

High Anxiety in Custody Cases? Let's Talk

Elisa Reiter and Daniel Pollack | January 9, 2024



The most amicable, imminent divorce relationships can become problematic during certain times of the year: holiday seasons, vacations, birthdays, etc. Family law attorneys often find that cases either settle or explode with the approach of these occasions.

We often hear that half of all marriages end in divorce. In 2021, there were approximately 1.99 million marriages in the United States. That same year, the [National Children's Alliance](#) reported 600,000 cases of child abuse (thought to be below the actual number of child abuse cases, due to the many cases that were not reported during the COVID pandemic). Of course, not every family law case

involves an allegation of physical or emotional abuse. Throughout the year, judges often find themselves besieged by pleadings raising allegations of abuse as litigants seek to undermine each other's access to their children in the hopes that any emergency relief granted will color access going forward. What can attorneys do to maintain healthy family relationships even in times of [stress](#)?

1. Every child deserves a loving home and a healthy relationship with each parent.
2. Co-parenting is a skill that can be challenged when there is some type of dysfunction within the family unit, such as the presence of addictive, neglectful or abusive behavior.
3. Respect, civility, and open communication are essential elements to successful co-parenting.
4. No one should fear abuse, abandonment, or financial hardship.
5. Authoritative parenting means giving children healthy choices, and when needed, setting appropriate boundaries.
6. Parents should model good choices, involvement and listening to hear rather than listening-to-react for their children.

Holidays, vacations, and birthdays are times when families come together. Some relatives relieve or exacerbate stress; some provide comfort or heighten anxiety.

[Benjamin D. Garber, Ph.D.](#) opines that:

As the stress on a family system increases, the risk that healthy rules, roles and relationships will break down increases. We know, for example, that poverty, the experience of and exposure to intimate partner violence, immigrant status, growing up without adequate emotional nurturance, and

high-conflict divorce each can dramatically increase the risk that a child will become triangulated into the resulting adult conflict . . .

Child abuse may happen in a variety of ways. Child abuse may include verbal abuse, emotional abuse, psychological abuse, physical abuse, and sexual abuse. Signs of child abuse may include a child's behavior suddenly changing and becoming aggressive, changes in behavior and sleeping, as well as physical signs such as broken bones or contusions. The most [common form of abuse? Neglect](#).

Mental health professionals and attorneys are well served to take a moment to reflect before jumping on the bandwagon and drumming the beat of a [high conflict case](#).

- What strengths and/or weaknesses does each parent present with in a given case?
- What does each parent perceive their child(ren)'s needs to be, and how to best attend to those needs?
- How does each parent assess issues, and then communicate with the other parent regarding their children's needs?
- Have the appropriate questions been asked, and/or research done, to ascertain if either parent presents with a history of domestic violence?
- What have the parents done historically to process conflict within their family?
- What can each parent expound on as to each child's needs and level of development?
- Do the children in the family present with special needs (academic, physical, or emotional)?

[Bill Eddy](#) recommends the following to avoid high-conflict litigation: parents should avoid finger pointing and labels, parents should not disparage one another in the presence of their children (which can be accomplished via BIFF Response® system, keeping all communications [Brief, Informative, Friendly, and Firm](#)).

In his new book, [How to Know a Person](#), David Brooks suggests that in every situation, there are “Diminishers” and “Illuminators.” When parents become enmeshed in custody litigation, they often lose the ability to listen to hear. Instead, litigants often listen to react. Parents locked in litigation may be prone to diminish the other parent, leaving them unseen. Parents who retain the ability to co-parent successfully are likely what Brooks would characterize as illuminators – people who have learned how to understand and to hear others, keeping their children’s best interests first and foremost in each interaction.

It’s a new year. Keep a balanced perspective. Be an illuminator and an exemplary listener, even while litigating.

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