

“IF I COULD TELL THE JUDGE SOMETHING ABOUT ATTACHMENT. . . .” PERSPECTIVES ON ATTACHMENT THEORY IN THE FAMILY LAW COURTROOM

Inge Bretherton, Stephen Seligman, Judith Solomon, Judith Crowell, and Jennifer McIntosh

This article gathers diverse attachment specialists in a far reaching conversation about the utility of attachment assessment and theory for complex family law decision making, and reflections on the thorny question, “If I were the judge . . . ?” Inge Bretherton, Professor Emerita, Developmental Psychology at Wisconsin University, is one of a few attachment researchers in the Bowlby/Ainsworth tradition to have completed studies in the divorce field. Seligman, a psychoanalyst and clinical psychologist, Solomon, a clinical psychologist and researcher, and Crowell, professor of psychiatry and psychology, take on some large controversies, and offer well over 100 years combined experience of applying attachment knowledge in complex family matters.

Keywords: attachment theory; divorce; judicial decision making; family court

ATTACHMENT APPLICATIONS IN COURT: WEIGHING THE EVIDENCE

McIntosh: From your experience as clinical researchers and therapists who work extensively with divorced families, to what extent does attachment theory assist you with evaluation processes? In making your recommendations, how confidently do you put your weight on these attachment concepts, and how confident do you want a judge to be about that?

Bretherton: The existing attachment research on normative populations is very good, and advancing all the time in its sophistication. However, it has always been disappointing to me that there are not many attachment researchers who are interested in this question of attachment in family law matters.

McIntosh: I hope this Edition stimulates some research appetites, as family law remains a very neglected area of attachment research. What this means in the courtroom is that the validity of attachment measures and research for custody matters is challenged, and on that basis, adversarial lawyers can liberally attack one side’s argument about the child’s attachment needs.

Bretherton: The question about whether attachment theory is valid for divorce I find a little strange, to be honest. The problem is that arguments about validity are often raised disingenuously with the intent to bias a court’s decision in the desired direction. I did give evidence in the court in divorce cases a few times, but gave up after I found that lawyers and parents tended to want you to say what they wanted to hear in order to obtain more time with the child or to score points against the other parent. They seemed less interested to establish some impartial, basic understanding of the situation from an attachment perspective. One of the problems is this: expert witnesses are often hired by the parents or lawyers after they have been assessed to make sure they are going to support the arguments the lawyers/parents want to make. If expert witnesses were, instead, retained by the court as providers of impartial information, the situation would be entirely different. As it stands, how would the judge know to what extent the expert witness has been vetted to make sure he or she says “the right thing” during court proceedings. This does not mean that the expert witness is lying, but this prior vetting may nevertheless bias what arguments he or she brings up in court. In one case in which I acted in the expert witness role, I was asked a few very pertinent questions by the judge that may have influenced

Correspondence: ibrether@wisc.edu; stephen.seligman@ucsf.edu; juasolomon@gmail.com; Judith.Crowell@stonybrook.edu; mcintosh@familytransitions.com.au

her decision, but that were not raised by the lawyers or parents beforehand. I was really grateful for this opportunity.

As for using attachment instruments, the problem is not the instruments, but the context within which they are used. In my research interviews of divorced parents, I make the situation as open and natural as possible, but I am not sure the same parent would respond in the same way when talking to a court social worker who was trying to find out if he or she is a good parent, or which parent is the primary attachment figure.

McIntosh: In a conversation about the preparation of the Special Edition, Erik Hesse likened doing a formal attachment assessment of a parent in a custody evaluation to doing an adult attachment interview (AAI) with a gun to your head! I thought this was a fabulous analogy, which extends to many of the measures used in this sort of work. In my view, when attachment measures are used to inform a clinical perspective about parent-child relationship security, they can add enormously to custody evaluations. However, they risk, as you say, being used as adversarial fodder.

Bretherton: So if anything could be done, then it should be to make the legal aspects of the divorce process less adversarial. That would really help children a great deal.

McIntosh: Judith Solomon, what is your view on the use of attachment assessment in the kinds of comprehensive assessment you may do for a court matter?

Solomon: While the Strange Situation remains the gold standard assessment of attachment behavior in young children, what we know about the Strange Situation is primarily about a baby and two parents in a normative situation. There is not enough research about the meaning of these assessments of fathers in normative situations, let alone with fathers in divorce and high conflict circumstances. We do not have systematic knowledge about the various things in divorce that may affect classification, the various kinds of stresses and circumstances. When we get to the pre-school years, attachment measures are less reliable at that age. By the age of five or six, development calms down and it becomes easier for us to see reliable patterns clearly again.

McIntosh: Of course, formal training in the use of child attachment measures is lengthy and costly at this point in time, although some new measures are on the horizon which seem more accessible. Like any psychological instrument, it is important to know how each attachment measure works, and its limits, and to have the skill to use the findings with clinical sensitivity, in context with all the other elements of the assessment that come to bear on your recommendations about care. What of the adult attachment measures? How would you want to see them used or not used in a custody situation? Are there any merits for a judge to know a parent's classification on the AAI?

Solomon: There is a significant problem if people who use the Adult Attachment Interview think that this information therefore can or should completely predict what kind of parent he or she is going to be. The data do not support that, especially when it comes to the higher-risk disorganized relationships. For the purpose of understanding the meanings for parenting, the Caregiving Interview (see, e.g., George & Solomon, 2008) works well with mothers and with fathers.

But again it comes down to a clinician's skill in advising the judge how all of this material from attachment assessments ought to be weighed. I would say that when I see a child being secure with a parent, that is an important relationship for the child in many ways, and I do tend to think, "let us find a way to support that relationship and ensure it is predictable and regular for the child." This principle does not mean one thing or another about what the visitation situation should be, it just means that we want to remove as many obstacles as possible for that parent to continue to have a relationship with the child. There are times when it seems that that one relationship with a parent seems more at risk emotionally, but we know when that is the case, just taking the child from that parent does not resolve the problem for the child. The fact that you are insecure with someone does not mean you do not love them, it does not mean that the relationship is not going to be a positive force in some way in your life (dangerous relationships are of course different again). If a relationship is insecure, perhaps in some cases this suggests that the dyad needs more help. Many relationships need support.

I do not think there is any substitute at the moment for a careful involvement of an educated clinician in the lives of parents, helping parents learn how to observe their baby, to reflect and read

their child's needs and to be able to make the best judgment in the moment. That does not mean they need more *time*—time and quality are to a degree independent. So although attachment assessment of adults is obviously very important information and it can be very useful clinically for you to know what are the dominant kind of sensitivities a parent has on the AAI and about the flexibility in thinking that the parent has on the Caregiving Interview, it does not dictate what the care arrangement has to be. That has to come from a careful clinical judgment based on layers of information.

Seligman: The science on attachment is now in. It matches our clinical experience and I believe the courts ought to be guided by it. However, we run some risk with regard to over-estimating the value of research that is decisive for large groups of subjects, but about which we cannot be as certain in a single case. This is not to mitigate the essential role of knowledge derived from this research, just a caveat with regard to its limitations. In addition, it is possible that we run some risk of over-focusing on the term 'attachment' because in the courtroom, we are not at the end of the day concerned about the particulars of the attachment system, as they are formally constructed in research terms. Now, the research is crucial, and attachment predicts all sorts of things, but in the family law arena, it is better for mental health practitioners to speak more broadly. In plain developmental terms, we want the child to experience and learn co-regulation of emotion, of attention, of information exchange, of cooperation, and to internalize a strong sense of security.

A question for the judge then is, what would give the baby the most flexible, resilient, efficient perimeters in regards to those capabilities? What kinds of situations will support the co-regulative processes that promote self-regulatory processes in all of those areas? What are the components to that? Well, science can now tell us; this is about giving a young child steady, predictable access to a caregiving relationship that has shared presence, shared activity, shared recognition, shared positive affect, and so on (see Schore and McIntosh; Siegel and McIntosh, this Edition). So, we want to make environments which maximize that, which protect the child from disruptions in the regular rhythms of those developing factors which occur over time. There are several layers of information important to this assessment—parental history, family context, cultural factors, parenting patterns, in addition to attachment security in any given case.

Bretherton: Yes, I agree with your comments, but sometimes neither parent can really offer this. We need to recognize when we can work toward this as a goal, and when it is not fully achievable, which in my view of family court work is often the case. Attachment theory does have something to offer to help with these complicated decisions. For very young children, attachment theory and research suggest it would be better to have one good primary attachment and not have to deal with regular upheavals in that relationship. Certainly if the parents have a violent or conflicted relationship, it is better for a child to be with the parent who is healthier. But a judge is often faced with a difficult decision because neither of the parents is really ideal for offering secure, organized attachment. When two people are that conflicted, they often both have serious problems, with other people as well and not just in their particular relationship. So, if I were the judge, in choosing that primary home, I would look at what other kinds of relationships this parent has. How do those relationships support that parent to provide what it is that the child needs? What other supports might be needed?

Seligman: True. I am pointing to the layers of information important to this assessment. Overall, through my family evaluations, I try to equip the judge to complete a cost-benefit analysis. The judge needs to have at his or her disposal a multiple-focus evaluation, with regard to various kinds of risks and rewards.

McIntosh: Like providing them with a decision making matrix?

Seligman: Right, or a risk-reward calculus: something that supports complex developmental decision making. For example, it may seem right in a particular case that frequency of contact is valuable, but that the child always having to travel significant distances is probably not. I might want to advise the judge how to weigh those factors against each other. I am somewhat embarrassed to tell you how grateful I have been for judges in the most difficult cases, when I am able to leave an evaluation of a case with a risk-reward profile at the end, and then let the judge decide according to his/her instincts and the law. I very much appreciate the need for judges and the tremendous moral pressure that they are under.

MOTHER VERSUS FATHER, PRIMARY VERSUS SECONDARY: FINDING IN FAVOR OF COMPLEXITY

Seligman: This being said, we clinicians have a responsibility to conceptualize the questions in a way which entertains complexity, and to support lawyers and judges to make sense of that complexity. For example, an emphasis on the importance of the early child-parent relationship can be taken to suggest that babies should live solely with their mothers. Decisions cannot be made on the basis of gender or, except in very unusual circumstances, on the basis of any other single factor.

McIntosh: Entertaining complexity sounds like good advice for policy makers.

Solomon: It is concerning, is it not, some of the developments in policy we hear about? I do not believe that babies have gender biases; I think that they respond to sensitive care wherever that comes from. I in no way think that mothers are inherently better parents for babies than fathers. I agree there are qualitative differences between men and women, in general, in sensitive response to the infant, but I do not think they are always significant with respect to attachment.

McIntosh: Differences in caregiving style and availability matter in the sense of how those differences may play out across the child's development at various stages.

Solomon: Right. Everett Waters once said that he observed mothers and toddlers and fathers and toddlers in a children's climbing gym setting. What was striking to him was that mothers, especially mothers with securely attached babies, stayed right next or in front of the baby and helped the toddler to manage the experience. The fathers, whether the child was securely attached or not, stayed down below, monitoring, but they did not feel the need to be right there. This is a well established difference between men and women. Anyone who spends time studying fathers and toddlers sees that on average fathers do not provide the type of close emotional scaffolding that mothers do. But a sensitive father sees when his child is getting upset and can find a way to reassure the child or to encourage the child to self-regulate and go on with the task. Whatever its origins are, women have anxieties about safety, and they tend to feel they can best protect the baby by being close up. Many fathers see this behavior as over-protective and this difference in point of view fuels many co-parenting disputes.

McIntosh: This difference is not usually pathological—in fact it plays an evolutionary function, and children usually thrive on these normal gender differences. A concern in family law is about adversarial processes that try to challenge or vilify mothers of very young children for being overly anxious.

Solomon: I agree. Single mothers of young children do experience heightened anxiety when they aren't supported by a partner, or worse, as we found in our research, when they are chronically distressed by the other parent. Fathers are more risk-taking on average, and they do not see normal exploration as a huge risk for their young children. Now, in a well-functioning couple, this distinction usually works beautifully for the child because the mother is close-up, and the father gives more freedom. The child has the benefit of these different experiences with the mother and the father and a natural balance of protection versus autonomy. The distinction becomes problematic when a relationship breaks up and the infant can only have access to one caregiving style at a time.

McIntosh: In a child's early years, attachment theory is concerned with protection and sensitive response, and would call the person who provides that regularly and consistently the "primary attachment figure." The language is as problematic: I certainly wouldn't appreciate being referred to as the secondary figure in my child's life! In his interview, Richard Bowlby (this Edition) talks about the distinction between being primary for comfort, and primary for exploration, which I find useful.

Bretherton: It is very difficult to prove via our current research tools, using the Strange Situation for example, who is primary and who is secondary. That is why I found it interesting in our research that the parents themselves actually can tell you that, if they are being honest. The research overall seems to suggest that while fathers can be just as competent with respect to sensitivity as mothers, they do not do it as much.

Here is a useful question to ask parents, which I learned from my own research with divorced mothers and fathers. I asked, "How is the relationship you have with your child different or similar to your child's relationship with the other parent?" Quite a number of parents talked about it as being natural that the mother is the one who is better equipped to soothe the child when he/she needed

comforting. Some fathers described feeling a little perturbed when the mother was there and they tried to comfort the child, but the child did not want them: they wanted the mother instead. How they negotiated that is the interesting thing. For some, this was a problem, and they could not let the child's expressed need guide their actions. For others, it was not a problem.

Solomon: The application of attachment methodology remains very difficult, particularly classification of attachment with fathers in divorce situations. I think we know much less about what those classifications mean. While you can classify babies with their fathers before the age of two, it does not strongly correlate with the kind of variables you would expect it to. And the Grossmans' work (e.g., see Grossman, Grossman, & Zimmerman, 2008) suggests an alternative way of looking at things.

McIntosh: I understand the Grossmans found that fathers' support of exploration predicted aspects of the child's later functioning and relationships, whereas the child's attachment classification to mother strongly predicted the management of internal conflicts and anxieties at both earlier and later stages.

Solomon: Yes. The Grossmans describe challenging play in toddlerhood that fathers were particularly good at, and that predicted some adolescent outcomes. It makes complete sense from the perspective of attachment theory, and is consistent with the literature. Psychologists have long confirmed these sorts of differences in child-parent relationships.

SUPPORTING POST SEPARATION ATTACHMENT RELATIONSHIPS

McIntosh: What would you advise a judge who is concerned that the child's relationship with a less involved parent may suffer now or in the future?

Bretherton: The judge may need to ask, does the relationship with the noncustodial parent need to be an attachment relationship in those earliest years, or is the priority to have a foundation for secure attachment that will take root later on? The idea that there is only an early window of opportunity for secure attachment formation is wrong. People successfully adopt children after the age of one year. It is true that it can take several years to become an attachment figure when the child is older at the time of adoption, but in those cases, there was no contact at all with the adoptive parent during the early years. Think too about grandparents: it is possible to maintain secure base relationships with children who you see once a month. There are many children who develop secondary attachments to childcare providers. We do not talk about them having to have had that relationship since birth.

In the case of divorce, where the child is an infant or pre-schooler and the parents cannot cooperate and do things together, you can have more sporadic contact that wouldn't be the full attachment relationship at the time, but can be built on later. In my view, caring for the child more than once a month would be helpful, with some lengthy interaction time with the non-custodial parent, and during that time, all kinds of situations would arise during which that parent would have to serve as the protector and comforting figure, and also a supporter for secure exploration. Again, the Grossmans' research shows it is not just about holding the child when he or she is crying, but building the whole relationship: supporting exploration and using positive authority. So, in a case for example where a father is initially having less contact, he would begin with a relationship more like an involved uncle or a grandparent, and he can later build on it. Research shows this is very possible, and often achieved quickly if you have a kind, friendly relationship consistently through their younger years.

Crowell: I certainly understand the parental perspective that pushes for more time. But I agree, it is possible for a child to have a wonderful relationship with someone they do not live with, to have someone be a major presence in their life without having to flip flop between houses. In my experience, regularity is key, with functional caregiving, not just fun visits. People can do it! But they have to be willing to be the parent, and not the gratified one.

Seligman: I think it is important not to regard attachment as if it were a room of the house that has to be built now or you couldn't build it without taking the house down later. It does not work that way. As clinicians, we have to actively move family law professionals away from thinking of attachment as if it were acquired at a certain time, or as if one parent-child relationship ticks the box and the other

does not. Patterns of early contact are important, but there is a wide variation between being a parent who is not the primary attachment figure in the beginning, and being someone who is marginalized.

GETTING IT WRONG: COSTS TO THE CHILD

McIntosh: And if the system gets the decisions very wrong? I do feel there are cases where the child is inadvertently required to pay the costs. How much time can a child afford to be chronically stressed before things start really infiltrating the developmental pathway? For example, is there a critical period of time where judges should allow parents to try to get their act together, but where beyond that, they move rapidly to reduce a child's exposure to the discord?

Seligman: That is a very good question. In the early years, I think that you have months at the most, and in acute situations, this is true throughout the life cycle. Some may say that parenting styles, especially in the special conditions of divorce, are like the weather, with tremendous reversibility, as well as tremendous variability between different children and the different parents. Yes, things can and do change later in the parents. But, if I had to give a figure to people, I would say for children and particularly young children, if things are bad for a few months, it is really going to take a toll and that is going to take some time to reverse.

Crowell: Let me say from decades of treating children in psychiatric facilities that something very bad only needs to happen once. A one-time situation with a bad rupture can powerfully traumatize trust for a little child. With little ones, a month of persistent stress is probably the most that should be allowed, if a better, less conflicted solution is possible. There is a significant difference with respect to age, in terms of what and how long children can tolerate a difficult situation. I would say that if the parents of younger children just cannot work it out, then one parent should be picked to take the major care-giving role. A high conflict environment is not the place for a young child's care to be divided.

McIntosh: Judith Crowell, an area of specialty for you is attachment in adolescence and early adulthood. What about teenagers?

Crowell: Once into middle or older adolescence, children have more ability to maintain the relationship themselves without as much support from parents. There is much less that impinges on them logistically, and they are freer to have the relationship that they want to have. I certainly know of many young adults and adolescents seeking out the missing parent and re-developing a relationship with them. Is that optimal? No. But in psychological terms, I do not see it as any worse than being flung back and forth between two parents who cannot stand each other and who will not speak to each other.

McIntosh: That is a strong statement, not without controversy.

Crowell: Yes, it is controversial, and it would not be what I would choose. I would prefer to give both parents a chance to be a good parent. But when they cannot or will not, that has serious consequences for the child who is trying to develop in that context.

Seligman: We are, for scientific and clinical reasons, as well as our keen emotional responses, compelled to protect the most vulnerable people, and in the family law arena, those are the children. I do not mean to be negligent about parents' rights, but that expands to a set of psychological principles for me. Perhaps judges and others need to ask themselves the "how-would-you-like-to-live" question. It would be helpful for the judges and attorneys to put themselves in a similar position to the child: with regard to joint physical custody for young children, I ask them to imagine how they would feel if they had to pick up and move from home to home several times each week; about reunification with a biological parent who has disappeared for years and now returns to assert parental rights.

Crowell: One of the things that has been hardest for me, and I imagine many people in the field, is to see a child who was a well functioning child damaged severely by a lack of common sense. I agree, that it may help for people to say to themselves, the court included, would I want to live like that? Can I imagine going back and forth like that across a battle zone? Can I imagine as a baby, being whisked up and not understanding where I am going or when I am coming back? Would I like that? Would that feel comfortable and good to me? Would I feel secure? What if someone did that to me?

McIntosh: As you were talking, I was imagining an analogy. What would it be like for a child to be sent to a school five days a week, if the parents hated and mistrusted the teacher, were openly derogatory about the school, refused to communicate about pressing educational matters except scornfully, and via the child. The child might learn something if he/she liked the teachers and felt safe enough being at that school, but it is so far from optimal.

Crowell: Right. One of the things that happens, at least from my personal experience, is that the child is in the position of being a go-between, arranging things. If I were the judge, I would want to say “how are you parents going to accomplish this back and forth arrangement, because these children cannot or should not take that role?” I would want the parents to come up with a plan of how they propose to do it. Are they going to write notes? What will be in those notes? Are they going to text each other? Is there going to be an adult go-between? There should be a requirement that the parents make a workable plan.

McIntosh: That is an interesting idea, requiring parents to leave court or their dispute resolution forum able to demonstrate how they can put wheels on the parenting plan, specifically how they will retain smooth transitions and continuities for the child. It would be interesting to articulate what exactly they would need to demonstrate, and what support they would need to get it to work.

Crowell: I think the parents should present a workable plan, and they might need help with that. On the checklist should be, “will you be flexible? Is this about your child’s good experience or is this just about the other person being bad?”

McIntosh: I am interested in the debate about how far family law should go in intervening to mend damaged attachment relationships. Some see that as a highly interventionist approach, and rely on children’s resilience to get them through. Others would argue that family law presents an opportunity to pick up things that have gone badly wrong and to make a difference for the child. Do you have any views on that?

Crowell: I am more on the interventionist side. Given the underachievement of children of divorce, if you take that as a cost to society, let alone an individual cost, I think it is worth intervening. Once it comes to the law, then it is not just a private matter anymore. Parents are asking for society’s help or support in some way, and it is our right for society to respond with some conditions.

Seligman: Even the most thoughtful judges are often in an awkward position. I think the problems about which you are asking are best addressed with fairly intensive therapy interventions, which are hardly ever available, except to the quite well-off, at least in the US. So this is largely a matter of social policy. Both marriage and parenting are relationships that activate very deep and powerful emotional currents, usually involving transferring some part of your own internal emotional-relational world to someone else. When it goes badly, inner demons become activated, and often enough, a cycle ensues where the parents behave badly enough with regards to one another that they confirm in their own mind the badness of the other. What can a judge on his or her own do about it when things become very degraded and the court process becomes a battle against oneself and one’s own internal adversaries, which is confirmed and burdened and heated up by the behavior of the other parent, and by the adversarial system?

McIntosh: However, in the child’s best interests, judges must give regard to how those inner demons are affecting that parent’s reflective functioning, and how that is likely to affect their parenting, short and longer term.

Seligman: Commonly, parents in high-conflict divorces in my experience, almost universally lose their reflective functioning, at least with regards to one another. And it is remarkable how much they lose reflective functioning, but can continue to function at high levels otherwise, like in their jobs. Parents in high-conflict divorces are deficient in the crucial ability to discriminate what they need as individuals and what their children need, and also who their ex-spouses are to their children. We need to do whatever we can do to help parents discriminate between their internal struggles and the outside world after a divorce. They need help to make those discriminations.

One thing we hope that the family law system can do is to help parents contain their projections. One of the problems in high-conflict divorces is that parents are failing to separate their internal difficulties from the actual children and ex-spouses.

McIntosh: The idea of courts acting therapeutically is controversial but inspiring. Attachment offers an important perspective here: that the net result of a legal intervention should be to leave the child with better secure-base relationships. Does that sound too simplistic?

Crowell: No, I agree. Attachment speaks to the logistics of development, not emotional, touchy-feely matters. I think that is where people get mixed up in attachment, and the law does too. Attachment theory if anything encourages us to think on a more practical and organizational level, and to understand that little children do not have equivalent attachment relationships with everyone. There is a hierarchy, and the idea that you can forcibly make a child have a close relationship with a parent, especially where they are distressed by separation from the other parent, is rather ridiculous!

McIntosh: In early adolescence, greater importance of the peer relationship brings a shift in the attachment system. The child starts to put some of those needs elsewhere, and part of the secure base that parents provide in adolescence is to facilitate that movement.

Crowell: Secure-base behavior is not just the keeping close part of the relationship, it is helping the child explore and discover their world. That world includes other people, making friends, learning skills and activities that are fun, playing sports, music, and so on. Having somebody who is interested in what you are interested in, and supports you in those things rather than wants to keep you to themselves, is critical to adolescent attachment security. Peer relationships in young teenagers may suffer in the context of divorce. I have frequently heard from my adolescent patients that when they go to the father's house or the mother's house, the parent feels the time is intended just to be with them. They have missed the child, and they have missed out on some time that they feel needs to be made up for. That is very artificial, in that it excludes from the relationship things that you are supposed to be helping your child to do, like make friendships, develop life skills and extend your activities. Let them have a friend over! You could play with two children, one of whom is not your own. It would mean a great deal to the child, but this type of activity is often overlooked by the non-custodial parent.

In terms of the peer relations, the whole transition from friendships to romantic relations and then into true adult attachment relationships is one that is very interesting. I think it is very important that the divorce scenario allows for the child to have support for growing autonomy and relationships.

(MORE) UNSOLICITED ADVICE TO THE JUDGE

McIntosh: While none of us may envy the job of a family court judge, we've probably all at some time wanted to give some advice to a judge about how to go about their job! What words of wisdom would you offer, from an attachment perspective?

Solomon: I would say that the ability to suspend one's own biases about the needs of children and projections and one's own issues about divorce is crucial. I know it is not easy for professionals to admit or even see how they act out of their own feelings in guiding parents toward one plan or another. But, we all know that family law is a sea of emotion, and we'd do best to come to terms with that, rather than ignore it. Parents come to us with such strong feelings, and people in the court around those parents also have such strong feelings. Training as a lawyer or judge does not always teach people how to simultaneously be aware of and hold their feelings back in the way that a clinician learns to "hold" feelings and to simply observe them, to maintain awareness of feelings separate from what is going on, and not to act them out. The raw emotion of their client at times triggers something of their own—a belief, an attitude, an ideology which comes from their own life and not necessarily their client's. I know that this view of one's own limitations is very un-congenial to many people in the courts, because they need to develop extraordinary defenses to deal with how hard the work gets.

There is no way to do this work as a mental health professional, judge, or lawyer, without accepting that you are working in an area where there is a lot of pain and there are no simple answers. If you cannot tolerate that reality yourself, you cannot make good decisions about complex matters with or for the parents and the children concerned. So I think that is the biggest challenge in this area, to really be able to know one's own feelings about a matter and still be able to set them aside. Now the

attachment paradigm is helpful to that. While I do not think that the research at this time is yet sufficiently broad and deep that we can thoroughly rest on it, it is important to be aware of it and to keep your mind open to it as a correction to how stirred up our own feelings are in these situations. You could say that attachment theory literally becomes a secure base for you that allows you to help these very conflicted parents; it becomes something to hold on to, and to use to evaluate your current reactions.

Seligman: As a clinician, I am very grateful for what the courts do. At the same time, what makes them so helpful is that they have to operate at some distance from the emotional exigencies. In a sense, the judges have to stay aloof from the pain of high-conflict divorces, especially the tremendous emotional valence of the squabbles the embroiled parents bring to court. Unfortunately, sometimes a parent's core sense of self may become reliant on a variety of purposes and outcomes, which often do not serve the child's purposes: Things like winning, being vindicated, illuminating the badness of the other, redeeming the past, assuaging of guilt, dealing with their own hurt at the hands of the other parent, real and imagined, and so on. Even the best-intentioned parents may lose sight of the child in those situations. Sometimes these self-serving ends are mingled with real concerns about the child, but in high-conflict divorces there is a good likelihood that those kinds of things are obscured.

As a child clinician, my orientation is to maximize the best interest of the child. From a sentimental point of view, I would prefer for the system to start and end there, and I would guess that this would be the most cost-effective for the society, in both emotional and economic terms. But, it would be unrealistic to expect the adversarial law system to work this way. Everyone has his or her rights before the law. So the judges run into such conundrums. I wish all of this could somehow be clarified in everybody's thinking. One prominent example of this sort that we've discussed here is when parents do not have the ability to effectively share parenting. In such situations, I would often prefer that the judge made a decisive choice in the interests of the child rather than expose the child to a kind of shuttle diplomacy. I would rather be safe than sorry about that. That is a side of the court system where the legal order of things may well move things toward a kind of developmental risk that is not worth taking.

Crowell: Yes, we must pay attention to how we educate ourselves, our colleagues and the parents we work with, to enhance children's outcomes in divorce scenarios. Attachment theory provides an important framework for this process, in showing again and again how crucial it is that parents are focused on responsive care-giving, and on keeping a kind, authoritative relationship with their child.

Bretherton: I think that we humans are not very good at understanding how important relationships, and especially attachment relationships, are to children. I am not sure what is the best way of conveying it to a judge, or what training would look like for them, but I think seeing is believing. Maybe film, even like the old Robertson ones and so on,¹ would help law professionals understand what we are talking about. As long as you only read it, it makes little sense, especially the way the journals publish material, you usually do not know what they are talking about, they are just variable names. It is very difficult, particularly for judges and lawyers, and maybe even social workers, to really fathom what attachment is all about when they read those dry papers. They have undoubtedly seen attachment at work in their own lives, but maybe not quite realized the importance of it. I think that a comprehensive film would be a task for the future, that would be very important. Otherwise, you would have to give them a four-year course or something like that in academia, but I am sure they do not have time for that!

Solomon: I would also say that attorneys and judges do really have to learn this skill of knowing how they feel about an issue and learning how to disentangle their strongly held views from the needs of particular children and families. I think that sometimes the pressure of their roles leads them to have to deny that they have trouble doing this! For attorneys, just as with many social workers in the foster care system, very often they cannot afford to know how they feel. And they develop rubrics as a way to simplify very painful situations. These rubrics, in combination with poor developmental knowledge, can create a real problem for children in family law matters. From the perspective of someone who does know about children, I see that judges and family law professionals who cannot examine

their own presumptions and their own feelings and cannot measure their thoughts against a sturdy framework like attachment theory, can make very problematic decisions.

McIntosh: Thank you all for your contributions to this discussion.

NOTE

1. For example, as documented in Robertson & Robertson, 1989; and in their films: *A Two-Year-Old Goes to Hospital*; *Young Children in Brief Separation*; *Going to Hospital with Mother*. For details see <http://www.robertsonfilms.info>.

SELECTED REFERENCES

- Bretherton, I., & Page, T. (2004). Shared or conflicting working models? Relationships in postdivorce families seen through the eyes of mothers and their preschool children. *Development and Psychopathology, 16*, 551–575.
- Bretherton, I., Lambert, J. D., & Golby, B. (2005). Involved fathers of preschool children as seen by themselves and their wives: Accounts of attachment, socialization, and companionship. *Attachment and Human Development, 7*, 229–251.
- Bretherton, I., & Munholland, K. A. (2008). Internal working models in attachment relationships: Elaborating a central construct in attachment theory. In J. Cassidy & P. Shaver (Eds.), *Handbook of attachment: Theory, research and clinical applications* (2nd ed., pp 102–127). New York: Guilford.
- Bretherton, I. (2010). Fathers in attachment theory and research: A review. Emerging topics in father attachment. *Early Child Development and Care, 180*, 9–23.
- Crowell, J. A., Fraley, C. R., & Shaver, P. R. (2008). Measurement of individual differences in adolescent and adult attachment. In J. Cassidy & P. R. Shaver (Eds.), *Handbook of attachment: Theory, research and clinical applications* (pp. 599–636). New York: Guilford.
- George, C., & Solomon, J. (2008). The caregiving system: A behavioral system's approach to parenting. In J. Cassidy & P. Shaver (Eds.), *Handbook of attachment: Theory, research and clinical applications* (pp. 833–856). New York: Guilford.
- Robertson, J., & Robertson, J. (1989). *Separation and the very young*. London: Free Association Books.
- McIntosh, J. E. (2008). More than a question of safety: Assessing attachment disorganization and protective capacity in high-risk parent-infant dyads. In A. Sved Williams & V. Cowling (Eds.), *Infants of parents with mental illness: Developmental, clinical, cultural and personal perspectives* (pp. 47–65). Brisbane: Australian Academic Press.
- Seligman, S. (2000). Clinical implications of attachment theory. *Journal of the American Psychoanalytic Association, 48*, 1189–1196.
- Seligman, S. (2000). Clinical interviews with families of infants. In C.H. Zeanah (Ed.), *Handbook of infant mental health* (2nd ed.). New York: Guilford.

Inge Bretherton is Professor Emerita in the Department of Human Development and Family Studies, School of Human Ecology, University of Wisconsin-Madison.

Stephen Seligman is Clinical Professor of Psychiatry in the Infant-Parent Program, University of California, San Francisco, a faculty member of the San Francisco Psychoanalytic Institute, and a personal and supervising analyst at the Psychoanalytic Institute of Northern California.

Judith Solomon is a clinical psychologist and a researcher with the Department of Pediatrics, Bridgeport Hospital, and an associate editor of the journal, Attachment and Human Development.

Judith Crowell is a paediatric and adolescent psychiatrist and Associate Professor at Stony Brook University, Department of Psychiatry and Behavioral Science.

Jennifer McIntosh is a clinical and developmental psychologist, family therapist, and researcher based in Melbourne. She is the Director of Family Transitions, and Adjunct Associate Professor at La Trobe University (School of Public Health).