board of Editors, has described and promoted parenting coordination "as a means for dealing with high conflict families involved in domestic relations proceedings before courts." I applaud the efforts of those who have devoted significant time; energy; and, in some case, funds to trying to find ways in which to assist families in the difficult process of post-divorce adjustment, but parenting coordination has drawbacks that must be constructively addressed.

In the opening of his first article, Romanowski alludes to parents who have "serious difficulty making important joint decisions" and opines that they "could well benefit from assistance coordinating their parenting efforts." An unarticulated assumption is being made; specifically, that where there is high post divorce conflict, it is in the best interests of children that their parents share decision-making authority. I question that assumption.

A recognition that the damage done by divorce cannot easily be undone was alluded to in the 1996 decision by the Court of **[5]** Appeals of New York in the jointly-examined relocation cases of *Tropea v. Tropea* and *Browner v. Kenward* (*Tropea v. Tropea*, 642 N.Y.S.2d. 575). The Court wrote: "Like Humpty Dumpty, a family once broken by divorce cannot be put back together in precisely the same way" (at 581). We ignore what our collective experience tells us when we plan interventions that are based upon the optimistic belief that, with appropriate professional assistance, disputatious parents will suppress their visceral reactions and tap their higher cognitive functions.

New York State's position on shared decision making where there is obvious acrimony is stated succinctly in *Braiman v. Braiman* (378 N.E.2d 1019, 44 N.Y.2d 584, 407 N.Y.S.2d 449). Chief Judge Brietel, writing for a unanimous New York Court of Appeals, stated that "joint custody is encouraged primarily as a voluntary alternative for relatively stable, amicable parents behaving in a mature civilized fashion. As a court-ordered arrangement imposed upon already embattled and embittered parents, . . . it can only enhance familial chaos" (at 451). Though New York's position is a minority position, in my view it reflects an awareness of the published research that documents the negative impact upon children of ongoing post-divorce conflict between their parents. The question to be asked (and correctly answered) is: Does the involvement of parenting coordinators ameliorate the conflict or would the less-flawed of two unsatisfactory solutions be the designation of one parent as the decision-maker?

As this is being written, agreement has yet to have been reached among state legislatures, court systems, and professional organizations concerning what it is that parenting coordinators are expected to *do*. Neither has agreement been reached concerning what parenting coordinators should *not do*. Some court orders are refreshingly specific; some are disturbingly vague. Romanowski reports that "some jurisdictions permit PCs to render final decisions. . . ." Problem 1: If parenting coordinators who have been trained in one of the mental health disciplines make decisions that are unrelated to their education, [6] training, and experience in the mental health arena, they can be accused of having engaged in professional activities outside the scope of their expertise. Problem 2: If parenting coordinators are granted authority to make binding decisions and *refuse* to make certain decisions because they believe that doing so would constitute engaging in professional activities outside the scope of their expertise, they can be accused of refusing to accept an integral aspect of the assignment that they willingly accepted.

Romanowski reports that "[i]n a more conventional version of the parenting coordinator model, a set of written recommendations or a written report is filed with the court." This brings us to problem 3: If parenting coordinators will be providing information and professional opinions to the court, the participants in the process may view the parenting coordinator as a conduit of information to the court. The mind-set of each participant may become: "If I can get the parenting coordinator to perceive the family dynamics from *my* perspective, the parenting coordinator will support my position before the court." Such a mind-set increases the probability that participants will deliberately or unintentionally distort information and will be far more interested in *speaking* than in *listening*. Any mental health practitioner who has conducted family therapy or group therapy can attest to the fact that participants who are preoccupied with 'floor time' are ineffective digesters of what others have to say. Simply put: Achieving satisfactory outcomes is difficult when participants see the parenting coordinator primarily as a target of persuasion.

Though anyone reading this column is aware of the problem of re-litigation, when final decisions are handed down and the courtroom door closes behind two parents whose custody order does not contain provisions for a parenting coordinator, it is reasonable to presume that the majority of these parents will feel the need to make whatever adjustments must be made and get on with their lives. The involvement of a parenting coordinator keeps those who exit the courtroom from feeling the rush of air that accompanies the closing door; instead, they look back and see that the door has been left ajar.

Other problems that either have been reported or are reasonably foreseeable include the following:

4. When one or both parents have entered into new relationships, new partners may find the sessions with the parenting coordinator to be

threatening. Fears of reconciliation with the former spouse may be evoked by the process. Mental health professionals make a distinction between 'getting along' in order to facilitate constructive co-parenting and 'getting along' in order to preserve (or restore) a relationship. This distinction may be lost on new partners. New partners often feel more secure when friction between former spouses is maintained at a level that strikes them as optimal. People who have conceived a child together and who are now being encouraged to communicate frequently and co-parent their child may reconcile.

I am not suggesting that any of the individuals involved in constructing parenting plans should be swayed by sympathy for new partners who have an emotional need to see an 'optimal' level of stress being maintained between a divorced person and his/her former spouse. I am, however, suggesting that when second (and subsequent) relationships between parents and their new partners fail, the consequences are felt by the children.

5. Following divorce, the need to focus attention on the former spouse's deficiencies is not uncommon. More than four decades ago, Leon Festinger and numerous colleagues, in explaining the concept of *cognitive dissonance*, opined that there is a universal need to find comfort with 'done deals'. The discomfort that accompanies divorce can often be ameliorated by focusing on the former spouse's negative attributes. Though focusing one's attention on the flaws in one's former spouse may ease the pain of divorce, it is hardly a constructive solution and its negative impact upon the children of the marriage requires no explanation. We need to consider the possibility that the involvement of parenting coordinators in the lives of disputing parents reinforces in each of them the tendency to dwell upon the negative characteristics of the other.

6. Former spouses who wish to focus on their former partners' deficiencies and ignore their strengths, may find that each scheduled meeting with the parenting coordinator prompts preparation, . . . which takes the form of generating lists (actual or mental) of ill-deeds to be recited to the parenting coordinator at the scheduled meeting. Parenting coordination offers a forum in which sniping can continue unabated.

7. Particularly where one parent generates lists of the other parent's alleged parenting transgressions, what is the effect upon the other parent of living with an awareness of the ever-present risk of being turned in at the next meeting with the parenting coordinator? Does an awareness that any errors that come to the attention of the other parent will be reported cause someone to make fewer errors? Does it cause parents to pressure their children not to tattle on them.

8. Romanowski writes: "Currently, most jurisdictions do not sufficiently address issues of due process. . . ." When neither evidentiary rules nor due process protections apply, it is likely that the probability of unjust decisions is

increased. Parents who feel that certain decisions were [7] unjust may be reluctant to complain, feeling apprehensive about alienating the parenting coordinator.

9. The parenting coordination process is not without its financial implications. Parents may be required to continue attending sessions with parenting coordinators until the parenting coordinators conclude that their services are no longer needed or that their services should be terminated because they are not yielding any appreciable benefit. Can those who are being paid to render a service objectively evaluate the need for or effectiveness of that service?

10. Special needs children, more so than other children, may find that many decisions concerning their lives are made by committees whose members include assorted education experts, mental health experts, and the parenting coordinator. Their inability to agree can cause the parents to be essentially excluded from the decision making process.

11. Reliance upon a parenting coordinator can delay decisions in matters that may require expeditious resolution. Some would assert that the assignment of decision-making authority to one parent transforms that parent into a court-sanctioned dictator. Others would argue that the parenting coordinator becomes a court-authorized dictator and if someone is to be designated as dictator, why not turn that power over to one of the parents?

12. Where decision-making authority is placed in the hands of an outsider, what is the effect upon children's perceptions of their parents as authority figures? As capable adults? The answer: We don't know. Perhaps this warrants some investigative research.

13. More socially skilled and seemingly charming parents may prevail in a disproportionate number of the disputes because the parenting coordinator may be won over by the parent who *appears* to be more friendly and cooperative. Those who appear to be conciliatory in the presence of parenting coordinators may be nasty and intransigent in their dealings with former spouses.

14. There are virtually no mechanisms in place to control the damage that can be done by intrusive and autocratic parenting coordinators. Where accountability is minimal, some who are drawn to the work will be drawn to it for the wrong reasons.

15. Romanowski writes: Typically, PCs cannot affect [*sic.*] changes to . . . preexisting parenting plans. . . ." Though the constructive voiding of agreements made during settlement discussions among the parties and their attorneys may not be typical, it occurs and it is a problem that must be confronted.

Mental health professionals are trained to be mindful of the ever-present risk of *iatrogenic harm* – harm that results from the treatment process. Parenting coordination is in its infancy. As we contemplate what can realistically be accomplished through the use of parenting coordinators, we must not lose sight of the various elements of the process that create a risk of iatrogenic harm. -<>-