INTRODUCTION

- Who we are
- Work we do
- Why this work matters
  - 50% of marriages end in divorce
  - All divorces go through Court
  - Pandemic of PCCP/RRD cases now
- Type Questions in the chat

SDFS

SD FAMILY SERVICES

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Disclaimer

Different jurisdictions will have:

- Different titles for roles
- Different procedural rules
- Different laws, rules, regulations

Therefore, seek expert consultation in your jurisdiction. Consider this presentation a stop-sign. Stop and think. Get consultation.

HAVING A SHARED VOCABULARY

Legal custody v. Physical custody	Parenting time v. visitation	ROs/POs
Subpoena	Reunification Therapy	Order, Judgment, Separation Agreement

THERAPEUTIC PRIVILEGE

- A legal right held by your client to prevent you (the mental health professional) from disclosing confidential information in a legal proceeding.
- Children have a therapeutic privilege. It is theirs, not yours.
- In Massachusetts, litigating parents CANNOT agree to waive this privilege.
- In your jurisdiction, a parent may have the right, but you can consider the harm

CAST OF CHARACTERS

- Attorneys, Judges (pressure!)
- Child Custody Evaluator
- Guardian ad Litem (GAL)/ARC
- Guardian for Privilege
- Parenting Coordinator
- Other therapists
  - Family/reunification, parents
  - Community Therapist
  - Court-Involved Therapist
  - Court-Ordered Therapist
  - Court-Appointed Therapist

SUBPOENA

- Remember: A subpoena requires a response, but not necessarily compliance.
- Subpoena v. Subpoena duces tecum
- With adults: they can sign releases. Speak to your client
- With a child: you may have a duty to resist disclosure of information, or seek direction from the Court

STARTING A COURT-INVOLVED CASE

- How did the client come to you? A parent…
  - Recognizes a child's distress and seeks treatment.
  - Hopes to improve their own position in the Court w/ therapist's direct or indirect participation. Indirect?
  - Parents are ordered to obtain therapy. No agenda
  - The Court orders therapy to address particular issues, such as child distress, high-conflict dynamics, reunification, etc. The order may include some degree of reporting requirement, or contingencies allowing reporting.

INFORMED CONSENT

- In general, avoid accepting a child into treatment without notifying or consulting with both parents. why?
  - How to proceed when 1 parent wants the child in services and the other does not? What if the service is recommended by a neutral (school, pediatrician)?
- Request copies of Court orders or custody judgments documenting each parent's right/authority to make decisions regarding treatment and delineation of each parent's access to treatment information.
- As always, explain the nature and purpose of the treatment to a child in age-appropriate language. It may be necessary to revisit these issues as treatment proceeds.
- Discuss the limits of parental involvement and confidentiality with the parents or guardians of a child or adolescent involved in treatment.

Reviewing Court Orders and Client Engagement

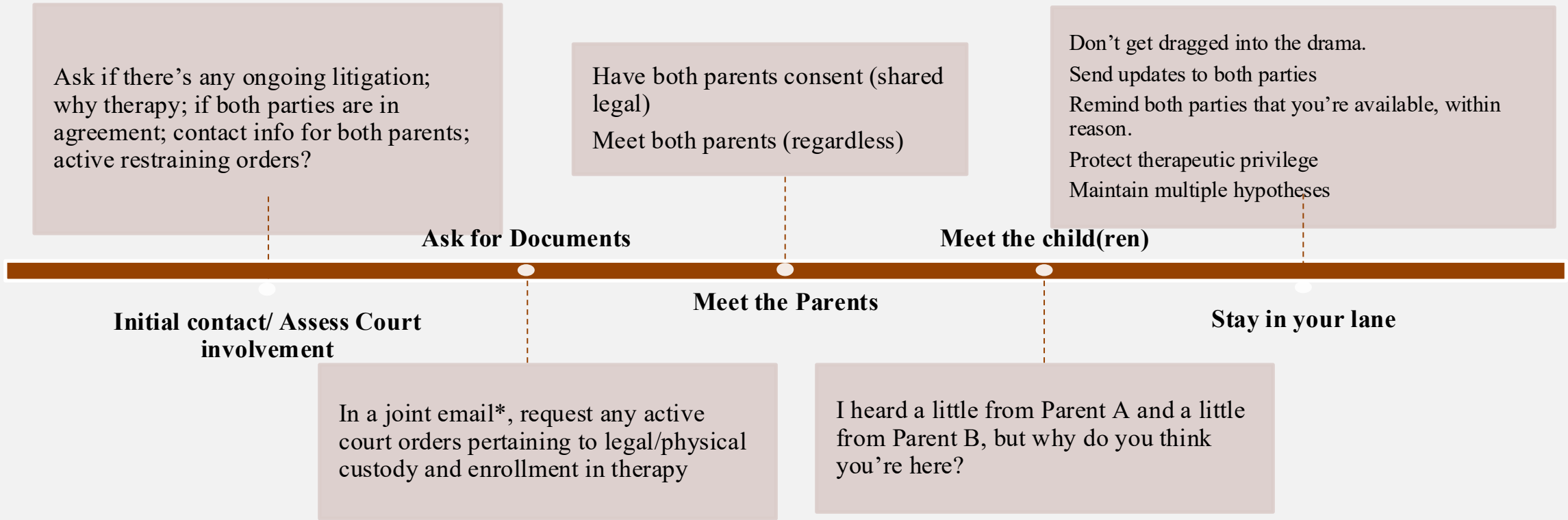
At the start of treatment, be clear for yourself, the parents, and your client:

- How information about a child's progress will be shared with parents
- How information communicated to you from one parent may be shared with the other parent
- What type of consent is required to release information about the child's progress
- The role that the child's thoughts and feelings will play in determining what information is shared, and how it is shared
- Circumstances where you may be required to release information to the parent or other professionals
- Circumstances that might require further discussion, clarification or modification of the order or agreement as the treatment progresses

With children, remember:

- Consider multiple hypotheses about child's behavior (eg. why might a child be sad to go to a parent)
- Stay in your lane: Make sure you have adequate data on which to base any opinions or assessments, and to form and express such opinions only within confines of the therapeutic role and available information.
- Whenever possible, obtain each parent's perspective in the treatment process and maintain professional objectivity when interpreting statements and behaviors of children.
- Use particular caution in interpreting statements, play or drawings that appear to express positions on adult issues to avoid inaccurate or incomplete assessment of a child's developmental needs, expressed thoughts and feelings.
- How to guide parents to validate children's experiences with a challenging parent while avoiding triangulation?

Your case with a child



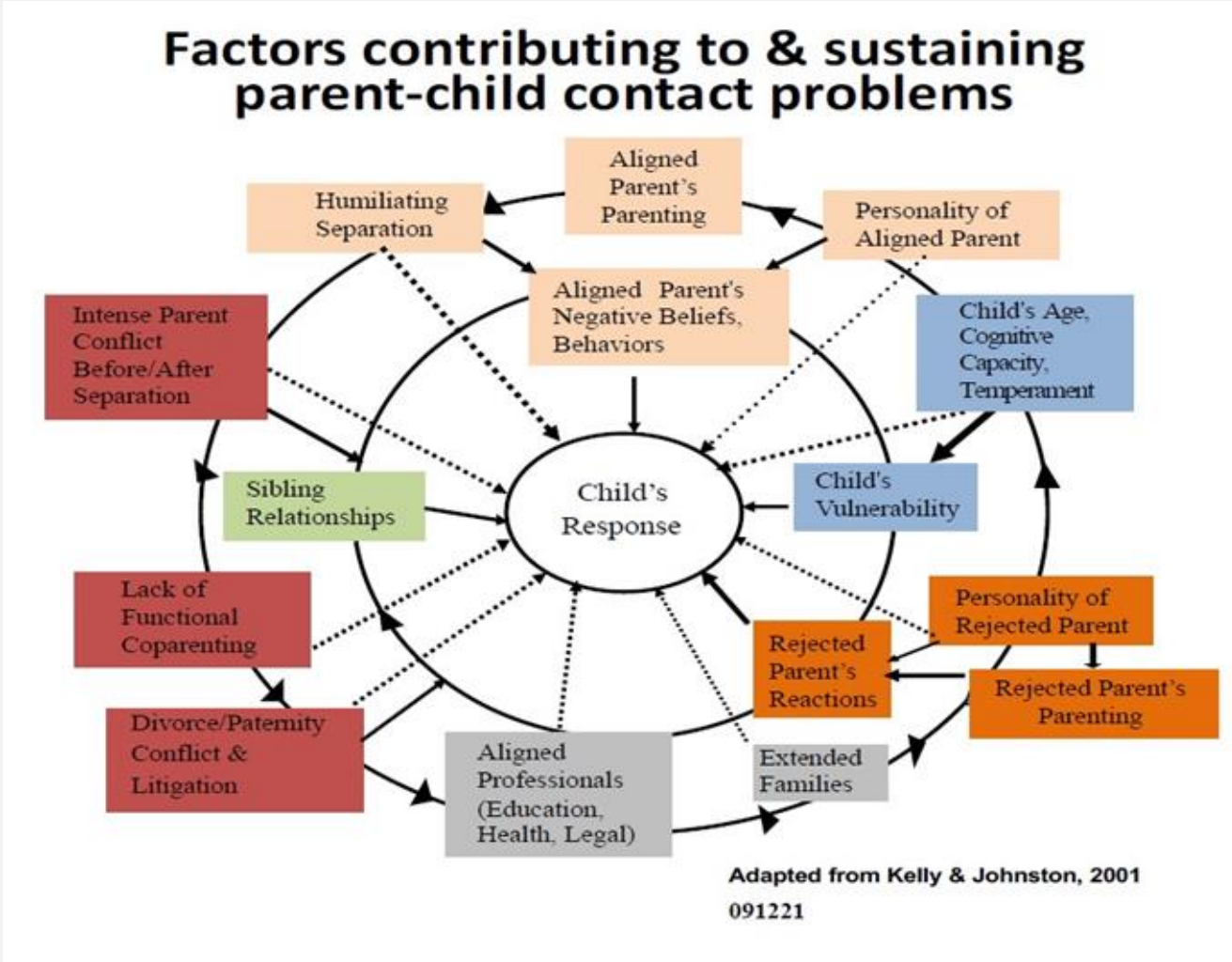
* If there is NOT an active restraining order. If there is an active restraining order, send separately or seek modification

If speaking to a Child Custody Evaluator . . .

- Do not reveal info from child if you are that child's therapist unless you are clear about your jurisdiction's rules on waiving a child's therapeutic privilege.
- If parents sign releases of information, you may discuss your parental communications and interactions
- Info gleaned from a child during family therapy sessions is controversial. Some feel it needs a waiver, some feel otherwise. It is probably safest to claim privilege of child communications and seek a waiver appropriate in your jurisdiction.

PCCP/RRD

- These are the most difficult cases, but some of my most rewarding cases
- Usually be part of a therapeutic team
- “Work with my child because they refuse to see their mom/dad”



Note taking

What to write

Stick to clinical relevance — document what's therapeutically necessary, nothing more. Ask: *Does this serve the client's treatment?*

Use clinical language, not narrative storytelling. "Client reports conflict with co-parent affecting sleep and mood" rather than detailed accounts of the other party's alleged behavior

Avoid quoting third parties extensively — statements about the other parent, siblings, or opposing counsel don't belong in clinical notes

Document your clinical reasoning, not just content — focus on symptoms, functioning, treatment goals, and interventions

Avoid opinions about non-clients — never render a clinical judgment about the other parent or family members you haven't evaluated

Note affect and presentation, not just verbal content

What to avoid

Don't act as a de facto investigator or take detailed "he said/she said" accounts

Don't let clients use sessions primarily to build a legal case — redirect to treatment goals

Don't agree to write "letters of support" for custody proceedings unless you fully understand the forensic implications

Don't volunteer records — require proper legal process

Avoid documenting speculation about motives of the non-client parent

Bottom Line on Notes

Write notes as if a judge will read them, keep psychotherapy notes truly separate (as opposed to progress notes), assert privilege aggressively, and stay firmly in the treating (not forensic) lane.

When in doubt, consult a healthcare attorney in your state before responding to any legal demand.

DOS AND DON'TS

- Endeavor to get a holistic understanding of the case (collaboration, documents, parties)
- Be part of a treatment team
- Keep firm boundaries with the parents
- Clarify confidentiality and privilege issues
- Remember you control your treatment process
- Stay in your lane

- Don't write a letter opining on the case or the best interest of the child
- Don't betray confidentiality or privilege
- Don't ignore a subpoena
- Don't be lured into activities outside of your role definition
- Don't get too siloed

THANK YOU AND QUESTIONS?

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