



# Collaborative Divorce: Some New Roles for Psychologists

Daniel B. Pickar, PhD, ABPP

**F**orty percent of all children growing up in America today will experience a parental divorce. Finding effective and healthy ways to assist families undergoing separation and divorce remains one of the great challenges in both the family law and mental health arenas. Parents who have child custody disputes and enter the court system often move from being the decision-maker in matters pertaining to their children, to risking the disempowerment that can occur when a third party decides their children's future. Over the last 25 years, divorce mediation, with its' emphasis on parental self-determination, has been the primary alternative dispute resolution option available to parents who want to resolve their divorce and child custody issues outside of the court system.

A more recent innovative alternative dispute resolution approach, Collaborative Divorce, was pioneered by a family law attorney

named Stuart Webb about 15 years ago (Webb & Ousky, 2006). Collaborative Divorce has now burgeoned into a major movement, presenting a new option for divorcing couples to resolve disputes respectfully and equitably without going to court. There are now collaborative practice groups in 11 countries, with 204 collaborative practice groups in the United States, and 32 in California.

The 21<sup>st</sup> century has seen increased collaboration between the mental health and legal systems in the family courts (Deutsch, 2008), many of which have involved the use of psychologists, including child custody evaluations (Pickar, 2007), parent-coordinators (Sullivan, 2008), and court-appointed co-parenting therapists. Collaborative Divorce has been spearheaded in California by such a partnership, notably, the influential work of Pauline Tessler, a family law attorney, and Peggy Thompson, Ph.D., a psychologist (Tessler & Thompson, 2006). This article presents a brief overview of the Collaborative Divorce process, followed by a delineation of the two specialized roles in which psychologists (as well as other licensed mental health professionals) can serve families in Collaborative Divorce, namely, as Collaborative Coaches and Child Specialists.

## Collaborative Divorce in a Nutshell

Collaborative Divorce (also known as Collaborative Practice or Collaborative Law) is an alternative dispute resolution approach that provides a way for divorcing couples to negotiate the terms of their divorce, including time-share arrangements for children, without litigation. Collaborative Practice has also been successfully applied to civil and probate matters. In Collaborative Divorce, each parent has an independent attorney for legal advice who has received specialized training in Collaborative Practice, including the mediation skills of interest-based problem-solving, managing impasses, and option generation and brainstorming techniques (Folberg, Milne, & Salem, 2004). In Collaborative Divorce, as in mediation, the parties and their attorneys commit to both an open information gathering and sharing process, and to a resolution of their differences without going to court. In fact, at the beginning of a collaborative divorce process, the collaborative professionals and clients sign a participation agreement, specifically stating that the process is confidential, records cannot be subpoenaed, and if one of the parties decides to go to court, the collaborative professionals will withdraw from the case (Tessler, 1999). This is important, as "going to court" can often become a weapon or threat that derails communication rather than moving the parties towards a settlement.

Parents who choose Collaborative Divorce initially decide which

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collaborative attorneys they will each retain, followed by their selection of other collaborative professionals, which almost always includes Divorce Coaches. If children are involved, a Child Specialist is chosen. Financial Specialists may also be utilized in the process to gather financial information and provide projections. Parents initially have meetings with their attorney and divorce coach, followed by a 6-way meeting with the entire collaborative team (i.e., parents, coaches, and attorneys) to discuss the collaborative process, develop a list of issues requiring resolution, and to make any necessary interim arrangements regarding children or finances. An information-gathering plan is developed for each case, depending upon the needs of the family. Six-way meetings continue to be the primary means for exchanging and clarifying information, for identifying mutual interests, and for brainstorming options for resolution of issues, with the ultimate goal of arriving at a divorce settlement and parenting plan agreement (Conner & Anderson, 2008).

### The Role of the Divorce Coach

In the collaborative process, each parent has a Divorce Coach, who is a psychologist or other licensed mental health professional with considerable training and experience in working with divorcing families and mediation. Knowledge of family systems therapy is essential, because coaches are not just working with individuals, but with a complex family system that is breaking down and reorganizing, typically under highly stressful circumstances.

Divorce Coaching is not psychotherapy or psychological treatment, but does assist parents with their emotional reactions and

management of stress due to the separation or divorce. Coaches also teach constructive communication and negotiation skills. This process helps parents not only arrive at agreements in the Collaborative Divorce process, but also in their future co-parenting relationship (Tessler & Thompson, 2006). As Deutsch (2008) states, "the goal of the divorce coach is not to understand the causes of behavior, but to address the emotional issues that interfere with the collaborative divorce process" (p. 47).

Coaches initially meet individually with their client for one or more sessions, prior to engaging in either 4-way (i.e., parents and coaches) or 6-way (i.e., parents, coaches, and attorneys) meetings. When parents work with coaches, emotionally charged issues can be aired in the safety of the 4-way coaching meetings, so that they are less charged in subsequent 6-way meetings with attorneys. Helping parents talk with their children about the separation, while not denigrating the other parent, is one of the earliest and highest priorities in the coaching process.

Coaching helps divorcing partners learn to communicate in a business-like manner, a skill which is crucial when trying to resolve problems, make decisions, and effectively co-parent children. Coaches also help the collaborative team identify and address emotionally-based obstacles to settlement. As Webb and Ousky (2006) state, "We estimate that about 20 percent of what we deal with in a divorce matter is legal – the remaining 80 percent is emotional. Having coaches on the team allows the lawyers to stay centered on what we know best – the law and reaching mutually satisfactory settlements" (p. 89).

### The Role of the Child Specialist

Child psychologists are particularly suited to serve as Child Specialists in a Collaborative Divorce, but psychologists or other licensed mental health professionals with training and experience in child development, family systems, and the needs of children and families undergoing divorce may also be well-suited for this role. Most approaches to divorce lack a built-in mechanism for involving children in a constructive way. Children are often left out of the process and given neither a voice, nor a meaningful chance to participate in the decisions that will affect them. Through the use of the Child Specialist, Collaborative Divorce provides children a voice in shaping the parenting and time-share plans by which they will live. The Child Specialist helps the parents focus on the needs of the children, by providing insight into how the children are coping with the divorce, and offering options for time-share arrangements which may best suit their developmental needs.

Prior to having individual interviews with children, the Child Specialist conducts joint and/or individual meetings with parents to understand their concerns about their child and co-parenting with the other parent. The purpose of the individual meetings with each child is: 1) to assess the children's functioning in the context of separation or divorce; 2) to understand the children's view of each parents' parenting skills; 3) depending upon the age of the child, to explore, either directly or indirectly, parenting plan options which include listening to the child's time share preferences. At the request of the parents, the child specialist might also make collateral phone calls to teachers and therapists for the children, as well as conduct

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parent-child observations in the office or home, to provide feedback about parenting skills. Behavior rating scales, such as the BASC-II or Child Behavior Checklist, might also be administered as screening instruments, to provide parents with feedback regarding possible psychological or emotional difficulties the children may be experiencing which may require further assessment or treatment by other mental health professionals.

Lastly, the Child Specialist participates in a 5-way meeting with the parents and coaches, to present information gathered during the process regarding the children's adjustment to the divorce, as well as to provide education regarding factors which enhance children's adjustment to divorce. The Child Specialist also provides assistance to parents in developing a time-share plan which is developmentally appropriate and sensitive to the children's needs and desires.

### A Mental Health/Legal Partnership

Collaborative Divorce relies upon a vital partnership between the mental health and legal professions. The skills and expertise of both professions are combined to facilitate mutual resolution, to reduce conflict, enhance co-parent communication, and negotiate appropriate parenting plan arrangements for the children. In contrast to litigation, Collaborative Divorce is faster, minimizes the emotional effects of the divorce process on all members of the family, and lays the foundation for a healthier relationship after the divorce. [4]

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