Conflict Analysis and Intervention Selection for the Parenting Coordinator: Strategies for Success

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Abstract

This paper provides a summary of parental conflict and its consequences for children, a history and definition of parenting coordination and three conflict analysis models to assist working parenting coordinators to better diagnose parental conflict and then select more effective intervention strategies.

Introduction

No one who practices family law in the trenches has any doubt about the destructive nature of custody disputes and the long term adverse consequences of parental conflict upon the wellbeing of children. It is beyond frustrating and disheartening to watch children trapped in the vortex of their parent’s disputes. Parenting coordination is a relatively new child-centered intervention for divorced or separated parents whose children are at risk for harm due to exposure to ongoing conflict and parents who are distracted by or cannot move beyond their divorce.

Parental dispute resolution falls under the category of a “complex problem”. Simple problems (such as following a recipe), may encompass some basic issues of technique and terminology, but once these are mastered, following the recipe carries with it a very high assurance of success. Complicated problems (like building a new smart phone) are different. Their complicated nature is often related not only to the scale of the problem, but also to their increased requirements around coordination or specialized expertise. However, smart phones are similar to each other and because of this one success can be replicated with a relatively high degree of certainty of outcome.
In contrast, complex problems are based on relationships and their properties of self-organisation, interconnections and evolution. Research into complex systems demonstrates that they cannot be understood solely by simple or complicated approaches. Expertise can contribute but is neither necessary nor sufficient to assure success. Every parental conflict and family system is unique. A number of interventions can be expected to fail as a matter of course. Uncertainty of the outcome remains. The most useful solutions usually emerge as an interactive, trial and error process.

As a working parenting coordinator, I am often faced with a question: what is really going on for these people and this family? What an effective parenting coordinator wants to avoid is diagnosing the conflict unconsciously, reacting emotionally, applying interventions based on a poor diagnosis and ending up escalating rather than de-escalating the conflict, to the detriment of the innocent children involved. What follows is a concise summary of parental conflict, a history and definition of parenting coordination and three models to hopefully assist parenting coordinators to diagnose the complex problem of parental conflict more effectively. The goal is to provide the working parenting coordinator with a better understanding of the complexities of working with high conflict families, for the ultimate benefit of children caught in the crossfire.
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There's a lot of things I didn't understand, a lot of things I'd do different if I could. Just like I think there's a lot of things you wish you could change, but we can't. Some things once they're done can't be undone. My wife, my ex-wife, says that she loves Billy, and I believe she does, but I don't think that's the issue here.

Kramer vs. Kramer\textsuperscript{1}

1. **High Conflict Co-Parents and Consequences for Children**

Parental conflict has been defined as any action, deed, or word that creates anxiety, places a child in the middle or forces a child to choose between their parents. Conflict can be subtle, such as tone of voice, hostile body language, eye rolls, ignoring, jokes and sarcasm, or overt, such as threats of violence, verbal attacks and physical abuse.\textsuperscript{2}

In a larger sense, the term “high conflict” has been used to describe a variety of case types, including where:

- there are high rates of litigation and re-litigation;
- there are high degrees of anger and distrust, and difficulties with communicating about the children;
- there are serious domestic violence issues, perpetrated primarily by one abusive spouse and continuing after separation; or
- there is alienation of the child as a result of the conduct or attitude of one

\textsuperscript{1} Robert Benton, *Kramer vs. Kramer* (Columbia Pictures, 1979).
Courts and mental health professionals report that high conflict cases involve approximately 10% of disputing families, however they take up almost 90% of the court’s time.4

Maccoby and Mnookin, in their seminal book *Dividing the Child: Social and Legal Dilemmas of Custody*, using different measures (legal conflict, hostility and conflicted co-parenting), found that approximately 25% of divorces were still highly conflicted several years after the separation and divorce.5 For about one tenth of all divorcing couples, the unremitting animosity will shadow the entire growing-up years of their children.6

It is widely accepted that children’s exposure to chronic hostility and animosity between their parents is damaging.7 Specifically, continued intense conflict following separation and divorce is associated with a substantially greater risk of children developing behavioral, social and emotional problems.8

Research has shown that not all parental conflict is associated with negative

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6 Bill Eddy, *Don’t Alienate the Kids! Raising Resilient Children While Avoiding High Conflict Divorce* (Scottsdale, Arizona: High Conflict Institute Press, 2010).
outcomes, including legal conflict and the frequency of conflict. The most detrimental conflict appears to be intense and volatile (rather than frequent), focused on the child (rather than on financial or property disputes) and remained unresolved by the parents.\(^9\) A meta review of 27 research studies found that while parental conflict does not necessarily cause maladjustment in children, three factors appear to contribute to the greatest perceived threat to children: (1) overt verbal or physical aggression (level of hostility), (2) incomplete or long term unresolved conflict and (3) child-centered content.\(^10\)

Parenting coordination is a relatively new child-centered conflict intervention for divorced or separated parents whose children are at risk for harm due to exposure to such ongoing parental conflict.

2. Parenting Coordination

A. Definition of Parenting Coordination

Parenting coordination is a dispute resolution process provided by mental health professionals or family law lawyers that assists high-conflict parents to implement their existing parenting plan in a child-focused and expeditious manner to minimize parental conflict, thereby reducing risk to children.\(^11\) A quasi-legal, mental health and consensual dispute resolution process, it combines assessment, education, case management, conflict management and decision-making functions.\(^12\)

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\(^9\) Ibid.

\(^10\) Boyan and Termini, supra note 2 at 24.

\(^11\) Barbara Jo Fidler, “Parenting Coordination: Lessons Learned And Key Practice Issues” (2012) 31 Can Fam Law Q 237 at 237.

\(^12\) Guidelines for Parenting Coordination (BC Parenting Coordinators Roster Society, 2013).
Generally speaking, there are three roles and five functions of a parenting coordinator (the “PC”). The roles are:

1. Implementation and modification, where necessary, of the existing parenting plan;
2. Ensuring compliance with the parenting plan; and
3. Resolving disputes and issues in a timely manner.

The functions are:

1. Assessment (of family dynamics, conflict and impasse), with view to the speedy resolution of the disputes regarding the parenting plan;
2. Parent education;
3. Conflict management (facilitation);
4. Case management/coordination; and
5. Decision-making as a last resort (binding arbitration with a limited scope).\(^{13}\)

The parenting coordination process starts when the parents agree, or a court orders, that a parenting coordinator be retained. Each party will then have an initial meeting with the PC to sign a parenting coordination agreement. The PC will collect copies of the final order or agreement with the parenting plan and other relevant documents such as parenting assessments, educational assessments and medical reports. The parents will sign authorizations and releases necessary for the parenting coordinator to communicate with the children's teachers, medical and mental health professionals as required. The PC

\(^{13}\) Fidler, * supra* note 11 at 237.
will discuss the parenting coordination process, as well as each parent’s views about the nature and primary causes of their conflict.\(^\text{14}\)

When a dispute arises with respect to a parenting issue, one or both parents will contact the PC. The PC will obtain each parent’s perspective on the dispute and attempt to reach a resolution by gathering information, negotiating and attempting to build consensus between the parents. If a consensual agreement cannot be reached, then the PC will make a determination resolving the dispute, which is binding on the parents as a result of the parenting coordination agreement or the court order appointing the parenting coordinator. When the next issue arises, the parents return to their parenting coordinator and the process begins again.

Throughout the process, the parenting coordinator will work on longer-term issues such as helping the parents to communicate more effectively with each other and more effective dispute resolution strategies. For continuity and consistency, PCs are retained for renewable terms, usually from one to two years (and a maximum two year term in British Columbia).\(^\text{15}\) The PC will continue working with the parents until his or her retainer expires or when both parents agree or a court orders that the parenting coordination process be terminated.\(^\text{16}\)


\(^{15}\) *Family Law Act*, S.B.C. 2011, c. 25, s. 15(4).

\(^{16}\) *Ibid.*
B. History of Parenting Coordination

Parenting coordination emerged in California in the early 1990s out of the repeated frustration and the failure of the family court system to assist high conflict co-parents, particularly the roughly 10–15% of divorcing parents who continue the legal adversarial process after they obtain a judgment of their custody disputes. The special master program, as it was then known, was intended to address the needs of these “frequent court flyers” who continued to litigate day-to-day issues that came up as they attempted to implement custody agreements and orders. A special master was assigned to such parties to intervene when a parenting dispute erupted and attempt to mediate a resolution. If successful, the parties would be able to avoid another application to court, and the court would be spared the time and expense of hearing it.\textsuperscript{17}

As the parenting coordination model has been implemented in various jurisdictions, there has been variation in the manner in which the PC practices, the authority of the PC, the stage of the legal process when the PC is appointed and functions, the various roles of the PC, the qualifications and training of the PC and the best practices for the role.\textsuperscript{18}

C. Parenting Coordination in British Columbia

As stated in the recent case of Friedlander v Claman, 2016 BCCA 434 at paragraph 63:

The role of a parenting coordinator is a relatively new concept that, in this jurisdiction, only formally surfaced with the implementation of the FLA. It is not without some controversy as evident from the differing views with

\textsuperscript{17} John-Paul Boyd, supra note 14 at 9.
respect to its use as discussed in Fleetwood v. Percival, 2014 BCCA 502, by the majority (at paras. 44 – 53) and the minority (at paras. 21 and 22, 27 – 33).19

In 2006, some lawyers and counselors formed committee to establish parenting coordination in British Columbia and to provide education to lawyers and mental health professionals interested in working as PCs. An initial roster of parenting coordinators was launched in 2007, the members of which included experienced family law lawyers, mediators, social workers, psychologists and registered clinical counselors who had received interdisciplinary training in mediation, arbitration, interviewing children, family violence, developing age-appropriate parenting plans and working with high-conflict personalities.20 The BC Parenting Coordinators Roster Society was formally incorporated in 2009, and currently has roster of 40 parenting coordinators who practice all over BC.

When the Family Law Act, S.B.C. 2011, c. 25 came into force in 2013, it legislated recognition of parenting coordination in sections 14 to 19. A parenting coordinator, as qualified under the Family Law Act Regulation, B.C. Reg. 347/2012 (the “Regulation”), may assist co-parents only for the purpose of implementing an agreement or order respecting parenting arrangements, contact with a child or other prescribed matters.21 In particular, a parenting coordinator can assist the parties to build consensus by creating guidelines respecting how a parenting arrangement will be implemented, suggesting methods of communication between the parties, identifying and creating strategies for resolving

19 Friedlander v Claman, 2016 BCCA 434 at paragraph 63.
20 John-Paul Boyd, supra note 14 at 11.
21 Family Law Act Regulation, B.C. Reg. 347/2012, s. 6(3).
conflicts between the parties and providing information respecting resources available to the parties for the purposes of improving communication or parenting skills.\textsuperscript{22}

Parenting coordinators have the power to make determinations of a dispute within the boundaries of prescribed matters only, subject to any limits or conditions set out in the \textit{Regulation}. A PC can make determinations in respect of:

- a child's daily routine, including a child's schedule in relation to parenting time or contact with the child;
- the education of a child, including in relation to the child's special needs;
- the participation of a child in extracurricular activities and special events;
- the temporary care of a child by a person other than the child's guardian or a person who has contact with the child under an agreement or order;
- the provision of routine medical, dental or other health care to a child;
- the discipline of a child;
- the transportation and exchange of a child for the purposes of exercising parenting time or contact with the child; and
- parenting time or contact with a child during vacations and special occasions.\textsuperscript{23}

A parenting coordinator cannot make determinations in respect of:

- a change to the guardianship of a child;
- a change to the allocation of parental responsibilities;
- giving parenting time or contact with a child to a person who does not have parenting time or contact with the child;

\textsuperscript{22} \textit{Family Law Act}, S.B.C. 2011, c. 25, s. 17.
\textsuperscript{23} \textit{Family Law Act Regulation}, B.C. Reg. 347/2012, s. 4(a).
• a substantial change to the parenting time or contact with a child; or,
• the relocation of a child.24

A parenting coordinator’s determination is binding on the parties and may be filed with the court for enforcement purposes. However, either party can bring an application to ask the court to change or set aside a determination by a parenting coordinator. The court may grant the application if it is satisfied that the parenting coordinator acted outside his or her authority, or made an error of law or of mixed law and fact.

3. Co-Parenting Conflict

A. Categories of Co-Parenting After Divorce

In order to understand the types of conflict found in divorce, Janet R. Johnston proposed a conceptual model involving three dimensions of conflict: the domain dimension, the tactics dimension, and the attitudinal dimension.25 The domain dimension refers to disagreements over divorce issues, such as financial support, property division, custody and access to children or differences in opinion regarding child-rearing practices. The tactics dimension is the manner in which divorcing couples informally try to resolve disagreements, either by avoiding each other and the issues, or by verbal reasoning, verbal aggression, physical coercion and physical aggression. It can also refer to the way that divorce disputes are normally resolved by the use of lawyer negotiation, mediation, litigation, or arbitration by a judge or PC. The attitudinal dimension refers to the degree of negative emotional feeling or hostility directed by divorcing parties toward each other,

24 Family Law Act Regulation, B.C. Reg. 347/2012, s. 4(b).
which may be covertly or overtly expressed.26

The duration and developing pattern of each form of conflict is relevant to its characterization as either normal or pathological. For instance, higher levels of most types of divorce conflict are expected and relatively common at the time of marital separation and filing for divorce, and until the issuance of the final divorce order. On the other hand, post-divorce conflicts are sometimes considered to be intractable and indicative of pre-existing individual and family dysfunction.27

Three main types of post-divorce co-parenting patterns were identified by Maccoby and Mnookin, generated by the presence or absence of discord (frequent arguments, undermining and sabotage of each other's role as parents) and the presence or absence of frequent attempts to communicate and coordinate with respect to the children.28

Specifically, three to four years after separation, Maccoby and Mnookin found three major co-parenting patterns: high communication and low discord, called cooperative co-parenting (29%); low communication and low discord, denoted as disengaged co-parenting (41%); and low communication and high discord, labeled conflicted co-parenting (24%) Over the three-year period studying post-divorce co-parents, the authors noted that it was unlikely for conflicted parents to become cooperative; most remained conflicted, and a small group became disengaged.29

26 Ibid.
27 Ibid.
28 Maccoby and Mnookin, supra note 5.
29 Ibid.
Other authors have referred to four categories of co-parenting after divorce. The categories are created by two variables: the level of engagement and the level of conflict. The engagement variable is defined by the degree of interaction that occurs between co-parents and the conflict variable describes the quality of that interaction.

<table>
<thead>
<tr>
<th>Level of Engagement</th>
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<tbody>
<tr>
<td><strong>Level of</strong></td>
</tr>
<tr>
<td><strong>Conflict</strong></td>
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Cooperative co-parents are able to functionally co-parent, meaning they have accurate perceptions of themselves, the other parent and their children, are flexible, operate from a child focus, are supportive of the other co-parent and have an ability to communicate, problem solve and make joint decisions.

In the mixed category, co-parents engage in high levels of both supportive, cooperative co-parenting and antagonistic, conflicted co-parenting. Also, referred to as "angry associates," the co-parents relationship is characterized by a high level of anger and hostility, but they still attempt to co-parent cooperatively and often end up limiting their interactions to avoid conflict.

Conflicted co-parenting is characterized by poor communication, low cooperation, high levels of distrust, control and dependency and ineffective decision making.

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Personality disorders and psychiatric illness are estimated to form about 60% of these cases. Conflicted parents repeatedly encounter co-parenting disputes and are most likely to engage in litigation.

Parallel co-parenting is the most common and is characterized by emotional disengagement, low conflict and low communication. The parents tend to be compliant and follow their parenting plan but are unlikely to coordinate child rearing practices or schedules. Both conflicted and cooperative parents often move into parallel co-parenting patterns over time.

Although cooperative co-parenting is associated with the best post-divorce outcomes for children, studies show that parallel co-parenting is not associated with negative child outcomes. With limited co-parental interactions, divorced parents can reduce the potential for conflict that is created by continuing regular interactions. Especially given the consistent finding that exposure to high levels of co-parenting conflict is harmful to children, children fare better when parents engage in parallel co-parenting rather than continuing high levels of conflict. Further, children whose parents engage in conflict-free parallel parenting appear to thrive as long as the children have adequate parenting in both homes, there are well-articulated parenting agreements and orders specifying contact and

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32 Fidler, supra note 11 at 238.
joint parallel decision-making occurs when required.\textsuperscript{36}

**B. What is Success as a Parenting Coordinator?**

The fundamental goal of parenting coordination is the reduction of post-divorce co-parenting conflict for the benefit of the children. In order to be successful in reducing such conflict, a parenting coordinator needs knowledge and experience in conflict resolution, mediation techniques, communication, family law, psychology and children’s adjustment issues specific to divorce.

Multiple authors have noted that it is much more likely, whatever intervention is made, for a PC to move co-parents from conflicted to disengaged/parallel co-parenting than from conflicted to cooperative co-parenting.\textsuperscript{37} Moreover, research indicates that couples rarely move directly from conflictual to cooperative parenting; they almost always need to go through the intermediate step of disengagement. If co-parents can learn to disengage from each other, they may well be able to parent cooperatively at a later date.\textsuperscript{38}

**4. Co-Parenting Conflict Analysis and Interventions**

Conflict analysis models, if they are effective at simplifying complex interactions as well as giving useful guidance, should be routinely applied by dispute resolution practitioners such as PCs and form a core part of their training.\textsuperscript{39}


\textsuperscript{37} Sullivan, \textit{supra} note 24 at 11.


As stated by Bernard Mayer:

A framework for understanding conflict is an organizing lens that brings conflict into better focus. There are many different lenses we can use to look at conflict, and each of us will find some more amenable to our way of thinking than others ... We need frameworks that expand our thinking, that challenge our assumptions, and that are practical and readily usable.40

What follows are three models of post-divorce co-parenting conflict that PCs can use to diagnose co-parenting conflict as well as obtain guidance about what interventions may help and why.

A. Conflict Assessment Scale Model

i) Description of Model

Garrity and Baris, the authors of an often cited book *Caught in the Middle,* formulated a “Conflict Assessment Scale” which both describes a couple’s style of conflict resolution and ability to cooperate and assess the danger of the environment for children.41 It describes five levels of conflict - minimal, mild, moderate, moderately severe and severe - which represent a continuum of conflict rather than distinct categories:42

41 Garrity & Baris, supra note 38.
42 Garrity & Baris, supra note 38 at 43.
<table>
<thead>
<tr>
<th>Minimal</th>
<th>Mild</th>
<th>Moderate</th>
<th>Intense</th>
<th>Severe</th>
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<tbody>
<tr>
<td>• Cooperative Co-Parenting</td>
<td>• Occasionally berates other parent in front of child</td>
<td>• Verbal abuse; no threat or history of physical violence</td>
<td>• child is not directly endangered but parents are endangering to each other</td>
<td>• Endangerment by physical or sexual abuse</td>
</tr>
<tr>
<td>• ability to separate children's needs from own needs</td>
<td>• Occasional verbal quarrels in from of child</td>
<td>• Loud quarreling in front of child</td>
<td>• threatening violence</td>
<td>• Drug or alcohol abuse to point of impairment</td>
</tr>
<tr>
<td>• can validate importance of other parent</td>
<td>• Questions child re: personal life of other parent</td>
<td>• Denigration of other parent to child</td>
<td>• slamming doors, throwing things</td>
<td>• Severe psychological pathology</td>
</tr>
<tr>
<td>• can affirm the competency of the other parent</td>
<td>• Occasional attempts to form coalition with child against other parent</td>
<td>• threatens to limit access to other parent</td>
<td>• verbally threatening harm or kidnapping</td>
<td></td>
</tr>
<tr>
<td>• conflict is resolved between the adults using only occasional expressions of anger</td>
<td></td>
<td>• threats of litigation</td>
<td>• continual litigation</td>
<td></td>
</tr>
<tr>
<td>• negative emotions quickly brought under control</td>
<td></td>
<td>• ongoing attempts to form a coalition with child against other parent around isolated issues</td>
<td>• attempts to form a permanent or standing coalition with child against other parent (alienation syndrome)</td>
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</table>

Over time, the same set of co-parents may move up and down the scale. As mentioned above, at the time of their divorce and separation, about half of co-parents exhibit a high degree of conflict. In about half those cases, hostility diminishes within two years, leaving approximately 25% of post-divorce co-parents in long term high conflict. Parents in categories 4 and 5, moderately severe and severe conflict, will likely require ongoing
intervention from legal and mental health professionals to help them co-parent.

**ii) Interventions**

The nature and frequency of access to a PC that particular co-parents will need will be determined by their level of conflict. While those in the minimal to mild category may require only minimal contact, perhaps only once every three months plus occasional meetings to resolve disputes, co-parents in the moderately severe to severe conflict categories will need to meet with the PC more frequently and require greater overall intervention.

The critical need of co-parents at higher levels of conflict is disengagement from each other. The less direct contact they have with each other, the better. Strategies will include a neutral drop-off place to provide children with a calm transition from one home to another and a neutral information repository such as an online co-parenting program or a paper log that is exchanged with the children and can substitute for oral communication about important child-related information. Joint attendance at children’s school performances or sporting events is generally unwise at higher levels of conflict unless structured ahead of time to ensure the parents will be kept separate. If joint attendance at an event will create a loyalty bind for the children, an intervention to split these special events will be required to keep the peace. Many of these will be necessary interim measures until emotional disengagement between the former spouses is attained.

Co-parents in moderate and higher conflict will benefit from learning to co-parent at a distance. While guiding toward disengagement through determinations, educational
efforts and visitation strategies that reduce parental contact, the PC will support the parties in rebuilding their lives as separate individuals. For the first years post divorce, the PC can hopefully act as a buffer, absorbing the impact of the conflict and shielding the children from it.

Moderately severe or severe co-parenting conflict will present the greatest challenge to PCs. One or both parents will likely to have some problem or disorder that threatens the children's emotional or physical well-being. The primary goal of the PC will be to ensure the safety of the children during visitation. The PC must be capable of recognizing situations that endanger the children and of taking action to secure supervised visitation to safeguard them. This may involve bringing in a mental health professional trained in the area of risk (such as alcoholism, substance abuse or violence) to assess an ambiguous situation. The PC will need to assess the requirement for supervised visitation and whether to move gradually from supervised to unsupervised visitation.

B. Divorce Impasse Model

i) Description of Model

Authors, including Gilmour and Johnston have formulated a “post divorce impasse” model where the parents are frozen in the transition between a joint life and separate lives, and that these impasses can occur at three levels: the external/social level, the interactional level, and the intrapsychic or internal level.43

At the external level, the dispute may be fuelled by significant others (extended family,

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43 Glenn A Gilmour, *High Conflict Separation and Divorce: Options for Consideration* (Her Majesty the Queen in Right of Canada, represented by the Minister of Justice and Attorney General of Canada, 2004) at 18.
friends, new partners, the litigation process, legal and mental health professionals, community members) who have formed coalitions or alliances with the divorcing parties and legitimized their claims. Often referred to as “tribal warfare,” the external social network serves to confirm the polarized, highly distorted view of the other party.

At the interactional level, the dispute can either be a continuation of a conflictual relationship or the product of a traumatic or ambivalent separation of the parents. Specifically, it can be a continuation of marital struggles over power and intimacy, the effects of a traumatic separation or the difference between being the spouse who was left and the one who did the leaving. Traumatic separations can lead to what Johnston calls the negative reconstruction of reality such as “she never loved me” or “he was only after my money.” External allies can reinforce these perceptions and further erode trust.44

At the intrapsychic level, disputes may serve to manage intolerable feelings engendered by the divorce such as shame, grief, helplessness and guilt in psychologically vulnerable parents.45 All divorce has two key psychological components of loss and rejection. There is a grieving process for the lost relationship, often most intense for the spouse who is left, rather than the spouse who instigated the divorce.46

People have different psychological vulnerabilities to loss and rejection. High risk individuals for long term post-divorce conflict are unwilling or unable to experience the loss and rejection that are part of divorce and are predisposed to project onto others the blame for their marriage ending. The response to the dissolution of their marriage may

44 Johnston, supra note 23.
45 Johnson, supra note 23 at 12.
46 Garrity & Baris, supra note 38.
be linked to traumatic losses in childhood or to early deprivation or traumatic experiences in their family of origin.\(^4\)

The predominant characteristic of people with intrapsychic problems is their refusal to experience and accept their own pain. Instead, they externalize it as anger and direct it toward others. The inability to understand their own contribution to the marital breakup often leads them to conclude that the fault must lie outside themselves, usually the ex-spouse. Further, these individual’s limited capacity to empathize with others makes it very difficult for them to protect their own children from co-parenting conflict. They tend to view their children not as separate individuals with separate needs but as extensions of themselves. Such parents cannot put themselves in their children’s place to experience the unhappiness that divorce causes them.

The intensity and longevity of their feeling are other indicators of a high level of vulnerability. Vulnerable people may be able to avoid the pain of divorce only by storing up anger, often for years after the divorce or even indefinitely. Frequently these are focused, seemingly tireless people in recruiting others to their position. Many keep a mental record, if not a written one, enumerating the ex-spouses inadequacies, culpabilities and perceived transgressions. Over time, the divorce impasse is strengthened by sharing a disparaging view of the ex-spouse with others, who subsequently reinforce and validate it.

When assessing intrapsychic vulnerability, Garrity and Baris refer to a “Severity of Vulnerability Scale,” where each of the following criteria are assessed on a range from mild

\(^4\) Ibid.
traits to ingrained personality structure:

- Will not experience pain, will not hurt, externalizes pain;
- Cannot accept their role in the breakup of marriage - no capacity for insight;
- Cannot protect the children from the conflict; little awareness of or empathy for impact conflict has on children;
- Degree of devaluing other parent;
- Level of intensity;
- Insatiable quality - nothing seems to resolve the conflict;
- Time frame of conflict - how long at this level of intensity;
- Pervasiveness across other social, emotional and occupational relationships; and
- Active intensification of the conflict through recruitment of others.  

Vulnerability to feelings of shame is a core psychological dynamic of high conflict divorce. Janet R. Johnston refers to a continuum of narcissistic vulnerability or the regulation of self esteem and the injury to self-esteem caused by many divorces. At the mildest level of narcissistic vulnerability is a feeling of personal inadequacy naturally caused by the failure of the marriage, or by being left by the spouse. The next level is the level of extreme self-righteousness, superiority, and feelings of entitlement. Such persons refuse to accept responsibility for any problems, blame others for all difficulties and feel ownership of their children, as if they were an extension of themselves. At the extreme level of narcissistic vulnerability are persons who experience their spouse or ex-spouse as

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48 Garrity & Baris, supra note 38 at 109.
evil, feel exploited and are paranoid.\textsuperscript{49}

\textbf{ii) Interventions}

The particular nature of an co-parental impasse must guide the design of an appropriate PC intervention strategy. The divorce impasse model is defined by the interaction between lifelong patterns of inherent vulnerability and the marital or divorce injuries. Vulnerability is those factors at the intrapsychic level that predispose people to conflict, even before the marriage and divorce. The unhappiness of the marriage and the circumstances of its ending (the interactional level) and the possible existence of tribal warfare after the divorce (the external/social level) constitute the injury. The existence of these factors and their unique interaction are the particular signature of the impasse between any given couple.\textsuperscript{50}

An overarching strategy for all levels of impasse will be to keep the co-parents focused on the children. This can be done through educational techniques such as teaching parenting skills and behavioral approaches such as refining the co-parenting plan to reduce structural opportunities for conflict.

Regarding education, the PC may need to educate the parents about what is a loyalty bind for their children and how it adversely affects them. When a loyalty bind is identified as occurring, the PC will point it out and help the parents to hopefully amend the parenting plan and their behavior for the benefit of the child.

\textsuperscript{49} Johnston, \textit{supra} note 23.  
\textsuperscript{50} Garrity & Baris, \textit{supra} note 38.
The parents may need to be educated about general principles of co-parenting. As Matthew Sullivan points out, these rules are organized by principles that support a parallel parenting model:

- A child has a right to a meaningful relationship with each parent;
- Each parent has a right to have a meaningful relationship with his or her child without the interference of the other parent;
- A child has a right not to be caught in the middle of parental conflict;
- When parents separate, the most significant predictor of a child’s well-being is the level of conflict between the parents. Children exposed to high conflict have a poorer prognosis;
- If the parents do not get along, feel uncomfortable in each other’s presence, prefer not to deal with each other or, more seriously, have an order of protection, then it is in the child’s best interest for parents to develop a parenting plan that eliminates the opportunities for parental interaction resulting in conflict;
- Parents are to interact in a child-focused, businesslike and respectful manner; and
- Nothing is assumed about the co-parenting relationship; everything is spelled out in the parenting plan.  

On the intrapsychic level, the PC should identify and avoid triggers that worsen personality style impasse. For example, some parents will be highly triggered by non-compliance with the agreement in any form, thus the parenting plan will need to be carefully assessed to ensure it addresses as many potential issues as possible in advance and has full buy-in from both co-parents at the outset. Agreements may need to be amended to prevent one party from taking a disproportionate amount of control, for example requiring a parent to provide a doctor’s note before stating that a child is too sick to visit the other parent. It may be a good idea to limit the involvement of new spouses in

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51 Sullivan, supra note 31 at 14.
co-parenting events or transitions to prevent triggering of anger in a vulnerable co-parent. There may be a need to ensure full information is available to both parents with less direct communication by way of an online co-parenting program. There may be a requirement to limit tribal warfare by inviting new partners or extended family members into meetings to obtain full buy in. Conversely, if a party is prone to shaming and public humiliation of the other co-parent, then involving third parties in co-parenting meetings may need to be limited. The PC may need to be particularly careful not to directly challenge a particular co-parent but use more circuitous methods to address issues.

If a court process is necessary, the PC may need to prepare the other parent to expect derogatory representations and a distorted depiction, but that any retaliation or direct response in return will only worsen the situation. It will likely not be helpful to try to dissuade ex-spouses from fixed negative beliefs about each other but rather to refocus the parties back to their children. Where a parent is still hoping for reconciliation, separate meetings may be best to reframe the former marital relationship into business relationship centered on parenting their children.

Strategies to reduce interactional impasse could be altering child transition methods, for example to delivery instead of pick up, a neutral drop off or a public drop off location. Schedules may need to be further specified to help prevent renewal of conflict. If parents cannot attend special events without conflict, the PC will need to divide them up. Sharing possessions and clothing is a regular source of conflict. Keeping a complete set of clothes at each house is best if financially feasible. Sharing items between homes increases the likelihood of disruptive arguments between parents and the extent this can be minimized is
preferable. Telephone access to the other parent may need to be clarified or limited so as not to intrude on family life.

C. High Conflict Personalities Model
   
i) Description of Model

   Personality disorders and accompanying cognitive distortions of one or both spouses may exacerbate conflict during marriage and after separation. As noted above, several authors have suggested that personality disorders are frequent among high-conflict parents, perhaps affecting one or both parents in as many as 60% of the cases.\textsuperscript{52}

   Bill Eddy, who had been a therapist before becoming a lawyer, sets out in his “High Conflict Personality” theory or “HPC Theory” that high-conflict people (HCPs) have a pattern of high-conflict behavior that increases conflict rather than reducing or resolving it.\textsuperscript{53} Often having a personal history of abuse or disrupted early-childhood relationships, a HCPs pattern of behavior usually happens repeatedly over the person’s life in many different situations with many different people and often includes all-or-nothing thinking, unmanaged emotions, extreme behaviors and blaming others.

   Eddy states that HCPs are constantly in distress and unaware of the negative, self-defeating effects of their own behavior. Further, Eddy states that those who become HCPs often also have personality disorders or some “traits” of a personality disorder. A personality disorder is a long-term dysfunctional pattern of thinking, feeling and behaving

\textsuperscript{52} Neff & Cooper, supra note 4 at 99.
\textsuperscript{53} Bill Eddy, \textit{High Conflict People in Legal Disputes} (Calgary; Scottsdale, Ariz.: High Conflict Institute Press, 2012).
that affects many areas of a person’s life. Only a recognized mental health professional can diagnose a personality disorder, some of which include borderline, narcissistic, antisocial and histrionic.

Eddy states that HCPs and people with personality disorders share three key characteristics:

1. They lack self-awareness, especially of the effects of their own interpersonal behavior on others;
2. They don’t change their behavior, even when receiving repeated negative feedback; and
3. They “externalize” responsibility for problems in life, blaming forces beyond themselves.

ii) Interventions

Eddy recommends a “Private Working Theory” that someone may be an HCP. Rather than labeling such an individual or assuming the theory is correct, the PC can employ the working theory with the following interventions to attempt to reduce the co-parenting conflict: 1) connecting or bonding with the parent with empathy, attention and respect; 2) structuring the co-parenting relationship around tasks and avoiding reacting to emotions; 3) reality testing so the PC doesn’t believe everything he or she is told, but also doesn’t assume the parent is lying because they may honestly believe inaccurate information; and 4) educating the HCP about consequences, as HCPs are often caught up in the moment and cannot see the risks and/or consequences ahead.

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54 Ibid.
56 Ibid.
Barbara Jo Fidler presents a useful framework for identifying and managing personality disordered co-parents in parenting coordination:\(^{57}\)

<table>
<thead>
<tr>
<th>Borderline</th>
<th>Narcissistic</th>
<th>Antisocial</th>
<th>Histrionic</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unconscious Drive</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fear of being abandoned</td>
<td>Fear of being inferior</td>
<td>Fear of being dominated</td>
<td>Fear of Being Neglected</td>
</tr>
<tr>
<td><strong>Constant Over-Compensating Behaviors</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Frequent anger, manipulation, efforts to control others</td>
<td>Self-absorbed, bragging shows disdain for others</td>
<td>Dominating, manipulating, controlling, deceiving</td>
<td>Attention-seeking, drama, emotionalism</td>
</tr>
<tr>
<td><strong>Bonding</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reassurance, arms-length, consistency, avoid excessive flattery</td>
<td>Recognize strengths, avoid confronting weaknesses</td>
<td>Be wary of false charm, allegations about others</td>
<td>Empathy with person, not dramatics</td>
</tr>
<tr>
<td><strong>Structure</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide security with clear relationship boundaries</td>
<td>Provide tasks, use strengths, share credit for successes</td>
<td>Avoid doing favours, focus on goals and good behavior</td>
<td>Keep focusing on tasks, encourage use of own skills</td>
</tr>
<tr>
<td><strong>Reality Testing</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoid great expectations, avoid jumping to conclusions</td>
<td>Reduce expectations of easy success and need to be special</td>
<td>Expect lying, corroborate information, see consequences</td>
<td>Find out about real abilities, encourage self-sufficiency</td>
</tr>
<tr>
<td><strong>Consequences</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Skills training in regulating emotions, penalties for false statements</td>
<td>Cognitive therapy, penalties for false statements</td>
<td>Group program for abusers, penalties for false statements</td>
<td>Cognitive therapy, penalties for false statements</td>
</tr>
</tbody>
</table>

When the “working theory” is one of the parents has a HCP or personality disorder, the PC should build in as many structural safeguards into the parenting plan as possible to disengage the co-parents and to educate the other co-parent that it is only their own behavior they can control.

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\(^{57}\) Barbara Jo Fidler, *Identifying and Managing High-Conflict Personalities (adapted from William Eddy)* (Vancouver, BC, 2013).
5. Conclusion

The ultimate goal of conflict analysis and intervention selection will be to assist the co-parents to function on their own without a PC. For lesser conflicted co-parents, this may evolve through improved communication and conflict resolution skills. For more conflicted co-parents, this will likely only result from a highly detailed parenting plan. Protecting children from damaging exposure to parental conflict is worth the challenge.
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