

Parental interference in custody variation proceedings: a forensic psychology perspective

Abstract

Parental interference in judicial proceedings for variation of custody arrangements is a phenomenon that profoundly impacts family dynamics and the well-being of children. This article addresses this issue from the perspective of forensic psychological assessment, highlighting the critical importance of a thorough and rigorous analysis in these contexts. Custody variation, whether physical or legal, often generates tension and conflict between parents, which can lead to parental interference behaviors. These interferences can manifest themselves in a variety of ways, including emotional manipulation of children, denigration of the other parent, and obstruction of parenting time.

The relevance of this article lies in the need to understand how these interferences affect both the children and the adults involved, and the importance of having accurate and objective psychological assessments to inform court decision-making. The work of the forensic psychologist is essential in these processes, providing an unbiased assessment based on standardized techniques and tools to identify harmful family dynamics and their impact on the psychological well-being of children.

Throughout this article, the importance of early intervention and the implementation of effective strategies to mitigate parental interference is highlighted. In addition, recommendations for courts and other legal professionals on how to appropriately integrate findings from psychological evaluations into judicial decision making are highlighted. Ultimately, this approach seeks to promote the well-being of children and ensure that custody decisions are based on the best interests of the child, informed by rigorous and detailed forensic psychological evaluations.

Keywords: forensic psychologist, parental interference, custody modality, court proceedings, psychological assessment and intervention

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Introduction

Parental interference in judicial proceedings of variation of custody modality is a complex and worrisome phenomenon that significantly affects the welfare of children and judicial decisions in family courts.^{1,2} This problematic refers to the actions of one or both parents that seek to negatively influence the child's relationship with the other parent, through tactics such as emotional manipulation, misinformation, parental alienation and obstruction of contact. In many cases, these behaviors are intended to harm the other parent, which can exacerbate family conflicts and make it difficult to peacefully resolve custody disagreements.

The relevance of the issue is highlighted by its direct impact on the emotional and psychological stability of children. Studies and clinical reviews^{3,4} have shown that parental interference can lead to confusion, stress, anxiety and decreased self-esteem in children, affecting their emotional and social development. In addition, these behaviors can perpetuate cycles of conflict and violence, negatively affecting long-term family relationships.

From a judicial perspective, the assessment of these dynamics becomes crucial. Courts rely on forensic psychological reports to make informed decisions that prioritize the welfare of the child. However, the detection of parental interference requires a specialized approach that includes interviews, observations, and the use of standardized instruments to identify patterns of behavior and assess the impact of these behaviors on children.^{5,6}

Therefore, understanding and properly managing parental interference in custody proceedings is not only a matter of justice, but also of protecting and promoting child welfare. Early intervention and training of professionals in the identification and management of these behaviors are essential to mitigate their adverse effects and ensure that judicial decisions are made in the best interests of the child.⁷

Objective of this work

The main objective of this article is to present a detailed forensic psychologist's perspective on parental interference and its impact on judicial custody variation proceedings. Through this approach, it is intended to underscore the critical importance of forensic psychological assessment in these proceedings, highlighting how parental interference dynamics can influence judicial decisions and, ultimately, the well-being of the children involved.

First, the definition and characteristics of parental interference will be addressed, including behaviors such as emotional manipulation of children, delegitimizing the other parent and fostering negative attitudes towards the other parent. These behaviors not only complicate custody proceedings, but can also have long-term consequences on the mental and emotional health of children.

Next, the role of the forensic psychologist in the identification and assessment of these interferences will be discussed. The methodologies and tools used in the assessment, such as clinical interviews, direct observations, and the use of standardized questionnaires, will be explored. In addition, it will discuss how these assessments inform

the courts, helping them to make fairer decisions focused on the best interests of the child.

The article also aims to highlight the challenges and limitations faced by forensic psychologists in these contexts, including parental resistance to cooperate and the complexity of differentiating between normal parental conflicts and pathologically interfering behaviors.

Finally, practical recommendations will be offered to improve intervention and decision making in cases of parental interference, emphasizing the need for ongoing training for the professionals involved and the implementation of early intervention strategies to mitigate the negative impact of these behaviors on children and families.

Ultimately, this article seeks to provide an in-depth and practical understanding of parental interference from the perspective of the forensic psychologist, highlighting the relevance of his or her role in judicial custody proceedings and the importance of protecting the welfare of affected children.

Parental interference: definition and impact on custody

Definition of parental interference

Parental interference refers to a range of behaviors and strategies used by one parent with the goal of manipulating or negatively influencing the child's relationship with the other parent. These behaviors can be subtle or overt, and their impact can range from creating temporary tensions to causing significant long-term emotional and psychological harm.^{8,9}

In the custodial context, parental interference often manifests itself in the following ways:

- 1. Parental alienation:** The parent attempts to delegitimize the other parent to the child by promoting feelings of rejection, hatred, or distrust. This may include constantly criticizing the other parent, telling negative or untrue stories, and limiting contact or communication between the child and the other parent.¹⁰⁻¹³
- 2. Emotional manipulation:** Using guilt, fear, or obligation to influence the child's feelings toward the other parent. For example, a parent may make the child feel that he or she must choose sides or that love for the other parent is a betrayal.¹⁴
- 3. Obstruction of communication:** Interfering with phone calls, text messages, or emails between the child and the other parent, or monitoring and restricting these communications.¹⁵
- 4. Confusing or conflicting scheduling:** Arranging activities or commitments for the child during the other parent's designated visitation times, creating scheduling conflicts that prevent time-sharing.¹⁶
- 5. Encouraging exclusive loyalty:** Making the child feel that he or she should be loyal to only one parent, which may include rewarding rejection of the other parent or demonstrating clear preferences that make the child feel guilty about enjoying time with both parents.¹⁷

Not with standing the above, it is crucial to distinguish between parental interference and other types of family conflict, since not all disagreements or tensions between parents qualify as interference as they would:

1. Normal parental conflicts: In any co-parenting relationship, it is common for disagreements to arise over issues such as discipline, education, or extracurricular activities. These disagreements, although they may be intense, are not considered parental interference unless they are systematically used to undermine the child's relationship with the other parent.¹⁸

2. Legitimate custody disagreements: Custody and time-sharing disputes may arise from genuine concerns about the child's welfare, such as safety, stability, and emotional needs. These concerns, when addressed through appropriate judicial channels and without the intent to alienate the other parent, do not constitute parental interference.¹⁹

3. Protective behaviors: At times, one parent may restrict contact with the other due to legitimate concerns about abuse or neglect. These actions, although they may appear to be interference, have a protective basis and are clearly differentiated from parental interference when they are justified by the safety and well-being of the child.²⁰

Thus, while conflicts and disagreements are a natural part of family dynamics, parental interference represents a pattern of harmful behaviors intended to damage the child's relationship with the other parent. This distinction is vital for forensic psychology professionals and the judicial system to properly identify and address these interferences, thereby protecting the child's well-being and fairness in custody proceedings.

Impact of parental interference on custodial care

Parental interference can have a significant and detrimental impact on custody proceedings. These interferences, which may include behaviors such as emotional manipulation, denigration of the other parent, and impediment of communication and contact, seek to destabilize the relationship between the child and the targeted parent.^{11,15} This type of behavior not only harms the affected parent but also causes considerable psychological harm to the children involved.

From the forensic psychologist's point of view, it is critical to assess how these parental interferences influence family dynamics and judicial decision making. Interferences can generate feelings of divided loyalty in children, which can lead to parental alienation, where the child unjustifiably rejects one parent.¹⁴ This phenomenon can significantly complicate court proceedings, as the judge must determine the best interests of the child in a context of exacerbated parental conflict.

The impact of parental interference in custody is also reflected in the mental and emotional health of children. Studies have shown that children exposed to these dynamics may experience anxiety, depression, and behavioral problems.¹⁷ In addition, the stress associated with custody disputes can lead to less stable court decisions and more long-term litigation.¹⁸

The forensic evaluation should include a thorough review of parental behaviors and their impact on the child. Techniques such as clinical interviews, direct observations, and review of court documentation are essential for a thorough assessment.²⁰ Early and appropriate intervention can help mitigate the negative effects of parental interference, promoting a healthier environment for the child and facilitating a more fair and equitable resolution of the custody conflict.¹⁶

Legal and psychological context

Laws and regulations related to the custody of minors

In the legal area, child custody is governed by laws and regulations designed to protect the welfare of children. These laws vary from country to country, but generally share fundamental principles that seek to ensure that custody decisions are based on the best interests of the child. In many countries, the regulations state that courts must consider a variety of factors when determining custody, including the emotional and economic stability of the parents, the ability of each parent to provide a safe and loving environment, and the existing relationship between the child and each parent.

In Spain, Law 15/2005, which reforms the Civil Code and the Civil Procedure Law on separation and divorce, introduced shared custody as a viable, although not necessarily the preferred, option in cases of separation and divorce.²¹ This law emphasizes that “the best interests of the minor must be the primary consideration”.²² Likewise, the United Nations Convention on the Rights of the Child states that in all decisions concerning children, “the best interests of the child shall be a primary consideration” (Article 3).

In the United States, custody laws vary by state, but many have adopted the “best interests of the child” standard as the primary criterion. In addition, some states have implemented laws that promote shared custody as a default option unless it is shown that such an arrangement would not be beneficial to the child.²³

Review of previous studies on parental interference in judicial proceedings for variation of the custody modality

Parental interferences in judicial proceedings for variation of custody arrangements, as we have already mentioned, are a phenomenon widely studied in the psychological and legal literature. These interferences, which may include behaviors such as emotional manipulation of the children or sabotage of the child’s relationship with the other parent, can have significant consequences for both the children and the parents involved.

Numerous studies have documented the negative effects that parental interference can have on children. Johnston and Roseby²⁴ note that children exposed to interparental conflict and parental alienation behaviors may experience high levels of stress, anxiety, and depression. In addition, these children may develop behavioral problems and difficulties in forming healthy relationships later in life.¹⁴ In a longitudinal study, Baker and Darnall²⁵ found that children subjected to parental interference may suffer deterioration in their academic performance and present self-esteem problems. These effects are more pronounced in cases where interparental conflict is intense and prolonged.

Similarly, for parents, parental interference can intensify emotional stress and aggravate conflicts during custody court proceedings.²⁶ Research by Baker¹⁵ and Ellis and Boyan²⁷ suggests that parents who are victims of parental interference may feel powerlessness and frustration, which can negatively affect their ability to participate effectively in court proceedings. In addition, this stress can lead to mental health impairments, such as depression and anxiety.¹⁵ Likewise, Fidler and Bala¹⁷ note that parents affected by parental interference often experience feelings of alienation and hopelessness, which can hinder their ability to maintain a positive relationship with their children. These parents may also face additional legal challenges, as allegations of parental alienation can complicate custody proceedings.

In addition to the more than proven impact on both children and their parents, in the context of legal proceedings, parental interference can complicate decision-making and prolong litigation. Studies such as Fidler and Bala¹⁷ highlighted that high-conflict cases, where parental interference is present, often require more extensive and detailed evaluations by mental health and legal professionals. In addition, the lack of a unified approach in the treatment of parental alienation cases can lead to inconsistent judicial decisions.²⁸ Thus, it is posited to us that the variability in how courts address these situations reflects the need to develop clear, evidence-based guidelines for managing parental interference.

The role of the forensic psychologist in evaluation

It is common knowledge that the most important aspects of any assessment are the tools and methods used by forensic psychologists which, in our case, are essential for assessing the essential elements in judicial custody proceedings. These evaluations provide an objective and detailed basis for judicial decision-making, ensuring that decisions focus on the well-being of the children and the reduction of parental conflict.²⁹

Description of the tools and methods used by forensic psychologists to assess the emotional distress of parents

In the field of parental interference assessment in custody proceedings, forensic psychologists employ a variety of specialized techniques and tools. These methodologies allow for a comprehensive and objective assessment of family dynamics and the impact of parental interference on the child and parents. The main techniques and tools used are detailed below:

Clinical interviews: Clinical interviews are central to forensic assessment. These interviews, which may be structured, semi-structured, or unstructured, allow the psychologist to obtain detailed information about family members’ experiences, perceptions, and behaviors.¹⁰ Interviews with parents and children are designed to identify patterns of behavior, possible signs of parental alienation, and other factors relevant to the case. It is crucial that these interviews are conducted with sensitivity and professionalism to minimize the emotional impact on participants and to obtain valid and reliable data.³⁰

According to Ackerman and Ackerman,³¹ “clinical interviews provide a rich and detailed context for understanding the underlying factors that contribute to the emotional distress of parents in custody proceedings.”

Psychological tests and questionnaires: Forensic psychologists also use a variety of standardized questionnaires and scales to assess specific aspects of parent and child psychology. These tools include:

- 1. Parental alienation assessment scales (PAAS):** Specifically designed to measure the intensity of parental alienation.³²
- 2. Depression and anxiety inventories:** Such as the Beck Depression Inventory (BDI) and the Hamilton Anxiety Scale (HAM-A), which help assess the emotional state of parents and children.³³⁻³⁵
- 3. Child behavior assessment questionnaires:** Such as the Child Behavior Checklist (CBCL) to identify behavioral problems in children.³⁶

Direct observations: Direct observations of interactions between parents and their children are also an essential tool in psychological assessment. These observations, such as supervised visits and family interviews, are essential in assessing the interaction between parents and children. These observations allow the psychologist to observe behaviors in real time, identify communication patterns, attitudes and family dynamics.³⁷ Observations can be conducted in natural settings, such as the child's home, or in controlled settings, such as forensic assessment centers. According to Johnston et al.,³⁸ direct observations are also important in this type of procedure as they provide a fairly complete picture of family dynamics that cannot be captured through questionnaires or interviews.

Documentation and records review: Document and record review is an integral part of the forensic evaluation. This includes review of medical, school, psychological, and legal reports, as well as correspondence and other relevant documents that may provide additional context and evidence about the case.¹⁰ Documentation may reveal historical patterns of behavior, mental health issues, abuse or neglect, and any previous interventions performed.

Witness interviews and expert testimonials: In some cases, it is relevant to interview key witnesses and obtain testimonials from other professionals, such as teachers, therapists, and social workers. These testimonies can provide additional information about family behavior and relationships.³⁹ Forensic psychologists can also collaborate with other professionals, such as psychiatrists and pediatricians, to obtain a more comprehensive and multidisciplinary assessment.

Use of technology and recordings: Finally, in modern assessment, the use of technology, such as video recordings of visits and therapy sessions, has become increasingly common. These recordings allow for an objective review of parent and child interactions and behaviors, facilitating the identification of patterns of behavior and assessment of the veracity of the claims of those involved.¹⁶

Importance of psychological assessment in judicial decision making

Psychological evaluation in judicial custody proceedings plays a crucial role in making informed and fair decisions. Psychological reports provide the judge and attorneys with a detailed understanding of the emotional and psychological state of the parents, which is essential in determining the best interests of the child.⁷ Therefore, we must conduct a:

1. **Informed decision making:** Judges rely on psychological assessment to make decisions that protect the emotional and psychological well-being of children and parents. The assessment provides objective data on parents' ability to manage stress, their emotional stability, and their ability to provide a safe and supportive environment for their children. As noted by Bala,⁴⁰ "psychological assessments allow judges to make evidence-based decisions that consider the long-term well-being of children and the ability of parents to meet their emotional and physical needs."
2. **Conflict reduction:** Psychological evaluations can also help identify sources of conflict between parents and offer recommendations for reducing these conflicts. By providing a clear understanding of the emotional and psychological factors at play, forensic psychologists can suggest specific interventions, such as family therapy or mediation that can help parents better manage their conflicts and reduce emotional distress. For decades, work such as that of Emery⁴¹ has appeared, concluding that

interventions based on psychological assessments can improve communication between parents and reduce the level of conflict, which is beneficial for all involved, especially the children.

3. **Risk assessment:** Another crucial function of the psychological evaluation is the identification of any potential risks to children, such as the presence of abuse, neglect or highly disruptive behaviors that may endanger the child's well-being. Forensic psychologists are trained to detect warning signs and provide clear recommendations for necessary protective measures. Johnston and Campbell⁴ stated that "risk assessment is an essential part of psychological evaluations in custody cases, ensuring that judicial decisions minimize any potential for harm to the child."

Ethical challenges and considerations

The assessment of parental interference in judicial custody variation proceedings poses a number of significant ethical and methodological challenges. These challenges require careful thought to ensure that assessments are fair, accurate, and respectful of the rights and welfare of all parties involved. Practitioners must be aware of the presence of conflicts of interest and maintain a neutral stance to safeguard the integrity of the evaluative process.⁴² These ethical and methodological considerations are essential to protect the rights of children and parents in a highly conflictual context. Some of these challenges and key ethical considerations are explored below:

1. **Confidentiality and privacy:** One of the major ethical challenges is maintaining the confidentiality and privacy of information collected during the assessment. Forensic psychologists must ensure that all personal and sensitive information collected from parents and children is handled confidentially and shared only with those who have a right and need to know.⁴³ Inappropriate disclosure of information could harm the privacy of those involved and negatively affect the outcome of the case.
2. **Impartiality and neutrality:** Evaluators should maintain an impartial and neutral stance, avoiding biases that may influence the evaluation.⁴⁴ The influence of personal biases or prior opinions about the parties may compromise the objectivity of the evaluation. It is essential that forensic psychologists adhere to ethical standards that promote objectivity and fairness in their evaluations.^{45,46}
3. **Impact on the child:** Assessing parental interference involves considering the potential impact of parental interference on the child's well-being. It is critical that evaluators prioritize the best interests of the child, making decisions based on objective data and assessment of the child's mental and emotional health.^{47,48} The risk of further harming the child through unnecessary or mishandled court proceedings is an ongoing ethical concern.
4. **Informed consent and autonomy:** The principle of informed consent is crucial, especially when it comes to the assessment of minors. Parents and, where appropriate, minors must be informed in a clear and understandable manner about the goals, methods, and possible implications of the assessment.⁴⁹ In addition, it is important to respect the autonomy of minors, adjusting interventions and evaluations to their capacity for understanding and consent.
5. **Assessing credibility and veracity:** Determining the veracity of allegations of parental interference is a methodological and ethical challenge. Forensic psychologists must use validated

methods and tools to assess the credibility of parental statements and behaviors.⁵⁰ The use of techniques such as structured interviews and standardized psychological testing is critical to ensure that conclusions are based on solid evidence and not on assumptions or biases.

6. Ongoing training and updating: Because the field of forensic psychology and family dynamics is constantly evolving, it is essential that forensic psychologists receive ongoing training and stay current with the latest research and best practices.⁵¹ This includes understanding new methodologies, developing more accurate assessment skills, and being aware of the latest legal and ethical frameworks.

Interventions and recommendations

Recommended intervention approaches to mitigate parental interference and promote child well-being

The literature suggests various strategies for managing parental interference during custody proceedings. Family therapy and mediation are two common approaches used to reduce interparental conflict and improve communication between parents.⁵² According to a study by Deutsch,⁵³ early intervention and the use of parenting education programs can be effective in reducing parental alienation behaviors and promoting a more collaborative environment.

The implementation of structured parenting plans and visitation supervision have also been identified as useful measures to mitigate parental interference.⁵⁴ These approaches not only seek to protect the child's well-being, but also to foster cooperation between parents. Within the targeted intervention strategies recommended by the scientific literature for this purpose we can find:

- 1. Family therapy:** designed to improve communication and relationships within the family, allowing both parents and children to share their feelings and concerns in a safe environment, promoting empathy and mutual understanding.⁵⁵ In cases of parental interference, therapists can work with all family members to address underlying conflicts and promote healthy co-parenting.^{56,57}
- 2. Family mediation:** Mediation is an out-of-court intervention in which a neutral mediator helps parents reach agreements about custody and visitation, thereby reducing the conflict and stress associated with court proceedings.^{58,59}
- 3. Parenting education:** Parenting education programs can be helpful in teaching parents effective parenting and communication skills. These programs can also address the negative impact of parental interference and encourage cooperative parenting.⁶⁰
- 4. Individual psychological intervention:** For children, individual psychological support can be essential to help them manage the stress and emotions associated with parental conflict. Cognitive and behavioral therapies are effective in treating anxiety and depression in these cases.^{61,62}
- 5. Visitation supervision:** In situations where there are high levels of conflict or safety concerns, visitation supervision may be a temporary measure to ensure that interactions between the parent and child are safe and constructive.³

Suggestions for judges and attorneys on how to integrate forensic psychological evaluation into judicial decision making

The integration of forensic psychological evaluation into judicial custody proceedings is crucial to ensure informed decisions in the best interests of the child. Judges and attorneys must understand the importance of these evaluations, which provide a comprehensive view of the emotional and psychological well-being of the child and parents. Studies have shown that judicial decisions supported by forensic evaluations tend to be more balanced and fair.^{63,64} By considering the recommendations of forensic psychologists, courts can better address the complexities of custody disputes^{65,66} and favor in court proceedings:

- 1. Incorporation of psychological reports:** Judges should consider forensic psychological evaluation reports as an essential tool in making custody decisions. These reports provide an in-depth understanding of family dynamics and the child's well-being, allowing for more informed decisions focused on the best interests of the child.⁶⁷
- 2. Ongoing training for judicial personnel:** It is crucial that judges and attorneys receive ongoing training on the latest research and best practices in forensic psychology and family dynamics. This ensures appropriate and effective application of psychological assessments in the legal context.^{68,69}
- 3. Creating standardized assessment protocols:** Developing and adopting standardized protocols for the assessment of parental interference can help ensure that all assessments are consistent and of high quality. These protocols should include guidelines on data collection, interviewing, and the use of psychological testing.⁷⁰
- 4. Multidisciplinary approach:** Promote a multidisciplinary approach to custody cases, where psychologists, social workers, mediators, and attorneys work together to address all aspects of the child's welfare. This integrated approach can provide a more holistic and effective view of the child's needs.⁷¹
- 5. Implementation of interim measures:** In cases where parental interference is evident and harmful, courts should consider implementing interim measures, such as supervised visitation or temporary restriction of custody, to protect the child's welfare while a full assessment is conducted.⁷²

Conclusions

This article explored the complexity of parental interference in judicial custody variation proceedings, highlighting the relevance of forensic psychological assessment in these contexts. Parental interference was defined, its impact on family dynamics and the mental health of minors was discussed, and the assessment tools and methods used by forensic psychologists were described. In addition, the challenges and ethical considerations inherent in these assessments were addressed and intervention strategies and recommendations for the courts were proposed.

A rigorous forensic psychological evaluation is critical to ensure that judicial decisions in custody cases are based on a thorough understanding of the family situation and the emotional and

psychological needs of the children involved. Ackerman and Pritzl⁶⁵ emphasize that careful assessment can prevent harmful decisions and facilitate a healthier environment for children. In addition, the implementation of effective intervention strategies can help reduce family conflict and foster a healthier environment for children.

It is essential that courts effectively integrate forensic psychological evaluations into their decision-making processes. Judges and attorneys should be informed about the benefits of these evaluations and work collaboratively with forensic psychologists to ensure that decisions are made in the best interests of the child. Bow et al.⁶⁴ emphasize the importance of using evidence-based assessment principles and maintaining ongoing training in best practices to ensure the validity and reliability of results in custody evaluations. Several studies stress the importance of applying sound principles in custody evaluations,^{73–75} while others advocate for ongoing training of legal professionals in forensic psychology.^{76,77}

Finally, it is important that future research delve deeper into the study of parental interference and its impact on custody proceedings. It is also suggested that judicial practices be improved through ongoing training of judges and attorneys in forensic psychology and the development of standardized protocols for the evaluation of family dynamics in custody cases. Only through a collaborative and evidence-based approach can the welfare of children in custody proceedings be ensured.^{78,79}

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Conflicts of interest

The authors declare that there is no conflict of interest.

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