

Assessing Parental Addiction in Custody Cases  
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The National Council on Alcohol and Drug Dependence, Incorporated reports that drug dependence is the number one health problem in America. They estimate, as does the Substance Abuse and Mental Health Services Administration (SAMHSA), that approximately ten percent, or about 7 million children live in a situation in which at least one parent is either abusing drugs, or is drug dependent. To highlight further the extent of the problem, it is estimated that about 20 million individuals over the age of twelve have used an illegal drug or alcohol in the last thirty days. In addition to those statistics, approximately twenty percent of the American population uses prescription drugs for non-medical reasons.

The effect on a child of having a drug or alcohol dependent parent has been extensively studied. The National Association for Children of Alcoholics reports that children of addicted parents are at a substantially higher risk to become either alcohol or drug abusers. Boys seem to be more at risk than girls, but both show an increased probability of inappropriate use. There is a strong correlation between parental and adolescent substance use and abuse. Additionally, it has been found that parental attitude about drugs and alcohol is an important component to future use by a child. When a parent expresses a permissive attitude about alcohol use, children are more likely to use.

It has been shown that alcohol abuse is a primary factor in general family disruption. The home in which a child lives is likely to be less well managed, there is likely to be a lack of family communication and a much higher chance of family conflict if there is an alcohol or drug abusing parent present. Additionally, parents with addiction problems provide less direct parenting for their children and they provide poor models for the children's future parenting. With respect to the conflict within the household, studies of children in these families demonstrate that they are exposed to a greater degree of physical and emotional violence and a decrease in family cohesion. Not surprisingly, there is also greater family stress present as a function of work problems, financial difficulties and marital strain. Within the family, it has been shown that the children experience either a general lack of discipline from their parents, or for boys, harsher punishments from their fathers. There also appears to be an expectation for children in these families to be more competent in household tasks than other children their age.

Studies regarding the effect of having a mother or father who is alcohol dependent on a child's emotional well-being and behavior have shown that there is an increased rate of internalizing behaviors, i.e. anxiety and depression, than is found in families without an alcohol dependent parent. There is a general increase in both physical and mental health problems. These children demonstrate higher rates of behavior problems, specifically Attention Deficit Disorder and Oppositional Defiant Disorder. In assessing children with these problems, it has been found that they have such symptoms as a lack of empathy, decreased social adequacy, decreased adaptability in interpersonal situations, lowered self-esteem and a decreased emotional regulations skills. One study noted that children who need psychiatric admissions who have a parent with alcohol or drug dependency problems experience longer admissions than children whose parent(s) are not addicted.

With respect to school related issues, children with a parent who is drug dependent are likely to score lower on achievement testing than other children. This is especially true for boys. These children are also absent from school more often, have higher rates of being withheld in their grade and of dropping out of school. There is also some evidence that these children, on the average, have lower IQ's than children whose parents are not drug dependent. This may be a factor related to poorer prenatal care, as well as exposure to multiple risk factors. It has been demonstrated in the risk and stress literature, that exposure to multiple risk factors leads to significantly increased stress which, in turn, can cause problems in learning and the acquisition of knowledge.

It is important to note that not all children are negatively affected by having a parent who is alcohol or drug dependent. Some of these children can be very resilient and their resilience is a result of some of the same factors that create resilience in children whose parents have divorced. It has been shown that children with higher intelligence tend to be more resilient. Not surprisingly, these children also tend to have parents who have higher socioeconomic standing. A very important factor is that these children have at least one, non-addicted adult to whom they can turn for support. Additionally, these children tend to have easier temperaments and greater adaptability. Put another way, these children have a broader range and greater access to "social capital." Social capital is a term to describe a broad range of support that a child, or parent, finds in their environment from family, friends, and/or the community at large.

Given the pervasive, negative effects of addiction on children, and given the statistics regarding the prevalence of alcohol and drug abuse and dependency, it is essential that custody evaluators be knowledgeable of these issues and use appropriate methods to assess for the problems. The evaluator faces three related issues when evaluating the family. First, is there a substance abuse problem within the family? Secondly, if there is substance abuse problems, how does it affect each of the children within the family? Finally, what recommendations will address the best interests of the children given the presence of a dependency problem and its negative consequences on the children?

With respect to the first question, it is not unusual to have one of the parties to the custody dispute allege that the other is abusing alcohol or drugs. In fact, both may make an allegation. However, if there is not an allegation of substance abuse or dependency, it is still important for the evaluator to screen for drug and alcohol use. It has been said that "substance abuse is a disease of denial." One cannot rely on abusers to self-disclose. More frequently, they are likely to either deny, or minimize the extent to which they are using drugs or alcohol. Therefore, the question becomes how does one assess for use with or without an allegation?

As with other issues within a custody evaluation, a well structured, but flexible interview provides the best method for evaluation. However, the interview must be structured in such a way as to ask questions about relevant aspects and factors associated with drug and alcohol use. The client needs to be asked about a variety of individual substances, i.e. alcohol, marijuana, cocaine, heroine, prescription medications, etc. For each substance a history of usage is necessary, including first usage and most recent usage. Questions about the type of drug, or

alcohol that is preferred, the frequency of usage, the context in which substances are taken, the desired effect from usage, the negative and positive effects of usage, the reaction of family members to use and whether anyone has suggested that there is a problem need to be asked. With respect to impact, questions regarding the work situation including work absence or sickness, social contacts or social isolation are important. Questions about what regrets are there about use and what impact has there been within the family secondary to use also reveal the degree of insight of the user. A similar set of questions needs to be asked about the use of each substance.

An investigation of usage needs to include multiple collateral sources, some of which are not common in custody work. For example, it might be beneficial to request department of motor vehicle records as well as criminal background checks. A history of multiple automobile accidents, speeding or other driving charges, even though there are not DUI's, may increase the probability of alcohol or drug involvement. The same is true for certain criminal charges such as disorderly conduct. They may not directly correspond with a substance issue, but may add credibility to an allegation. It might be useful to get pharmacy abstracts for the individual. Pharmacies keep records of all prescriptions that have been obtained. Therefore, a prescription drug problem could be uncovered in that way. Obviously, medical records, therapy notes, prior drug treatment records, co-workers or supervisors, neighbors and other social contacts are all possible sources of information.

It is important to remember that there are federal regulations defining the nature of informed consent and confidentiality with respect to drug and alcohol treatment. Therefore, obtaining the correct type of consent by using a release that meets the federal guidelines in this area is essential.

Psychological testing may or may not be helpful in assessing a drug or alcohol problem. The mostly widely used psychological test in custody evaluations is the Minnesota Multiphasic Personality Inventory-2 (MMPI-2). The MMPI-2 has three separate scales that are related to substance abuse. That MacAndrews Scale, the Addiction Potential Scale and the . For the most part, these sub-scales look at addiction potential, but not current use. A person who has used in the past, but is currently sober, could score high on these scales because of a personality style rather than usage. Therefore, the use of these scales to make definitive statements about use or abuse of a substance is not possible. A review of specific questions on the MMPI regarding alcohol or drug use may be helpful.

There are other tests, such as the Substance Abuse Subtle Screening Inventory (SASSI) and the Michigan Alcohol Screening Test (MAST) that attempt to measure current usage. The tests vary in the degree to which they mask the intent of a given question, but as self-report tests they employ questions that are not particularly subtle. Therefore, a test-taker can easily determine which questions are designed to detect substance use and answer in a manner that minimizes usage.. There are no validity scales in these instruments to help determine the response set of the person answering the questions. However, in general, we know that custody litigants tend to present themselves on testing in a very favorable light.

A final method of investigating alcohol and/or drug use is to employ some type of

physical testing. The purpose of these tests is to determine the presence or absence of a given substance in the individual's body at the time of the test. While all of these tests may be helpful, they too have limitations as to their usefulness. For example, each substance measured by these tests has a different rate at which it is excreted from the body. This means that the time lag between use and test is of great importance. Additionally, such factors as the quantity ingested, the health status of the subject and the individual variability of human physiology affect the outcome. It must also be recognized that these tests only determine the presence of a substance in the human body. They cannot determine general usage or rule out usage. Finally, one cannot make a distinction based on the test as to whether the usage is recreational and situational, or chronic and indicative of dependency. Associated with that factor is the issue that an occasional, but severe use of a drug may result in more impaired parenting than chronic use. This would not be measured by physical testing.

There are a variety of ways in which one can physically test for the presence of drugs or alcohol in the body. Blood tests are rarely used because they are very intrusive and generally very expensive. Breathing tests are only used for alcohol and are capable of measuring only very recent use. Urine analysis is less invasive, relatively easily administered and inexpensive. Therefore, it is frequently used as a means to get repeated measures over time. However, the urine can be easily adulterated prior to, or after the sample is taken. This lowers the concentration level and alcohol may not be detected. The same pro's and con's exist for saliva analysis.

Hair follicle analysis is another popular method of detection. The advantage of procedures like hair follicle analysis is that there is the potential to determine drug use over the past three to six months. Unfortunately, while one can determine whether or not the substance has been used, one cannot determine the amount, how often or specifically when the substance was taken. It is possible for someone to use an illegal substance at a time they do not have the children, but test positive for the substance in their system. While that is an important piece of information about drug usage, one still has to determine its relevance to parenting. The use of patches and electronic monitors that measure usage on an on-going basis have gained in popularity, especially in the case of post detection supervision.

The final questions have to do with the impact of a given individual's substance use or abuse pattern on the children and, therefore, the nature of recommendations that are appropriate to insure the best interests of the children. These are questions that can only be answered after the investigation phase is complete and alcohol or drug usage has been determined to be present. It also must be determined that the use is negatively affecting the parenting of the children. The substance abuse must be evaluated in the overall context of the family. The first and most important issue to be considered in the recommendations is the safety of all parties, but most especially the children. Safety may be jeopardized directly due to such issues as driving with the children while under the influence or by direct physical violence directed at the children secondary to uninhibited anger. The children may also be jeopardized indirectly by such factors as a lack of parental supervision or by poor judgement in decision-making.

A routine part of the evaluation would include assessment for all of the possible negative

effects of alcohol or drug use on the behavior and mental health of the children that were described above. Each factor needs to be considered as to its impact on the ultimate best interest analysis and used in a multi-factored approach when making recommendations. For example, in a given case what type of recommendations would be necessary if the drug dependent parent is also the primary care-giver and there is no less detrimental alternative care-giver available for the children? Or, what if the parent in question has a positive relationship with the children, has a positive influence on the children when he/she is not drinking and the children have a close bond with him/her? The on-going relationship between that care giver and the children would need to be preserved in some way while balancing the other safety issues.

Many questions need to be answered before making a recommendations regarding treatment and parenting arrangements. Question related to the severity of the substance abuse, the impact on parenting, prior attempts at treatment, level of insight regarding the impact on the children, the level of conflict between the care providers, the presence of domestic violence, the presence of other mental health disorders, the prior relationships between all of the parties, the willingness to participate in treatment and the level of outside support are just a sample of the information needed before one recommends a specific parenting arrangement. Furthermore, if a given evaluator does not have the expertise to make these determinations, they should consult with or refer to a professional who has that expertise that component of the evaluation related to drug and alcohol issues.

The assessment of parental addiction in custody situations is a complex task that requires specialized knowledge by the evaluator. In a society in which the prevalence of drug and alcohol use is so high, there is a need to screen for and assess possible impacts of substance use and abuse in almost every case that comes before an evaluator. Evaluators, judges and attorneys need to have, at least, a rudimentary knowledge of the factors involved in cases with parents with drug and alcohol problems so that they can assist in insuring that the best interests of children are preserved in these cases.

## References

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