

# Divorce Conflict Information Booklet Series<sup>1</sup>

## Introduction: Understanding the Problem and Planning the Solutions

By Kenneth R. Waldron, PhD and Allan R. Koritzinsky, JD<sup>2</sup>

This introduces our twelve-part *Divorce Conflict Information Booklet Series*, six dealing with understanding the problem and six dealing with planning the solutions. ([marriageanddivorce.org](http://marriageanddivorce.org)).

We are also the authors of two books meant for professionals: *Game Theory and the Transformation of Family Law* and *Winning Strategies in Negotiation and Mediation* (available at [unhookedmedia.com](http://unhookedmedia.com)). In those books, your authors define in great detail a non-competitive approach to negotiations and mediation processes aimed at optimizing long-term outcomes (based on family and financial life goals) for both parties, and when children are involved, for the children. We also authored two books for the general population: *The Road to Successful Marriage is Unpaved: Seven Skills for Making Marriage Work* and *Planning a Sensible Divorce: Avoid Having a Messy Divorce*. The latter book is only available at [marriageanddivorce.org](http://marriageanddivorce.org).

### Background

**The key to understanding divorce conflict begins by understanding marital conflict. This understanding is fundamental to undertaking the challenge of resolving disagreements that derive from differences between the spouses.**

When people marry, they establish four types of relationships, all of which can be fraught with difficulties:

1. They **live together**, and anyone who has lived with roommates recognizes that there are challenges as the result of differences in lifestyle (e.g., how tidy to be and so on) and

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<sup>1</sup> Our Divorce Conflict Information Booklet Series is organized into two Sections: Section One- Understanding the Problem and Section Two- Planning the Solution. Each of the Sections has six Booklets. This Booklet is the Introduction to the Series.

<sup>2</sup> For more on these subjects, you are encouraged to read the following two books written by your authors: "***Game Theory and the Transformation of Family Law: Change the Rules- Change the Game. A New Bargaining Model for Attorneys and Mediators to Optimize Outcomes for Divorcing Parties.***" Unhooked Books. Scottsdale, AZ 2015 and "***Winning Strategies in Divorce: The Art and Science of Using Game Theory Principles and Skills in Negotiation and Mediation.***" The latter is an online book only. See [www.unhookedmedia.com](http://www.unhookedmedia.com) and [www/marriageanddivorce.org](http://www/marriageanddivorce.org).

disagreements (e.g., how to handle the normal things that come up, such as one playing loud music and so on).

2. When people marry, they take another step: they **share income and expenses**. This inevitably includes potential differences in money management, income production and lifestyle questions that involve money and debt.

3. They also develop an **intimate relationship** that includes physical love and affection (e.g., paying close attention to one other, being loyal and supportive and so on). They are likely to have some differences (e.g., different desires for affection and so on), which will likely be expressed in disagreements. The intimate relationship also involves management of friendships and extended families, which can include challenging differences and disagreements.

4. Finally, they develop a **co-parenting relationship** when they have children, which not only ignites differences in parenting style, but also has a significant impact on the other three types of relationships.

**It is no accident that these four types of relationships have also been found to be the four top topics of disagreements in marriages.**

Historically, in almost all cultures, final decision-makers were designated. For reasons too complicated to cover here, they were almost always men, whether they be priests, rabbis, ministers, sheiks, or husbands. In some religions, the fact that men were the final decision-makers was even codified in religious texts. Only very slowly in the past 150 years have women broken the chains of domination, including in marriages, at least in some cultures. This created a novel modern egalitarian marriage in which neither spouse is a final decision-maker. Still challenged by differences, disagreements arise, with no clear final decision-maker. In order to make marriage work, or better yet, be successful, this challenge required the development of disagreement resolution skills.

Unfortunately, who was to teach those skills? Prior to egalitarian marriages, people divorced primarily because of failures to fulfill socially prescribed roles: men were providers; women were homemakers and mothers. These failures led to serious problems of depression in women and alcoholism in men, mainly because these roles were so unfulfilling. An egalitarian marriage offers much more satisfaction, but presents the challenge of making decisions together with where spouses have equal power.

**The primary and current cause of modern divorce is marital conflict over unresolved disagreements derived from normal differences.**

The “natural” tendency, given the history of mankind, is to “win” arguments, but in an egalitarian marriage, that is a recipe for failure. That failure grows into persisting conflicts that grow into criticisms of one another. Increasing frustration and emotional damage often leads to affairs, abusive behaviors, conduct problems and finally divorce.

Only in the last few years have researchers begun to study the problem of modern marital conflict. Initially, research simply described the behaviors that led to the downfalls of marriage,

without any understanding of the problem or planning solutions to marital and co-parenting conflict. More recently, and not surprisingly, the research of Ken Waldron and Eileen McCarten, found that undergirding successful marriages are spouses with the skills to resolve differences and disagreements successfully. Success is defined as coming to solutions that work well for both spouses in brief interactions that minimize interpersonal harm. On the other hand, spouses lagging in those skills develop increasing levels of chronic conflict, very often leading to divorce.

If a couple could walk away from the marriage with no financial, social, family or parenting ties to one another, divorcees can ignore their negative feelings about one another, although those unresolved feelings might poison future relationships. However, if they have children, they likely continue to have one of the types of relationships (described above) that they had during the marriage (which obviously failed). Still lagging in skills, most divorced parents continue to have co-parenting conflict, damaging themselves and their children with the toxicity of conflict, often in the form of lifelong cold wars.

Co-parenting conflict is the result of two causes:

1. **Viewing divorce as a legal event** by the divorcing spouses, and more importantly, by the professionals that they encounter, particularly lawyers, mediators and judges.
2. **Continuing to have the same lagging skills** for resolving disagreements as they had in their marriage, which likely led to the divorce in the first place.

The twelve Booklets in our Series elaborate on this problem and offer solutions to those still married, to those going through a divorce, and to co-parents already divorced. More specifically, in addition to our Booklet Series, our Blog Series on this same website, *Skills Needed for a Healthy Co-parenting Relationship*, details the skills that research has found work to resolve differences and disagreements and thus lower the level of co-parenting conflict. Equally important, those blogs identify the five tasks that parents address in a successful co-parenting relationship.

**Most important, the readers of this Series should know in advance:  
Game Theory undergirds understanding the problem  
and planning the solutions regarding divorce conflict.**

In our books cited above, Ken and Allan applied principles from a branch of mathematics called Game Theory, which is the study of how and why people make the choices that they make while in the family law system regarding divorce.<sup>3</sup>

While divorcing or divorced parties might benefit from this Series, the approach we took assumes that professionals are the primary audience (or at least a shared audience). These

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<sup>3</sup> The subject matter covered here also applies to the “management” of children with separated but never-married parents.

Booklets are intended to address the primary causes of divorce conflict and steps that professionals can take to steer divorcing spouses into more cooperative co-parenting relationships.

Game Theory also informs us that people play one of two types of games. Each of these games rely on predictable behaviors. In the former, the strategy is for winning. In the latter, strategy is maximizing benefit to both players.

### **Different strategies; different game!**

1. **Games of Conflict.** Viewing divorce as a game of conflict, promotes competitive strategies, which, as most professionals intuitively understand, significantly reduces the value of the outcome for both spouses/parents.
2. **Games of Cooperation.** Treating divorce as a cooperative game, in which spouses and parents are planning for their futures and the futures of their children, maximizes the benefits for everyone involved.

This Series of Booklets delves more deeply into this fundamental principles undergirding this conclusion. However, let us start by providing our readers a basic outline and overview of the Booklets in this Series:

## **Divorce Conflict Information Booklet Series Section One: Understanding the Problem (Six Booklets)**

### **Booklet 1. Three Lens Approach to Understanding Divorce Conflict**

The basic underpinnings of divorce and co-parenting conflict are explored. Divorce conflict is not viewed as a reflection of pathology, but rather as a combination of natural human tendencies and evidence of lagging skills. Although the Booklet finds the roots of conflict patterns in the marriage, this analysis focuses on a co-parenting relationship through three lenses: personal cognitive mistakes, the cultural/historical backgrounds of the parents and viewing a co-parenting relationship as an organization, making mistakes.

### **Booklet 2. The Roots of Divorce Conflict.**

The roots of divorce conflict lie in fundamental skill weaknesses that led to a divorce in the first place. While the end product of marital conflict, and thereby divorce conflict, appears to be complex, the fundamental problem is in lagging the skills for successfully resolving normal disagreements. It is also the failure to resolve normal disagreements well, because of a lack of skills for doing so. This marital conflict inevitably permeates a co-parenting relationship after divorce. The Booklet describes the ten skills involved for resolving disagreements in a healthy manner.

### **Booklet 3. Is Divorce Conflict Addictive?**

We posit the question: Is divorce conflict a process addiction, which hijacks the brain's reward center of vulnerable people? This Booklet notes the similarities with other process addictions and posits that divorce conflict can become addictive for vulnerable parties. In Game Theory terms, the payoffs for conflictual behavior are neurological and subtle, making them difficult to resolve.

### **Booklet 4. What's Wrong with This Picture?**

This Booklet explored three general deficits in the traditional family law system and ten specific "traps" of the system that foster conflict between parties. In short, spouses with weaknesses step into a divorce system that exacerbates those weaknesses and escalates the conflict.

### **Booklet 5. Is the Traditional Family Law System a Static Culture, Doomed to a Future of Slow or No Change?**

Without change, the traditional family law system is determined to be a static culture that resists change with established rules and customs, enforcement, and suppressed creativity. Evolutionary progress is blocked by unquestioned and unchanging "memes" (unquestioned beliefs about reality). The result is a system that does not change with the culture and does not shift from posing obstacles, rather than solutions.

### **Booklet 6. Is the Traditional Family Law System Facing Extinction, and What Can Be Done Before It's Too Late?**

The traditional family law system has failed to recognize important inflection points in a changing culture that could lead to extinction of the system as we know it today. This Booklet posits that the family law system must do business in a very different way to survive. The focus must shift from the legal demands of a divorce to helping parties through the transition from married life to divorced life, with a focus on long-term family and financial goals.

## **Divorce Conflict Information Booklet Series**

### **Section Two: Planning the Solutions**

#### **(Six Booklets)**

### **Booklet 7. The Convergence of Expectations on Solutions**

Basic principles of Game Theory and Goal Based Planning are presented (without technical details) and are shown to be a solution to divorce and co-parenting conflict. The convergence of expectations on optimal solutions to a divorce is described, and five Game Theory

principles that create the convergence of expectations during planning negotiations are described and explained.

### **Booklet 8. Growing the Pie and Increasing the Settlement Value with Game Theory Principles**

Game Theory principles and subsequent research clearly indicates that, to optimize the outcomes for divorcing parties, bargaining should begin with a cooperative effort to identify and plan to reach the long-term family and financial goals of both parties, which increases the total value of a settlement package. The process of “coopetition” (i.e., cooperating first to grow the value of the settlement, prior to competing for distribution) enhances the values of the outcomes for divorcing spouses and for their children. As a result, bargaining with this effort increases the total value of the split for both parties. This Booklet explores this assertion in detail.

### **Booklet 9. Theoretical Considerations and Interventions in High Conflict Co-parenting Relationships**

A major challenge for divorcing parents and professionals is to avoid the gravitational pull towards developing a pattern of high-conflict co-parenting. Serious mental health problems and conduct disorders explain some cases, but even parents without those problems can be drawn into a problematic co-parenting relationship. The damage to the parents and to the children of a pattern of moderate to high-conflict coparenting can be profound. This Booklet addresses the factors that promotes a conflictual co-parenting relationship and offers antidotes.

### **Booklet 10. Settling Through Mediation**

Mediation and other alternative approaches to producing divorce agreements have grown in popularity and have some advantages over traditional lawyer-lawyer negotiations. This Booklet explores the application of Game Theory principles to those alternatives, particularly the ease in which they can be used for cooperative planning rather than competitive negotiations.

### **Booklet 11. “I Hate You; but I Respect You”**

A challenge for divorce lawyers is to negotiate/plan with clients who hate one another. This Booklet sidesteps the issue of “hate” by focusing on establishing trust and respect in the negotiations. An advantage to this approach, based heavily on the written works of others, is establishing a post-divorce relationship that includes trust and respect, the importance of which can lead to a “mostly” functional co-parenting relationship.

### **Booklet 12. Goal Based Planning and Thinking Outside the Box**

This Booklet is our (somewhat lengthy) elevator speech. The current divorce legal system is failing to truly serve its “customers.” Sadly, this occurs when spouses have children, misdirecting parents into life-long dysfunctional families. Here, we include spouses with adult children who also can be harmed by a poorly conducted divorce. In addition, we do not minimize the effects on spouses without children. Spending a remaining lifetime with the scars of a

damaging divorce is no picnic. When reading these Booklets, it is not hard to tell that our deepest concerns are for the outcomes for children whose parents handle their divorce poorly.

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We address the causes of damaging divorce conflict in the first six Booklets. Those causes can be split between the condition of spouses at the time of a divorce (the first three Booklets) and the contributions of the legal system itself (the last three Booklets). Salt and peppered throughout these Booklets, we not only propose solutions focusing on correcting problems presented by the spouses themselves but also addressing the family law system itself used by professionals- all based on an understanding of the causes of divorce conflict and using Game Theory principles.

## **Conclusion**

Our goal in this Booklet Series is to provide a comprehensive understanding of a complex problem– relationship conflict beginning in marriages, in some cases leading to divorces, and more often than not, plaguing post-divorce co-parenting relationships. We have aimed high by including what we believe can prevent relationship conflict leading to divorce (at least in many marriages), minimizing the damage of conflict at the time of a divorce, and improving the percentage of co-parenting relationships so they are amicable and functional ways to raise children once parents are separated.

**Toward that end, we hope we have approached this goal in ways that are helpful to professionals, spouses and parents.**