PSYCHO-SOCIAL ISSUES AS THEY IMPACT ON CO-PARENTING AND ATTORNEY CASE MANAGEMENT

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Personality and other Psychological Disorders

- American Psychological Association says that 15-18% of the population has a personality disorder (APA, 2000).
- Increase in our society and in courts cases
- High intensity emotional cases that distort information and engage in self-defeating behaviors.
- Seems to be attracted to litigation.
Impact:

- Prolong the legal process
- Pursue unfounded or exaggerated claims
- High level of hostility
- Even with a positive or neutral outcome, their perceptions do not change.
- Long history of dissatisfaction with their lawyers, judges and other professionals such as financial and mental health professionals.
Personality Disorders

- 1. Cognitions
- 2. Affectivity
- 3. Interpersonal Functioning
- 4. Impulse Control

The pattern is *enduring, inflexible and pervasive* across a broad range of personal and social situations.
Personality Disorders Most Commonly Seen in Family Law Cases

Cluster B

- **Antisocial personality disorder**: manipulative, impulsive, lack of empathy or a conscious, disregard for rules, laws, morality

- **Borderline personality disorder**: extreme “black and white” thinking, instability in self image and relationships

- **Histrionic personality disorder**: attention-seeking, inappropriate sexual behaviors, exaggerated/dramatic actions

- **Narcissistic personality disorder**: need for adoration, uses others for gain, unremorseful, extremely success and power-driven
Cognitive Distortions

- All or nothing thinking- seeing things in absolutes. “The other lawyer is all bad.”
- Emotional reasoning- assuming facts from feelings. “My child is sad so he must have abused her.”
- Personalization: taking unrelated events personally.
- Fortune telling: believing that you know the outcome of events. “My judge will rule in my favor.”
Cognitive Distortions

- Mindreading: you know what others think and intend
- Over generalizing: drawing huge conclusions from minor/rare events
- Projection: blaming others for thinking, feeling or behaving in ways that you are actually thinking
- Splitting: seeing people as absolutely all good and absolutely all bad; so the “all good” person is justified in extremely fearing, hating, or hurting the “all bad” person
Clients with other impairments

- The traditional attorney–client relationship is based on a relationship that contemplates the exchange of ideas and joint decision making. When for some reason or due to some condition the client cannot fully participate or participate at all, the lawyer must consider the issue of diminished capacity and how best to handle the situation.
There are other disorders that can sometimes present with some characteristics similar to a personality disorder. Examples include substance abuse, Bipolar disorder, Post Traumatic Stress Disorder and Attention Deficit Hyperactivity Disorder. The distinction is important because some disorders are more amenable to treatment and have a better prognosis.
Other Mental Health Disorders

- Substance Use
- Sexual issues: Sexual Addictions
- Stokes/head injuries/dementias
- Major Mental Illnesses
- Eating Disorders
Attorneys are not psychologists and labeling clients has serious pitfalls. Not all personality disorders respond to the same treatment. Do not get drawn into the drama. Consider suggesting that the client see a mental health professional to help relieve the stress of the conflict. Most importantly, do not ignore this type of client when frustrated or angry, or you may be their next victim. Above all, take care of yourself first, confer with colleagues, and gain perspective.
Spectrum of Parental Gatekeeping and Reunification Therapy

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Spectrum of Parental Gatekeeping

- Gatekeeping derived from valid protection concerns
- Gatekeeping derived from anxious parenting or misguided parenting/co-parenting (without apparent valid antecedents)
Spectrum of Parental Gatekeeping (Cont.)

- Gatekeeping derived from alienation, estrangement, or direct parental interference
Gatekeeping derived from Parental Relationship Problems as cited in the Diagnostic and Statistical Manual-5 (DSM-5)

Reunification Family Therapy is a form of family therapy designed to repair (or develop) a child’s relationship with a parent or caretaker so that the child may engage in a meaningful and healthy relationship with the parent/caretaker.
Reunification Family Therapy (Cont.)

- Reunification Family Therapy was originally developed from dependency actions.

- But has also been utilized in Family Court, with deployed military parents, with incarcerated parents, with hospitalized parents, and with adult children and their parents.
Reunification Family Therapy In Family Court

- In cases of D.V. or abuse, the perpetrator and child survivor must have had their own treatment prior to initiating reunification therapy.

- It is assumed that the reunifying parent and the child are “Good to Go.”

Initially the Reunification Family Therapist works with each parent/caretaker individually, and the child individually prior to bringing the child together with the reunifying parent.

Often Includes Session-Work With Both Parents Together (Without the Child)

Reunification Family Therapy (Cont.)

- Reunification Family Therapy may include different configurations of people at different times in treatment sessions.

- And may include extended family members and step-parents/sibs.

The non time-sharing parent is taught parenting and communication skills and typically undergoes empathy training.

The time-sharing parent is also taught these skills and may undergo empathy training. The time-sharing parent’s resistance to reunification likely needs to be addressed at these sessions.

Often includes session-work with both parents together (without the child) to enhance communication and co-parenting and to reduce conflict – If there is no order of protection in place or if the judge modifies the order of protection for Reunification Family Therapy

The anxiety of and safety planning with the child are addressed in individual sessions prior to meeting with the non time-sharing parent.

The child’s resistance as well as the parent’s resistance are also addressed during these sessions.

Homework: Between-session work is necessary to facilitate application of new skills

Reunifying parents ARE Disney World parents such that they do not have parenting leverage for a period of time

Must include important others in the process including guardians ad litem and individual therapists, for example

For Family Court and Dependency Court, transparency is important – Waiver of confidentiality for clinician to speak with attorneys, GAL, and to testify in court as well as to speak to other treating clinicians

Time-Sharing and Non-Time-Sharing Parents Both Need “Skin-in-the Game.”

Reunification Family Therapy is NOT

1. Parenting Coordination (although parents are included)
2. Assessment
4. Mediation
5. Individual Therapy

Case Management Techniques for the Attorney
Golden Rules

- Treat all clients with respect and dignity, no matter how they present
- Don’t take on their dysfunction
- Explain everything in writing, more than once
Mental Illness v. Personality Disorder

- Mental Illnesses are treatable and can be improved upon with counseling and medication.
- Personality Disorders can be managed through treatment but it is typically a long term treatment.
Initial Interview

- Attorneys are not trained mental health professionals and should not diagnose
- Informal assessments may be critical to adequate representation
- Is this a type of client you can and want to represent?
Questions to Ask

- People feel stigmatized by a diagnosis and will fail to report.
- Ask open-ended questions that provide insight on how your client’s mind works (don’t just stick to the pertinent facts).
- Observations as to body language and cues.
- How did they physically get there?
- What materials did they bring and how are they organized?
- How emotional are they?
- Behavior after first impressions.
Techniques on How to Handle

- Verification of information: Medications—have them take pictures of their pill labels. Names of therapists—last time they saw them
- Make therapy a condition of representation? Waiver?
- Use of guardian
- Third parties during meetings; confidentiality issues
- Use of consulting expert, parenting coach
Other Techniques

- Ask about hospitalizations and get records release from client
- Discuss in advance how a client communicates with spouse early on, develop guidelines for how-to talk to spouse
- Staff the case. Do you have enough staff to handle? Their training?
- Client’s goals will change during the course of the case, check in and make sure you are aware of the changes
- Deal with problems immediately
- Develop an agreed upon method of communication between lawyer and client: weekly phone call or a weekly email about tasks pending and deadlines
Depression

- Non-responsive, not involved in the case
- Go to the client
- Efficient use of time when with client: use the time before and after a hearing to work with the client
- Lots of preparation
- Prepare a memo of deadlines and reminders for all tasks
- Continual follow up
Anxiety

- Typically functions with avoidance, paralysis, indecision and over-involvement
- Lots of what ifs, lots of phone calls
- Responsiveness will keep down the anxiety
- Clients will focus on non relevant and minor issues
- Deals in the emotional realm rather than logic
- Needs to hear reassurance a lot
- Can’t process information well
Narcissistic and Borderline

- Feel like they are not being taken care of
- Feel disregarded or disrespected
- Active participants in their legal matters
- Demand 100% attention, want return phone calls immediately
- Tendency to blame everyone else for all problems
- Suicidal behavior may occur
Techniques for Narcissistic and Borderlines

- Always set expectations in writing
- Maintain objectivity
- Memos outlining potential negative outcomes are critical
- Regular and continuing contact, make them feel like you have all the time they need to talk to you, do not rush or pressure them to finish because you have another appointment
- What’s wrong (too big of a question) v. parse out the issues and deal with them individually (what did they do to you? When did this happen?)
- Need to deal with their feelings in addition to the legal issues, stay calm
- Solutions not as important as the need to be heard
Obsessive Compulsive

- Overthinker- can’t make a decision because too much input needed
- Researcher to the Nth degree
- Needs clear deadlines
- Can be of great assistance, give them tasks to fulfill their need to research
- Organized
Impulse Control Issues

- Explosive, become enraged
- Out of control with handling issues amongst family and friends
- Make sure they understand that the children cannot be involved in making decisions about the litigation
- Communications with others is inappropriate
- Limit the manner and content of communication
Ethical Concerns

- Higher likelihood of grievances
- Obligation to make sure they understand legal advice
- Make sure client is competent to assist in their representation
- Best way to manage the case: Litigation v. settlement, impact of opposing counsel on client
- Does this client have the ability to adequately disclose all financial information? Use of experts/paralegal to assist?
Other Concerns

- Can the client afford the extra time and costs it will take the attorney to manage this case? Check in on billing/payment status regularly.
- Withdrawing from a case midstream can have major repercussions on the client’s mental state.
- Can this client handle a deposition? A trial?
- Genetics: children can have same issues.
- HIPPA