

Legal System Response
 Causes and Solutions to Dysfunction
 C.A. Childress, Psy.D.

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A true story from the courts

Childress, 2023

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High Road – Dorcy Pruter
 Childress & Pruter. (2019).
 American Psychological Association

The graph shows three data series: ABA (blue), CDBR (orange), and SCS (grey) across phases A, B, and A. The y-axis ranges from 0 to 8. Data points are circled and numbered 1 through 12.

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Three Years of No Court Response

MH 1: "The father displayed in my office the most extreme, antagonistic, narcissistic-based behavior I have ever seen. The father's full manipulation of the child has completely dominated every area of his life, school, friends, [and] family... The child lives in constant fear of displeasing his father, and has no independent thinking, apart from what his father requires."

MH 2: "It is my belief that <child name> is a victim of Child Psychological Abuse from his father. It is my belief that the messages <child name> has been receiving from his father have resulted in significant psychological harm to the child."

MH 3: "It is clear to me that <child name>, who lives with his dad and gets a few hours per week of visitation with his mom, has been mentally and emotionally abused by his father for the past year."

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The problem

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Two Broken Systems

Two systems are involved

- **Legal System:** the point of first contact surrounding child custody conflict
- **Mental Health System:** the primary domain of the problem's identification (diagnosis) and resolution (treatment) - the problem at its core is a pathology

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Broken Mental Health System

- The source is the broken mental health system.
- This is a pathology. That is the responsibility of the mental health system to solve.
- The broken mental health system is not providing the courts with the necessary information needed for the court's decision-making.

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Broken Legal System

While the source is the broken mental health system, the legal system response is also separately broken.

- Zealous advocate role is not appropriate for family court conflict involving possible child abuse.
- No planning. No preparation.
- When doctors don't diagnose, judges become doctors. Everyone is out of their proper role within the systems.

Forensic Psychology

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Custody is a False Focus

The issue is **not** custody schedules. The issue is pathology.

- Custody decisions are simple.
 - 1) 50-50
 - 2) Every-other-weekend
- The issue adding complexity is the **conflict** surrounding the child's attachment **pathology** and the corresponding concerns for child **"safety"**.
- This represents a manipulation of the courts by a narcissistic-borderline-dark personality parent.

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This is not normal

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Normal People Solve Custody

From Saini & Birnbaum (2007): "Hetherington, Stanley-Hagan and Anderson (1989) note that 90 percent of custody matters are settled before the parents even reach the courts." (p. 19)

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Pathological Parents are High Conflict

From Horan, Guinn, & Banghart (2015): "Consistent with calls from prior research, the aim of this study was to understand how reports of the **Dark Triad** (e.g., subclinical narcissism, subclinical psychopathy, and Machiavellianism) related to **conflict communication** in romantic relationships. Results indicated that individuals reporting higher levels of the **Dark Triad** personality structure also reported more **frequent disagreement** that was also **intense and hostile.**"

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Dark Triad & Four Horsemen of Conflict

From Horan, Guinn, & Banghart (2015): "Moreover, **Dark Triad** personality reports were directly related to the use of contempt, criticism, stonewalling, and defensiveness, messages collectively known as the **Four Horsemen** as they **predict relational termination** (e.g., Gottman, 1993; Gottman & Levenson, 1992)."

Horan, S.M., Guinn, T.D., and Banghart, S. (2015). Understanding relationships among the **Dark Triad** personality profile and romantic partners' **conflict communication**. *Communication Quarterly*, 63, 156-170.

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Dark Triad & Manipulation

From Giammarco & Vernon: "First cited by Paulhus and Williams (2002), the Dark Triad refers to a set of three distinct but related antisocial personality traits: **Machiavellianism**, **narcissism**, and **psychopathy**. Each of the Dark Triad traits is associated with feelings of superiority and privilege. This, coupled with a lack of remorse and empathy, often leads individuals high in these socially malevolent traits to exploit others for their own personal gain." (Giammarco & Vernon, 2014, p. 23)

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Normal Doesn't Do This to Children

From Donner (2006): "As many as half of all marriages end in divorce, and 90% of parents make their own custody arrangements. Fewer than 4% of custody disputes result in litigation (American Psychological Association, 1994; Melton, Petrila, Poythress, & Slobogin, 1987)."

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Custody Focus is a Symptom

The focus SHOULD be toward treatment – this is a pathology- not on custody, a custody conflict is a **manipulated** focus.

- The pathological parent DRIVES decision-making into the **courts** by creating disruptions to custody.
- The pathological parent disrupts custody by creating (and then exploiting) the child's induced attachment pathology and "**safety**" concerns (overt or implied).

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Court Manipulation – Machiavellian Manipulation

The courts are being used - manipulated:

- By triggering the court's response to **false safety** concerns from allegations (overt or implied) – they achieve a court-ordered protective separation from targeted parent (supervision during investigation).
- By exploiting **delays** inherent to the legal system to maintain the status quo of 100% custody to the pathological parent (and supervision of targeted parent) – allowing them the power to create the pathology.

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Spousal Abuse Goal

The narcissistic-borderline-dark personality parent is using (exploiting) the legal system and custody conflict as a weapon of emotional, psychological, and financial spousal abuse of the targeted parent – with the aid of attorneys (and court).

- Seeks to put the targeted parent on "trial" for being a bad parent (spouse).
- Seeks to publicly shame the targeted parent with allegations made in a public setting (declarations).
- Seeks to make it as hard as possible for the targeted parent to see their child.

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Child Abuse – Spousal Abuse

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The pathology is:

- DSM-5 V995.51 **Child Psychological Abuse**; pathogenic parenting by the allied parent (producing pathology in the child for secondary gain to the parent)
- DSM-5 V995.81 **Spouse or Partner Abuse, Psychological** using the child as the weapon

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Grooming the child into forming a “special relationship” of shared affection

Seduction of the child into a cross-generational coalition

Parental power with no hope of rescue

Psychological control and manipulation of the child to meet the emotional and psychological needs of the parent

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Four Diagnoses of Child Abuse

DSM-5 Child Abuse Diagnoses

- Child Physical Abuse
- Child Sexual Abuse
- Child Neglect
- Child Psychological Abuse

Psychological child abuse destroy the child from the inside-out.

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Forensic psychology failed to identify for the court the severity and nature of the pathology involved – child abuse.

Forensic psychology did a very bad thing.

Forensic psychology lulled the legal system to sleep in its response – no urgency.

There is urgency.

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Forensic psychology needs to end.

Clinical psychology needs to return – but they will refuse because it's too dangerous. We must solve the dangerousness of the family courts for the doctors... or the doctors won't come to the family courts.

This is child abuse. There is urgency.

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Starting Solutions

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Back in Our Lanes

Doctors: Doctors need to return to being doctors – doctors diagnosis and treat pathology.

- Custody decisions are the court’s decision. The question for doctors is what is the diagnosis and treatment plan?

Judges: Judges need to return to being judges – judges should not be diagnosing pathology, that’s not the role of judges

- Judges need to be receiving diagnoses from the doctors that are accurate and that the courts can rely on.

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We cannot blame the Court until we first get the Court the necessary information it needs for its decision.

This has not happened.

Forensic psychology has failed the child, failed the parents, and failed the courts.

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NY Blue Ribbon Commission on Forensic Custody Evaluations

<https://ocfs.ny.gov/programs/cwcs/assets/docs/Blue-Ribbon-Commission-Report-2022.pdf>

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NY Blue Ribbon Commission on Forensic Custody Evaluations

From NY Blue Ribbon Commission: “Ultimately, the Commission members agree that some New York judges order forensic evaluations too frequently and often place undue reliance upon them. Judges order forensic evaluations to provide relevant information regarding the “best interest of the child(ren),” and some go far beyond an assessment of **whether either party has a mental health condition** that has affected their parental behavior.”

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NY Blue Ribbon Commission on Forensic Custody Evaluations

From NY Blue Ribbon Commission: “In their analysis, evaluators may rely on principles and methodologies of **dubious validity**. In some custody cases, because of lack of evidence or the inability of parties to pay for expensive challenges of an evaluation, **defective reports** can thus escape meaningful scrutiny and are often accepted by the court, with **potentially disastrous consequences** for the parents and children.”

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NY Blue Ribbon Commission on Forensic Custody Evaluation

From NY Blue Ribbon Commission: “By an 11-9 margin, a majority of Commission members favor **elimination of forensic custody evaluations** entirely, arguing that these reports are biased and **harmful to children** and **lack scientific or legal value**. At worst, evaluations can be **dangerous**, particularly in situations of domestic violence or child abuse.”

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NY Blue Ribbon Commission on Forensic Custody Evaluation

From NY Blue Ribbon Commission: “These members reached the conclusion that **the practice is beyond reform** and that no amount of training for courts, forensic evaluators and/or other court personnel will successfully fix the bias, inequity and conflict of interest issues that exist within the system.”

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Recommendations

Legal System Response to Custody Conflict

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Recommendations

- 1) **Diagnosis** – obtain an accurate diagnosis and written treatment plan with outcome measures
 - Accept the diagnosis made by the mental health system
 - The mental health system has obligations. It has failed. The mental health system must END its failure.
- 2) **Review & Revise Zealous Advocate** – it is not appropriate for child abuse issues (~~minor's counsel~~ – amicus attorney)
- 3) **Make it Safe for Doctors:** We need a standardized and agreed upon diagnostic assessment protocol – a Pilot Program for the Family Courts with university involvement.

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Consultation Resources

I have provided many resources available online:

- **YouTube** seminars and presentations
- **Handouts** available on my Consulting Website
- **Bookless** describing:
 - Narcissistic pathology in a parent (The Narcissistic Parent)
 - A structured assessment protocol (Assessment of Attachment-Related Pathology)
 - A Structured Treatment Intervention (Contingent Visitation Schedule)

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General Public Consultation

I hold general public consultations the first week of every month in my online office at doxy.me/drchildress.

- Scheduling is through my Consulting Website.

I will talk to anyone once to find out what they want to talk about. I'll talk with the general public. I'll talk with mental health professionals. I'll talk to legal professionals. I'll talk to legislators. I'll talk to reporters. I'll talk to Martians the first week of every month to find out what they want to talk about.

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Debate & Discussion

I recommend that the legal profession and law schools host online Debates and Panel Discussions on the issues needing professional attention, discussion, and resolution.

Debate: The Role of Forensic & Clinical Psychology in the Family Courts.

Panel Discussion: Finding Solutions for High-Conflict Custody Litigation

Seminars: The Diagnostic Assessment of Attachment Pathology in the Family Courts

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Allegations by Both Parents

Allegations by allied parent & child

- Child abuse in some way by the targeted parent
physical – sexual – neglect – psychological

Allegations by targeted parent

- Child Psychological Abuse by the allied parent
shared persecutory delusion and factitious
attachment pathology imposed on the child

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All

In all cases of court-involved custody conflict involving severe attachment pathology displayed by the child (a child rejecting a parent), a proper risk assessment for child abuse needs to be conducted to the appropriate differential diagnosis for each parent.

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