

# A Study of Families in High-Conflict Custody Disputes: Effects of Psychiatric Evaluation

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Each year approximately 2.5 million people divorce, subjecting more than 1 million children to the losses of familial breakup. Hostility in families can be greatly exacerbated by parents' repeated failures to negotiate an altered lifestyle for the family which provides for the children's best interests. Interventions with highly conflictual parents and their children must necessarily address the interface between the mental health and legal professions. How families experience this process must be carefully studied in order to create new strategies for change, not only within the families, but also to facilitate the legal system's cooperation with mental health professionals. To date, little research has been conducted which assesses the efficacy of methods used by mental health professionals to intervene in *contested* child custody cases. This paper describes a program at the Isaac Ray Center, Inc., designed to help parents settle their custody disputes out of court. The article presents findings based on an 18-month follow-up questionnaire and court records for 45 parents. Data concerning custody settlement, relitigation, and parents' satisfaction with the evaluation process, their attorneys, and the custody outcome are presented and discussed.

For the first time in our history, a married couple is as likely to be separated by divorce as by death, with the American divorce rate approaching 50 percent. Each year approximately 2.5 million adults become divorced, which subjects more than 1 million children to the losses involved in familial breakup.<sup>1</sup>

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It is estimated that more than half of the children born during the 1980s are likely to experience their parents' divorce by the time they are 18 years old.<sup>2</sup> Even in cases where parents are able to part amicably and agree on the allocation of future parental responsibilities, the children must endure changes which hold the potential to disrupt their development.<sup>3-9</sup> Situations where parents are in conflict over the issue of child custody have even greater potential to traumatize children.

Hostility between parents can be greatly exacerbated by their repeated failures to agree to an altered lifestyle for the family.<sup>10, 11</sup> Unfortunately, in such

situations, children can become the recipients of the emotional fallout resulting from the parents' struggles with each other over custody. This kind of parental conflict can cause children to be required to comfort their parents instead of being comforted and protected themselves.<sup>12, 13</sup> This becomes ever more harmful to the child as these conditions are protracted through months of litigation.<sup>14</sup>

Despite the fact that divorce in families with children is a common phenomenon in our society, little has been written about the methods used by mental health professionals to intervene in contested child custody cases,<sup>15-18</sup> and little exploration has been conducted which assesses the efficacy of these methods. This article describes a program which is designed to help parents in contested child custody cases to settle this issue outside of court and presents information based on a prospective 18-month follow-up questionnaire and court records.

### **Description of the Program**

The Center for Families in Conflict opened in 1980 as part of the Isaac Ray Center, Inc., which is affiliated with the Section on Psychiatry and the Law at Rush-Presbyterian-St. Luke's Medical Center in Chicago. The purpose of the Center is to provide evaluations and recommendations to families disputing child custody and/or visitation arrangements. A team, consisting of a child psychiatrist and psychiatric social worker, evaluates the family and makes recommendations to the attorneys about custody, visitation, and where appropri-

ate, the treatment needs of family members. Psychological testing is conducted when necessary. In addition, the Center's attorney reviews the final report to assure that the recommendation is legally acceptable and understandable. She also serves as a liaison between the team and the clients' attorneys. A detailed description of the Center's evaluation process can be reviewed in a previous article.<sup>19</sup>

Evaluations are referred through mutual agreement of both attorneys and their clients, or by court order. Evaluations begin with a screening interview by a social worker, during which the parents sign releases of information for reports from the children's school, pediatrician, and therapists, if any have previously worked with the family. Relevant hospital or other records also are sought. The evaluation process is explained, and the parents are told that the clinicians' recommendations will be based on their assessments of what will benefit the children most under the circumstances.

Once the initial interview is completed, every family member is interviewed by the team. The evaluators use their clinical expertise to determine what options to use. Within the process, family members are seen individually and in groups. Children are observed with each parent, and at times the entire family is seen together, or the parents may be seen together. When the children are age nine or younger, home visits are conducted. This approach provides the clinicians with a richer source of information than would self-report alone. Home visits also afford the clinicians an

## High Conflict Custody Disputes

opportunity to observe directly the child's social context: the house, neighborhood, and the child's room. The spontaneous familial patterns, including nonverbal or subtle forms of communication that occur between the parents and their children, can be observed in home visits.

Other individuals who may be interviewed by the team include grandparents, siblings whose custody is not being contested, housekeepers, or significant others. Teachers, doctors, and clergy are also contacted when appropriate. In short, a great deal of information is gathered from many perspectives in order to produce a comprehensive picture of the family relationships. Ideally, this broad range of information permits recommendations which achieve the best outcome for the child.

One of the most important aspects of child custody evaluations is the need to develop a recommendation based on a synthesis of all the information collected. However, this is often difficult because the choice can involve two parents who are approximately equal in parenting skills, or lack thereof. In situations where individual team members have arrived at different conclusions, the team approach allows for discussion and further observations, until a consensus can be reached. A fuller report of this process is available elsewhere.<sup>20</sup> The Center's attorney provides additional help by offering advice about what interventions are legally permissible, and what recommendations are likely to be acceptable to the clients' attorneys and to the court.

Once the evaluation is completed, and

the team has reached a consensus, a report is written which contains a summary of the recommendations and the reasons for them. The report additionally contains a description of the interviews, the other sources used, the clinicians' observations and comments, and the conclusions reached by the Center. The strengths and weaknesses of each parent are described in the report. The average evaluation takes 15 to 20 hours of professional staff time, including the attorney conference.

The report is released at a conference with all involved attorneys during which the team explains its findings and recommendations. The attorneys have an opportunity to discuss the recommendations and to explore, in a nonadversarial setting, all options available to their clients, in light of the Center's recommendations. Because the attorney has generally been exposed only to the client's perspective, the advantage of the conference is that it provides the attorney with a clearer picture of the entire family and particularly the needs of the children.

This conference also provides the attorneys with support in their communication with their clients when the evaluation has recommended that the parent other than the client should receive custody. In such cases, the attorney can explain to the client the perspective of the team, and the influence these recommendations would be likely to have on the court.

The Center's report can be helpful after the conference if the parents and their attorneys choose to release the report to subsequent treatment providers,

because it affords an objective evaluation from both parents' perspectives. Schools have also found the Center's report useful in allowing counselors and social workers to become aware of and more sensitive to the individual needs of the children.

### Method

This article is based on two sets of data on 45 parents who underwent an evaluation at the Center for custody or visitation disputes from 1981 to 1984. The first set is based on a follow-up questionnaire which parents completed one year to 18 months after their evaluations. In these questionnaires, parents were asked to evaluate their level of satisfaction with the evaluation procedures at the Center, and their experience with attorneys involved in their cases (both their own attorneys and those of their former spouses). The questionnaire also asked about the adjustment of their children during the postdivorce period, and we are currently analyzing these data for a future article. The second set of data on the same families comes from the courts and concerns the final legal solution. Specifically, these data included not only what the court decided, but also when these decisions were reached relative to our evaluations, and whether the parents had resorted to postsettlement litigation.

The child custody evaluations at the Center are conducted on a fee-for-service basis. The parents are predominantly middle class and white. Most are employed and have extensive vocational training or at least two years of college. In more than half of these families, the

mothers had been employed prior to the divorce. The number of children in each family ranged from one to five, with most families having two children. The length of marriage varied from three years to 33 years, with a mean of 13.2 years. All of the custody evaluations occurred at the time of the legal divorce, usually within three months of the physical separation. These 45 parents represent 63 percent of the 71 parents who were invited to participate in the follow-up study. We do not know the feelings of the other 26 parents who chose not to participate in the research, but we suspect a potential bias effect of self-selection relating to which parents responded to our questionnaire. Because of this potential bias, and because the data are based on retrospective self-report, the results of this study should be considered as exploratory. Although the matching of questionnaires to case information and court data confirms some of our impressions about the subjects, we assume some parents were too angry to respond. We did receive responses from some parents who were angry, and even livid, which may have offset some of the potential bias.

### Results

*The Center's Recommendations* Table 1 presents a breakdown of the number of parents who responded to our questionnaire, divided according to the Center's custody recommendations. Of these 45 respondents, 18 were originally married to each other. In the other 27 cases, only one of the two parents responded to our questionnaire.

For mothers (N=22), 13 (59%) were

**Table 1**  
**The Center's Custody Recommendations**

	Sole Custody	No Custody	Joint Custody	Split Custody
Mothers (N = 22)	13 (59%)	3 (14%)	4 (18%)	2 (9%)
Fathers (N = 23)	8 (35%)	10 (43%)	4 (17%)	1 (4%)

recommended for sole custody, three (14%) were not recommended for custody, four (18%) were recommended for joint custody, and two (9%) were recommended to receive custody of at least one child, while the other child or children were recommended to the custody of the father.

For fathers (N = 23), eight (35%) were recommended for sole custody, 10 (43%) were not recommended for custody, four (17%) were recommended for joint custody, and one (4%) was recommended to receive custody of at least one child, while the other child or children were recommended to the custody of the mother.

An interesting feature of the data in Table 1 is that approximately equal numbers of fathers and mothers responded to our questionnaire, despite the fact that a significantly larger percentage of mothers were recommended to receive custody than fathers ( $\chi^2 = 4.80, df = 2, p < .05$ ). These fathers reported feeling less financially and psychologically threatened by the litigation procedure than the mothers who responded.

***The Client's Evaluation of the Center's Recommendations*** Table 2 presents an analysis of the parents' reported levels of satisfaction with the Center's custody recommendations. Obviously, satisfaction with the evaluation does not

necessarily mean good outcome or satisfaction with the divorce. We presume that dissatisfaction with the Center's recommendations would interfere with settlement or resolution of divorce issues. These data are divided according to whether the respondent was the mother or father, and according to who was recommended to receive custody (included sole, joint, and split custody). Split custody refers to situations in which one or some of the children are in the custody of one parent, while the other child or children are in the custody of the other parent.

Thirty-one of the 44 parents (70%) who responded to the question of how satisfied they felt about the Center's recommendations (comprising 16 mothers and 15 fathers) reported feeling satisfied or very satisfied with the custody recommendations they received. Thirteen (30%) were dissatisfied (comprising six mothers and seven fathers). One respondent did not answer this question. These data are comparable to several other samples in which approximately one-third of the parents have been found to be dissatisfied after divorce.<sup>8, 21</sup> In fact, Ahrons<sup>22</sup> found that 29 percent of mothers and 32 percent of fathers in her study planned to return to court.

Of the 17 mothers who were recommended to receive custody (i.e., sole, joint, or split custody), and who an-

**Table 2**  
**Parents' Satisfaction with Center's Custody Recommendations**

	Very Satisfied	Satisfied	Dissatisfied
Mothers (N = 22)			
Sole custody (n = 13)	6	5	2
Joint custody (n = 4)	1	1	2
Split custody (n = 2)	1	1	0
Custody with father (n = 3)	0	1	2
Fathers (N = 22)			
Sole custody (n = 8)	4	3	1
Joint custody (n = 4)	2	0	2
Split custody (n = 1)	0	0	1
Custody with mother (n = 9)	1	5	3

swered the question regarding their satisfaction with this recommendation, 13 (76%) were satisfied or very satisfied, and four (24%) were dissatisfied. Additionally, of the three mothers who were not recommended for custody, one was satisfied, and two were dissatisfied.

Of the 13 fathers who were recommended to receive custody, nine (69%) were satisfied or very satisfied, and four (31%) were dissatisfied. There were an additional nine fathers who were not recommended for custody, and three reported feeling dissatisfied with this recommendation, while six reported feeling satisfied with it.

We separately studied the nine pairs of respondents who had been married to each other to learn whether within these couples the parent who was recommended for custody was more satisfied than the one not recommended. There was a strong trend for this pattern to occur, but within the couples, the fathers not recommended appeared to report less dissatisfaction than did the mothers not recommended. Although the sample was very small, it appeared that the fathers not recommended for custody were willing to accept loss of custody

more readily than were the mothers. We have observed that during evaluations mothers approached custody as though it were a foregone conclusion that they would receive it, while the fathers viewed anything beyond weekend visitation as a victory. It is also possible that some of the fathers may have been more interested in intimidating their wives financially than in obtaining custody.<sup>23, 24</sup> As for the dissatisfied parents, evaluations alone cannot eliminate parental dissatisfaction with the divorce process and consequences. Evaluations cannot realistically deal with the inherent psychological difficulties these parents have with separation and divorce. Overall, these results indicate that many parents, in this custody-contesting, highly polarized population, accept evaluations and recommendations.

The results showing that some parents who were not recommended for custody reported feeling satisfied while others who were recommended for custody reported feeling dissatisfied, suggested a discrepancy in attitudes that deserves a closer inspection of the questionnaire data. Thus, we analyzed in detail the records of these families.

## High Conflict Custody Disputes

There were two mothers who were recommended for sole custody, and two mothers who were recommended for joint custody, who felt dissatisfied with this recommendation. In the former two situations, where the mothers were recommended for sole custody but were dissatisfied with this recommendation, both mothers were extremely embittered. Their relationships with the fathers of the children were hostile, and their communications with the fathers regarding the children were infrequent. The relationships of both couples prior to divorce were described by them as having been troubled for at least 17 years; and in both marriages, chronic physical abuse of the wife was present. Disturbed relationships with each of the four parents' family of origin also existed. This suggests that extreme and pervasive problems with anger, attachment, and loss preceded the divorce.

In the latter situation, where both mothers were recommended for joint custody but were dissatisfied with this recommendation, neither was particularly embittered; but both felt anxious and guilty about not having primary care of the children. One of these mothers received joint legal custody with primary residence of the child at the father's home, and the other was not given joint custody but was granted liberal visitation. Both of these recommendations were based on the mothers' extremely rapid movement to separate from the children's father, and to form immediate intimate relationships and quick plans to remarry and move. At follow-up, one of these mothers was able to recognize

that her children were doing well in the sole custody arrangement with the father, but the mother who had joint legal custody felt that at least one of her children was having serious difficulties. This child had shown signs of emotional problems prior to the divorce.

Of the three mothers who were not recommended for custody, one was satisfied with this outcome. This case was settled within two months after the evaluation was completed. This mother had a history of psychological disturbance and alcohol abuse. She began working after the divorce was final and reported feeling less depressed, more content, and more satisfied with life in general.

One father who was recommended for custody reported that he was dissatisfied with this recommendation. He was advised by his attorney "not to fight" because he could not afford a lengthy court battle. Instead, he settled for very frequent visitation. He has continued to be highly involved in his children's daily activities—commuting over an hour to visit them at least four days per week—but has felt frustrated by not having any legal decision-making power about the children. Although this man's former wife refused to fill out our follow-up questionnaire, she revealed her attitude over the phone. She said she thought the Center was "bought" and that she had considered suing the Center if she could have afforded it. These embittered statements came more than 18 months after the evaluation; her anger had not abated. She had a long history of poor temper control and ruthlessness toward the children's father throughout the marriage.

In another case the father received a split custody recommendation, with liberal visitation arrangements, and the court agreed with this recommendation. He felt this to be an unsatisfactory arrangement and considered his former wife to be irresponsible and helplessly influenced by therapists. He did not follow the treatment recommendations made by the Center. However, his grievances include the "failure" (of the parents) to work out visitation for these children as frequently as he would have liked.

There were six fathers who were not recommended for custody but who reported feeling satisfied with this recommendation. Study of these six cases uncovered some similarities. These marriages were of many years' duration. Other similarities included frequent visitation schedules (at least once per week) and a long history of traditional male/female roles in the family. All of these mothers except one had been full-time homemakers, and three of these fathers had long histories of working more than 40 hours per week. We think that although these fathers were sincerely interested in custody of their children, the recommended arrangements better "fit" their view of the family system.

In one of these cases, recommendations were made for the mother to have custody. Instead, the mother disappeared with the youngest child, leaving the others with the father. The father did not pursue finding the mother and said he was satisfied with this outcome. Perhaps this became a "natural settling" for this family. The conflict in this family

involved repeated abuse of the wife, and the couple had attempted to separate and divorce three times prior to our involvement. In this situation, we think that a legal settlement had little influence on the psychological and behavioral entrenchment of the family, and perhaps this was the only way for some type of settlement to occur.

*Comparison of Parents' Evaluations of the Center, Their Attorneys, and Their Spouses' Attorneys* The follow-up questionnaire inquired about how helpful parents felt the Center, their own attorneys, and their spouses' attorneys had been in the process of their negotiations for child custody. Table 3 presents an analysis of parents' responses to these questions.

Slightly over half of the respondents (25 of 44, or 57%) felt that the Center had been beneficial. Of these 26 parents, 19 felt that the Center was very helpful, and six that it was helpful. Ten parents (23%) felt that the Center had neither helped nor harmed, and nine (20%) felt that it had been harmful. In general, after approximately 18 months, over half of the parents appear to have held a positive regard for the evaluation process.

The parents' ratings of the helpfulness of their own attorneys were somewhat lower than their evaluations of the Center. Only 18 percent felt that their attorneys had been helpful, 41 percent were indifferent, and 41 percent felt that their attorneys' involvement in their cases had been harmful. The majority of complaints focused on costliness, lack of understanding and communication with



## High Conflict Custody Disputes

**Table 3**  
**Parents' Evaluations of How Helpful Were the Center, their Attorneys, and their Spouses' Attorneys**

	Helpful or Very Helpful	Neither Harmful nor Helpful	Harmful or Very Harmful
The Center (N = 44)	25 (57%)	10 (23%)	9 (20%)
Own attorney (N = 44)	8 (18%)	18 (41%)	18 (41%)
Spouse's attorney (N = 44)	3 (7%)	15 (34%)	26 (59%)

the attorney, slowness of proceedings, and being required to appear in court repeatedly with little progress.

Not surprisingly, the ratings for the spouses' attorneys were quite negative. Only 7 percent felt that these attorneys were helpful, 34 percent were indifferent, and the majority (59%) felt that their spouses' attorneys were harmful or very harmful. The discrepancy between spouses' views towards the evaluators and the attorneys reflects a difference in paradigms between the legal-adversarial model and the psychological orientation.<sup>25, 26</sup> The adversarial system can magnify the conflict between the parents, while the evaluation process searches for common areas of concern where the parents can cooperate on behalf of their children.

These low ratings regarding attorneys' degree of helpfulness underline two interrelated issues of current debate: (1) that these parents who are fighting over custody have overt and covert psychological difficulties which are causing the ongoing conflict between them;<sup>14, 15, 21</sup> and (2) that attorneys generally are not trained to be sensitive to these issues, and consequently do not address them but instead pursue the legal avenues while ignoring the family's concurrent need for psychological resolution. The

goal of the attorney is to reach a settlement which meets the client's legal needs without necessarily addressing the needs of the entire family. The shortcomings of the adversary model in custody cases has been pointed out by Jacobs,<sup>27</sup> and others.

**Time Required for Settlement** The data from the follow-up questionnaire indicated that the length of time required by our sample to settle their legal disputes ranged from one to 14 months (mean = 4.3 months, SD = 4.2 months). Seventy-five percent of the parents were able to settle within six months of receiving our recommendations.

**Comparison of the Center's Recommendations to the Courts' Decisions** Table 4 presents the custody recommendations made by the Center juxtaposed with the settlements decided by the courts. The court settlements agreed with the recommendations made by the Center in 24 of the 29 cases (83%). The Center recommended that sole custody should be with the mother in 12 cases, and the courts agreed with this recommendation in 11 cases (92% agreement). For decisions that sole custody should be with the father, the agreement rate was slightly lower, in that the Center recommended this arrangement in 11 cases, and the courts agreed in eight

cases (73% agreement). The courts followed the Center's recommendations with 100 percent agreement when the Center recommended joint custody, and with 100 percent agreement when the Center recommended split custody of the children. Split custody was only suggested in cases in which the siblings provided little or no support for each other, and dividing the children reflected each parent's relationship with that child. Generally, a recommendation of split custody is considered extreme for the Center and is made only when it seems clearly the best solution.

**Treatment Recommendations** The period surrounding a divorce is usually painful for every family member, especially the children. It is a time when contact with a mental health professional may be effective in helping parents and children work through feelings of anxiety, anger, and depression. For many, treatment by a mental health professional provides a humane and stabilizing influence that can ease some of the stresses associated with the transition period.<sup>10, 28</sup>

The Center recommends treatment by a mental health professional for parents and children whenever the evaluation

team feels such services would be beneficial. The parents are free to share their evaluation report with their therapists or their children's therapists when appropriate releases of information have been signed. In the current sample, treatment was recommended in 16 of 26 families (62%). The courts only ordered treatment for parents or children in three of these 26 families (12%). The follow-up questionnaire data indicated that 56 percent of the families for whom treatment had been recommended followed the Center's recommendations to obtain treatment, despite the fact that most of these families were not court-ordered to receive treatment. However, in approximately half of these families, treatment recommendations were only partially followed (i.e., only one family member received treatment when it had been recommended for more than one member; or a form of family therapy had been recommended but was not followed).

### Conclusions

The evaluation process employed by the Isaac Ray Center, Inc., revealed a number of strengths. On the whole, the results indicated that parents who re-

**Table 4**  
**Comparison of the Center's Recommendations with the Court's Decisions**

Court's Decision	Center's Recommendations				
	Sole Mother	Sole Father	Joint Mother	Joint Father	Split
Sole mother	11	0	0	0	0
Sole father	1	7	0	0	0
Joint mother	0	1	2	0	0
Joint father	0	3	0	2	0
Split	0	0	0	0	2

## High Conflict Custody Disputes

sponded to the questionnaire had a favorable regard for the evaluation process. Given that these families had a history of persistent fighting over custody and divorce issues, the relatively brief period of time from the end of our evaluation to settlement (4.3 months) was heartening. Despite these parents' level of distress and the complex nature of their conflicts, the vast majority of parents reporting still followed patterns of recovery found in previous studies<sup>9,22</sup> and had rebounded psychologically by the time of the 18-month follow-up. It seems likely that the parents' recovery would have a favorable effect upon the postdivorce readjustment for the children, and on the psychological resolution within the families. Johnston and Campbell<sup>15</sup> have previously commented that some high conflict families require a legally stipulated and court-ordered agreement in order for them to reorganize and reestablish a postdivorce family equilibrium.

Similar to Ash and Guyer's<sup>29</sup> study of families in child custody evaluations, we found that the court was heavily influenced by psychiatric recommendations. The final settlement on the custody and visitation issues followed our recommendations in over 83 percent of the cases. We interpret this as evidence that the involvement of well-trained mental health professionals can assist in the achievement of a settlement and a psychologically more positive outcome for these families. No judge has as much time to devote to any single case. While these findings point out the extent of the influence that the evaluators and their

recommendations can exert, they simultaneously underline the weight of the reports and the responsibility shouldered in making them. This also should alert professionals to be cautious that some courts may abrogate their decision-making roles to mental health practitioners in disputed child custody cases.

Our findings indicate that the effect of our recommendations was limited to custody and visitation issues. The Center's recommendations regarding *treatment* were almost never incorporated into the final court decree or settlement statements. This strongly suggests the need for a better dialogue between the legal and mental health professions, so that judges and attorneys may be made more aware of the complexity of the psychological dynamics of divorcing families and more able to understand the value of treatment. In appropriate cases, treatment will need to be made a part of the settlement agreement. In our sample, only slightly more than one-half of the families for whom treatment was recommended by the Center followed these recommendations in part, even though our treatment recommendations were clearly stressed in our conferences with the attorneys and the families. This may reflect Steinman *et al.*'s<sup>21</sup> and Hauser's<sup>14</sup> findings that families in conflict over custody and visitation issues are not necessarily psychologically minded and do not seem to seek treatment voluntarily. Even when treatment was obtained, it was usually done for only one family member, despite the Center's recommendation for treatment for more family members or for the

entire family. An alternate interpretation of this response is that after the family crisis was over and the divorce was settled legally, the degree of treatment we were recommending was no longer deemed very necessary or important by the parents or the attorneys. Our treatment recommendations came at the height of the conflict. It is reasonable to assume that with the settlement of the custody issues, the tensions decreased and perhaps the need for treatment also diminished.

Our study seemed to follow the patterns of other divorce research where approximately one-third of the population was found to be consistently disappointed in their postdivorce lives.<sup>9,22</sup> In our study, most of the parents who received custody of their children reported feeling satisfied with the outcome as well as with their lives. However, some who did not receive custody also felt satisfied. Further analysis of the surveys where custody was not awarded to the respondent revealed that women were more likely than men to be dissatisfied when they lost custody. This was so even when the women were awarded joint custody. This finding may reflect traditional expectations most mothers have of themselves to be the primary caretaker. When the men were not awarded custody, but were granted frequent visitations, they were generally satisfied. This seemed based more on the "fit" of the recommendations with the pattern of the predivorce family, where the mother had been the primary caretaker. The fathers also may have initially feared total loss of contact with their children, and once supported by the recommendation for

frequent visitation, may have felt more comfortable about not having obtained custody.

The current follow-up study in many ways indicated the shortcomings of the legal system and attorneys in dealing with child custody issues. Although we did not expect the parents to appreciate or like their spouses' attorneys, we did not anticipate such a high level of dissatisfaction with their own attorneys. We believe this dissatisfaction to be the result of the lawyers' insensitivity to the psychological needs of their clients. The adversarial system is set up to maximize the points of difference and then to force settlement. For children and families of divorce, the adversarial process is too lengthy. It is often finalized only after repeated failures to come to agreement and months of litigation.

For the families who seem set on a course of extensive litigation, a court-ordered or agreed upon impartial evaluation can serve to break the impasse between the parents on the custody and visitation issues. The evaluator, as an independent expert charged with determining the best interests of the children in these circumstances, can make recommendations which will be given careful attention by the court. This fact can be used to encourage the parents to reach a settlement, without going through the additional financial or psychological burdens that a full trial would incur. However, professionals who take on this role must be conscientious about the responsibility it brings.

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## High Conflict Custody Disputes

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