MFTs in Family Law - The Child Specialist

A VOICE - NOT A CHOICE
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The Voice of the Child in Family Law - The Child Specialist
This workshop explains the role of the child specialist during divorce and illustrates how important it is for children to have an advocate and a voice at that time.

The Voice of the Child in Family Law - The Child Specialist
The child specialist role is emerging as a vehicle to protect and honor children's rights and to meet the family court's responsibility to include their voices in matters affecting them.

A Voice - Not a Choice
• What is a Child Specialist?
• Effects of divorce on children - what research tells us
• Voice of the child – what is it & why
• Child Specialist's role in divorce
• Exercise

Learning Objectives
• Recognize & understand the child specialist's role and the multiple areas of family law that this role supports and benefits.
• Identify how the child specialist's role addresses and supports our understanding that children benefit from inclusion in divorce processes
• Explain how incorporating the child's voice in family law helps to create vibrant children

The Voice of the Child in Family Law - The Child Specialist
Child specialists bring the voice of the child into:
• mediation
• collaborative divorce,
• offer the child's perspective in contested cases

Also, provide understanding of the children's needs as seen through the lens of child development and family systems perspectives.

Child Specialist
“The child specialist is a licensed mental health professional with particular training and experience in family systems, child development, and the needs of children during and after divorce.”  Tesler & Thompson, Collaborative Divorce, 2006, p. 48

Children have the right to be heard during divorce
In 1989, the United Nations Convention on the Rights of Children (UNCROC) established that
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in all matters affecting the child, the views of the child will be "given due weight in accordance with the age and maturity of the child."

NOTE: The US and Somalia are the only countries in the world that have not ratified UNCROC

**A Voice – Not a Choice**

**Why a Child Specialist?**

- Best interests of children (BIOC) – court mandate but difficult to determine by judges and attorneys
- BIOC – can use a child specialist to bring the voice of children into the divorce process in an appropriate manner
- All MFTs need to know the benefits that child specialists offer to children of divorce

**Attunement – How Many Divorcing Parents Can Attune to Their Children?**

**EFFECTS OF DIVORCE/ SEPARATION ON CHILDREN**

**Divorce & Separation**

- Over 1 million children annually are impacted by their parents' separation and/or divorce
- Divorce comes in many forms
  - Parents making agreements together - “kitchen table divorce”
  - Mediation
  - Collaborative divorce
  - Attorney settlement
  - Full-blown litigated divorces lasting years

**Effects of Divorce on Children**

Short summary of research on the effects of divorce on children:

- 40 years of research results - “It depends”
- Ongoing parental conflict harmful to children
- Litigious divorce interferes with ongoing family relationships - quality of parenting very important

**Divorce Increases Risks to Children**

Doubles risk of behavioral and emotional problems for children (from 12% to 25%)

- Internalizing
- Externalizing
- Academic
- Peer and intimate relationship problems

**Effects of Divorce**

Research has shown that disruptions to children following divorce include:

- reduced ability to parent from the custodial parent
- less involvement from the noncustodial parent
- continuing parental conflict
- decline in economic resources, moving or changing schools
- subsequent parental relationships/ marriages

**Stressors to Children**

- Most children are not adequately informed about the parent’s separating & effects of the separation/divorce to them
- Children not given the chance to ask questions
- Parenting plans imposed without children's input
• Children are not consulted regarding living arrangements & changes to parenting schedules

21 Protective Factors
• Competent parenting of mother & father
• Greater amount of involvement of adequate non-resident father
• Good adjustment of residential parent
• Type of involvement/activities of father

22 Protective Factors
• Parallel or cooperative co-parenting style
• Limited number of family transitions
• Economic stability
• Reduced and/or encapsulated conflict between parents

23 Options for Divorce
Parents need to understand that they have choices about how to end their marriage:
• Kitchen table
• Mediation
• Collaborative practice
• Attorney settlement
• Court

24 Voice of the Child
Voice of the Child
• Wallerstein (1986) stated that children are the “hidden clients” in divorce, not given an opportunity to express their concerns or feelings regarding the dissolution of their family
• Current family law practices in the U.S. for marriage dissolution focus on parents' rights and do not effectively consider the child's voice or long-term impacts on the child when not given a voice in the divorce

25 Voice of Children
Talking to Children about the Separation/Divorce
• No one talked to them – 23%
• Only mother talked to them – 44%
• Parents discussed separation together – 17%

• Parent made one or two statements – 45%
• Fully informed & allowed to ask questions – 5%

26 Talking to Children about the Separation/ Divorce
It is important that parents talk with their children about separation/divorce
• Children need to know what’s happening in their lives
• Best to hear it from their parents rather than somewhere else
• “Appropriate information” (Kelly, 2013) helps children cope with changes and reduces anxiety

27 Resource for Parents
American Academy of Matrimonial Lawyers (AAML) publication

“What Should We Tell the Children? A Parents’ Guide for Talking about Separation and Divorce” 2009 – Written by Joan Kelly, Ph.D.

28 What Does Research Tell Us that Children Want Parents to Know?
• Importance of each parent to them
• How parents’ conflict & behaviors affect them
• PROVIDE OPPORTUNITIES FOR INPUT & QUESTIONS
• Soliciting their ideas about parenting time arrangements & flexibility for adolescents

32 Voice of the Child
“It is only comparatively recently that a more inclusive paradigm, which recognises children’s’ capacity to be significant authors of their own biographies, has been developed within the sociology of children”

33 Voice of the Child
Including children in decision-making processes, where appropriate, has been shown to benefit children in several ways;
• increasing children’s sense of belonging & ownership,
• increasing self-esteem,
• increasing responsibility and empathy
• laying groundwork for citizenship and participating in democracy

34 CHILD SPECIALISTS

35 Child Specialists
• Mental health professionals with specialized training
• The Child Specialist can act as a spokesperson for younger children or help older children articulate their feelings/wishes directly to their parents, coaches, and/or attorneys
• The Child Specialist provides insight into how the child is coping with the divorce and offers options for the time-sharing and other logistics in their best interest

36 Child Specialists
• Gives children a voice in a neutral form
• Gives parents an opportunity to hear an objective view of their children’s experience
• Gives parents the support to understand and integrate painful information
• Gives parents support to work together to implement changes for children’s sake
• Gives team members a neutral view of the children’s experience

37 Child Specialist Training – IACP Standards

38 Child Specialist Training – IACP Standards (cont.)
• 15 hours of additional training (coaching, communication skills, advanced mediation)
• 3 hours basic understanding of family law in his/her own jurisdiction
• Expertise in child development, clinical experience with specialty focus on children, in-depth understanding of children’s unique issues in divorce

39 Child Specialists in Interdisciplinary Teams
• Work with mediators
• Work with collaborative attorneys
• Work with collaborative coaches
• Work with family law attorneys
• Work with pro se parents

41 **Roles of Child Specialist**
• Child advocate
• Mediator/collaborative professional
• Educator/consultant
• Evaluator/parenting assessment/child assessment

42 **Tasks of the Child Specialist**
• Assessment
• Support the parents
• Support & advocate for children
• Participate in creating the parenting plan (when there isn’t a parenting coach on the case)

43 **Skills of Child Specialists**
• The Child Specialist is able to represent the voice of the child, expressed in a manner that allows the child to feel both heard and understood while neutrally conveying their voice to parents and other professionals consistently and professionally

• The Child Specialist is a sensitive, skilled listener and communicator

• The Child Specialist has the ability to synthesize material from various sources into coherent, understandable presentations for parents and other non-mental-health professionals

44 **Skills of Child Specialists**
• The Child Specialist can differentiate between the therapist role and being the child’s advocate - supporting and advocating for the child in identifying their needs, wants, hopes, fears, and core issues

• The Child Specialist can apply expertise in interest-based negotiation, problem-solving, and other mediation skills to craft creative and customized outcomes specific to each family

• The Child Specialist has ease in communicating and building rapport with children of all ages; talking with them and using expressive techniques such as drawing, play, storytelling, and sandtray

45 **Child Specialists in Mediation**

46 **Child Specialist in Mediation**
• Lowenstein (2009) stated that it is important to obtain the views of children involved in family law mediation
• Including children in mediation is reported to generally have positive effects on the parent-child relationship, yet the same is not necessarily true of the child’s participation in litigated divorce (Schepard, 2004)

47 **Child Specialist in Mediation**
• When mediators have mental health backgrounds or are comfortable and trained in interviewing children, they may be more likely to include children in the mediation process (Saposnek, 2004)
• Mediators’ style of mediation or theoretical orientation influence whether children are included, but research shows that children’s perspectives are sought less than half the time with some estimates as high as 80 percent.
Child Specialist in Mediation

- Including children in mediation seems to vary greatly in practice, yet having children physically present is not a necessary requirement for including their voices in the divorce process (Schoffer, 2005).
- Child specialists or child consultants can interview children and bring the results, through a developmentally appropriate lens, of those conversations back to parents and into mediation.

CS in Mediation Process

- Mediator determines a Child Specialist would benefit case & parents agree
- Parents meet with Child Specialist
- Child/children meet with Child Specialist
- Child Specialist synthesizes information from parents and children and gives summary to parents and mediator.

Child Specialists in Collaborative Divorce

- The child specialist is the mental health professional who works with children to assess their needs and interests, provides this and additional information back to parents, and works with other collaborative team members to represent the child’s best interests throughout the divorce.
- Collaborative divorce is the only form of ADR to design in a position for the child’s voice as a standard practice.

Child Specialist in Collaborative Divorce

The child specialist maintains a firm and unequivocal commitment to the best interests of the child, representing an impartial source of information about the child’s world. The inclusion of children’s perspectives in collaborative divorce honors a child’s right to be heard in decisions that affect them, empowering them and giving them a voice through the specially trained mental health professional, the child specialist.

CS in Collaborative Divorce Process

- Collaborative attorneys determine that a Child Specialist would benefit case & parents agree
- Parents meet with Child Specialist
- Child/children meet with Child Specialist
- Child Specialist synthesizes information from parents and children and gives summary to parents and attorneys.

Differences Between Child Specialist Role and Therapy

- Working as part of a team - either collaborative process or with mediator
- Confidentiality is different
- Time limited process
- Through the lens of the divorce
- If part of a collaborative team and the process “falls out” - you stop working with the family.

EXERCISE

Post-Divorce Parenting

- The American Psychological Association’s (APA) (2004) overview of the effects of divorce on children reported that parents’ psychological health is vital for positive child adjustment.
- “Research demonstrates that the best predictor of child adjustment following divorce is the parents’ psychological health and the quality of the parent-child relationship” (APA, p. 2).
- The child specialist addresses children’s need to be heard & understood and supports
positive parent-child relationships.

57 SUMMARY
- What is a Child Specialist
- Effects of divorce on children - what research tells us
- Voice of the child - what is it & why it's important
- Child Specialist's role in ADR divorce

58 “Life will always impose trauma upon those who are least able to determine their own paths: children. If at these times we can lend children our minds, and build environments for their emotional safety and recovery, we make the load more manageable and less damaging to the developing self.”

Dr. Jennifer McIntosh, Family Transitions, 2008

59 Morgan’s Story
How might Morgan have been if she had been told about the separation and divorce, told that it wasn’t her fault and there was nothing she could do to fix it?

Beyond that, how would she have been able to thrive, post-divorce, if she had had a Child Specialist as an advocate and to represent her voice?

60 Contact Information
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