

NEW OPPORTUNITIES FOR FAMILY PSYCHOLOGISTS: COLLABORATIVE DIVORCE (PART 3 OF 3)

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This column describes Collaborative Divorce (CD), a new, family centered, non-adversarial way to divorce. It is now available in all US larger cities, and is spreading over North America, UK, Europe, and Australia and New Zealand. Not yet generally included in doctoral programs' curriculum oriented to family psychology, it does, nevertheless, provide new opportunities for family psychologists in practice and calls for research to discover its values, understand its limitations, and provide a solid base for its development. This writing completes a connected series which summarized pertinent research on traditional divorce (Part 1, Fall 2006, TFP) and on selected examples of "normal" psychological process that, when manifested under adversarial conditions may easily be misconstrued as evidence of pathological process at work (Part 2, Spring 2007). At the end of Part 2 we quoted Law Professor Janet Weinstein as writing: "We need a shift in paradigm, reflecting new values and focusing on custody and visitation matters as family an social problems rather than legal issues and 'cases'" (1997, p. 96). We view Collaborative Divorce as constituting an important example of this paradigm shift.

Origins of Collaborative Divorce

For many years we conducted child custody evaluations in California and in other states. Over time we grew weary and frustrated with the adversarial divorcing system that pitted

spouses against each other when they were already struggling to maintain a sufficient connection to parent their children. The children, as well as their parents, experienced an aggravation of the pain, anxiety, and isolation already present because of the parental divisions leading to instituting the divorce process. For many families divorce costs had no ceiling. Even when lawyers and judges agreed to let us proceed at the family's pace we found we were still handicapped working under the adversarial shadow of the law.

We believed that there had to be a better way--one that could take account of the complexity of families and of family change. Since we could find none, we set out to see if we couldn't develop one that would take account of the psychology of the family and yet include the necessary legal/financial aspects of divorce.

DEVELOPMENT OF COLLABORATIVE DIVORCE

In the early 1990's we began meeting weekly in our offices with a small "task force" like interdisciplinary group of divorce-experienced experts. Within a few years we and our colleagues developed a new, non-adversarial, interdisciplinary system for divorcing. We began trying it out when we could make the opportunity. Our group wrote a small book for the public, *Divorce: A problem to be solved, not a battle to be fought* (Fagerstrom, et al., 1997). We (ARN & PT) published our first article on Collaborative Divorce (CD) a decade ago for the TFP, "Collaborative Divorce: Oxymoron or a new process?" (1997) followed shortly thereafter by an article in the *American Journal of Family Law* (1999) and a chapter in *Innovations in clinical practice: A source book* (2000).

By the mid-1990s we were excited to learn that a very experienced Minneapolis family lawyer, Stu Web, who also had very negative experiences with the traditional adversarial system, was developing a new divorcing system that he called “Collaborative Law.” Mr. Web had concluded in 1989 that he would no longer go to court and so persuaded some other experienced attorneys to join him in developing that legal divorcing system. We joined forces with this budding legal approach through our beginning contacts with San Francisco (and Mill Valley) lawyer Pauline Tesler, and Lawyer Webb.

Attorney Tesler and one of us (PT) in the late 1990s became the first two presidents of a newly formed organization, the International Academy of Collaborative Professionals (IACP). This new organization has flourished. It already has over 3000 members with more than 170 interdisciplinary practice groups in all major US cities, and spread through Canada, UK, and Europe; IACP has its own professional journal.

THE PROCESS OF COLLABORATIVE DIVORCE

The Disqualification Agreement, A *sine qua non* for CD

In CD helping professionals sign an agreement with the divorcing couple that the professionals will not go to court; should the couple decide to leave the collaborative process and enter the court-based adversarial system the professionals will withdraw and neither professionals nor materials generated in CD can follow them into the traditional adversarial system. This agreement forces all team professionals to work toward a satisfactory divorce agreement; there are no threats to go to court and no motions to put before the judge.

Professionals who form the CD Team

The professional helping team consists of a family lawyer for each spouse, a divorce coach family psychologist (or other mental health professional) for each spouse, a child specialist (family-system oriented psychologist usually), and a financial specialist. All receive special education and training on how to function in their respective roles and on working as an interdisciplinary team.

The Three Phases of Collaborative Divorce

The process of CD is divided into three phases: One, Contracting and Initiating Team/Family Relationships; Two, Helping a Family through Interpersonal, Legal and Financial Steps to the Agreement; and Three, Following through with the Family Post-Agreement Process.

Phase 1: Contracting and Initiating Team/Family Relationships

A divorcing couple may start a Collaborative Divorce with any CD trained professional, regardless of discipline. The first professional contacted informs the couple about the different ways they may choose to divorce. In California and many states, the couple may choose to handle the divorce themselves, select mediation, opt for the traditional adversarial approach, or go with the collaborative divorce process.

When a couple chooses CD, the initial contact professional goes over the collaborative agreement so the clients can sign the agreement that commits them to the collaborative

process. The professional provides the names of other collaborative professionals from whom the clients can choose their other team members. In completing Phase 1 the couple and team members sign an overall agreement(s) which includes the disqualification agreement noted above and a transparency agreement that team members are free to share with each other the family information judged to be helpful for the divorcing process. Couples also sign separate agreements with each team professional detailing what each professional will be contributing to the CD process. Not to be overlooked is that professionals and spouses during this phase are establishing working alliances that will form the basis for the trust and openness required for successful navigation through the divorce. Spouses are reminded their team members are keeping in regular contact with each other via phone calls, conferences calls, email messages, and in-person as needed.

Phase 2: Helping through Interpersonal, Legal and Financial Steps to Agreement

In the beginning of this phase the team is gathering and sharing information that is critical for the team and for informed decision making on the part of clients as they move through the collaborative process. As team members share information they work together developing strategy and revising their formulations so that they progressively understand more about the family.

The spouses finish any basic information forms not already completed in Phase 1.

Coaches provide a standard list of personal/family goals; each spouse rank orders the importance to them of the short and long term goals. The Millon Index of Personality Styles (MIPS) (2004) is administered; computerized results compare each spouse's

personality style with a normative, non-help seeking sample. Each spouse also goes on line and takes (for free) the strength based questionnaire developed by Seligman and colleagues in conjunction with their work in positive psychology (2004). Finally, each parent (and sometimes in addition a teacher) describes each child through the format of a standardized questionnaire in the Behavior Assessment System for Children (BASC) (2004). The screening question results, which compare a child on normal and problem dimensions with a nation-wide normative sample, are discussed by the coaches with parents separately, and then together, rounding out the family picture for both the team and the parents' use. This efficient process of obtaining objective yet personal information about family members involves only a modest amount of individual coaches' time (and money) while resulting in an improved understanding of the family. (Others practicing CD may use the same or different instruments).

Spouses are strongly encouraged by coaches (and other team members) to keep their options open and not to come to decisions until they proceed further in Phase 2. We want them to have sufficient information and perspective for making informed discussion and choices, and to have developed increased skills for managing their emotions and behaviors.

During this phase, especially initially, each coach focuses on helping a parent improve the processing of feelings and in the management of family interrelationships. Coaches have clients think through their short and long range goals, then encourage and teach behaviors that will help achieve those goals. Shifting the focus from the past to the future

is a key to moving the divorcing process forward in a positive way. As coaches understand the couple and family system they are able to inform other team members to help them strategize about how to best help the family.

Each parent learns a structured communication pattern from their coach. We find especially helpful the system of *Core Communication* (Miller & Miller, 1997). Use of this pattern facilitates management of difficult times in four way meetings of coaches and parents, assists the couple with all team professionals, and helps when they are just with each other facing co-parenting difficulties.

Coaches remind parents of children's needs for more concentrated attention at this divorcing time, and teach ways to improve co-parenting effectiveness. This approach assists parents in keeping the needs of their children in the forefront.

During the same general time period as the coaches/parents meetings, the child specialist meets with the child in order to understand the child, creating an alliance so as to support the child emotionally and answer questions about the ongoing divorce and the next steps to anticipate. Meeting with the child provides the background for joining a subsequent meeting of the child specialist with the parents and their coaches; the child specialist represents the child and becomes a voice for the child. Sometimes a child will also join the larger meeting.

Early in this second phase, the collaborative financial specialist begins meeting with the couple to collect and help organize financial data needed by the attorneys in their discussions and subsequent problem solving with the parents. The financial specialist explains the family's financial situation to the clients and, as needed, may educate one or both of the parents about family financial matters. Often, the specialist lays out specific options for post divorce agreement financial arrangements and suggests how the various options may impact the family members for the next several years. This data will be used in subsequent meetings of attorneys and clients.

Lawyers are busy all the while helping contain the couple within the CD process, encouraging the couple to involve their highest qualities as they go through this difficult time. When emotional and/or interpersonal difficulties arise, they refer the couple to their coaches.

Lawyers educate the couple about divorce, helping the spouses understand that the adversarial process, should they leave CD and retreat to it, focuses only on *issues*, and that the law defines limits; it takes matters out of the hands of the couple. Lawyers explain that the couple in CD, which is outside the shadow of the law, has great latitude for defining and creating their future family organization and relationships as they wish. Lawyers provide practical, legally related information to the couple (and the team members), and may address any immediately surfacing or anticipated urgent legal issues. They help by working to avoid anxiety-driven impulsive, emotional behavior through providing a reassuring presence and realistic, practical discussions and focusing on the

long range goals agreed upon early in the collaborative process. Financial matters are discussed in lawyer/client meetings. Then in four way meetings of lawyers and clients financial aspects are review, opinions expressed, and options explored that can lead to reasonable plans for the future of the family.

As Phase 2 continues parents are helped by coaches to create a beginning co-parenting relationship with an eye on shared goals, and form an action plan for parenting that is tuned to their children's needs, not solely to each parent's wish to be with their children. This plan for parenting is brought into discussions held in four-way meetings between the spouses and attorneys to work out the broader marriage-concluding agreement designed to include legal, financial and the co-parenting considerations.

As this phase ends, the family's plans for the future are in place and divorce agreements are completed, with the understanding that adjustments will be called for. Some can be anticipated, but some not. But the team members will be available as needed and/or arrangements are made for other professionals to assist the family.

Phase 3: Following through with the Family Post-Agreement

Families enter this phase hoping that the worst is behind them, although the parents have been cautioned that research shows that the most family disruption and ineffective parenting reaches a crescendo at the end of the first year post-agreement, receding in the second year of the traditional divorce. With CD, however, they now have the help of an integrated plan to guide them in the legal, financial, personal, and interpersonal aspects of

their lives. Because a CD plan is typically more comprehensive than that in the traditional divorce and because the team has spent time preparing the family for the immediate post-agreement time, we anticipate that the post-decree period may not be as difficult as with the traditional divorce. The family will, however, be making some adjustments consistent with their divorce agreement. Additionally, unanticipated changes calling for adjustments will typically occur. Changes, whether planned or unanticipated, may include some of the following (modified from Ahrons, 2004, p. 201): Moving and geographical changes; school changes; downturn in living standards; changes in living arrangements to meet parents' or children's needs; mother and/or father remarriage; gaining stepsiblings (from a stepmother/stepfather); mother or father's new baby (half sibling); beginning a new living-in relationship for father and/or mother. During this time period team members ordinarily remain available by plan for assistance, and some, particularly the divorce coaches and the finance specialist, may set specific dates for in-person, phone or email check-ins. Sometimes clients instead return (by plan) to former or go to new therapists and financial consultants. The purpose of these plans is to insure clients do not experience abandonment and are assisted as needed while they complete the family's divorce process of reorganization of relationships into a new family system.

With so many professionals doesn't it cost more than a traditional divorce?

This question is asked every time we conduct a training or make a presentation. With the only data we have so far (Nurse, 2005) the distributions would appear to overlap moderately, with the median cost distinctly lower for CD. Truly huge costs do not exist in CD. This is not surprising. In the traditional divorce lawyers must spend time preparing

for a court trial, although only 5% of divorce cases reach court. Along the way lawyers often have to spend time in court to submit motions, sometimes waiting along while to even appear before a judge for a few minutes. In CD the spouses have control over costs and when some of the costs need paying. Beyond, these factors, team members only perform those tasks in which they are highly trained, maximizing the use of effective professional time. Finally, although not a direct answer to the cost question, CD service always includes the children and to preparing for the post-divorce period, with follow-through.

CD professional work, try it, you'll like it, with training

Check the website of the International Academy of Collaborative Professionals (IACP) for information about interdisciplinary practice groups in your geographic area and for special trainings in CD. And it does take training in your disciplinary CD role and in interdisciplinary CD teamwork. For Rod: drnurse@aol.com. For Peggy: divorcecoachpeggy@gmail.com.

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* 2009 Reference added to up-date personal authors' Website references to 2010.

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Presentations at the APA Convention, San Francisco, 2007:

Collaborative Divorce: An evolving interdisciplinary centered process. Saturday, August 18, 8am-10. Presenters are A. Rodney Nurse & Peggy Thompson, plus lawyer Pauline Tesler and financial consultant Mark Hill.

The Millon Index of Personality Styles (MIPS). Monday, August 20, 9am-10. A. Rodney Nurse & Peggy Thompson, Caryl Bloom.

