

# Family Law Education Reform Project

## Adults' Emotional Reaction to Divorce

### ABSTRACT

This guide discusses the emotional reactions of adults to divorce and separation, and how important it is for lawyers to understand such emotional advice when assisting their client in choosing the appropriate course of action. In addition, this guide outlines a variety of personality traits and the ways in which they may manifest in the higher conflict divorce population, along with other special issues of importance. Finally, this guide outlines critical skills necessary for family law professionals in dealing with these parents and their emotional responses to divorce.

### ABOUT THE AUTHOR

#### **Philip Stahl, Ph.D., ABPP (Forensic)**

Psychologist in private practice

Dr. Philip Stahl conducts child custody evaluations and provides expert witness testimony. He is a provider of continuing education for psychologists and other mental health providers, and attorneys and Family Law Specialists in California. He has conducted trainings throughout the United States and internationally for child custody evaluators and others working with high-conflict families of divorce. He has presented workshops for judges throughout the country and is on the faculty of National Judicial College and the National Council of Juvenile and Family Court Judges. He is also a faculty member with the National Institute for Trial Advocacy (NITA) in a new program titled "Modern Divorce Advocacy."

As a Board member of AFCC, he was on the task force that drafted AFCC's "Model Standards of Practice for Child Custody Evaluation." He was a member of the American Bar Association Wingspread Task Force on High Conflict Families and most recently participated in drafting AFCC's Parenting Coordination Task Force Report. Dr. Stahl is on the Editorial Review Board of AFCC's journal, *Family Court Review* and is Associate Editor of the *Journal of Child Custody*. Along with his teaching, Dr. Stahl has written extensively on various issues in high-conflict divorce and custody evaluations. He is the author of *Conducting Child Custody Evaluations: A Comprehensive Guide* (Sage, 1994), *Complex Issues in Custody Evaluations* (Sage, 1999), and *Parenting After Divorce, 2<sup>nd</sup> Edition* (Impact Publishers, 2008), and is the co-editor of *Relocation Issues in Child Custody Cases* (Haworth Press, 2006). Dr. Stahl received AFCC's President's Award in 2000. His child custody evaluation was cited by the California Supreme Court in the landmark decision modifying 8 years of relocation case law following *In re Marriage of Burgess*, 13 Cal.4th 25 (1996) (*In re Marriage of LaMusga*, 32 Cal.4th 1072 (2004)).

## Adult's Emotional Reactions to Divorce and Separation

Dr. Philip Stahl, Ph.D.<sup>1</sup>

### Why this Topic is Important to Law Students

- As a practicing attorney, you know the law, especially as it relates to the financial and child issues in your work. However, when a client first comes into your office, you are dealing with a person going through perhaps the roughest emotional experience of his/her life. While you have many clients with many issues, your client is **only** concerned about his/her matters. Your client's emotions will significantly drive the direction of the case.
- Having insight into your client's potential emotional responses is invaluable as it can prepare you for understanding the family's dynamics and knowing what to expect. It is important to know how the client's emotional reactions will contribute to his/her input and even your client's ability to participate in the case. A client's emotional reactions may affect his/her ability to follow through with deadlines, as your client may ignore you and not meet deadlines. Emotions contribute to your client's ability to develop and consider realistic options. Additionally, your client may badger you to do things immediately, as your client obsesses about the case.
- Keep in mind that attorneys are not trained as therapists and it can be very difficult for many attorneys to deal with more intense emotions, such as depression, rage, blame, an inability to be rational, overwhelming anxiety, etc. Avoid becoming your client's therapist. Set reasonable boundaries and refer your clients to a therapist trained to help the client deal with his/her issues.

### Current Relevant Issues

#### 1. Adult's typical emotional reactions and their effects

- Divorce is one of the worst experiences anyone may ever go through, short of the death of a loved one. It is often said that people going through a divorce are "good people on their worst behavior."
- In a global way, divorcing adults are consumed with their fears, overwhelmed with their emotions, angry at their circumstances, and worried about their future. If they have children, they are protective and worried about the impact of the divorce on their kids.
- Many divorcing parents go through the 5 stages of grief, including anger, denial, depression, bargaining, and finally, acceptance. This section will focus in more depth on these emotions.

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<sup>1</sup> Philip Stahl, PhD, ABPP (Forensic) is a psychologist who provides child custody evaluations, expert witness consultation, and training in a wide variety of areas associated with high conflict divorce. He can be reached at [pstahl@earthlink.net](mailto:pstahl@earthlink.net).

### **Shock**

- For many adults, a divorce comes unexpectedly. In many situations, there is a “leaver” and a “leave-ee.” While the leaver may have been planning the divorce for some time, the leave-ee may have had no clue it was coming. With such shock, there is often a multitude of response, which can include, among other things, denial, anger, bargaining, confusion, and feeling overwhelmed.
- When such a shocked client comes into your office, you can expect him/her to ramble when telling the story, make inappropriate demands that the spouse drop the divorce action, cry easily, express outrageously angry statements, show evidence of somatic (bodily) complaints such as headaches, stomach aches, etc., and forget whatever you tell him/her in the first appointment. All of this is a normal reaction to such shocking news.

### **Feelings of being overwhelmed**

- For many clients, the sadness and depression of the moment is overwhelming. These adults have trouble getting to and functioning in their work, may be late for or miss scheduled appointments. They often have trouble meeting deadlines and staying organized. It is critical to realize that the client’s inability to meet **your** needs may be a normal reaction to learning about his/her spouse’s desire to get a divorce.

### **Confused**

- Along with shock and feelings of being overwhelmed, many newly separated parents feel confused. They don’t understand what to expect. They may not understand the legal concepts you discuss and the ramifications of those concepts. You will need to pay close attention to make sure that your client understands your advice and the options you are considering.

### **Anxious**

- Along with feeling overwhelmed, most divorcing parents are anxious. The client’s anxiety can range from moderate to severe and the extent of the anxiety is unique to each individual, in part based on the person’s tendency to feel anxiety about other issues in his/her life.
- For many clients, the primary areas of anxiety are about their children, their finances, and their future.
- Recognize that the anxiety can manifest in various ways, including but not limited to disorganization, forgetfulness, inability to sleep and manage day-to-day affairs, parenting capacity, and even working. Awareness of your client’s anxiety and the source of this anxiety can help you in organizing and preparing your work together. Recognizing the

intensity of the anxiety and its impact on your client's life can help you recognize when to make a referral for therapy (see below).

### **Sad / Depressed / Feelings of Failure / Shame**

- These emotions are often considered internalizing emotions, and you may not be aware the client feels them. Many adults feel a strong sense of failure and shame that they could not work out their marital problems and resolve their marital problems and stay together. If religious, this sense of shame may be even strong due to many religions' stance on divorce.
- Along with this, sadness and depression are very common, especially during the first year, and especially for the leave-ee. While the leaver often has worked through many of these internalized feelings before the separation, and does not feel depressed because he/she is taking action, the leave-ee is shocked (see above) and feels depressed.
- Typical reactions to sadness include crying in your office, expressing feelings of hopelessness or helplessness, some dependency on you, and fear for the future (see above).
- Typical reactions to more intense depression may include a sense of incapacitation, sleep disturbances, problems getting to work, somatic complaints (e.g., headaches, stomachaches, illness). More extreme depression symptoms may include suicidal thoughts or suicidal actions. Paying attention to your client's internalized responses will help you get your client needed help (see below).

### **Anger / Outbursts / Blame / Vindictiveness**

- These externalizing emotions are another common reaction to divorce and can be very difficult to work with. With externalizing clients, you are likely to hear how the marriage failed because of the partner.
- Your client may not be able to look inward to see how he/she contributed to the divorce. If your client is the leave-ee, your client may want his/her ex spouse to pay for leaving. This can result in your client making unrealistic demands for some sort of financial retribution or may try and use the children as pawns in a custody dispute.
- Some angry clients threaten their ex, threaten you, threaten the court, or threaten other professionals involved in your case. Many angry clients refuse to pay outstanding bills and blame you when custody or financial decisions do not go as they want them to. At its extreme, angry clients damage property (usually the ex's) or attempt or commit homicides. You will want to have strategies for dealing with angry and vindictive clients (see below).

### **Overly protective of the children**

- Some parents believe that the other parent is toxic to the children. They will make allegations of abuse, family violence, sexual abuse, substance abuse, etc. They will allege that the other parent does not have the capacity to have regular or unsupervised parenting time because of a risk of harm to the children.
- In fact, a small percentage of parents going through divorce **are** toxic parents. They have harmed the children or engaged in behaviors that put the children at risk. Advocating a protective policy for your client and his/her children is necessary to protect the children and reduce that risk.
- At the same time, some parents exaggerate the claims or their fears are based on something other than actual behaviors. For example, a reformed alcoholic may overly worry when the other parent has even one drink during his/her parenting time. Other parents worry that the other parent cannot cook for the children because he/she did all the cooking when the couple was married. Sometimes parents worry that the other parent is not being responsible in helping complete schoolwork and/or following through on other parenting tasks.
- Your task is to listen to your client's concerns and help the client differentiate between real and perceived risk. Ask probing questions looking for details and evidence to help make this differentiation. Remember not to take every allegation that your client makes as the absolute "truth" (see below).

### **Lack of perspective – cannot see beyond the moment**

- As noted above, your client's case is the most important thing in his/her life. When these emotions are stimulated and out of the ordinary, clients lose perspective. The intensity of the above-described emotions worsens.
- The client becomes focused on the moment and loses perspective that things can, and will, be better in 1 year, 2 years, 5 years, and beyond. Help your client gain such perspective by reminding them that things get settled one step at a time, pointing out that the client's current feelings are **temporary**, that the he/she **will** feel better over time, and to brainstorm options for improving things in his/her life.

### **Transference and counter-transference**

- For these purposes, transference refers to the client approaching you as an authority figure based on his/ her previous life experiences and then transferring the feelings associated with such people onto you. Be prepared for some occasional odd reactions to your suggestions. Your client may not be emotionally reacting to you, but rather emotionally reacting to his/her father, mother, previous teacher, or someone else.

- Similarly, it is not unusual for attorneys to have certain types of clients that push our buttons, perhaps angry and rigid men, or histrionic women, or dependent clients. That is your counter-transference. Try and respond to your client on the basis of what he/she says and does, and not a stereotypical reaction to your client's personality traits.
2. **Personality disorders and other special problems<sup>1</sup>**
- As noted above, many divorce clients are experiencing out of ordinary emotions. While only a small percentage of adults (less than 10%) experience a personality disorder, the nature of divorce and the litigation associated with it causes many otherwise reasonable people to act as if they have a personality disorder. In other words, some clients act crazy even if the client is not crazy.
  - Many adults are upset that the court system does not make the ex-spouse "pay" for his/her behavior, especially if there has been an extra-marital affair that is perceived to have caused the divorce. In this section, I will address these more extreme emotions and the behaviors associated with them, along with other special problems that surface in higher conflict divorces.
  - If you suspect your client is experiencing these more extreme reactions, you will most likely want to refer the client to a therapist and get permission to share information between yourself and the therapist to help the therapist understand your concerns and gather strategies for helping your client.

#### **Narcissism or extreme self centeredness**

- For some adults, everything is filtered through a filter of entitlement, rigidity, and personalization. Bad things do not just happen (like if a court date is postponed because the judge is sick); the purpose of the event is to hurt the client. Some clients demand 50-50 custody (e.g., "it's my God-given right") or will not share custody, even if the client's position is not remotely in the child's best interests. Other high earning clients will refuse to pay spousal support to a non-working spouse with a marriage of 20 years, because it's "my money." It is important to set boundaries and realistic expectations with these clients in order to avoid the client having false expectations and blaming you when their wishes aren't fulfilled by the court.

#### **Paranoia**

- It is not uncommon for divorcing adults to feel a bit paranoid or suspicious, but some adults take this to the extreme. Be clear to your client about what to expect, help your client understand when the court is listening to his/her concerns, and make sure that you do not do anything to fuel your client's paranoia by failing to keep the client informed of what you are thinking and doing, and why.

### **Histrionic or exaggerative**

- Some adults just seem to get anxious and over-react to everything. For example, if their young child comes home clingy, that is a sign that the ex must have abused her. They have a style that some have called “over-shooting the runway.” When making allegations such clients are vague and hard to understand and follow.
- These people (like many of the others identified in this section) are thinking with their emotional mind, not their rational mind. Fears contribute this style. Remind such clients that courts need evidence and not emotion. Ask your client for specific examples of what he/she believes the other parent has done. The referral to a therapist can help such a client learn to focus and respond less emotionally and more rationally, or at least provide you some assistance in helping you deal with your client.

### **Domestic violence**

- While beyond the scope of this document to provide a thorough discussion of domestic violence,<sup>2</sup> you can expect a significant percentage of your clients to either make an allegation of domestic violence or need to respond to an allegation of domestic violence. When this occurs, take it seriously, get as many details as you can, and learn as much as you can about this critical area of family law.

### **Alienation**

- Again, while beyond the scope of this document to provide a thorough discussion of alienated children,<sup>3</sup> you can expect to work with clients whose child is refusing to see him/her or refusing to see the other parent. These can be among the most difficult emotions to deal with. Seek consultation from others, both attorneys and mental health professionals, who have worked successfully when such allegations are made. Try and resolve this issue quickly, since this tends to get worse rather than better if left alone.

### **Potential competency issues with severe mental illness**

- A very small percentage of clients may have competency issues and may be unable to help in preparing your case and working toward resolution of these problems. Severe Anxiety, severe Depression, untreated Bipolar Disorder, severe Obsessive-Compulsive Disorder, and other such mental illnesses may interfere in working together. Be certain to get such clients into appropriate treatment and hope that your client and the treatment provider can work together to resolve the mental health issues sufficiently so that you can work together on case resolution.

### 3. Necessary skills for family law practitioners in dealing with Adults' emotional reactions

- **Patience** - Perhaps the most important trait for you is patience, i.e., patience to deal with your client and his/her emotional issues.
- **The art of listening** - For many divorce clients, the end result is not the most important consideration. What these adults want most is to be heard. Spend time listening to your client before discussing legal strategies and options. Demonstrate that you have heard your client's concerns and considered them in your planning. Listening carefully helps your client feel as if he/she has been treated with dignity and respect. Many clients are afraid of being judged, so demonstrate a non-judgmental attitude, even if you have to challenge your client's emotional, rather than rational thinking. Finally, if you are listening well, you are conveying your empathy for your client's emotions and what he/she is experiencing.
- **Reflective process** - Next, you will need the important trait of reflecting rather than impulsively reacting to your clients and his/her threats, demands, wishes, and stated needs. Patience will help you in being more reflective and less impulsive in your response. Additionally, when you have a reflective style you will be modeling this behavior for your client.
- **Be honest and clear in your interactions** – It is not only important to give your client good news and positive advice. If your client's expectations are unrealistic, say so. Be prompt with news of bad decisions from the court. Try and help your client understand why the court made its decision and avoid blaming yourself or someone else when something goes against your client.
- **Help your client consider thinking about a long-term view of his/her life** - As noted above, some clients cannot focus on long-term issues. You can role model this by reminding your client that you are not only looking out for his/her present, but also the future.
- **Experience** - There is no substitute for experience in understanding if your client's wishes, statements, and stated needs are rational and real or wishful thinking, distorted, lying, or based on emotional thinking. Avoid believing everything your client tells you until you have a chance to check it out.
- **Be a counselor-at-law** - Give your client necessary advice even if it is not what your client wants to hear. Always be clear with any description of the anticipated emotional and financial costs associated with your client's case. Be clear about the chances of prevailing and the costs in reaching a desired end.

- **It is your client's case, not yours** - Boundaries are extremely important in the work you do. Never take a more rigid or stronger position than your clients wants you to, regardless of your motive. If you think your client is making a mistake, discuss the strategy with your client, understand your client's motives, and let the client be your guide. If your client does not want to take your advice, you can always help your client find a new attorney.
- **Refer to a therapist when necessary** – For many adults, it is important to work with a therapist to help manage their emotions. If you are client is unpredictable, emotionally overwhelming, too angry or sad, overly self-focused, not self-focused enough, or showing other symptoms noted above, refer your client to a therapist. To find a good therapist in your community, talk to colleagues with experience working with therapists. If your court has a Family Court Services, get a referral from the Court agency. At the very least, try and get a referral from your local Psychological Association, your state AFCC chapter (if you have one), or from other clients who have successfully worked with a therapist in the past.

### **Additional Resources**

Ahrons, C., *We're Still Family: What Grown Children Have to Say about Their Parents' Divorce*, Harper Paperbacks, 2005.

Appell, J., *Divorce Doesn't Have to Be that Way: A Handbook for the Helping Professional*, Impact Publishers, Atascadero, California, 2005.

Clarke-Stewart, A. & Brentano, C., *Divorce: Causes and Consequences*, Yale University Press, 2007.

Fisher, B., *Rebuilding: When Your Relationship Ends*, 3<sup>rd</sup> Edition, Impact Publishers, Atascadero, California, 2005.

Hetherington, M. & Kelly, J., *For Better or Worse: Divorce Reconsidered*, W.W. Norton, 2003.

Moskovitch, D., *The Smart Divorce*, Chicago Review Press, Chicago, Illinois, 2007.

Stahl, P.M., *Parenting After Divorce*, 2<sup>nd</sup> Edition, Impact Publishers, Atascadero, California: Impact Publishers, 2008.

Talia, M. Sue, *How to Avoid the Divorce From Hell*, Nexus Publishing Company, Danville, CA, 1997.

Warshak, R., *Divorce Poison: Protecting the Parent Child Bond from a Vindictive Ex*, Harper Paperbacks, 2003.

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**ENDNOTES:**

<sup>1</sup> See e.g., Eddy, Bill, *It's All Your Fault, 12 Tips for Managing People Who Blame Others for Everything*, Janis Publications, 2008.

<sup>2</sup> For more information on domestic violence, see the special issue of *Family Court Review*, Volume 46 Issue 3 , Pages 431 - 570 (July 2008).

<sup>3</sup> For more information on alienation, see the special issue of *Family Court Review*, Volume 39, Issue 3, Pages 243-343 (July 2001) and Stahl, P., "Understanding and Evaluating Alienation in High-Conflict Custody Cases", *Wisconsin Journal of Family Law*, January, 2004, 20-26. Also at [www.abanet.org/family/newsletters/2004/Mar\\_PhilStahlArticle.pdf](http://www.abanet.org/family/newsletters/2004/Mar_PhilStahlArticle.pdf).