

Parenting coordinators: An examination of an intervention for high conflict custody cases

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[Hayes, S.](#) (2009). Parenting coordinators: An examination of an intervention for high conflict custody cases. 2009 *Children's Law Manual*. National Association of Counsel for Children.

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INTRODUCTION

Parenting coordination is a client-pay, hybrid alternative dispute resolution (ADR) process designed for parents and guardians involved in on-going, high conflict custody disputes. Although this practice has been known by different names in different states, “Special Master” in California, “Wiseperson” in New Mexico, “Custody Commissioner” in Hawaii, and “Family Court Advisor” in Arizona, all of these designations refer to a child-focused ADR process in which a mental health or legal professional with mediation training and experience assists high conflict families to implement their custody order. The basic idea underlying the parenting coordination process is that a parenting coordinator (PC) can act more quickly than court processes and with more authority than a mediator to resolve the seemingly continuous series of issues arising between high conflict parents. This is the result of the range and combination of roles and skills PCs are expected to have including education, assessment, mediation, and decision-making (AFCC, 2003). Practitioners of parenting coordinator have been the most vocal proponents of the practice and the most responsible for existing ethical guidelines through writing about their own experiences and proposing best practice models to deal with the difficult situations of these clients (Coates, et al. 2004; Boyan, & Termini, 2004; Garrity & Baris, 1994).

This research project was designed to investigate the relationship between existing role definitions for PCs and actual practices. The focus of the analyses and discussion in this paper will be on the relationship between PCs and the other legal and mental health/helping professionals involved with these high conflict families. Since a PC is by definition a “coordinator” who needs to quickly understand, assess, and potentially make decisions for families and many of these

families have either previously been or are currently involved with attorneys, judges, custody evaluators, therapists/counselors, Guardians *Ad Litem*, and other related services, these relationships appear to be critical.

LITERATURE REVIEW

The three major roles of a PC have been defined by the Association for Family and Conciliation Courts (AFCC, 2005) and by researcher-practitioners (Baris, et al., 2000; Sullivan, 2004) as helping parents with: (1) implementation of the existing plan (2) compliance with the existing parenting plan, and (3) resolving issues in a timely manner. The five functions of PCs have been identified as: (1) education, (2) conflict management, (3) assessment, (4) coordination/case management, and (5) decision-making (AFCC, 2005). These roles and functions depend a great deal on the PCs ability to synthesize existing information about the family as much as to create new information. In fact, only the “assessment” function implies that a PC may need to create any new information and all the remaining roles and functions depend more on an ability to better utilize existing information (e.g. court orders, custody evaluations, therapists reports, etc.) to help parents work with an existing order rather than create a new one. In most cases, even the decision making function is limited to matters not covered in the order and does not allow PCs to make any “substantial changes” only changes to minor issues that would help implement or comply with the existing plan, e.g. creating or changing pick up/drop off locations, clarifying ambiguous holiday/vacation issues. Implicit throughout the PCs roles and functions are the need to communicate with and coordinate the ideas of a range of professionals including attorneys and a range of mental health professionals playing both clinical and forensic roles. Kelly (2008) points out the need for PCs to be better educated about the roles and functions of these professionals to better perform their duties.

Despite the acceptance of the role through rules and orders specific to local courts and some state legislatures (8 states have PC legislation as of July 2009) a limited number of empirical studies and little understanding of the processes exist as to how PCs balance all these roles and functions. Recently published research studies provide insights into the backgrounds, experience, and preferred PC styles (Beck, Putterman, Sbarra, & Mehl, 2008; Kirkland & Sullivan, 2008; Lally & Higuchi, 2008). This research suggests that PCs are experienced practitioners in their own fields, come from legal, mental health, and ADR professional backgrounds working with high conflict families in the court system, and report using a diverse set of skills including education, mediation,

investigation, decision-making, and involvement of associated professionals such as Guardians *ad litem*, custody evaluators, and therapists. One finding of these studies has been the willingness and apparent abilities of PCs to use interdisciplinary interventions and not focus on those techniques from their own area of professional practice. Most PCs work under the authority of either statute or local rules and their use of specific practices, such as decision-making, is guided primarily by those statutes or rules. Researchers have also discovered that PCs are more likely to have indirect interactions with clients through telephone and email than in related interventions like mediation, custody evaluations, or therapy. Although these studies are few, the results provide important groundwork for understanding the current procedures, boundaries, and frameworks used by practicing PCs (Beck, et al., 2008; Kirkland & Sullivan, 2008; Lally & Higuchi, 2008).

Little information is available in existing studies about how PCs think about and the circumstances under which they apply the diverse roles and functions and the level of involvement of supporting professional roles and the court. Practice relevant, process studies in fields related to PC, such as family mediation and custody evaluation, have offered understanding of the processes, guidance for practice and research, and credibility to the development of the profession (Bickerdike, & Littlefield, 2000; Bow & Quinnell, 2001; Davis, 1988; Dingwall & Greatbatch, 1991; Slaikeu, et al., 1985; Walker & Hayes, 2006).

Based on this gap in the literature, the author designed an exploratory, simulated client study to examine the way PCs think about cases and apply the range of roles and functions identified in literature and best practice guidelines (AFCC, 2005; Baris, et al., 2000; Boyan, & Termini, 2004; Coates, et. al, 2004). The results of this study and the process of using simulated-client style vignettes as educational/training tool help to demystify the issues and processes PCs use and improve identification and collaboration in cases.

METHODOLOGY

Participants were all parenting coordinators (PCs) who fulfilled statutory requirements for practice and were on lists maintained by Chief District Court Judges' offices in North Carolina. Fifty-eight (58) PCs received an initial mailing about the study, one follow-up mailing, and two follow-up emails. In all, twenty-four (24) PCs responded and fourteen (14) in-depth interviews were conducted lasting from fifty (50) to one hundred twenty (120) minutes. Four of the interviews were conducted face-to-face, the remaining ten were conducted

via telephone, all interviews were conducted by the author, and transcribed by one research assistant. Results from the interviews included practice issues and protocols and detailed analyses of responses to the vignettes.

The interview was divided into two parts. Questions in the first part were open-ended and focused on demographics and practice issues. The second part of the interview consisted of a series of five simulated client type case vignettes that posed practice-relevant ethical and legal dilemmas designed to focus the conversation on specific ethical and legal issues raised in the literature. A similar vignette technique was used to compare the practices of attorneys, attorney-mediators, and mediators in Scotland (Myers & Wasoff, 2000). Each of the five vignettes were designed to demonstrate a typical, but ambiguous, situation that may occur in the work of a parenting coordinator (PC) to see how PCs would respond to these situations. The researcher asked the elaborate on your responses to the vignettes, especially to understand the “whys” not just the “whats” of their responses since understanding the thinking behind the strategies was critically important.

Each of vignettes represented “real” situations that the researcher had either experienced in his own work as a PC or through creating composites of cases discussed by other PCs in peer consultation session. Each was pilot tested with experienced PCs and every case had at least one respondent report they had a similar situation occur in their work. The five were titled as: (1) The chronically late father; (2) The medication resistant mother; (3) The temporary appointment and monitoring; (4) Fees dispute and dissatisfied client; (5) Collecting and disseminating sensitive information. Of these five, only the first one will be described in this paper

DEMOGRAPHIC AND PRACTICE RESULTS

Of the fourteen participants, three had JDs, ten had advanced degrees in mental health or helping professions (Ph.D., MA, MS), and one participant had both an MA in counseling and a JD. Seven of the participants were female and seven were male. The PCs had an average of twenty-four hours of PC specific training (as required by statute), had been practicing as PCs on average for 3.5 years (range = 3 months to 8 years), and were a median age of 57 (range 32 to 66 years). In total, these PCs had 71 current cases and had been involved in 171 cases for an average of twelve cases per PC (range 1 to 35) and 5 current cases per PC (range = 1 to 15). Fifty-four per cent of PCs cases were attorney referred/consent order, 44 per cent were court appointed, and no PCs reported client, self-referred, or therapist-referred cases. The average fees charged to

clients was \$140 per hour/session (range \$100 - \$250); PCs collected a retainer for 10 hours prior to beginning the process.

Over the last year, PCs reported a total of 2,581 hours working on issues related to PC cases, 66 hours per PC working face-to-face with clients, and 119 per PC hours working indirectly with clients (e.g. email, phone, etc.). In addition, 45 per cent of cases concluded such that PCs no longer heard from clients; 24 per cent of cases were on-going, but PCs rarely heard from clients; and 26 per cent of cases were on-going and frequently heard from clients. When asked to define “rarely”, PCs reported that they may hear from these clients no more than monthly and no less than twice per year. When asked to define “frequently”, PCs reported that they may hear from these clients multiple times per day but no less than once per month. Most PCs reported that they hear “frequently” from recently appointed cases, but these interactions generally diminish over time.

The majority of PCs reported the routine use of telephone and email for working with clients. Six practitioners reported that their primary mode of working with clients was through email and telephone, but one never used email and only used telephone contact to establish meeting times and handle crises. This brief overview of practitioner background and working models suggests that the PCs interviewed in this study had similar characteristics to those in the national survey conducted by Kirkland and Sullivan (2008) and the more localized research conducted by Beck and colleagues (2008) in Arizona, thus making these PCs a representation of the practitioners across the country based the best data currently available.

ANALYSIS OF THEMES

The case vignettes were analyzed for theme and content related to the process of parenting coordination. The full vignettes used in the research are not included but were classified by their core dilemma as follows: (a) chronically late father; (b) medication resistant mother; (c) temporary appointment and assessment; (d) fee problems and dissatisfied client; (e) collecting children’s information/records and sharing sensitive information with parents. During the interviews five participants specifically commented that they had cases similar or identical to those presented in the vignettes demonstrating some face validity. While many different analyses of this data were possible, this analysis specifically explored the concept of the PC as a “coordinator” for the family between the existing legal and professional services and the court.

How PCs view themselves

The PCs interviewed for this research tended to view themselves as dispute resolution professionals preferring to help parents resolve issues within the existing parenting plan through their educational, conflict management, and coordination/case management functions. These preferences were expressed as much through the roles and issues that made them uncomfortable.

PCs reported that focusing on plan compliance/enforcement made them feel like “cops” and seemed to make clients feel as if the process were stagnating since “nothing changed”. They also reported that strong client resistance to the PC process could lead to the need to further involve the court. PCs also reported a discomfort with conducting their own assessments, preferring to leave that to clinical and forensic mental health professionals (see below). There was also some concern about the decision making function, especially in terms of personal risk management, e.g. making difficult decisions may put the PC at risk for lawsuit especially since quasi-judicial immunity for PCs was untested. PCs preferred to help clients reach a mediated decision and have that decision made into a consent order or submit a recommendation to the court.

PCs expressed their roles in terms of the generic process for starting and managing a case. A typical example explanation came from a response to the first vignette:

As soon as this became clear to me that this [dad arriving late] was a problem, I would be talking to the father about what needs to happen, what he needs to do to be on time, what things are getting in the way of him being on time, and that we will be expecting him to show up on time. I would try to connect with each parent and try to understand the complications and the history of the problem...I would make an effort to see if the father can modify his behavior. If that's not happening, then I would tell the father I will have to request a judicial conference in which we would go in front of a judge, and I would inform the judge that despite my best efforts, the father has not modified his behavior, so I want the court to help me figure out what is next.

This response outlines the general thinking that most of the PCs interviewed had about how they handle issues when they arise and it demonstrated that initial thinking about issues employs all three roles and the potential use of all of the functions. It was clear from the interviews that the majority of the PCs believed this

process was distinctive from the individual roles and functions that could be played by other professionals. It was also important for them that parenting coordination be used as a “true” ADR process, meaning that they would use all of their skills and powers before involving the court.

The role of attorneys

PCs see attorneys playing a primary role in their interactions with the clients to such a degree that their involvement in the process was almost assumed. Most PC cases were the result of a consent order and, as with many other dispute resolution processes, clients’ attorneys took an active role in the selection of the PC. The PCs saw attorneys as resources for information, collaborators in helping enforce the order and their role in the case, and as a preferred means of altering the existing order through drafting consent orders to modify the agreement. As mentioned above many PCs preferred to have clients reach a mediated agreement and have attorneys draft consent as opposed to PCs simply exercising their decision-making authority. PCs also recognized the limited view of the attorneys as advocates for their own parties, but felt that they were more likely to assist in the process than serve as a barrier to progress.

The role of clinical and forensic mental health professionals

While all the PCs reported gathering information from collaborating professionals such as therapists, Guardians *Ad Litem*, and custody evaluators, many seemed unsure as to the amount/type/level of information that would be specifically needed for the PC process from those professionals. Perhaps the most salient issue for the PC process was the basic insecurity expressed around this function, especially involving children in discussions.

It almost seems as though it would be more appropriate for a GAL to do an investigation on things... I would try to avoid talking with the kids, so I would try to talk with the parents to see how this was going, maybe if necessary talk with some of the teachers in the schools.

Another PC responded:

A lot of times the parents will try to bring the kids in it. Dad might say, “if you don’t believe me, ask my kids. They were there. I know she doesn’t believe me, but they were there.” Then they can tell me to call so-and-so, and I have to decide, how much investigating do I want to do?... “Do I want to be a cop?” “What is my role here?”

The examples above show that part of the rationale for limiting direct interaction seemed to be rooted in not escalating the conflict by involving the children, which ties into their conflict management function. The responses demonstrate a belief that other PCs shared, in some cases doing too much personal investigating was detrimental to the process. It was clear from the responses of many of the PCs that while they understood that some level of direct information gathering was important but they were unsure how much of an active role a PC should take. It was interesting to note that despite the implied involvement of these clinical and forensic professionals no PC specifically suggested that they would recommend or order parents to work with therapists or custody evaluators.

The role of the court

The majority of PCs interviewed noted the importance of the involvement of judges throughout the process, primarily as enforcers of the custody order when all other means had failed. As an example, when asked to examine a “worst case scenario” in which the father in the first vignette was not responsive to the PC process, judicial involvement was seen as the only means of continuing. Even in this situation, many PCs would more likely to request a judicial conference or hearing rather than pursue a contempt proceeding. The majority of PCs saw contempt as a last resort because of the negative impacts on the co-parenting relationship and the effect on the PC process

It [contempt] could go either way. It could be the dad needs that limit to straighten up his behavior. It could serve to alienate the father from this process.

The primary differences in PCs preferences towards using Judges were based on their own professional backgrounds. Mental health PCs were more likely to simply refer the issue back to attorneys and let them proceed with court, while attorney PCs were more likely to move more quickly to a judicial hearing.

In cases where exercising a PC's decision-making had the possibility of having significant or longer-term implications for the child, most PCs felt that a judicial decision was critical for the parents to grasp a sense of the severity and gravity of not following through.

Assuming I have the authority to make that decision...then that is something I would motion into court.

That's a serious issue regarding the child's lifetime ability to be successful...

In addition to ensuring that the gravity of a serious situation was clear to parents, using judicial authority rested principally on uncertainty as to the full extent of the PC's decision-making authority. Even in cases with significant supporting evidence and collaborating documentation from professionals involved with the family, several PCs reported discomfort in making decisions and preferred those to be ones best exercised through the court based on recommendations from the PC.

DISCUSSION

The results of the research were generally consistent with other recent studies on parenting coordination (Beck, et al, 2008; Kirkland & Sullivan, 2008) concerning the major issues related to the PC process and cases. In addition, this research offered a detailed look at PCs' thinking case specific issues using case-based vignettes (Myers & Wasoff, 2000) and considered the interrelationship of the roles and functions of PCs as a framework for assessing practices outlined in AFCC's Guidelines for Parenting Coordination (2005). Of particular interest in this paper was the relationship of PCs to attorneys, judges, and clinical and forensic mental health professionals.

PCs seem to rely heavily on the involvement of other professionals and seem to have a clear idea of the case management function they are asked to play in these cases. This ability to work with other involved professionals places a strong emphasis on the "coordinator" aspect of being a parenting coordinator. PCs seem to have developed some working understandings surrounding the roles allied professionals play in the parenting coordination process, especially attorneys, evaluators, and clinicians. One potentially beneficial process seemed to be missing from the PCs discussions in this study, parent education programs (Geasler & Blaisure, 1999; Pollet & Lombreglia, 2008). Effectively designed programs, especially those that emphasize experiential learning and hands-on

activities, have been demonstrated to provide skills that high conflict parents find beneficial (Geasler & Blaisure, 1998). Given the importance many PCs placed on their own educational function, it would seem that some support from these programs could only help.

While parenting coordination has been developing for some time in some areas, it appears to still be in its infancy in most. As the practice continues to develop and is introduced into new areas it is crucial that research evaluating the practitioners, process, and outcomes continue as well. It is incumbent on researchers, practitioners, courts, and associated professionals that positive partnerships be developed which will allow for the best practices and policies to develop to serve the children caught in the middle of high conflict custody disputes.

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