

**THE PARENT TRIBUNAL:
An Innovative Alternative for Resolving Divorce-Related Conflict**

Deborah C. Silver, Psy.D., NCSP, and Robert B. Silver, Ph.D., ABPP

Growing discontent with the delay, financial and emotional costs, acrimony and results of relying exclusively on adversarial proceedings for divorce-related matters, led a group of family law professionals in the 20th Judicial Circuit of the State of Florida to form the Association of Family Law Professionals. This is a multi-disciplinary group that includes a family law judges, lawyers, mental health and financial professionals, as well as mediators. A subcommittee of this group created a variety of alternative dispute resolution resources on a voluntary basis for divorcing couples. These alternatives range from the informative to the directive, and also vary along the dimension of invasiveness and the degree to which the parents are willing to transfer their decision-making to experts and authorities. While complete information on this system, known as The Sieve Model, can be obtained by contacting silverpsychology@aol.com this article will be limited to describing one of the components-the Court Based Parenting Tribunal, which is thought to be one of the more creative components included.

The quasi-legal format of the Court Based Parenting Tribunal seems to meet a variety of needs for the participants included. The Tribunal provides the feel of a judicial proceeding, the opportunity to be heard, as well as a trial balloon for ones legal arguments and position. One appealing aspect for participants is that they can be heard more quickly. Additionally, the members of the Tribunal explain the reasons that informed their conclusions and recommendations. Thus, participants are given much more information about how the Tribunal members arrived at their findings, something that is rare in judicial rulings. Moreover, feedback is given directly after a period of deliberation.

The intent of this article is to make this procedure and the model from which it is derived, The Sieve Model, better known. It is hoped that others will be inspired to try the Parenting Tribunal and to develop its potential as one among many alternatives to a purely adversarial approach.

Court Based Parenting Tribunal - Disputing parties who feel a need to be heard by a legal entity are potential candidates for a court-based parenting tribunal. In this procedure a panel of experts is convened to hear the critical issues that divide the divorcing parenting partners. This tribunal is comprised of an attorney, as well as a mental health clinician, both experienced in that matters related to family law, a financial expert if money is at issue, and a County Judge. The Tribunal is conducted in a courtroom, because this setting seems to meet the requisite emotional needs of complainants to “have their day in court.” With representation from a County Judge legal authority permeates the process and promotes conflict resolution similar to that of a formal trial, but without the binding reality of this formal proceeding.

PARENT TRIBUNAL

This innovative approach is based on the concept that at heart human nature remains rather stable. Our ancestors took interpersonal problems to the tribal elders for resolution. We have attempted to re-create this with the Parent Tribunal model. Parents who must resolve differences of opinion outside of a marital union have the opportunity to present their point of view to a panel of experts including a judge, attorney, mental health professional and, if warranted, a financial professional. There is a structured protocol established that allows the parties ample opportunity to present their “case” to a panel of professionals seasoned in their area of family law, who will contemplate the issues from diverse vantage points. Unlike a formal judicial proceeding these parents have the opportunity to reject the opinion of the panel because participation is voluntary. The beauty of this approach is that parents have the flavor of the “meal” without all of the calories. They gain a taste of what the court would be like, without suffering the effects of binding consequences. Lawyers also have the opportunity to see what “evidence” has been most persuasive.

Advantages of this approach include:

- **Judicial Authority** - enhances credibility of the panel of experts.
- **Efficient** - parenting issues are addressed in a timely fashion, rather than languishing for months, awaiting an opening in a too full judicial docket.
- **Diversity of Opinions** - allows for open discussion from the vantage point of the Court, attorney, financial expert and mental health expert.
- **Reality check** - parents can successfully address their unrealistic attitudes and perspectives.
- **Support for the Family Law Attorney** - clients with unreasonable attitudes and expectations can be inspired to appreciate that there are other ways to look at situations than their own particular point of view.
- **A gentle “wake-up call”** - parents will have the opportunity to suffer the emotional experience of going to Court, without being tied to a long-term course of action that is Court-driven. This provides parents a second chance to reconsider their expectations and perspectives. They can “bite the fruit from the tree of knowledge of good and evil,” expanding their awareness of the limitations of deferring to a stranger for decision-making. Consequently, their eyes will now be opened and mind sensitized to an expanded awareness without being forced to accept anything they still oppose.
- **Impact on significant others** - those witnessing the Tribunal can potentially serve as forces for good or evil. Viewing proceedings can educate significant others as effectively as the participants themselves. They, too, can develop more realistic expectations through the process. These family members and close friends can become more effective counselors, guides and supporters, by encouraging positive negotiations between the parents.
- **The tribunal process provides a model for future conflict resolution** - the process of communication and consensus building is modeled by panel members, for parenting partners’ edification.

TRIBUNAL FORMAT - HALF DAY PROTOCOL

In an effort to standardize this innovative approach for study there was recognition of the need to establish a reliable procedure. What follows is the schedule of activities implemented in Lee County, Florida. Thus far, the proposed schedule has worked well, allowing ample time to reliably and efficiently present pertinent issues. Prior to the scheduled date for the Tribunal the lawyers meet together with panel members to outline important elements for consideration. Consequently, all participants have advance common knowledge of the general facts to be deliberated. The judge is the time keeper ensuring that all time allotments are strictly followed. The judicial authority communicated by robes, announcement of the entrance of the panel by the Bailiff and the solemnity of the court room environment all serve to underscore the seriousness of this proceeding.

- **Open session** –Two minutes are allotted for panel introductions and the signing of waiver forms by all parties, including both parents and their attorneys. The judge swears in both parents.
- **Opening statements** – Ten minutes then are invested so that each lawyer might clearly present their opening statements.
- **Direct by Mother** – Thirty minutes next are devoted to fleshing out what was summarized initially by the attorney in their opening statement. Specific questioning by the attorney who represents the Mother is conducted, in regard to precise issues. This allows salient material to be heard by the panel.
- **Direct by Father** –The following thirty minutes is invested in a similar detailing of circumstances from the Father’s perspective, with questioning conducted by his attorney. During both of these portions of the tribunal panel members are free to seek clarification by asking their own questions. As much as possible, panel members endeavor to create a climate of openness, tempered with the gravity of the courtroom setting.
- **Father disputes** any of Mother’s assertions – Ten minutes is granted to the Father in his efforts to counter statements made by the Mother that he feels may be misleading, incomplete or untrue.
- **Mother disputes** any of Father’s assertions –the following ten minutes are devoted to the Mother’s opportunity to dispute information presented by the Father, which Mother believes they be misleading, incomplete or untrue.
- **Panel’s statement of the facts** – Fifteen minutes then are granted to the panel members to ensure accuracy in the receipt of information presented. Each panel member may recite, reframe and/or state the claims and facts as they heard them. By means of this portion of the tribunal parents have the opportunity to really feel heard. Thus, the panel is more likely to share a common set of facts and

perspectives that have been accepted and acknowledged by both Mother and Father.

- **Panel deliberation** – Fifteen to thirty minutes then is devoted for discussion of information presented by the parents. These efforts are structured by a review of the criteria utilized in determining custody matters. At this time both parents and their attorneys are excused from the courtroom, as well as their family or friends who have been observing. Panel members openly discuss the facts presented, as well as their opinions and perspectives with the courtroom cleared, except for family law professionals or trainees who are there to observe and learn.
- **Ruling of Panel** – There are no time limits set for this portion of the tribunal. Information unique to the family circumstances presented is discussed from each panel member's perspective. Through a process of explaining to one another what each believes are the most important factors for deciding the issues presented, either a consensus or majority decision is reached. The Judge initially delivers the ruling. The attorney panel member then details parenting criteria, as well as how both mother and father fared through this review. The mental health panel member addresses issues that are pertinent from a psychological perspective. Typically, appeals are made for both parties to step to the middle, as well as to find it in their hearts to compromise and work together. Often a review of research findings that apply to this family is part of the feedback given to the mother and the father. Specific recommendations also are provided, all in the effort of inspiring increased cooperation, a rebuilding of the co-parenting partnership and reduced conflict. Efforts are made to identify each parent's sets of strengths as they relate to parenting. They are cautioned to understand that custody evaluations and proceeding along an adversarial path typically lead to a result that initiates a protracted odyssey of conflict, rather than a resolution that will serve the family through the childhood phase and beyond. Both parties are reminded that they are joined together for eternity by their children as co-parents, a bond that no divorce will sever. The parents may also be encouraged to consider alternative sieve approaches that might be appropriate to their situation.

CASE STUDY REFLECTING IMPLEMENTATION OF THE TRIBUNAL

The Inaugural Tribunal Family

The "Inaugural" family struggled with highly complex circumstances frequently observed in families of divorce. The uniqueness of this family, however, is evidenced in the following history. The Tribunal panel members were advised by the involved attorneys that conflict erupted over sharing a five-year-old little girl by parents who had had never married. Mother sought to maintain the relatively equal sharing plan, while the father asserted that new circumstances had arisen since their initial informal agreement such that he should be granted primary residential status. The mother had four other children, by three different fathers. She had been married twice. The father had never married and had no other children. The mother struggled to provide for her children from her current employment as a housekeeper, while the father enjoyed a comfortable living

derived from his own sign painting business. Two years prior to this tribunal the mother had been arrested for prostitution. The father's legal record was limited to domestic violence toward the mother of their child, which he claimed was significantly blown out of proportion from what actually had transpired. Father was anticipating marrying a high school teacher whom he had dated for about three years. They were building a home and wanted his daughter to live with them and attend a nearby school. Father asserted that he could provide a much better material home and family life than the mother. Furthermore, he asserted that he felt duped by his daughter's mother into having a relationship as she did not tell him forthwith about her other children. He characterized Mother as volatile and difficult to deal with. This may seem pretty easy and obvious so far but the plot thickens.

This being the very first Tribunal, tension was palpable from all corners of the courtroom. The mother was a beautiful young woman with silky brown tresses that flowed to her waist. Large, heavily lashed, expressive eyes communicated her dedication to her children, embarrassment at her own conduct, as well as irritation with the father of the little girl who was fortunate enough to be mutually cared about by both parents. The father was a sturdily built, handsome man with a shock of blond hair. He seemed weary and worn by life, even though still a young man, three years the mother's junior. Family members observed the proceedings along with family law professionals who had been invited. Father's fiancé and her mother listened intently, as did Mother's mother. Mother's attorney detailed circumstances of her client's life, admitting past breaches of conduct and how the mother had committed herself to positive change. Mother had resorted to prostitution as a means to make financial ends meet. She wanted to take a more lucrative office job, but father's demands to transfer their five-year-old daughter later in the morning prevented this. Mother had taken on additional cleaning jobs and maintained her humble home with the assistance of her older children. A collection of photographs displayed on cardboard depicted all five children happily interacting together over the years, in many types of venues. Mother appealed to the panel to continue the pre-existing sharing plan, with relatively equal time for the child with both parents. Mother denied any request for child support, asserting that she had and would continue to provide financially and otherwise for her daughter. She asserted that her daughter was fortunate to have a very good father. She wanted to maintain this relationship and its stability by continuing the sharing plan stipulated to years before by both parents. Mother then produced a document which she asserted included bona fide signatures from both parents detailing their shared parenting agreement, validating that each would provide for their daughter during the time she was with them and that time would be equally shared.

Father then countered that because of the mother's past emotional volatility and instability when they were together he feared that she might issue future charges of domestic violence against him. Furthermore, he denied knowledge of this document that the Mother produced detailing the sharing plan. He insisted that his daughter was often confused about where she should be because of the multiple transfers between her parents' homes each week. Father asserted that he did not have the funds to fight the domestic violence charges, minimizing his responsibility but admitting that he did lay

hands on his daughter's mother. The tipping point for him was Mother's arrest for prostitution. Additionally, Father claimed her children often slept on the floor at their mother's home, as there were too many people living in a small town house. He reported that there were cockroaches in her home and that he believed she was not a good mother. Father then revealed that he had, initially unbeknownst to the mother, taken his daughter to a therapist, who had, from his report, determined only he was able to provide a stable residence for the child.

Questioning by the panel members extracted interesting details. The father was under employed, working three days a week when he admitted he could have been employed full-time if he were willing to take on more work. When asked where his daughter slept at his home Father revealed that because he lived in his own father's three-bedroom home and that there was a roommate living there as well, his daughter slept in the same bed as her grandfather. Father maintained his own bedroom. When he was asked if he had attempted to equalize the quality of life between the homes when he noticed there was a difference, Father asserted that he did provide a bed for his daughter to sleep on but that was the extent of any material or financial assistance. Father was unaware of the names of daughter's pediatrician or teacher. He had no plan to assist Mother in traversing the 20 miles between the homes should their daughter reside with him in his new home. He did not feel it was important to maintain the relationships previously established between his daughter and her siblings.

Mother was asked why she did not approach Father for financial assistance given that she felt guilty about resorting to prostitution. She immediately responded that she was a person of her word. She had followed the jointly developed parenting agreement that addressed the issue of financial responsibility. Mother reported that the only time the children slept on the floor was for fun, when they all were "camping out" in the living room for a slumber party so that the children could watch television. She reported that her three daughters all shared a room, each having their own bed. Mother testified that when her son came for weekend contact she slept downstairs on the couch, offering him her own room. When she was asked about the relationships of the children with the other fathers crucial information was delivered. Mother talked about her eldest son's desire to live with his own father. She worked together with her first husband, negotiating a transition plan and then finally supported her son in living with his father full-time. Mother reported that she attends church weekly with her children and her second ex-husband. She added that he was willing to provide a sworn statement regarding her flexibility and mutual support of the father-child relationships. When asked about her other children's academic performance, mother was prepared with copies of report cards and standardized achievement testing. These documents were reviewed by the panel members, one of which has more than 20 years experience as a clinical and school psychologist. The children are attending a public school well known for high academic standards and competence of the teachers. Both older girls earned all A's. Teacher observations of the girls over the years consistently were glowing, indicating that both children were very well adjusted and academically inclined, as well as respectful of authority. Mother was well-versed in the children's medical histories, as well as

individual likes and dislikes. She underscored the value of all girls being able to go to school together, offering to transport the five-year-old to her father's house.

Prior to deliberations by the panel members, the initial response from two of the three was that the child should live primarily with the Father, mainly because of the improvement in her physical living circumstances and the difficulties of any single parent attempting to manage the needs of four children simultaneously. However, as the panel began to review custody criteria the balance tipped dramatically in favor of the Mother. She had a well-established history of sharing children with their fathers, even letting go of one in deference to his feelings of wanting to spend more time with his own father as he entered the teenage years. While she may have had some difficulties years before in terms of getting along with this child's father, with a subsequent father, although now divorced, she was able to work cooperatively to meet the needs of these children. Her immediate assertion that she did not ask this father for money because she respected the established parenting plan seemed to ring true. Her positive attitude toward her daughter's father and his capabilities, despite the awareness of his human deficiencies, also was laudable. Mother had a plan to support her daughter's relationship with her father, while Father did not. Mother had endeavored to take on more work to provide for the needs of her children, while Father had maintained a minimal work schedule. Mother's knowledge of her daughter far exceeded that of Father. Mother took personal responsibility for her actions, evidencing internal locus of control, while it was Father's tendency to hold outside influences responsible for his own behavior. Mother's actions revealed her impulse to place her children's comfort before herself, while the reverse was more characteristic of Father's admitted behavior.

The Judge delivered the ruling, which was to maintain the relatively equal sharing plan in place, but make the transfer weekly, diminishing the disruption for the child. Great hope was expressed by panel members that the two parents might overcome any personal differences to work cooperatively on behalf of their daughter, given their obvious love for her. Mother was charged with the greatest responsibility for redirecting the course of this relationship. She agreed to find some mechanism by which to reassure Father that he had no need to fear allegations of domestic violence in the future. She accepted responsibility to end any exchange that could lead to escalation of conflict. The parties were encouraged to enroll their daughter with the other two girls, who were fortunate to win a much coveted spot for her at this "A" rated public school due to the sibling rule precedence for admission. Both were encouraged to mutually seek family therapy. Mother was held to her word to support transportation of the child to her Father's home. While Father's disappointment was quite evident at the time of ruling, subsequent reports from involved attorneys suggested that resolution was eventually achieved. Critical to the settlement of this case was the "village" that surrounded this family. Father's fiancé, although a silent participant in the Tribunal proceedings, became a powerful and positive ally in support of the daughter and the implementation of the cooperative approach. The major elements suggested by panel members were eventually incorporated into the sharing agreement.

CONCLUSIONS

At the time of writing of this article three Parenting Tribunals have been conducted in the 20th Judicial Circuit. Thus far, this procedure has resulted in mutually acceptable agreements being developed by participants, without need for relatively more adversarial approaches including judicial intervention and rulings being externally imposed. Preliminary feedback from the parties, their lawyers, as well as observers has been generally positive. This approach offers a relatively fast resolution to complex family matters. While in each case there was no immediate agreement struck, over the subsequent weeks and months parents, with the support of their lawyers, were able to step to the middle and develop their own mutually acceptable sharing plans. Generally speaking, conflict associated with unresolved, chronic disagreements abated and the parents were able to move forward with relatively greater positive feeling toward each other. Remarkably, the lawyers presenting their cases became the most vocal and supportive advocates of this innovative approach in family law. Once these courageous attorneys took the first step they were ready to keep the Parenting Tribunal moving forward as a vital alternative to highly contentious, adversarial mechanisms within the family law system. The reader is invited to contact the authors of this article for more information, as well as for opportunities to observe and be included in future training sessions.