

Adequate Evaluation of Divorce-related Child Sexual Abuse Allegations

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The accepted child protective service model for evaluation of sexual abuse is inadequate for divorce-related cases involving young children. Three cases illustrate that lack of contact with the alleged offender and lack of pursuit of alternative explanations for phenomena presented as indicative of sexual abuse predispose to "finding" abuse. It is suggested that such agencies engage experienced child and family clinicians to help with these cases.

Divorce-related child custody and visitation questions are frequently referred for evaluation by domestic relations courts to child psychiatrists and other child and family clinicians. When sexual abuse is alleged in a divorce-related situation, however, a very different kind of scrutiny is generally brought to bear. Such an allegation triggers a legally mandated evaluation, which is the responsibility of child protective services, and the evaluation is carried out by personnel of these agencies. The differences in clinical experience and approach between child and family clinicians and

agency workers appear to predict outcome.¹⁻³ This paper discusses three cases of divorce-related child sexual abuse allegations involving young children in which child protective service evaluations had determined that the father had sexually abused the child and subsequent psychiatric study determined that sexual abuse had not been substantiated. It is suggested that divorce-related allegations of sexual abuse involving young children pose special challenges for evaluation and that child protective and law enforcement agencies avail themselves of child psychiatric consultation in these types of cases.

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The Clinical Practice of Child Custody and Visitation Consultation

Clinicians who work in the divorce-custody area are particularly attuned to the power of children's alignment with parents. In the average custody contest

where the child is attached to both parents, it is customary that every attempt be made to see the child in circumstances that allow as valid as possible a view of the relationship with each parent. In the case of the noncustodial or less custodial parent, the clinician tries to arrange to see the child with that parent at the end of a visit. If the custodial parent were to bring the child to the office to meet with the noncustodial parent, the child may be inhibited, if not sometimes overtly hostile, in relating to the latter. The part of a child's mind that has a positive attachment to the noncustodial parent may have very limited expression in the home and even in the presence of the parent with whom the child is aligned.^{2,4-6} The evaluator takes care that the child is seen with the parent with whom he or she is currently settled in and at ease. Often the evaluator arranges to see the child in each home as well to observe the living arrangements, types of toys provided, and other information that may provide material regarding the relationship between the parent and child. In addition to seeing the child settled in with each parent, it may also be important to view the child's transitions from one parent to the other.

Failure to create a clinically neutral atmosphere may distort the clinical findings. If the child perceives that the clinician has talked only with the mother, for example, and only she brings the child to the clinician's office, the child tends to see the clinician as aligned with the mother and the clinician's office tends to be experienced as within mother's sphere of influence. In this circum-

stance the child is likely to remain in a mother-congruent attitude. A one-sided evaluation can also stimulate distortions within clinicians, who may incorporate the projections of people with whom they are in contact on the unknown recipient of those projections.

The issue of parental power or influence can of course figure importantly in valid allegations of abuse. A boy separated by time and distance from his father may be able to disclose what previously he could not. Similarly his mother, under those circumstances, may be able to believe what previously she could not.

Divorce-related Child Sexual Abuse Evaluation

Perhaps the greatest divergence between the practice of most clinicians who occasionally or as a specialty practice engage in evaluation of alleged child sexual abuse and the practice of child protective agencies relates to contact with the alleged offender. In some states, the alleged perpetrator is interviewed by law enforcement personnel exclusively. In other states, protective services workers can interview the alleged perpetrator if they have the time and inclination. Experienced psychiatric clinicians advocate contact with the alleged offender to carry out as comprehensive an evaluation as possible.^{1,7-10} In contrast, a survey of agency workers found that fewer than half sometimes interview the alleged offender, and 96 percent usually do not interview the child in the presence of the alleged offender.¹¹

Most clinicians are very aware of the need to try to interrupt any potential

Divorce-related Child Sexual Abuse Allegations

alignment and the distortions that may result. The comprehensive approach commonly taken in routine child custody and visitation evaluations is, if anything, even more important when sexual abuse of young children has been alleged in divorce-related situations. This approach has been misunderstood, however. An author has noted that several child psychiatrists as well as the American Academy of Child and Adolescent Psychiatry (AACAP) have "advocated the use of a conjoint parent-child interview to decide whether the parent has sexually abused the child"¹² None of these psychiatrists nor the AACAP has indeed taken that position; rather they have advocated conjoint interviews with the alleged abuser to try to understand optimally the dynamics of the child's situation. The observation that a child has a good relationship with a parent does not preclude that parent's having sexually abused him or her. What is missed, however, if one does not include the alleged abuser in the evaluation, is the opportunity to discover additional clinical issues that may be key to evaluation of the alleged sexual abuse.

Cases referred to psychiatric consultants are essentially all within the juvenile and domestic relations court jurisdiction and, generally speaking, involve an accuser and an accused who is struggling to retain contact with his/her children. The case comes to the psychiatric consultant usually as a result of the accused's efforts, and the accused is willing if not eager to cooperate. These are not criminal cases, so the issue of potential self-incrimination by the alleged abuser

does not arise. The alleged abuser's attorney often has the pivotal role in initiating the psychiatric consultation.

Although the greatest divergence between evaluations done by child protective service workers and those done by private clinicians has to do with the comprehensiveness of the evaluation and most specifically contact with the alleged abuser, there are other differences. Protective service evaluators generally have less training than clinicians experienced in divorce work, rely heavily upon anatomically explicit dolls, and spend much of their time assessing complaints of sexual abuse involving children of all ages.¹¹ They do not tend to be oriented to the clinical intricacies of the dynamics of families of divorcing parents.

There are still further problems. The literature echoes the growing consensus that the only symptom considered to be relatively specific for sexual abuse is sexually inappropriate behavior.^{3, 9-18} However, sexually inappropriate behavior does not appear in all cases and when it does appear, it is not always indicative of sexual abuse. Child protective service workers often give credence to general symptoms of anxiety as important indicators of child sexual abuse. In difficult divorces, these symptoms are especially powerful when the child crosses from the custodial parent's to the noncustodial parent's field of influence.

Three Cases

Justin Justin's mother reported that at age 4, Justin touched a doll to his penis a number of times while making

kissing sounds. The mother, alarmed, asked, "Who does that to you?" "Daddy," Justin replied immediately.

This 4-year-old was a child whose mother had intense negative feelings regarding the father. The words, "Who does that to you," were certainly not casually said, and the boy was very likely to sense mother's emotion as anger. His discomfort at that moment was surely exacerbated by his awareness that it is not quite right for him to be touching his penis in public. His first impulse was to deflect the assumed anger. For Justin there was a strong precedent already developed for the object of mother's anger and that was daddy. When Justin provided the one word, "Daddy," required to answer mother's question, one can imagine that his relief was immediate as he slipped away from mother's anger and deflected it to his father. The impulse to respond "Daddy" could be strong whether or not sexual abuse had occurred.

Justin ultimately had sexual abuse "found." Only Justin and his mother were interviewed by the protective service worker. Review of videotapes of these interviews revealed overtly leading questions and multiple situations where it was unclear which of several questions Justin was answering. The interviewer repeatedly tried to get him to play with the naked, anatomically correct dolls, in spite of his clear lack of interest in doing so. She did succeed in getting him to "show me what you showed mother" with the dolls, which was thought by the worker to indicate definitely that abuse had occurred.

Justin consistently was negative about his father in these interviews. The uniformity of his negative statements was in stark contrast with the happy interactions Justin had in real life with his father during the subsequent visit to the father's home by the psychiatric consultant. One can assume that Justin saw the agency worker as allied with his mother, and he was telling the worker what he thought was expected of him.

During one protective service interview, Justin put tape around his fingers (thus immobilizing them) and then prompted the interviewer to say, "Help, help!" This was considered a sign of victimization and helplessness, confirming the interviewer's conclusion that Justin had been sexually abused by his father. A similar and benign game was observed by the psychiatric consultant in the father's home. The game played by Justin, an aunt (with whom the father lived), and his father consisted of one of the adults hiding, with Justin searching for, finding, and then handcuffing the victim, who then pleaded to be released.

Medical records revealed that Justin's mother had been sexually and emotionally abused as a child. Months before the sexual abuse allegation, she had required psychiatric hospitalization because of debilitating preoccupation with sexual thoughts. Psychiatric consultation with Justin that included extensive interviews with both parents, seeing Justin in the office with each parent, and making visits to Justin in both homes, determined that abuse was very unlikely to have occurred. Justin had a vital relationship with his father, and it was

Divorce-related Child Sexual Abuse Allegations

recommended that visitation be expanded.

Linda Four-year-old Linda's initial disclosure followed her noncustodial father's attempts to teach her about sexual touching. During a visit with her father, she implicated her stepfather. Soon thereafter while staying in her mother and stepfather's home, she implicated her cousin, who lived with Linda's father and stepmother. Surely the emotional force fields in each home influenced Linda to implicate someone in the home in which she was not currently staying.

The protective service evaluator interviewed only Linda and her mother. The girl's bed wetting, anxious behavior, and refusal to sleep alone were found to be "consistent with the behaviors reported in sexually abused children" by the agency evaluator. In meetings with the evaluator, Linda had drawn pictures "depicting aggression and anger." When she at one point touched a doll in the vaginal area, the evaluator asked, "Who does that to you?" "John," Linda replied immediately, implicating her cousin who lived in her father's home. This was the only statement made pertaining to the question of sexual abuse. There was no further discussion or elaboration of the topic.

The court subsequently ordered that Linda and cousin John be supervised at all times during visitation with her father. This inflamed an already incendiary custody dispute, and the father in turn succeeded in having the court prohibit Linda from being alone with her stepfather. Tensions continued to build

until the court requested "a more comprehensive evaluation."

The psychiatric evaluation consisted of interviews with each of the parties involved and several play sessions with Linda. Meetings with Linda were held after she had spent time in the custodial and visitation households, such that she was seen while settled in each environment. In addition, visits were made by the consultant to each of the homes while Linda was present. Finally, Linda's interactions with each set of parents were observed for extended periods from behind an observation mirror. The results of this evaluation suggested that it was unlikely that sexual abuse had occurred in either household and that there were alternative, more likely explanations for the behaviors noted in the initial evaluation. Affectionate, age-appropriate interaction/play was observed between cousin John and Linda both during the home visit and through the observation mirror. Linda showed none of the fear, anxiety, or reluctance to engage John in play that may have been expected if recurrent, traumatic sexual contact had occurred between the two. Rather than appearing angry at John, Linda actively sought to involve him in her play, which was free of sexual content. In individual sessions Linda did not demonstrate any of the behaviors one would associate with a child who had recently been sexually abused, such as sexualized play themes or inclusion of genitalia in her drawings. In individual meetings with the consultant, however, both Linda and her cousin John mentioned John's friend, Jimmy, as a

participant in sexual exploration. Linda said that both John and Jimmy had touched her private parts, and John said that Jimmy had touched his. It seemed likely to the consultant that some sort of nontraumatic sexual exploration had taken place and provided the context of the allegation.

If John did not sexually abuse Linda, an alternative explanation needed to be provided for Linda's regressive behaviors and the aggressive play themes noted in the protective service evaluation. At the time of that agency's evaluation, sexual abuse charges had recently been brought against Linda's stepfather. This had a dramatic impact on the custodial household. The stepfather responded with anger and withdrawal from both Linda and her mother. Faced with the potential loss of her new husband, Linda's mother became depressed and also began to withdraw from friends, family, and Linda. In addition to these changes in the custodial home, tension was extremely high between the two families. In such a situation regressive behaviors, nightmares, and separation fears would not be unexpected, nor would "pictures depicting anger and aggression" in the playroom. Linda was aware that the allegation of sexual abuse against her stepfather was responsible for the anger and withdrawal of her mother and stepfather within the custodial home. When the agency evaluator asked the direct question, "Who does that to you?" Linda without hesitation had responded, "John," implicating her cousin in the opposing camp, a response that

may be expected to relieve the tension in the custodial home.

Because the sexual abuse allegations in Linda's case were part of an intense postdivorce conflict, the findings of the psychiatric evaluation and the effects of the conflict on Linda were discussed at length with both families. Some trust was established between them, which resulted in a sharp reduction in Linda's symptoms.

Ken In this case, the psychiatric consultant was asked to study the record regarding Ken, a 2-year, 8-month-old boy. The child protective service evaluator had drawn her conclusions that physical and sexual abuse had occurred from what she termed "a lot of nonverbal behavior (none of it sexualized), choice of play materials, and ways to relate to others that are indicative of the child sexual abuse syndrome." This child spent most of his interviews with the evaluator in the presence of either his mother or grandmother. In Ken's presence, the mother told the evaluator what Ken had allegedly told her: "Daddy put his pee-wee in our [Ken and his two cousins] mouths and in our tails"; "Daddy put jelly beans on the bed, and I eat them after I eat his pee-wee"; "Daddy made me sleep in the garbage can"; and "Daddy put me in the toilet with his poo-poo and pee-pee." The child's father was never seen.

The evaluator repeatedly questioned Ken regarding the statements he reportedly made at home, but the child neither confirmed nor rejected any of the alleged statements. There is no indication that any attempt was made to understand the

Divorce-related Child Sexual Abuse Allegations

child's communications in terms other than as presented by the mother (i.e., sexual abuse by the father). It was noted in the record that at about the time the mother reported alleged sexual abuse of Ken, she had been admitted to a psychiatric hospital after reporting her boyfriend to the FBI as a spy for a foreign nation. This did not prompt the evaluator to seek a psychiatric evaluation of the mother or even to obtain a life history of the mother.

In this case the psychiatric consultant studied the clinical record and concluded that sexual abuse was clinically unproved, which led to a state-level reversal of the local child protective service finding of sexual abuse. Visitation with the father was reinstated and continued for several years. At age 7, Ken was murdered by his mother, who held that her action was necessary because Ken was the antichrist.

The Emotional Force Fields of Divorce

These cases remind those of us not working routinely in the divorce area how powerful and encompassing the child's orientation to the power and direction of parental force fields can be. An analogy may be made to magnetic resonance imaging—when the current is on, all the protons are forced to exactly the same orientation in relation to their cell nucleus; when the current is off, random placement may resume. This analogy is particularly apt for younger children. For older children, especially adolescents, the alignment tends to be more fixed. However, one occasionally

sees older children preoccupied over long periods of time with hatred and/or fear of the parent with whom they have not been living who report after a visit very good feelings for the noncustodial parent and thoughts of living with that parent. In an evaluation regarding custody or visitation, it is imperative that one at least be aware of this dynamic, even if one is precluded from structuring the evaluation in ways that may interrupt the force fields.

Experience in these types of cases also helps the clinician expand his or her perspective on psychotherapeutic work. The assumptions one makes in identifying themes should not be elevated to more than working models. Most of us would be fascinated by Justin's taping his fingers together and insisting that the clinician call for help. One indeed wonders how this particular game evolved in Justin's family, but its validity as a special communication to the clinician is lessened considerably when it is learned that it is frequently played by Justin at home with his father and aunt. More routine home visits in connection with psychotherapy of young children may enhance therapeutic efficacy. In forensic work these types of themes must be approached with particular caution. Without corroborating material, raising themes to the level of evidence is a dangerous, albeit unfortunately frequent, phenomenon.

Assuring Competence in Divorce-Related Child Sexual Abuse Allegations

The most worrisome aspects of routine child protective service practice in

divorce-related cases are a predisposition to "find" sexual abuse where there is no direct positive evidence for it, and a lack of consideration and pursuit of alternative explanations for phenomena reported by parents as indicative of sexual abuse. As one observer states, "Professional opinion in recent years has tended to lend support to allegations of molestation merely because the allegation exists."¹⁹ Even the title of a popular novel regarding an incident of alleged sexual abuse (not divorce related), *Presumption of Guilt*,²⁰ reflects the cultural assumption that sexual abuse inexorably occurs as alleged.

An author who holds that the alleged abusing parent should not be interviewed conjointly with the child says that one "must address the maltreatment first in a manner that facilitates disclosure. Once the issue of maltreatment has been resolved, issues related to custody and visitation can be pursued . . ."¹² When one considers the force field to which children are subjected in difficult divorces, one can see that statements and behaviors congruent with the agenda of the alleging parent are surely facilitated by the evaluator's developing a relationship with only that parent and the child's experiencing the evaluation as being within the dominant parent's territory. Working in this mode impairs gaining a general understanding of the child and his or her life circumstances and makes it unlikely that reasons other than sexual abuse will be considered and found to explain the child's statements and behaviors.

It is suggested that child protective

services develop a cadre of clinicians who can be consulted or who can carry out evaluations of divorce-related allegations of sexual abuse for the complicated cases involving children under 7 years of age. Evaluations should involve all the concerned parties, and conjoint interviews of the child with the alleged offender or offenders should be carried out unless specifically contraindicated. Home visits generally should be a part of such evaluations.

Although it is not currently an agency's role in these matters to do more than find sexual abuse in the service of protecting children, the damage to the child and the accused parent that may follow an erroneous finding of sexual abuse is immense. The child in such a situation not only loses contact with the alleged abuser but also is induced into an identity as sexually abused because of the importance of the issue to the alleging parent and because of repeated interviews and legal skirmishes.

Surely, the due process rights of adults can be relied on to force the creation of a more competent process regarding alleged child sexual abuse. In criminal cases, persons who cannot afford representation are provided an attorney at public expense. In the type of cases being discussed herein, a parent may be deprived of contact with a child on the basis of a brief, sometimes very biased process that often does not involve the alleged abuser at all. This model of evaluation in divorce-related cases tends to be dominated by and in compliance with the motives and emotional energy of the alleging parent. An evaluation process

Divorce-related Child Sexual Abuse Allegations

that is attuned to the mental processes of young children and to the psychodynamics of divorce would surely enhance the accuracy of determining whether abuse occurred. In cases where abuse has not occurred, an evaluator's sorting out of the distortions and misperceptions of the child and of the adults could be put to constructive use in a process of repair.

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