

WHAT MATTERS IN CUSTODY? A PRIMER

“Nothing can be sole or whole, that has not been rent...love has pitched his
mansion in the place of excrement.”

William Butler Yeats

Connecticut adopted specific statutory factors to guide custody evaluators and the Court in making or modifying parenting plans (Conn. Gen. Stats 46b-56-©, 2007). Formal studies as to the *practical usefulness* of these factors have yet to be implemented. And to what extent the Court relies upon these factors in reaching their recommendations is also unclear. Several of the statutory criteria are *too abstract* to be helpful to decision-makers. Others appear of dubious significance. This brief article represents one practitioner’s attempt to distill from twenty years of conducting custody studies the group of observable phenomena that seem to him the *irreducible core elements* or the essential parenting skills that serve *any* child’s best interests. The author’s purpose is to provide a map of sorts that can be tested in the field and considered in any subsequent modifications of Connecticut’s divorce laws.

Each core element is described separately but in the main they tend to be highly inter-correlated with one another. Furthermore, in the author’s experience

certain of these behaviors/attitudes/personality traits can and should weigh more heavily in reaching recommendations. Loosely speaking, the order below reflects that weighting with ACCESS most and SELF-REFLECTION least critical to parental competence:

1. ACCESS
2. EMPATHY/RELATEDNESS
3. RESPECT FOR BOUNDARIES
4. FACILITATION OF DEVELOPMENT/AUTONOMY
5. SUBJUGATION OF ONE'S OWN NEEDS
6. FLEXIBILITY
7. SELF-CONTROL
8. MORAL INTEGRITY
9. SELF-REFLECTION/ "OWNING UP"

In the descriptions that follow the above order is utilized.

A. ACCESS

1. Access is defined as a parent's capacity to support/facilitate physical and psychological contact of the other parent with the minor child or children.

Given that such capacities are tested in "intact" families, after physical separation the access gulf widens leaving a vacuum that fills with venom, bile, distortions and, at rock bottom, alienation of children from one parent. The successful parent, married or divorced, must endorse the credentials and

character of their partner for a child/children to make use of that parent both in the real world and internally as an object of identification. Children know where the power lies and who lies about the power.

2. Deviations in access are commonly seen at times of transition, chronic lateness at delivery or pick-up, missed visitations, lack of flexibility in re-scheduling, persistent devaluation of the other parent, false allegations of physical/sexual abuse, “hair-trigger” reports to pediatricians, DCF or police.

3. Remediation of access problems may require explicit sanctions such as loss of time, review of the custodial plan and/or supervised visitation. When alienation is taking shape or exists intervention is *urgent* since the elimination of a parent from a child’s life may be at stake.

- All new allegations of abuse must first go to the GAL/AMC before going to police, pediatricians, DCF; violation of this route may lead to sanctions.

B. EMPATHY/RELATEDNESS

1. Empathy is the capacity to put one’s self in another’s shoes, to “feel for and accurately read” or even anticipate the emotional needs of a child or children in the case of a parent. Empathy is intimately entwined with the capacity to sustain relationships with the tolerance, patience, firmness, flexibility and affection that they require. The depth of empathy/relatedness is acquired early in life as a critical period task—ie, if you miss it you can’t fix it. For a parent there is no more important resource for the care and feeding of a child’s soul than this. Children learn to make friends from parents and a child’s ability to

make and keep friends is the single most telling marker of psychological health.

2. Deviations in empathy/relatedness range along a spectrum from constriction and lack of empathy as in sociopaths, narcissistic disorders and autism to the undifferentiated protoplasm of schizophrenia and the severe internalized disorders.

3. Remediation of deficits in parental empathy may be fruitless. In all circumstances a long and patient psychotherapy (months or years) with a well-trained clinician offers some hope. The problem is that absence of empathy is painless to the owner but not the audience; therefore, there is little motivation to change when the symptom is painless.

C. RESPECT FOR BOUNDARIES

1. Boundaries in human relationships are like the membrane that contains the contents of a cell or our own skin—boundaries keep substances in and toxins out. Boundaries, both inter-personal and inter-generational, facilitate separation/individuation of the developing child, the growth of autonomy and ultimately the capacity to soothe one's self and be alone. These are survival skills in human life. Boundaries are subject to fragility and can be ruptured by the intrusive styles of boundary-deficient, un-empathic parents. The person who is always "in your face/space" violates boundaries. The parent who

knows too much about their child, who cannot honor privacy, who reads her child's mail, listens in on phone calls, toilets in the child's presence, sexually over-stimulates etc. knows not boundaries. Boundaries require structure and order and facilitate respectful, modulated relatedness and clear communication.

2. Deviations in boundary formation are associated with the pseudo-precocity of children who parent their own parents, violation of the inter-generational boundary between parent and children. Inter-personal boundary violations of the intrusive variety warp many lines within the developing child and flood the child's motor or stall it out. These parents are prone to *over-stimulate* their children, an environment conducive to later forms of disturbance.

3. Remediation is similar to empathy in that boundary problems are painless, requiring sound parent guidance that can, in fact, make a difference in parental effectiveness. Parents can learn cognitive techniques to make their fences make good children.

D. FACILITATION OF DEVELOPMENT/AUTONOMY

1..These capacities really result from the summing of all the others and allow the parent to serve as the best "enzyme" in facilitating the tasks of development such as attachment, autonomy, self-control,

self-esteem, gender identity and the moral development essential for the development of conscience, integrity and moral navigation of an imperfect world.

2. Common deviations in such capacities are seen when parents “take over” play, words etc., or support anti-social behaviors such as substance abuse, theft and promiscuity.
3. Remediation is extremely difficult and change, if any, is painfully slow or does not come about. “As the twig is bent, so grows the tree.”

E. SUBJUGATION OF ONE’S OWN NEEDS

1. Parenting requires extraordinary sacrifices of time and delays of fulfillment of one’s own wishes, desires, ambitions and needs. In the early years of infancy and childhood that sacrifice is absolute and invades every aspect of one’s former life. The parent with capacities for empathy and relatedness generally are able to put their child’s needs before their own. Some may go to excess in this area and neglect the marital relationship to the point of needing our services for dissolution of a bankrupt union. The child comes first but the spouse comes “firster” in the order of things.
2. Deviations in this area of parenting are evident to most observers. In office sessions during custody studies some parents will try to engage me in discussions important to them while their child’s requests for help go unheard.

I find such “bits” of data predict the larger patterns of a parent’s deficiencies.

3. Because this problem is a character flaw it has a guarded prognosis as the problems of narcissism (ego-centricity) always do. They are made of granite, not sandstone.

F. FLEXIBILITY

1. Of the skills that let one survive this unpredictable world, the ability to “go with the flow” ranks high in parenthood. More plans change than stay the same and fate is an unidentified flying object! The Greeks, in their wisdom gave the fates divine status; no dummies. Divorce doubles or triples the need for flexibility in a parent who now has two households, families, partners etc. to juggle. Weathermen can predict at best a day or two, parents less.
2. The inflexible parent is quickly evident as in scheduling problems in my office, rigid refusals to change appointments or accommodate to mutual needs, etc. Inflexibility is a trouble-maker in life and wears out one’s tires and one’s patience in short order. Inflexibility and empathy cannot occupy the same space at the same time. Children of inflexible parents are at high risk for becoming rigid as well.
3. Remediation is an oxymoron.

G. SELF-CONTROL

1. The capacity to delay an impulse, to delay gratifications and restrain the “unbearable urges” of life make civilization possible—otherwise anarchy reigns and chaos is the way of the world. Self-control in a parent is crucial in discipline, safety, and modeling a world where you neither need nor can get what you want. A wise colleague of mine once said “It takes the longest time for people to want what they need;” he was right.
2. The parent who cannot control themselves are at risk for physical harm to their children, bad judgment, substance abuse, anti-social problems, substance abuse, speeding, domestic violence etc. Sound parenting obviously requires extraordinary self-control, a skill that children learn by 4-5 and if they don't will go through life at risk for poor school performance, poor relationships and unhappy lives.
3. If you don't learn it by 4-5 years of age it resists later intervention.

H. MORAL INTEGRITY

1. “Thus conscience doth make cowards of us all.” Not only cowards though but responsible citizens who understand that rules and laws are present as one of man's higher achievements. Consider if Nelson Mandela or Mikhail Gorbachev were psychopaths (valueless) how many

would have died.

2. Parents without average expectable moral development pose obvious immediate and long-term risks to their children, growing the Michael Milkens and Martha Stewarts of this world, or worse.
3. Conscience is not born it is made and its deficiencies are not amenable to change or repair.

I. SELF-REFLECTION OR "OWNING UP"

- 1 A parent's capacity to learn from their mistakes is one of the few potential benefits of divorce's agonies. This capacity sometimes offers hope for good therapy to genuinely help.
2. One cannot be effective as a parent if deaf, dumb and blind to themselves. Blaming is easy since the buck never stops with one's self.
3. Rarely repairable.

CODA: FRESH-WATER PEARLS

1. Many human failings can't be fixed, ever. Know which ones can/can't.

2. It follows that psychological interventions with such failings are of limited to no use and playing out the string for months or years ignores the reality that damage to children is ongoing and often silent.
3. Someone's got to be in charge—leaderless groups unleash disorder.
4. The Wizard of Oz was an expert. (Your) common sense is precious.
5. Diagnoses of mental illness are not necessarily associated with severe impairments of parenting. Personality disorders, Axis II in DSM-IV-TR, are painless to the owner but bother the people around them; because such disorders are painless no one is eager to change them at whatever price; your gums don't hurt in periodontal disease but your teeth may fall out! What matters is not the disorder per se but the *functional impairment* in the person. Beware labels. Wagner's music sounds worse than it is. On the other hand, diagnoses do have predictive power and may inform a parenting plan.

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