

Terminology and Families in Transition

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Many factors contribute to meaning making in human experiences. Arguably the most influential is *language*. Constructivists and social constructionists have espoused that “human beings are denied any direct access to an immediate reality beyond *language*” (Neimeyer, 1995, p. 15). The words used in legal settings continue to be scrutinized by professionals in our quest to seek the most validating, inclusive (non-reductionistic), non-prejudicial, strengths based, non-pejorative, empowering conceptualizations of human functioning. It is my contention that language used in working with families involved in the legal process due to intimate relationship dissolution, especially those involving children, may promote divisive, litigious, and authoritarian perspectives, and conceptualizations of the reconstituted “family” as dysfunctional, damaged, and “broken.”

Carter and McGoldrick (2004) have developed a family lifecycle model delineating predictable stages in family development. The flow through this developmental path is disrupted by relationship dissolution. There may be similarities in parental goals, processes, and effort, but fulfilling the parental role is severely confounded when the parents are no longer a “couple.” For example, in seeking to foster degrees of independence of an adolescent, a parent is likely to alternate between being too lenient and too restrictive. This is a challenge for the couple and may lead to marked disagreement. The potential for heightened disagreement and conflict between coparents on this and other challenging parental “judgment calls” is remarkably greater. It is these opportunities for conflict that we seek to assist parents with child-focused, collaborative approaches in negotiating two household parenting.

Intimate partner dissolution has been identified as one of the most stressful life processes and the impact on children is profound. Often, the negotiation of the legal system is a mine field of adversarial bias and protective “rights.” The form, structure, protocols, and patterns of the reconstituted family are subject to extreme variability. Emotional pain endured by parents and children is heightened during the transition and intermittently for years. For children under the most ideal of circumstances, it means actively living in two households and being parented by parents who may reflect more disparate values, parenting philosophies, and rituals than when they were living together. For parents, access to children is compromised to a degree, parental influence is diluted, consistency is more greatly challenged, and single parenting or step-parenting dynamics become activated.

A growing culture of children growing up between two homes has prompted a great deal of research in understanding the diverse complex issues of this population, what parents need to know to meet the needs of these children, and what professionals can do to reduce parental conflict. Whether due to current or past welfare provisions, or due to changes in society, or a combination of both, the United States is experiencing an increase of children born out of wedlock or children growing up between two homes due to divorce or relationship dissolution. The period during the separation and divorce, as well as the ongoing relationship between the adults in both homes, has significant bearing on the lives of their children. Studies of the children post separation of their parents have established the potential deleterious impact on children’s well-being associated with children growing up between two homes (Amato & Cheadle, 2005; Marquardt, 2005; Wallerstein, Lewis, & Blakeslee, 2000). There is further evidence that children endure detrimental consequences when exposed to high conflict behaviors between parents during and after the divorce. In comparison to children growing up in one home, children exposed to high post-divorce parental conflict have been found to evidence greater rates of mental health issues, school drop outs, juvenile delinquency, suicide, and substance abuse (Hetherington & Stanley-Hagan, 1999; Johnston, 1994; Laumann-Billings &

Emery, 2000; Marquardt, 2005; Pruett, Williams, Insabella, & Little, 2003; Wallerstein et al. 2000). These findings substantiate the importance for professionals to assist the parents of children growing up between two homes to function in ways that will promote greater well-being of their offspring. Many new interventions have evolved to assist parents in resolving concerns through non-adversarial means through education and alternative dispute resolution. Language remains a powerful tool in either helping parents focus on their roles within the family or maintaining (and possibly instigating) litigation and conflict.

With the increase in divorce rates, legal professionals began recognizing that inciting conflict in families, especially when children were involved, did not necessarily meet the needs of the families they were serving. In response, attorneys coined the term therapeutic jurisprudence, or the study of the role of the law as a therapeutic agent (Winick, 1996). Courts began to endorse coparenting and providing families with tools to enhance their shared parenting relationship through education, literature, and use of family court professionals such as judges, attorneys, and custody evaluators. Legal professionals began to explore policies on alternative dispute resolution options to assist families in resolving legal disputes through non-adversarial, confidential procedures such as mediation, arbitration, and collaborative law. The result of this shift indicates that the legal system can serve as an instrument of stabilization rather than conflict, resources are distributed to the children rather than the litigation process, public policy matters are better met through multidisciplinary work with these families, and families are empowered (Madden & Wayne, 2003; Winick, 1996). To promote social and economic justice, when professionals, “become a part of the process of changing paradigms and the institutions that emerge from them, we are, in essence, engaging in fundamental processes of social change and transformation.” (Schriver, 2004, p. 19) According to Schriver (2004), by examining social and legal movement changes in response to families experiencing divorce, the professional is able to access information on changing or replacing circumstances that, “create obstacles to people meeting their needs and reaching their potential” (p. 19).

There are many forms of families that extend beyond the traditional two married parents in one home, including same sex parents, never married parents, other relatives involved in the primary care duties of children, or parents remarrying/cohabitating and adding new players to the family. Many adults are choosing not to marry or delay marriage, despite pregnancies (DaVanzo & Rahman, 1993). Parents raising children, whether living in one home or two, are still part of a family. However, limited definitions of what constitutes a family continue to create barriers to services for parents raising children between two homes. Progressive services involve expanding the definition of family to developing intervention based on individual needs of the children and whatever dynamics constitute that child’s family (McLanahan & Carlson, 2002).

Terms used traditionally in Family Law are often not strength based, assist parents in remaining entrenched in positions, and do not accurately reflect the circumstances of children growing up between two homes. Though still not adopted in many areas, exploration of policy advances such as parliamentary committee recommendations include moves toward removing words such as custody, possession, and visitation from the legal vocabulary and replacing them with family friendly terms such as parenting time. “A shift to new, less loaded terminology is critical to reducing conflict in divorce” (Parliament of Canada, 1998). Children growing up between two homes are often stereotyped as is their family of origin with terms such as ‘broken family.’ Terms such as “broken family”, “your ex”, and “visitation” do not promote shared parenting or the strength of the restructured family raising children between two homes. While legal professionals have been trained through education, practice, and by the family codes they

reference to utilize these terms, most other professionals were not. Instead of mental health professionals, educators, and mediators diverging from this path, many in direct practice have adopted the language of the legal community incorporating these terms in direct practice with families or within their writing. The mindful professional in work with these families will use terms such as shared parenting, two home friendly language, and parenting time rather than terms such as custody, visitation, and possession.

- When talking to a child say, “When you are in your other home” rather than, “When you visit your mother.” Or if you are talking to a parent, instead of saying, “When they visit their father,” say, “When they are in their other home.”
- Replace the word custody or conservatorship with parenting. For example, instead of asking, “Who has custody?” or “Who should have custody?,” ask, “What is your coparenting arrangement? Or what would you like it to be?”
- Replace the word your ex with your coparent. For example, instead of asking, “How do you communicate with your ex?” ask, “How do you communicate with your coparent?” or “with his father?”
- Replace the words your new family with the words additional family members. For example, instead of saying, “Since you are remarried your child has two families now,” say, “Now your child has a new member in the family”
- Replace the words lives with to has two homes. For example, instead of saying, “He lives with his father and visits his mother” say, “He lives in two homes.”
- Replace the words visitation schedule with the words coparenting plan or schedule between homes. For example, instead of saying, “What’s the visitation schedule?” say, “So what is her schedule between her homes?”
- Replace the words your child with you all’s child. For example, instead of saying, “What do you think about letting him play?” ask, “What do the two of you think about letting him play?”
- Replace the words mom’s house/dad’s house with your other home. For example, instead of asking, “When do you go to your mom’s house?” ask, “When do you go to your home with your mom?”

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