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Infants and overnight care - post separation and divorce

Clinical and research perspectives

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The importance for children's well-being and longer term adjustment of maintaining loving, supportive relationships with both parents after divorce is well documented. But questions remain about links between parenting arrangements and how they may interact with complex developmental and parenting factors to influence outcomes for infants and young children. New studies have returned the focus squarely to the importance of the questions we ask on behalf of very young children about post-separation living arrangements, and *protecting the child's sense of comfort and security* as the prime and determining element to which courts must attend in resolving custody disputes+ (Main, Hesse & Hesse, 2011). This paper briefly outlines new evidence in this area, and considers implications for the management of post-separation parenting plans for very young children.

In Australia, changes to the Family Law (Shared Parental Responsibility) Act 2006, together with other aspects of family law reform, most notably recent child support reform,¹ have created a sharp focus on time-share arrangements for children with each parent, post-separation. At one level, meaningful relationships between parents and their children are now defined by the amount of overnight time spent with each parent (McIntosh & Chisholm, 2008; Smyth, 2009). The 2006 Act stipulates that in courts with family law jurisdiction in Australia, in dealing with cases where there is an accepted presumption of equal shared parental responsibility, officers of the courts must consider the advantages of making orders that the child spend equal time or if not equal then substantial and significant time with each parent. In addition, all advisors in the family law system (dispute resolution and legal practitioners, and family consultants), also have an obligation to inform parents that in developing a parenting plan, they could consider the child spending equal or substantial and significant time with each parent if reasonably practicable and in the best interests of the child.

This position would suggest that equal time with each parent is an appropriate starting point for developing a parenting plan. Current research however would suggest that this, in fact, is not in the best interest of infants and young children.

Overnight care patterns and the psycho-emotional development of infants and pre-schoolers: Current research.

Infancy, defined as the first three years of life, and the pre-school phase of four-five years, are unique phases of growth and of vulnerability, by virtue of the rapid physical, cognitive, language, social, and emotional development going on during this time. The brain, about 30% formed at birth, expands threefold during the first three years (Royal Australian College of Physicians, 2006). Importantly, much of the growth of the human brain during this time is termed *experience dependent* (Melmed, 2004); that is, the complexity of the brain's development depends on the nature and quality of care the infant receives. In this light, neuroscientists have recently given active attention to the special

¹ Sweeping changes to the Australian Child Support Scheme were recently introduced, featuring a dramatically different system for the calculation of child support. These changes were recommended by the Ministerial Taskforce on Child Support, and were implemented in three stages during 2006-08. The reform package became fully operational on 1 July, 2008, when a new formula for estimating child support liability came into effect. Among other things, the new Scheme seeks to support shared parenting.

conditions of nurture and care required by infants within their early attachment relationships. As Schore (Schore & McIntosh, 2011) explains:

Attachment in the first year of life, when the brain circuits for attachment are still setting up, is different from attachment in the third or fourth year of life, when the system is going, so to speak. That is, to stress a developmental system while it is organizing in the first year will have a much more negative impact in response to the same stressor than if you did it when the child was four.

McIntosh, Smyth and Kelaher (2010) explored the role of overnight parenting patterns in creating more or less stress in the day-to-day lives of very young children, and associated impacts. They employed the large nationally representative *Longitudinal Study of Australian Children* (LSAC) data set. Specifically, the study investigated emotional and behavioural regulation outcomes (on primary parent and carer/teacher/observer reports) for children in shared residence, primary residence, and rare/no overnight contact groups, controlling for socio-economic variables, parenting warmth and parents' relationship.

For 4- to 5-year-olds ($n=1,292$), conflict between parents and parental warmth were both important for developmental outcomes of the children, but time arrangements on their own were not. However, for infants (0-2 years, $n=258$) and young children (3 . 4 years, $n=509$) the findings were different. Regardless of socio-economic background, parenting warmth or cooperation between parents, the shared overnight care of children less than four years of age had a significantly negative impact on the emotional and behavioural well-being of the child. Babies under two years who lived one or more overnights a week with both parents were significantly stressed. In their general day-to-day behaviour these babies were more irritable and worked much harder to monitor the presence and to stay close to their primary parent than babies who had less or no overnight time away from their primary caregiver. A similar profile was found with older infants, aged 2 to 3 years, living in shared-time arrangements (35% . 50% overnights with each parent). In this age group, the study found significantly higher rates of problem behaviours (e.g. crying or hanging onto the primary parent when leaving, refusing to eat and hitting, biting or kicking the parent) and poor persistence in activities and exploration compared with young children with fewer or no shared overnights.

These findings are consistent with the only other study of young infants in overnight care, conducted by Solomon and George (1999), who found a greater propensity for anxious, unsettled behaviour in infants when reunited with the primary caregiver, and greater propensity for development of insecure and disorganized attachment with the primary caregiver.

The research findings converge with a large body of developmental research in the attachment arena, suggesting that repeated and prolonged absence from the primary caregiver is uniquely stressful for infants and children less than four years. This distress is typically expressed on reunion with the primary carer, through the young child's irritable, unsettled, angry, or ambivalent behaviours, and, over time, through psychosomatic symptoms (Bakermans-Kranenburg, van IJendoorn & Juffer, 2003; Belsky & Fearon, 2008; van IJendoorn & Sagi-Schwartz, 2008; Schore & McIntosh, in press). (See also the *Family Court Review*, July, 2011, which features a Special Edition on the topic of attachment and family court matters.)

Extrapolating from a 30-year study of child development in risk contexts, Sroufe (Sroufe & McIntosh, 2011) believes that shared-time parenting with infants and pre-school children is likely to create a set of additional risks that, if not necessary, should be avoided:

You are simply making the infant's job harder. The infant's job is to try to organize their behaviour to make the world be a predictable and understandable place where they can get their needs met and they won't be too stressed. Their job is to try and keep their arousal modulated. They're unable to do that by themselves. Their job is the easiest when things are regular, predictable, and responsive to them. Their job is harder the more transitions they have to deal with, the more uncertainty there is.

Risk factors

McIntosh and Smyth (in press) describe a number of factors that create risks for children of any age in shared-time parenting arrangements. These include practical factors like inadequate income and housing, parental work flexibility, how close the caregivers live to each other as well as relationship factors like mutual respect, parenting competence, flexibility, adequate communication, and ability to remain child focused. Important as these factors appear to be for children's outcomes in shared care arrangements, current research indicates that during the pre-school years, the child's own developmental stage and associated needs may be even more important. While a cooperative parenting relationship can make many things possible, the developmental needs of the young child and the additional demands involved in meeting those needs means that the challenges are even greater.

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See also AAIMHI recommendations for Infants and overnight care.