

MANAGEMENT OF VISITATION INTERFERENCE

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Divorced parents who interfere with child visitation pose special difficulties not only for the families involved, but also for the courts. It is estimated that parents of more than six million children have interfered in their court-ordered visitation (Children's Rights Council, 1994). Data reviewed by Kressel (1985) indicated that 40 percent of divorced mothers admitted punishing their former husbands by denying visitation. Similarly, Arditti (1992) reported that 50 percent of divorced fathers complained of having had their visitation rights denied. Despite these alarming figures, a review of the literature reveals there is little research available on the nature, etiology, or treatment of child visitation interference (Turkat, 1994).

From the court's perspective, the options for dealing with repeated visitation interference are limited. Contempt judgments often are less effective than intended; the parent who violates a final decree may be no less inhibited about violating another court order. Further, penalizing the interfering parent financially could potentially hurt the children involved. The same holds true for the more severe penalties of imprisonment and change of primary residential custody. Simply put, the judge's hands often are tied.

Given the limited range of options available to the court, sometimes pertinent family members are directed into therapy. Unfortunately, there is no scientific evidence that mental health professionals can successfully treat a visitation interference problem (Turkat, 1994). There is also concern about the competence level of various mental health professionals when it comes to custodial disputes (Turkat, 1993).

Because of the importance of promoting good relations between the child and the noncustodial parent, particularly when both are victimized by interference efforts, new approaches for court intervention are being considered. In fact, by passing the Family Support Act of 1988, the U.S. Congress has authorized that such programs be developed and evaluated. As part of this process, Pearson and Anhalt (1994) recently reviewed these innovative protocols in five state courts. Utilizing interventions, such as intensive case supervision, prompt telephone conferences, mediation, parent education, and other efforts of this sort, the results were highly disappointing.

Evaluations by parents who participated in the state court programs revealed that "... few parents of either sex or at any site felt optimistic about the program leading to tangible

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improvements" (Pearson and Anhalt, 1994 p. 40). The authors echoed this evaluation in their review of the data: "Visitation tended to be unchanged following program participation" (p. 9).

While documenting the "... intractability of access disputes" (p. 41) is both important and disturbing in its own right, a more worrisome finding was evidenced as well: About half of the cases that were exercising some sort of periodic visitation (compared to cases exercising no or rare visitation) found that interference with visitation became worse following program participation.

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Thus, it appears not only that such programs are highly ineffective, but also that just participating could place a family at risk for a more serious problem. Why is it that chronic visitation interference is so difficult to manage? The answer to this question is key for developing new and more useful interventions. As demonstrated in other disciplines (such as the health professions), a good formulation of the problem typically improves the chances of developing effective interventions (Turkat, 1985). There is no doubt that new approaches for court management of the visitation interference dilemma are needed.

The purpose of this article is to provide a new approach to the problem of child visitation interference, based on a clearer understanding of the problem.

To accomplish this, I first will describe some of the types of individuals who engage in chronic visitation interference. This should clarify the "nature of the beast" and help readers identify such individuals early in the litigation process. Next, I will illustrate how visitation interference is carried out, with an eye toward delineating critical target areas for potential intervention. Finally, I will provide specific guidelines for how such cases should be managed by the courts.

WHO INTERFERES?

As noted above, there is a paucity of research available on child visitation interference. However, clinical descriptions of the types of individuals who regularly engage in such behavior are now appearing in the literature. These include "parental alienation syndrome" (Gardner, 1987; 1989) and "divorce-related, malicious mother syndrome" (Turkat, 1994; 1995).

Gardner has provided excellent clinical descriptions of the parental alienation syndrome. In a nutshell, the parent with this disorder teaches his or her child to become unjustly obsessed with negative qualities of the other parent. Much effort is expended teaching the child there is something very wrong with the noncustodial parent. Naturally, this behavior causes serious damage to the relationship between the child and the targeted parent.

The methods used to alienate a child from his or her parent are diverse. These may include sarcastic comments (e.g., “so your wonderful, thoughtful father is going to actually spend some time with you”); direct criticisms (e.g., “your mother is too selfish to really love you”); implied criticisms (e.g., “do you really want to talk to ‘that man’ when he calls?”); serious exaggerations (e.g., a parent who occasionally drinks is described as an alcoholic); distorted communications (e.g., making the child upset and then erroneously blaming the other parent as the cause of the negative emotions); and paranoid behavior (e.g., daily programming of a child that the other parent is “evil” when there is no basis for it).

When a full-blown parental alienation syndrome is in effect, the parent and the child share antagonistic beliefs about, and behavior toward, the other parent. In other words, the syndrome exists when both parent and child are afflicted. In such cases, visitation is chronically interfered with and the child has been trained to engage in visitation denial quite independently.

The severity of parental alienation syndrome varies from case to case. Gardner believes that 90 percent of all custody battles bring out some aspects of it. He also reports that the mother is the perpetrator in 90 percent of cases. However, necessary scientific research on this syndrome has yet to appear.

DIVORCE-RELATED, MALICIOUS MOTHER SYNDROME

Another syndrome — the divorce-related, malicious mother syndrome — has been identified in cases in which mothers not only try to alienate their children from their fathers, but are committed to a broadly based campaign to hurt the father directly (Turkat, 1995). The diagnostic criteria for this syndrome are listed in Figure 1.

Some examples of the more extreme behavior observed in such individuals include the following: making one's children sleep in a car to prove that their father has bankrupted them; burning down the house of the ex-husband; making false allegations of sexual abuse; manipulating other people to harass the ex-husband; spreading vicious lies about the ex-husband; trying to get the ex-husband fired from his job; and driving an automobile into the ex-husband's living room.

Women with this syndrome interfere chronically with visitation. Though they also engage in serious attempts to alienate the child from the father, they are not always successful. Thus, a full parental alienation syndrome is not required for a diagnosis of divorce-related, malicious mother syndrome.

In addition, these women are skillful liars, highly manipulative, and quite adept at recruiting others to participate in the campaign against the father. As is true of parental alienation syndrome, there is an absence of necessary research on this abnormality.

Difficulties in the Courtroom.

Individuals with either of these syndromes may be willing and able to lie in court in a fully convincing way. Sometimes, their manipulative skills are so well developed that they are able to

influence others to provide false testimony against the victimized parent. They may run circles around opposing counsel. When accused of visitation interference, they often have what appear to be wonderful explanations for their behavior; some may even be accurate. For example: "I offered many times for him to see his daughter but he just doesn't cooperate; every time he comes to pick up Billy, Billy cries and refuses to go: he never follows the schedule, your honor, no matter how hard I try. ..."

Figure 1
Diagnostic Criteria for Divorce-Related, Malicious Mother Syndrome*

1. A mother who unjustifiably punishes her divorcing or divorced husband by
 - attempting to alienate their mutual child(ren) from the father;
 - involving others in malicious actions against the father;
 - engaging in excessive litigation.
2. A mother who specifically attempts to deny her child(ren):
 - regular, uninterrupted visitation with the father;
 - uninhibited telephone access to the father;
 - paternal participation in the child(ren)'s school life and extracurricular activities.
3. The mother's behavior is pervasive and includes malicious acts towards the husband, such as:
 - telling the child(ren) lies about the father;
 - telling others lies about the father;
 - acting against the father in ways that violate the law.
4. The syndrome is not specifically due to another mental disorder, but another disorder may coexist.

* Adapted from Turkat, 1995, with permission of the publisher, Plenum Publishing, New York.

What typically is left out of such testimony is the fact that the interfering parent is either lying or has manipulated the child or the situation to give a false impression that he or she is innocent of the charges.

If the interfering parent continues to violate successfully the visitation regulations, over time the victimized parent often becomes so emotionally and financially depleted that the case fades from the court's purview. Unfortunately, outside of the courtroom, the visitation interference continues, often with increased strength.

Daily Interference.

The parent who has developed an expertise in visitation interference typically will close every door that the other parent tries to open in regard to seeing the child. The beginning of this behavior may date back to a time when visitation actually was occurring on a fairly periodic basis. Maybe the interfering parent deliberately ignored a scheduled visitation from time to time,

or conveniently “forgot” about it. In this way, even when visitation actually occurs, the interfering parent may be taking steps to sabotage it.

For example, the custodial parent may subvert the visitation by calling the child every 30 minutes or so; by scheduling multiple activities for the child during such visitation and showing up at each one; by manipulating the child to “act out” at the noncustodial parent’s residence; by having other people call the child continuously; or by calling the police, claiming the child is exposed to some potentially threatening event at the noncustodial parent’s residence, and demanding that the police investigate immediately.

If the court is unable to successfully intervene as the case progresses and the visitation interference increases, activities are likely to multiply. Once the parent intent on interfering realizes that even a “show” of visitation compliance is not necessary, the difficulties are bound to skyrocket.

Here are some examples of what may happen. When standard visitation guidelines are imposed, the interfering parent will choose not to comply. When a neutral site for transferring the children is instituted, the interfering parent will not show up. When a date specific and time specific visitation schedule is established, it will have no impact on the behavior of the interfering parent. When other individuals become involved in visitation attempts, they too will be manipulated to aid in the interference campaign, or they will be outmaneuvered.

When the police are called to assist in a visitation transfer, they will be told that the nonresidential parent is “confused” about the schedule and is “out of turn”; if the court order is date and time specific, the child will be elsewhere or will have been manipulated to “act out” in such a way that the police officer is unwilling to intervene.

The noncustodial parent’s relationship with the child’s school is another target of the interfering parent. For example, when the noncustodial parent tries to visit the child at school, the interfering parent may do whatever is necessary to prevent it. The principal may be told that the noncustodial parent has no school visitation rights; the teacher may be told that the visiting parent is likely to kidnap the child; the guidance counselor may be told there are legal papers restricting access to the child. In extreme cases, the child may be inappropriately removed from the school grounds or the parent may become a school volunteer for the purpose of policing the child’s classroom.

The noncustodial parent’s access to the child’s extracurricular activities also may be a target. For example, if the noncustodial parent attempts to watch the child play on the Little League baseball team, the custodial parent may use the same “tricks” he or she used at school. As a result, the coach may be afraid to give the noncustodial parent a copy of the team schedule and/or other parents may avoid the visiting parent as though he or she has the plague.

In each of these examples, the expert interfering parent gets just what he or she is after—others prefer not to get involved, so no one with authority is monitoring the situation. As a consequence, the child and the noncustodial parent lose a precious part of their life together. The damage is difficult to quantify.

IMPLICATIONS OF DAILY INTERFERENCE

The noncustodial parent dealing with a former spouse who is devoted to visitation interference is likely to run out of options eventually. Few can afford to return to court on an ongoing basis. Further, the police cannot be present at each visitation interference episode, and neither can the judge. Even if that were possible, it would be of little use in dealing with a case in which the judge's hands are basically tied anyway.

At the present time, the parent truly committed to interfering with visitation will most likely succeed. Such an individual appears to lack a true desire to change, which indicates therapy probably would not be effective. A person who will lie on the witness stand is just as likely to lie to a therapist.

Parents who swear to cooperate while they are in the courtroom and then violate this oath the very next day know that no immediate punishment will be forthcoming. Significant intervals between scheduled hearings guarantee the absence of a timely penalty, a fact the sophisticated visitation interfering parent counts on.

Even if timely hearings can be established, the expert interfering parent knows he or she can get away with a lot. As Pearson and Anhalt (1994) have documented, severe punishment of the interfering parent is rarely applied. Further, even if primary residential custody was transferred to the noncustodial parent as the punishment, in some cases the children involved may be so manipulated that they directly sabotage the nonresidential parent's ability to succeed in this new capacity. With limited practical legal consequences, an aware and resourceful interfering parent can take full advantage.

In brief, we can formulate the problem of child visitation interference as a consequence of three key difficulties:

1. the interfering parent's determination to sabotage any opportunity for proper child visitation;
2. the absence of highly specified visitation schedules, transfer sites, monitors, and penalties; and
3. the absence of a timely penalty.

THE CRITERIA FOR A REMEDY

Before examining the specific criteria to be considered in finding a solution to the visitation interference, it is important to first review what will not work. Simply put, it is this: *Any opportunity for the custodial parent to control the visitation situation is likely to be exploited.* Therefore, allowing such opportunities to remain improves the likelihood that the interference will continue.

Put another way, it would seem that to intervene effectively, one must eliminate as many loopholes as possible that would enable the interfering parent to prevent visitation.

At this point, you must be wondering how this can be accomplished short of changing primary residential custody of the child. The answer lies in the nature of the court order.

- It cannot be vague. *It must specify the dates, times, and conditions of visitation exactly.*
- It cannot leave it up to the custodial parent to carry out the visitation. *It must direct all the parties around the custodial parent to comply, not only the custodial parent.*
- It cannot contain empty threats. *It must specify the penalties that will be imposed if the court order is violated, and it must carry out those penalties as necessary.*
- It must be deserved.

MULTIDIRECTIONAL COURT ORDERS

Given the above, it is recommended that in cases such as these, a “multidirectional” court order be instituted. It is “multidirectional” because that is just what it does: It directs parents and others to engage in specific behaviors in light of specific consequences. In some respects, a multidirectional court order is like a passport; it enables the victimized parent to enter domains of child visitation that are closed to him or her without such a document.

More specifically, a multidirectional court order will contain these key components:

1. *a date specific and time specific visitation schedule:* Such a schedule includes the precise dates and times when visitation is to begin and end. The specificity is to the degree that any outside observer would have no room to interpret the dates and times to be any different than those outlined by the court. This aspect of the court order would need to be renewed on a periodic basis, as defined by the court.
2. *a precisely defined neutral location for visitation transfers:* Ideally, the chosen site should be in a neutral setting where conflict is less likely to occur and when there is no strategic advantage for the interfering parent. Examples include the lobby of a police station, a church leader’s office, or the main entrance to a shopping center.
3. *appointment of an individual to monitor and supervise all visitation transfers:* The monitor should be someone who is agreeable to both parties or someone in whom the court has confidence. If the transfer site is a police station lobby, there may not be a need for an authorized monitor.
4. *precisely worded authorization to all law enforcement officers to execute the transfer of children as specified in the court order:* To avoid a parent’s violating the specified date and time to deliver the child to the other parent, the court order should direct the police to assist the victimized parent in locating his or her child. In certain cases, the police may be directed by the court order to arrest the violating parent.

5. *precise authorization to school personnel to provide whatever rightful access is due the noncustodial parent:* The court order should specifically instruct any and all personnel at the school the child attends to provide any and all records and information to either parent upon demand, and to permit both parents free access to the child during school hours. The court order should also direct the principal at each school that, should a conflict between the parents arise on the school grounds regarding access to the child and/or the child's teachers, a school visitation schedule be instituted that allows one parent access to the child at school for 50 percent of each week and the other parent access for the remaining 50 percent. Should either parent violate this schedule, the principal is directed to immediately notify both parties' attorneys and the court.
6. *precise authorization to all personnel involved in any activity involving the child to provide whatever rightful access is due the noncustodial parent:* The court order should state clearly that any individual representing any organization that involves the child, be it educational, financial, medical, professional, recreational, religious, or otherwise, is instructed to provide both parents full and open access to any and all activities, information, schedules, and any other pertinent items or knowledge relevant to their involvement with the child.

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7. *precise authorization to any individual involved in any activity with the child to not engage in any behavior that would interfere with the relationship between the child and the noncustodial parent, including visitation rights:* The court order should state clearly that this directive applies to any individual involved with the child in any capacity (such as group happenings, instructional activities, professional activities, recreational events, team sports, and the like), including but not limited to friends, relatives, neighbors, professionals, and acquaintances.
8. *a clearly specified hierarchy of penalties for the custodial parent based on the nature of the offenses committed:* The court order should provide clear-cut provisions for how a situation is to be handled if a parent violates the terms of the order. The penalties should be clearly outlined in a step-by-step manner and administered as required.
9. *a clear specification of penalties for any individual who violates the court order:* The court order should provide specific warning that any deliberate actions or lack of actions that adversely interfere in any aspect of carrying out the directives of the court order will result in specific penalties.

10. *a clause to reserve the right of the court to modify the contents of the court order at any time and the right to enforce it in any manner deemed necessary:* This clause provides the court full discretion for the implementation, modification, and enforcement of the court order.

PRACTICAL STRATEGIES

The concept of a multidirectional court order provides a new approach to the problem of child visitation interference. It is based on the formulation that to successfully manage the visitation interfering parent, one must control the structure of visitation schedules, transfers, intermediaries, and penalties.

More specifically, it is necessary to:

1. close up the loopholes typically present in traditional visitation court orders;
2. direct key individuals around the problem not to participate in the visitation interference; and
3. institute well-defined and timely penalties for violations.

Clearly, the old assumption that the visitation interfering parent will cooperate with minimal direction from the court is mistaken. A multidirectional court order permits more potent direction from the court and, in so doing, it gives the noncustodial parent and child an improved chance of repairing their relationship.

Central to a multidirectional court order is a clear specification of penalties. The document should state the precise consequences for a first offense, second offense, and so on. The range of appropriate penalties is at the court's discretion. Examples include increased visitation with the noncustodial parent, monetary fines, the posting of a bond, house arrest, community service, payment of opposing counsel's fees, the demand for a public apology long-term psychotherapy, imprisonment, and change of primary residential custody.

In some cases, the court may direct the violating parent to make his or her problem with visitation interference a public event: the court might make the violating parent's "recovery" public as well. Thus, one might consider having the violating parent:

- apologize to the children and victimized parent in the courtroom and promise to not interfere again;
- write a letter of apology to other involved individuals, such as school personnel, team sports coaches, and the like; or
- sign a statement affirming commitment to the contents of the court order and requesting anyone who reads it to abide by it.

The range of such consequences can best be determined on an individual basis.

There are a few potential drawbacks to multidirectional court orders. First, if there are loopholes, the visitation interfering parent is likely to find them and exploit them. Second, it is possible that a revenge seeking victimized parent might abuse the order. For example, an angry noncustodial parent might inappropriately threaten innocent associates of the visitation interfering parent with the "wrath" of the court. Third, a multidirectional court order directs other individuals to engage in certain behaviors that they might prefer to avoid. Examples include the school administrator who would rather "pass the buck" and the child's tennis instructor who would prefer to not have an angry custodial parent on his or her hands.

On the other hand, the potential benefits of using a multidirectional court order would seem to far outweigh the risks. In addition to enhancing the relationship between the victimized parent and the child, the order likely will reduce court time and result in savings on legal costs. As we gain experience in the use of this type of order, fewer and fewer problems will emerge.

Child visitation interference is a serious problem that affects more than six million children. At the present time, it has been shown to be intractable. It is hoped that use of multidirectional court orders will help us begin to overcome this national tragedy.

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