

THE ROLE OF MENTAL HEALTH COUNSELING FOR BIRTH MOTHERS IN INDEPENDENT ADOPTIONS

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In independent (private) adoption cases, California Civil Code Section 225(m) allows an attorney to represent both the adoptive couple and the birth mother, so long as both sides consent in writing. This is a rare exception to the usual prohibition against an attorney representing both sides in a civil action, probably allowed because independent adoption is generally not viewed by professionals as an "adversary" proceeding. Instead, it is seen that both sides, the adoptive parents and the birth mother, have identical goals, even if their interests differ in kind. The attorney's role, then, as the intermediary, is to facilitate a mutually agreeable solution to the dilemmas both sides face—i.e., the couple seeks an infant to adopt and the birth mother seeks a couple to adopt her infant.

This traditional view of the independent adoption scenario includes the assumption that the birth mother client "needs" adoption and the "salvation" it brings her more than the couple needs her baby. The many long-practicing attorneys who hold to this view believe that most of these young women are already firm in their decision to release their infants for adoption from the moment they contact the attorney.

While this is very often the case, it is not always so, which may place the attorney in a conflict situation. To avoid this potential conflict and to prevent future problems in the adoption process, the authors believe that attorney should urge birth mothers to seek professional counseling whenever there is any uncertainty on their parts whatsoever.

I. WHY COUNSELING?

Making the decision to give up one's child is a decision birth parents have to live with for the rest of their lives. Most specialists in this field agree that this decision impacts on their lives and self-esteem forever. A startling statistic given by one expert is that "38 percent of birth parents who surrender do not have other children."¹ With this statistic in mind, the birth moth-

er's choice takes on ever greater significance. Knowing that this might be her only chance at biological parenthood, would the birth mother still choose to make an adoption plan? If, in knowing this information, she still chooses to surrender her child, does this demonstrate how firm she is in her decision? What about birth mothers who are never counseled? Can they make mature, informed decisions without having all of the information about the consequences (positive and negative) of their decision?

Another strong argument in favor of birth mother counseling, before and after the baby's placement, is that birth mothers are very often minors who are faced with making adult decisions before they are grown. These are tough decisions even for mature adults. It is often unrealistic to expect an extremely young woman to make these kinds of decisions without the aid of a skilled professional who will help her to evaluate her options and look realistically at how these decisions will affect her future.²

Denial

Experts recognize that in the early stages of an unplanned pregnancy, the psychological defense of denial is often present to protect the birth mother from feeling the emotional pain connected with her situation. This defense can get in the way of her seeking the medical attention she needs. The example of a fourteen year old who was almost five months pregnant and hadn't even seen a doctor for a pregnancy test is a perfect example of the defense of denial. The advice of a counselor in this case was simply to go see a doctor.³

Denial may be present in all stages of the pregnancy and can continue past the birth and placement of the baby. Because many women do not have adequate counseling, they can even convince themselves that it never happened. At some point though, sometimes as long as ten or fifteen years later, their defenses wear down, and they are confronted with an overwhelming sense of loss and pain that they need to work through.

This is why some counselors insist that the birth mother have contact with the baby in the hospital. She may have made a decision to give up her baby prior to the delivery, but when the baby becomes a reality, new feelings come up. These counselors say, "We want our birth mothers to decide to place their child only after coming to terms with that child's reality."⁴ A different source supports this philosophy and indicates, "It is easier to let go of and grieve the loss of someone that you have memories of rather than someone that is unknown."⁵

Another counselor describes her role in helping the birth mothers sort out feelings as they arise as follows:

Our job is to be neutral, to facilitate what is going on. If she starts to grieve, to be upset, we don't panic. This doesn't mean she shouldn't release, it simply means she is starting the inevitable

grieving.⁶

It is not uncommon for a birth mother to experience a "postpartum depression, or lethargy and sense of disappointment when personal dreams and fantasies about a child are transformed into a real and separate individuals."⁷ Thus, birth mother counseling is recommended to help make the baby and the experience a reality, to give the support that is needed to deal with the issues that arise in the post-delivery stage, and to help the birth mother arrive at the decision regarding placement of her infant that she must live with for the rest of her life.

Guilt and Grief

Making an adoption plan for a birth mother also brings up feelings of guilt. Even when a woman decides that this is the best thing for herself and her child, she may be continually fighting thoughts that it is wrong to give up one's baby. Those not well informed about adoption often believe that birth parents don't really care about their children. "In actuality, the mother's greatest concern is usually that her child will never forgive her for abandoning him/her."⁸ One social worker observes that "The fact that many birth mothers continue to inquire about their child's welfare [after the adoption is complete] . . . is further evidence of their concern."

The grief felt by birth parents is also intense. "This decision can result in a lifetime of grief and despair, the trauma of which some birth parents have described as a psychological amputation."⁹ Others have described the sense of loss felt through adoption as similar to the loss experienced by the death of a child.

If the birth mother does not go through the grieving process, these issues will resurface later.¹⁰ This belief is reiterated by a nationally-known adoption lobbyist, who believes that, "just as with a woman who has had a miscarriage, there is a tremendous sense of loss for women who surrender their babies. Counseling is required to help these women get through it."¹¹ The birth mother needs competent counseling in order to successfully process stages of grief. "Ideally, she will work through some of her grief *before* her baby is born," says one counselor.¹²

Another expert expresses that it is difficult to mourn a child who is still living. To this she attributes the birth mother's tendency to bury her feelings rather than to feel and process the grief. She behaves in the way society expects her to and she ends up suffering alone. "They have lost a part of themselves, they have lost a relationship with their offspring, and they have lost ongoing knowledge of the health and welfare of their child."¹³ Although these birth mothers will never get to be the nurturing parent to their child, they will always remain birth parents. Holidays such as Mother's Day and birthdays will be difficult for them.¹⁴

As if internal conflicts are not difficult enough, birth mothers also often face a multitude of external pressures from others around them.

Family Pressures

For example, most adoption professionals agree that birth grandparents can often "make or break" an adoption by last minute offers of support to the birth mother in order to induce her to keep a baby she is incapable of raising on her own. This is usually because birth grandparents become strongly attached to the idea of what is often their first grandchild. Counseling support for the birth mother may be necessary at this point in order to enable her to make her own decision.¹⁵

One teen birth mother's parent warned her that "if you ever consider adoption, I'll kill you." Another twenty-one year old was told by her family that adoption is bad because "you just don't give your baby away to strangers." She was raised to believe that prayer was the answer, not counseling. She believes, however, that her family's pressure for her to keep her baby was motivated by their selfishness, without any concern for the baby's happiness. She ultimately chose adoption. Her personal philosophy, after receiving counseling, was "most kids deserve better parents than they have."

Peer Pressure

Another outside influence often exerting pressure on a birth mother's decision-making process is the trend toward pregnant teenagers keeping their babies. One teen birth mother commented, "I had only one friend who thought I should release my baby. All the rest were against it."¹⁶ Another teen who sees giving up a baby for adoption as a sign of personal failure, believes that "anything I can have, I can love."

But experts believe that teens who keep their babies, and then pressure their peers to do the same, may simply be having difficulties themselves living with their own decision. Therefore, they are often hardest on those who opt instead for adoption.

Pressure from Adoptive Couples and Attorneys

There is also the danger that the potential adoptive parents, or even a well-meaning attorney acting on their behalf, will exert pressure on the birth mother to relinquish before she is firm in her decision. Rather than encouraging her to reevaluate her decision, they might reassure her that her original decision was the right one and that there is no need to reassess it.¹⁷ But it is essential to allow a birth mother her right to choose, right up to and even following the birth of her baby.¹⁸ *The most significant risk a professional may run by unduly pressuring a birth mother into a premature decision to relinquish her infant is adoption disruption* (i.e., the birth mother reclaiming her baby later on). It is never worth putting adoptive parents

through that kind of agony.

Avoidance of Adoption Disruption

Thus, another goal of birth mother counseling is to aid in avoiding an adoption disruption. As earlier stated, a birth mother may make an adoption decision prior to the baby's birth but discover in the hospital after the birth that she is feeling new emotions now that the baby is a reality. The role of the counselor at this critical stage is to let her know that this is a period of redeciding and that she has the right to rethink her decision.¹⁹

It is also critical at this point, however, for all parties to recognize the conflicting interests at stake, to wit: a birth mother needs to be able to be firm in her mind and feelings that she truly wishes to give up her infant, yet the newborn has an equally great need for immediate stability. Further, an adoptive couple not certain of her decision may have problems forming deep attachments to an infant who might later be reclaimed. Therefore, there is tremendous pressure on the birth mother during the one to five day period of the post-birth hospitalization to make and to stick by her decision. [The unfortunate alternative, if she cannot be sure, however, is to place the infant in foster care until she is sure. This should be avoided at all costs, though, for it flies in the face of the spirit of independent "direct placement" adoption.]

Unfortunately, approximately 10 to 25 percent of the time, a birth mother cannot give up the child she has promised to an adoptive couple—or she does, and then decides she wants the baby back.²⁰ Case in point is Veronica's story, told a year after her baby was born:

I was sixteen when I got pregnant . . . It's hard to get your mind and emotions together. Your mind is telling you you should give this baby up while your emotions are telling you you can't do it. It's like rip and tear for nine months before and a year afterward. The week I had her I was a total wreck.

I think the worst emotional pull was the day after Katrina was born . . . Every time my parents and grandparents came to see me, I was asking them what I should do. I finally signed the medical release so she could leave the hospital with the adoptive parents.

Three weeks after she was born I called the lawyer back and said I wanted Katrina back—I wanted to bring her up myself. He tried to counsel me and tell me it was best for her to be with the adoptive parents . . . Then I started going to counseling. My mom works for a health clinic and I went to one of their counselors. I would go into these sessions and completely fall apart. At that point I was so wrapped up in wanting Katrina back that, to me, it was like everyone was against me, the lawyer, the adoptive parents, my family.

When I was in counseling I realized I wanted her back *because it hurt me to leave her*, not because of what it would do to her. Once I could figure that out, I could look at it in an objective way . . . Two weeks before the court date, I called the social worker and said I would sign the final papers."²¹

One counselor, who is also an adoptive mother, gives her thoughts on what it may mean when a birth mother considers taking her baby back. "Birth mothers often get pregnant and give birth because they want to be loved. Sometimes, after the placement, birth mothers say they want their baby back, but they are really talking about how they feel (i.e., they want love) not about their intention." This counselor advises how to help such a birth mother sort this out: "Ask the birth mother if her decision to relinquish was right at the time she made it. If yes, ask her what has changed. If nothing, it is still a good decision."

In discussing the risks of independent adoption and placement of the baby in the adoptive couple's home, one expert tells potential adopters who fear that birth parents may change their minds, "if the birth parents have received proper counseling and their decision was made without duress, this is unlikely to happen."²² The key here is *proper* counseling. If counseling is only one-sided (i.e., it offers only the option of adoption) this may require less time and effort on the part of the counselor, but it is unlikely that the birth mother's most important issues will be resolved.²³

One birth mother who did reclaim her infant three weeks after he had gone to his new home (much to the agony of the adoptive parents) tells, "I'm sorry now because if I'd had more and better counseling, I wouldn't have let him go in the first place."²⁴

Birth Fathers Shouldn't Be Forgotten

Although most of the literature focuses on the birth mother, much of the counseling work already discussed applies to birth fathers as well. If a birth father has remained on the scene, or has left but knows about the pregnancy, he is able to remain in the denial stage even longer than the birth mother because he is not experiencing the physical changes of the pregnancy.²⁵ Therefore, some professionals feel strongly that birth fathers should not be forgotten. They often see adoption intermediaries giving little, if any, attention to the crisis of the birth father due to the "adoption myth that sees the birth father as 'irresponsible and uncaring'."²⁶

When birth fathers do not receive counseling in order to work through their issues, the results can be devastating to the adoptive couple as well. If the birth father is a "presumed" father, so that his consent is required for the adoption, he might decide to withhold it, or simply make life difficult for everyone involved. Therefore, it is also recommended that such a birth father receive supportive counseling to enable him to

work through his grief and to help him let go.

What Do Attorneys Think?

Said one veteran of the field, "I only work with women who give up babies only when it is indispensable to their future happiness and dreams. Bringing these babies home for them would be a nightmare." He believes that "the girl who needs to sort out her thinking is unreliable for adoption." He asserts that "people only need counseling when they are not thinking too clearly . . . I have never seen counseling help an adoption, but I have seen it ruin many. It is like getting married—if you're only ninety-nine percent sure you love him, it'll never work . . . I get very nervous if a girl says 'I need counseling'." Nevertheless, he concedes that if one of his birth mothers requests counseling, he will provide it.

Another attorney says that if he senses any reluctance of uncertainty in one of his birth mothers, he'll stop the adoption process at least until "she has satisfied her doubts, had counseling or has made some other decision . . . Psychological counseling . . . is recommended, although not required."²⁷

Another well-respected veterans says "Counseling can't hurt, but to make it mandatory in all situations can hurt the adoption." Yet another attorney deals with counseling by "recommending it but I don't push it. I decide on a case-by-case basis . . . If I think a birth mother is extremely sincere but ambivalent, then I think she needs counseling to be able to assess the pros and cons, and to assist her in making her decision." She also believes that counseling can be invaluable for birth family dynamics by helping a birth mother in her grieving period so that she doesn't have to burden her own mother. "Sometimes a birth mother's own mother was very young when she had her daughter, only she decided to keep her baby. The daughter birth mother, by now considering adoption for her baby, is not validating her own mother's decision to keep her, nor the life her mother chose to live."

Yet another attorney, one of the "new breed," asserts that "I am in favor of birth mother counseling one-hundred percent across the board. Unfortunately, only twenty-five percent of them are ever willing to do it."

Currently, experts in independent adoption are noting that attorneys are increasingly recommending that adoptive couples pay for counseling for their birth mothers. "Counseling is the best investment adoptive couples can make" insists one attorney "but it is also hit and miss because there are counselors who don't know the first thing about the subject. So it is really critical who does the counseling." Therefore, the counselor who works with birth mothers should be knowledgeable about independent adoption and know how a woman going through this experience is likely to react. Further, only licensed professionals should be trusted with this delicate task in order to assure competence

and professionalism.

II. COUNSELING ISSUES AND GOALS

When determining what kind of counseling is appropriate for birth mothers, one must consider the relevant issues that need to be addressed and the goals or desired outcome of such counseling.

Some specialists in this field have determined that a birth mother will experience three phases of her unplanned pregnancy and that counseling should very specifically deal with the issues attached to each phase. The period of time when one first learns of her pregnancy, until the birth of the child, is designated as Phase One. The birth of the baby is the beginning of Phase Two, and the placement of the baby with its adoptive parents signals the beginning of Phase Three.²⁸

A woman in Phase One, first dealing with an unplanned pregnancy, is generally in crisis. She is usually feeling very much alone and afraid of what the future will bring. Supportive counseling can help her sort out her feelings and deal with the immediate issues she faces—for example, how does she tell the significant people in her life (parents, friends, lover) about her pregnancy and how is she going to manage her medical costs and other financial responsibilities? If in this initial phase she is in denial about the pregnancy, the counselor can help her overcome this and learn more about the deeper feelings that are defended by her denial system.²⁹ After dealing with these immediate, critical concerns, the focus of the counseling then becomes the consideration of her options. When she is ready to begin considering her options, a skilled and empathetic counselor can be the key to helping her make the best decision for herself and her baby.

In Phase Two, the counseling focuses on issues arising after the birth of the baby. At this point, the baby has become a reality because he or she is, for the first time, separate from the birth mother. The baby is no longer a being that is imagined or can be denied. For this reason, some birth mothers may be encouraged to see, hold and feed their babies at the hospital, and then to deal with their feelings at that moment. One birth mother revealed, "I was afraid that when I saw the baby I was not going to be able to go through with the adoption, but I had to see him. I had too much curiosity. But right when I saw him I knew I couldn't keep him. I knew it would be wrong. I knew I couldn't be so selfish."³⁰ This is also when feelings may come up for birth grandparents who may have been into denial, and they may pressure their daughter to keep this new grandchild. Once again, when facing pressure from the outside, the support of her counselor can help the birth mother make her own decision.

In Phase Three, the counseling after placement (i.e., when the baby goes home with the adoptive parents) is essentially "grief work." The birth mother should be

helped to go through the stages of grief, which include denial, anger, sadness and acceptance. The birth mother must begin the process of accepting her decision.³¹ Sometimes, the birth mother's pain and sadness at this time is so intense that she and others in her support system may begin to think that she made the wrong decision. She might feel that, "Anything that hurts that much must be wrong. She needs to know that something can hurt a lot and still be right."³²

It is also during this phase that the birth mother needs to deal with her present life and what it will become now that she has placed and given up her baby. As she develops new relationships, she must make the decision of whom to tell about her pregnancy and adoption experience. Then she must be prepared to face possible criticism of the choice she's made. Feeling positive about her decisions and feeling good about herself are essential to her ability to stand strong when confronted with such criticism. Further, when she begins to date again, she may find that there is unresolved anger toward men through which she needs to work. Also, dealing with her family's reactions to her pregnancy and placement of the baby become important areas of focus. One of the ways she can approach these issues is by participating in counseling and support groups for birth mothers which may focus on such topics as sex, birth control, family interaction and assertiveness training.³³

In order to achieve a feeling of emotional closure, some counselors encourage birth mothers to write a letter to their babies, to be given to the adopted child at some future undetermined date, usually left to the adoptive parents' discretion. These social workers believe that the letter also helps the birth mother deal with her grief.³⁴ They also believe it will someday be meaningful to the child, to help him or her to better understand why his birth mother "gave him away."

III. HOW MUCH COUNSELING?

This decision should be based on the individual needs of the birth mother. Some counselors believe that the relationship should end when the birth mother is ready, when she feels that the support of her counselor is no longer necessary. However, some experts think that the door should always be left open to reestablish the relationship if necessary or just to offer information as needed. "We know her decision [is] a life-time one; therefore, we plan to meet her needs as time and the healing process demands, even if it takes a lifetime."³⁵ In general, however, most birth mothers rarely need to go to counseling for more than several months before and after placement.

The goals of pre- and post-placement counseling then, are to help the birth mother clearly look at her situation and to make the best possible decision for herself and her baby. The post-placement work focuses on her reentry into the world, as well as her acceptance of her own decision. If these goals are not achieved, then the

psychological well-being of the birth mother, as well as her ability to make a positive, productive life for herself, could be adversely affected.

One unfortunate teen birth mother who needed, but did not receive counseling before placing her baby, had difficulty adjusting afterwards. "I didn't sleep real well for a couple of weeks after I came home from the hospital, but I think the adoption was best. That's what keeps me going. If I didn't think it was best, I'd feel worse."³⁶ Said another birth mother who got no post-placement support, a full ten years after placement of her baby, "No one told me that I would experience overpowering feelings of grief. I was totally unprepared for the emotions that hit me."³⁷

One adoptive mother, whose birth mother also never received any counseling and who has unfortunately lost contact with her, wistfully says, "To this day I don't know if she's okay, and that really bothers me."

IV. CONCLUSION

Although this article has emerged as a piece in favor of counseling for birth mothers, the authors' original intention was to write a neutral piece on the subject. We found in our research, however, that most of the professionals in the field were in favor of birth mother counseling in independent adoptions. Like these other professionals, we conclude that if counseling is administered by skilled professionals, there is little reason why most private adoptions shouldn't benefit from it, although we are not recommending that it be made mandatory.

¹ *Cooperative Adoption—A Handbook*, Kaplan, Sharon and Rillera, Mary Jo, Tri-Adoption, Inc., Westminster, California 1984, page 8.

² *Open Adoption—A Caring Option*, Lindsay, Jeanne Warren, Morning Glory Press, Buena Park, California, 1988.

³ *Pregnant Too Soon—Adoption is an Option*, Lindsay, Jeanne Warren, Morning Glory Press, Buena Park, California, 1988, page 66.

⁴ *Dear Birthmother*, Silber, Kathleen and Speedlin, Phyllis, Corona Publishing Company, San Antonio, Texas, 1982, page 124.

⁵ *The Journal of Family Medicine*, "Adoption: The Family Physician's Role," Poole, S.R., M.D., Vol. 19, No. 4: 445, 1984.

⁶ *Open Adoption*, Lindsay, page 144.

⁷ *The Penguin Adoption Handbook*, Bolles, Edmund Blair, Penguin Books, New York City, New York, 1984, page 203.

⁸ *The Child*, "Who Am I?," Hubbard, G.L., (1947) 11: 130-33.

⁹ *Dear Birthmother*, Silber and Speedlin, page 112.

¹⁰ *Open Adoption*, Lindsay

¹¹ *Adoption: Parenthood Without Pregnancy*, Canape, Charlene, Avon books, New York City, New York, 1988, page 64.

¹² *Open Adoption*, Lindsay, page 124.

¹³ *The Adoption Searchbook*, Rillera, Mary Jo, Tri-Adoption Publications, Westminster, California, 1985, page 5.

¹⁴ *Open Adoption*, Lindsay, page 125.

¹⁵ *Dear Birthmother*, Silbert and Speedlin

¹⁶ *Pregnant Too Soon*, Lindsay, page 57

¹⁷ *Dear Birthmother*, Silber and Speedlin

¹⁸ *How to Get Babies Through Private Adoption*, Rundberg, Gayle D., Maverick Publications, Bend, Oregon, 1988

¹⁹ *Open Adoption*, Lindsay

²⁰ *Los Angeles Times Magazine*, "The Baby Brokers," Stabiner, Karen, August 14, 1988. *Los Angeles Times*.

²¹ *Open Adoption*, Lindsay, page 156-158.

²² *The Adoption Resource Book*, Gilman, Lois, Harper & Row, New

- York City, New York, 1987, page 131.
²³ *Dear Birthmother*, Silbert and Speedlin.
²⁴ *Open Adoption*, Lindsay, page 129.
²⁵ *Dear Birthmother*, Silber and Speedlin.
²⁶ *Dear Birthmother*, Silber and Speedlin, page 120.
²⁷ American Bar Association Journal, Charney, Mitchell A., June, 1985, page 5455.
²⁸ *Dear Birthmother*, Silbert and Speedlin, page 119-120.
²⁹ *Dear Birthmother*, Silbert and Speedlin, page 120.
³⁰ *Dear Birthmother*, Silbert and Speedlin, page 124.
³¹ *Dear Birthmother*, Silbert and Speedlin.
³² *Open Adoption*, Lindsay, page 126.
³³ *Dear Birthmother*, Silbert and Speedlin.
³⁴ *Open Adoption*, Lindsay.
³⁵ *Dear Birthmother*, Silbert and Speedlin, page 138.
³⁶ *Pregnant Too Soon*, Lindsay, page 65.
³⁷ *Dear Birthmother*, Silbert and Speedlin, page 126.

ADDITIONAL RESOURCES USED

The Adoption Triangle, Sorosky, Arthur D., M.D., and Baran, Annete, M.S.W., Pannor, Reuben, M.S.W., Anchor Press/Double Day, Garden City, New York, 1984.

Beating the Adoption Game, Martin, Cynthia D., Ph.D., Harvest/Harcourt Brace Jovanovich, San Diego, California, 1988.

Fertility and Sterility, "Private Adoption," Gradstein, Marc and Glass, Robert H., No. 4, April, 1982, page 548-51.

Minnesota Welfare, "In Search for Mom and Dad," Linde, L.H., Summer: 7-12, 47, 1967.

To Love and Let Go, Armes, Suzanne, Alfred A. Knopf, New York City, New York, 1983.

U.S. News and World Report, "Desperately Seeking Baby," October 5, 1987, pages 58-65.

BUHAI CENTER SCHEDULES TRAINING FOR NEW VOLUNTEERS

The Harriett Buhai Center for Family Law, the largest provider of family law services for low-income persons in Los Angeles County, will sponsor a one-day training for new volunteers on March 10, 1990 from 8:30 a.m. to 4:30 p.m. at Loyola Law School, 141 W. Olympic Blvd., Los Angeles, CA 90017.

The educational program will focus on actions for dissolution of marriage and orders to show cause for custody, visitation, support, restraints on personal safety and transfer of property. Follow-up workshops concerning actions for establishment of parental relationship (paternity) and guardianship of minors, will be held at the Center during April and May.

The event will be free to lawyers and paralegals in return for a commitment to provide a minimum of 24 hours of pro bono service at the Center or acceptance of one pro bono case for representation during 1990. A large, up-to-date manual authored by the Center, complete with forms and detailed practice pointers, will be distributed to new volunteers at a cost of \$25.

For further information and to register, please contact: Olivia Cano or Monica Weil, Harriett Buhai Center for Family Law, 2814 W. King Blvd., Los Angeles, CA 90008; (213) 298-0215.

IN SUPPORT OF PARALLEL PARENTING— A POLICY OF PRIVACY

By Fern Topas Salka and
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Introduction

When we contemplate the era before the passage of the California Family Law Act, it is generally remembered as a time when detectives were hiding behind motel room doors to prove adultery and fault. What is not usually remembered is that since mothers at that time were awarded custody of the children as a matter of course, there was, in this area at least, no need to dig very deeply into the personal lives of the parents unless a father was alleging gross misconduct by the mother. When the Family Law Act was revised in 1970 to eliminate fault, it was hoped that this would mark the end of wholesale intrusion by the Courts into the most private recesses of people's lives. Subsequent societal changes, however, such as an increase of women in the labor market, the feminist movement, and joint custody legislation, which trends began slowly in the seventies and picked up more and more momentum through the eighties, have turned our earlier assumptions about privacy—and the family court system—on their heads.

Indeed, now that sole custody to mothers is less a matter of course, we are left with the frequent specter of two perfectly acceptable parent each trying to prove that he or she should remain involved with, or even in charge of the children. When there is no misconduct on the part of either parent, then the parents fight for their turf by turning to narrower issues—the personality, values and lifestyle of the other parent. These issues, which the authors, for the sake of simplicity, call "lifestyle custody battles," involve parents of both sex complaining, for example, that the other doesn't put the children to bed at a reasonable hour, allows too much television to be watched, overfeeds the children, underdisciplines them, under-hugs them, is cold, is hot-tempered, ad nauseam. With no respectable psychological guides, let alone legal guides, to assist the courts in determining such matters of personal character and taste, parents have, nonetheless, persisted in asking them to determine the "best" way to parent. As a

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