

CHILD VISITATION INTERFERENCE IN DIVORCE

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from **CLINICAL PSYCHOLOGY REVIEW, VOL. 14. NO. 8, 1994, p 737-742**

ABSTRACT. *Divorce related child visitation interference is a national problem, affecting six million children. Such interference may be acute or may represent chronic disorders, such as Parental Alienation Syndrome and Divorce Related Malicious Mother Syndrome. In certain cases, visitation interference is accompanied by vicious behaviors toward the noncustodial parent, including violence and violations of law. The present paper describes the problem of child visitation interference, associated clinical syndromes, and attributes of the legal system that perpetuate the problem. Absence of scientific research devalues psychological input to the courtroom. It is hoped that the present paper will contribute to the development of a body of scientific literature in this area.*

In recent years, the divorce rate has been similar to the rate of new marriages. Approximately one million divorces occur each year in the United States alone. The children involved in marital dissolution are commonly acknowledged as a vulnerable group (Hetherington & Arasteh, 1988). As parents often fight over custody and visitation, the demands placed on these children increase significantly.

To aid in the decision regarding custody and visitation, each state has developed guidelines for legal proceedings. Generally, these guidelines reflect the best interest of the child principle (Keane, 1990). It is assumed that frequent visitation with the noncustodial parent is an important right to both parent and offspring (Hodges, 1991). The overwhelming majority of custodial parents are female.

Unfortunately, the desire for ongoing and liberal visitation between child and nonresidential parent has frequently not kept pace with actual practices. The Children's Rights Council (1994) estimates that six million children in the United States have their visitation interfered with by the custodial parents. Two surveys support the range of this problem. Arditti (1992) reports that approximately 50% of divorced fathers relate that their ex-wife has interfered with visitation with their offspring. Similarly, approximately 40% of custodial mothers admit denying their ex-husband visitation in order to punish him (Kressel, 1985). In some cases, visitation interference has been associated with malicious unlawful acts against the father of such children (Turkat, in press). On rare occasions, a parent may actually kidnap the child.

The problem of child visitation interference has yet to be adequately addressed in the national media. Relatedly, there is an absence of research on the nature of child visitation interference, its etiology, or treatment. The purpose of the present paper is to raise awareness of the child visitation interference problem among psychologists. The first part of this article will describe some of the common types of child visitation interference situations that exist. The second part of the manuscript will discuss associated difficulties in handling this problem in the legal system.

TYPES OF VISITATION INTERFERENCE

Before discussing specific types of visitation interference, it is important first to describe "noninterference." Here, a child's parents divorce but the child is not estranged from either parent. The residential parent (typically the mother) encourages the child and the nonresidential parent to interact frequently and to be fully involved in each other's lives. The noninterference situation usually involves joint custody, which functionally results in joint decision-making by the parents in regard to their offspring. The child visits frequently with the nonresidential parent, speaks on the phone with the parent whenever needed or desired, and enjoys the benefit of that parent's involvement in school, extracurricular, religious, and other activities. State laws, reflecting the best interest of the child principle envision the noninterference situation in divorce involving children.

Unfortunately, it is becoming increasingly apparent that millions of children and parents are suffering from the problem of child visitation interference. From the clinical and legal literature, there appear to be at least three types of situations related to child visitation interference: (1) acute interference; (2) Parental Alienation Syndrome (Gardner, 1987); and (3) Divorce Related Malicious Mother Syndrome (Turkat in press).

ACUTE INTERFERENCE

The custodial parent who engages in acute interference has no systematic or devious plan for ongoing disruption of the relationship between child and nonresidential parent. Rather, the custodial parent intermittently or transiently denies visitation either through direct action (e.g., informing the nonresidential parent that his or her visitation is being denied) or passively (e.g., the nonresidential parent arrives to meet with his or her child and neither the custodial parent or the child are at home). Such instances of child visitation interference are typically associated with anger at the nonresidential parent for some matter (e.g. lack of payment of child support), poor advice by a friend, or other reasons (e.g. abusive behavior by the father toward the custodial mother -- see Shepard, 1992).

PARENTAL ALIENATION SYNDROME

In certain cases, child visitation interference is a direct result of a custodial parent suffering from a Parental Alienation Syndrome (Gardner, 1987, 1989). Here, the custodial parent engages in a variety of direct and indirect methods designed to alienate the child from his or her nonresidential parent. The result is that the child becomes preoccupied with unjustified criticism and hatred of the nonresidential parent.

Gardner (1989) has outlined four factors that he believes contributes to the development of Parental Alienation Syndrome. These include: (1) brainwashing, (2) subtle and unconscious parental programming, (3) factors arising within the child, and (4) situational factors.

Gardner (1989) uses the term brainwashing to refer to "...conscious acts of programming the child against the other parent" (p. 233). Examples include accusing the father of being an "adulterer" and "abandoner." Typically, the father is unjustifiably accused of providing too little money, sometimes to the point that the mother misleads her children to believe that terrible things will happen to them. When the father leaves the home, the mother may make statements such as, "your father has abandoned us," to teach the child that the rejection extends not only to the mother but to the offspring. Minor negative attributes of the father are exaggerated greatly. For example, the father who occasionally has an afterdinner drink is described as an alcoholic. Sarcastic comments are common, including statements to the child such as, "your wonderful generous father is finally going to spend a few dollars and take you to the movies!"

More subtle attempts to program the child against the nonresidential parent include comments such as, "there are things I could say about your father that would make your hair stand on end, but I'm not the kind of person who criticizes a parent to his children" (Gardner, 1989, p. 239). Clearly, statements such as this create much negative emotion in the child. In regard to visitation, the child in such a home becomes astutely aware of the mother's desire for the child to hate the father. To gain her acceptance, the child makes statements suggesting uncertainty or lack of desire to visit with the nonresidential parent. The mother suffering from Parental Alienation Syndrome may act in a "neutral" manner by communicating to the child that it is the child's decision whether or not to visit with the nonresidential parent. This "neutrality maneuver" helps to further alienate the father from his offspring by passively discouraging visitation; the child knows not to express desire to visit the "hated" parent.

Engendering guilt in the offspring is another common maneuver. A child who desires visitation with the father might be told, "how can you leave your poor old mother!" (Gardner, 1989, p. 241).

In regard to factors arising within the child, Gardner notes that the child's predivorce psychological bond with the residential parent is typically stronger than that with the nonresidential parent. Fearing potential abandonment from the residential parent, the child is more prone to join the mother in the parental alienation attempt. Gardner also believes that psychodynamic factors such as reaction formation and oedipal attributes sometimes are contributing factors to the development of alienation.

Finally, a variety of situational factors contribute to the development of the syndrome as well. For example, a child who views a sibling being punished for having expressed positive feelings towards the father will learn quickly not to express such feelings openly. A child who observes the mother verbally abuse the father may declare emotional preference for the mother for self-protection purposes.

Gardner notes that the Parental Alienation Syndrome varies in degree from case to case. While the overwhelming majority of adult cases are female, he believes that 90% of all custody battles reveal some aspects of the Parental Alienation Syndrome.

DIVORCE RELATED MALICIOUS MOTHER SYNDROME

Some cases of chronic visitation interference go beyond attempts at alienating a child from a parent. Turkat (in press) has reported on cases where the divorcing wife has attempted to get her divorcing or divorced husband fired from work, investigated for (falsely alleged) sexual abuse, publicly ridiculed, or physically harmed. From a variety of clinical and legal cases, Turkat (in press) has identified the Divorce related Malicious Mother Syndrome. The specific criteria for this disorder can be seen in Figure 1.

The disorder is characterized by the mother: (1) attempting to unjustifiably punish her divorcing husband; (2) interfering with the father's visitation and access to the child; and (3) engaging in a variety of malicious acts towards the husband, including lying and violations of law.

Turkat (in press) provides some dramatic examples of the kind of behavior engaged in by individuals suffering from Divorce Related Malicious Mother Syndrome: burning down the house of the ex-husband; falsely accusing the father of sexual abuse; manipulating mental health professionals to testify in court that the divorcing husband is in need of therapy (even when the mental health professional has never met the father); manipulating a secretary at a school to participate in kidnapping the child; informing her offspring that their father is not really their father; telling the father's boss, at his work location, that the father has abused his children; breaking into the residence of her divorcing husband and stealing important papers; and one woman who intentionally drove her car into the house of her divorced husband.

1. A mother who unjustifiably punishes her divorcing or divorced husband by:
 - A. Attempting to alienate their mutual child(ren) from the father
 - B. Involving others in malicious actions against the father
 - C. Engaging in excessive litigation
2. The mother specifically attempts to deny her child(ren):
 - A. Regular uninterrupted visitation with the father
 - B. Uninhibited telephone access to the father
 - C. Paternal participation in the child(ren)'s school life and extracurricular activities
3. The pattern is pervasive and includes malicious acts towards the husband including:
 - A. Lying to the children
 - B. Lying to others
 - C. Violations of law
4. The disorder is not specifically due to another mental disorder although a separate mental disorder may coexist

FIGURE 1. Diagnostic criteria for Divorce Related Malicious Mother Syndrome.
(Adapted from Turkat, in press, with permission of the publisher, Plenum Publishing, New York.)

Divorce Related Malicious Mother Syndrome is a serious disorder. Turkat (in press) has noted that such individuals rarely see themselves as having a problem, are adept at manipulating others in the campaign against the father, and are skilled fabricators. The classification, etiology, and treatment of such cases is unknown.

VISITATION INTERFERENCE AND THE JUDICIAL SYSTEM

The reader unfamiliar with divorce and custody proceedings may be perplexed as to why behaviors such as the ones cited above are permitted. Technically, they are not permitted. However, from a practical perspective, there is little that can be done to prevent such actions.

The legal system has a variety of attributes that unfortunately help to perpetuate child visitation interference by a parent who is dedicated to such interference. For example, most judges will demonstrate significant patience and "bend over backwards" to allow each side to adequately present the case at its own pace. Unfortunately, the benefit of giving everyone his/her "day in court" slows the process considerably. Attorneys who wish to stall, postpone, or delay hearings have little difficulty doing so in most cases. Often, these are deliberate tactics utilized in a custody battle. Thus, a parent who might be charged with visitation interference may not have to appear before the judge on the issue for months after the fact.

An additional complicating factor is the expense. Attorney fees can run as high as \$300 per hour or more. Few individuals can afford repeated appearances in court as the bills mount exorbitantly. This proves especially straining to a family that must now divide its income and assets into two separate households.

A further complicating factor is that the court system can be powerfully manipulated by a good liar (Snyder, 1986). Research shows that detection of fabrication is generally poor (Ekman & O'Sullivan, 1991), and this provides an additional problem when it comes to child visitation interference. For example, a father who accuses the other parent of interfering with visitation may find that the other parent not only denies such interference but accuses the nonresidential parent of not appearing at designated visitation times. As there are typically no witnesses, the court is left in a quandary. Relatedly, a parent who has continually interfered with visitation may state in the courtroom that he or she will comply with the nonresidential parent's visitation request. Immediately following the hearing, the custodial parent returns to the visitation interference pattern, knowing that months may go by before a return to court.

An additional difficulty is that there is often a lack of potent consequences for custodial parents who engage in child visitation interference. A mother who interferes with visitation typically will be warned by the judge that she will be held in contempt of court. Unfortunately, this does not really amount to much more than merely "slapping her wrists." Rarely are custodial parents who interfere with child visitation imprisoned, penalized financially, or forced to lose primary residential custody of the children. As such, many parents who are aware of the court's ineffectiveness take full advantage. It should be noted that the judicial system is well aware of its own inadequacies in this area (see the Commission on Gender Bias in the Judicial System, 1992).

In recent years, the courts have facilitated growth of mediation either by mental health professionals or by attorneys as an alternative to the adversarial process of the courtroom. Unfortunately, it only takes one unreasonable or uncooperative parent to sabotage the mediation effort. The parent who utters words of cooperation and then violates these words by actions outside of the mediation room frustrates the process.

Finally, when mental health experts are asked to provide input to the court on visitation matters, the absence of sound scientific research findings hampers the contributions that such experts can make. Accordingly, judges often receive widely varying opinions which sometimes serves to depreciate the value of mental health input in the courtroom. At times, the mental health "expert" is in fact, incompetent (Turkat, 1993).

CONCLUSION

Each year millions of children are denied visitation with their nonresidential parent. Little is known about the nature of such interference, the causes of such interference, or how to treat such interference. Until this issue becomes the focus of scientific research, it would appear that psychologist input into the courtroom is significantly compromised. Given that millions of individuals are suffering, it behooves the profession to begin to address this important and perplexing problem.

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