

PARENTAL SEPARATION AND OVERNIGHT CARE OF YOUNG CHILDREN, PART II: PUTTING THEORY INTO PRACTICE

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This article is a companion piece to the empirical and theoretical perspectives on infant overnight care arrangements offered in Part I. Grounded in an integrated psycho-developmental perspective, the paper provides a set of clinical assumptions and a related chart of practical considerations, to guide decision making about infant overnight care, both in the individual case and in broader policy contexts. At all levels of decision making, we endorse the need for developmentally sensitive resolutions that protect both the vulnerabilities of early childhood and support lifelong parent-child relationships, whenever possible.

Key Points for the Family Court Community:

- Parenting orders or plans for children 0–3 years of age should foster both developmental security and the health of each parent-child relationship, now and into the future.
- From a position of theoretical and empirical consensus, we provide an integrated set of assumptions and considerations to guide decision making about overnight parenting plans.
- These considerations apply equally to planning in the individual case and to policy level decisions.

Keywords: *Attachment; Children; Divorce; Infants; Overnights; Parent Involvement; Parenting Plans; and Separation.*

TOWARD DEVELOPMENTALLY RESPONSIVE PARENTING PLANS AND ORDERS

The consensus points outlined in Part I of this paper (Pruett, McIntosh, & Kelly, this issue) provide the foundation for the current article (Part II). We take the view that parenting orders or plans for the 0–3 year group have twin and mutually reinforcing responsibilities; the first to foster developmental well-being during the first three years, and the second to support the health of each parent-child relationship, now and into the future. Here, we bridge relevant bodies of developmental and divorce research into a set of assumptions and clinical considerations, in the hope of providing practical guidance for individualized planning about the postseparation care of young children.

Throughout these two companion papers, we resist the urge to prescribe fixed formulas about numbers of overnights or age of commencement, and encourage policy makers and practitioners to do likewise. Instead, we provide guidance about the key assumptions, principles and specific factors that, when weighed together in the individual case, will foster developmentally sound decisions.

THE UNDERPINNING ASSUMPTIONS

A set of core assumptions provides a critical context for the decision-making chart that follows. These assumptions prioritize both attachment organization and joint parental involvement whenever the conditions of safety and the minimization of stress are met. Under such conditions, a responsive parenting plan would allow the child to benefit from the ways that parent-child relationships in early childhood differ normatively, and enable access to the full complement of emotional, cognitive, family, social and economic resources each parent can offer. The clinical reasoning within the chart (see Table 1) rests on three levels of assumptions:

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Table 1
Considerations for determining postseparation overnight care of children aged 0–3 years

Bear in mind when using this chart, that . . .

- 1) The left column reflects conditions within the caregiving environment to be considered in determining the presence or absence, and frequency, of overnights.
- 2) Parents and other decision makers will need to weigh not only the number of overnights, but the spacing and frequency of transitions between homes, and the emotional ease of the exchanges for the child.
- 3) Even when all parenting conditions are met, higher frequency overnights (see right hand column) are not generally indicated for infants 0–18 months. For reasons of temperament or maturation, this will also apply to older infants/toddlers who demonstrate regulation difficulties or other signs that they are stressed by the arrangements.
- 4) When either lower or higher levels of overnights are not indicated initially, they may become so with the child's maturation, and/or with the assistance of educational and/or counseling support for parents, or mediation. An agreed "step-up" plan is helpful in progressing toward overnights.
- 5) This developmentally based guidance for children 0–3 (i.e. up to 48 months) is *not intended to override the discretion of parents who jointly elect to follow other schedules in the best interests of their child, and in the context of their own circumstances.*

| <i>Considerations (In order of importance)</i> | <i>Rare/No overnights indicated</i> | <i>Lower frequency overnights indicated (1–4 per month)</i> | <i>Higher frequency overnights indicated (5+ per month)</i> |
|--|---|---|---|
| 1. Safety A) The child is safe in the care of each parent B) Parents are safe with each other | A or B are absent | A is established. B: Conflict is separation-related & non-threatening or endangering | A and B are established |
| 2. The child's trust and security with each parent The young child: A) is continuing an established, trusting relationship (of 6 months or more) with a parent When resident parent is not present, the young child: B) seeks comfort from and is soothed by the other parent C) finds support for exploration with the other parent | A or B & C absent | A is established, B & C are emerging. | A–C are established |
| 3. Parent mental health The parent has: A) sensitivity in recognizing and meeting child's needs B) no or well-managed drug and alcohol issues C) no or well-managed mental health issues | Any of A–C are absent | A–C are emerging | A–C are established |
| 4. Health and development The young child: A) has significant developmental or medical needs B) such needs are well supported in the proposed arrangement C) the infant is exclusively breast-feeding or will not yet accept a bottle | A exists but B is absent; C exists | A and/or C are absent; or A exists but B is emerging/ established | A and C are absent; A exists and B is established |
| 5. Behavioral adjustment Relative to temperament and stage of development, the child shows any of the following <i>persistent behaviors (i.e., over 3–4 weeks)</i> : A) irritability, frequently unsettled, without medical cause B) excessive clinging on separation C) frequent crying or other intense upset D) aggressive behavior, including self-harming behavior E) regression in established behaviors, e.g. toileting, eating, sleeping F) low persistence in play and learning G) any regressions or difficulties in the above are short lived and readily resolved | Any of A–F exist; G is absent | Any of A–F sometimes exist but G is established | Any of A–F are rare; G is established |
| 6. Co-parental relationship Parents are able to: A) communicate civilly about and plan for their young child together B) manage conflicts arising, using interventions as needed C) be consistent yet responsive with the schedule D) value or at least accept the child's relationship with the other parent E) put their child's needs before their own wishes for time/contact F) ensure low stress exchange of the child at transitions | | A–F are established or emerging | A–F are established |
| 7. Pragmatic resources to support sharing of overnights Parents: A) can be the main caregiver for the young child during scheduled overnight and majority of scheduled day time (excluding work time) B) live within a manageable commute of each other C) when a parent cannot personally care for the child overnight, care by the other parent is prioritized | A, B and C are absent | A and B are established, and C is emerging | A–C are established |
| 8. Family Factors A) Arrangement reflects status quo and/or older siblings sharing the same overnight schedule are a source of security to the young child B) Overnight arrangements would enable maintenance of other relationships that are sources of security to the child, (e.g., grandparents) and/or enable exposure to important elements of each parents' cultural or religious practices. | | A exists if applicable; The importance of B for the child is emerging or established | A exists if applicable; B is established |

First level assumptions:

Parenting plans and orders made for children 0–3 years are developmentally supportive when they provide for a caregiving environment in which:

- 1.1) the young child is safe with, and can be comforted by, both parents; and
- 1.2) the young child is protected from harmful levels of stress.

Second level assumptions:

When level one assumptions are met, parenting plans:

- 2.1) Support the development of organized attachments to each parent/caregiver wherever parenting opportunities and capacities permit.
- 2.2) Encourage parenting interactions that support the development and maintenance of attachments with each parent. These interactions:
 - a) provide regular opportunities for direct care from each parent, involving soothing and settling, teaching and playing, maintenance of important routines throughout the day and night, and support to explore the wider world outside of the home and the immediate family; and
 - b) provide the young child with support to transition between parents, including comfort and reassurance as needed.
- 2.3) Anticipate changes in the parenting plan through a series of well articulated step-ups, to be implemented at a pace and level determined by the young child's responses to each step, and each parent's ongoing ability to effectively enact the proposed plan individually, and preferably, in concert.
- 2.4) Reflect practical considerations. The arrangements are adequately supported by individual and relationship resources, including realities of parents' proximity to each other, work-life schedules and flexibility, or lack of the same, and support networks.
- 2.5) Maximize the amount of time the young child is cared for by a parent, or when a parent is otherwise unavailable, a family member or other person trusted by both parents. Parents consider the child's other parent as a first port of call when child care is needed.
- 2.6) Encourage shared decisions about major child-related issues, with effective use of mediation, co-parenting counseling, and related programs as needed.

Third level assumptions:

When level one assumptions are *not* met:

- 3.1) The priority is to ensure that one organized attachment relationship is formed (with practical and therapeutic support as needed), even if that results in delaying time with the other parent.
- 3.2) Such circumstances may reflect characteristics or chronic behaviors of one or both parents (e.g., neglect, current violence, severe personality disorders, mental illness) or factors within the parental relationship (violence, high conflict, geographic distance) that render two organized attachment relationships difficult to foster or sustain.
- 3.3) Some infants and toddlers will have two parents with a history of psychiatric problems, substance abuse, poor parenting, and troubled relationships. Unaided, the infant may not be able to form an organized attachment with either parent within a timeframe that is developmentally useful to the child. Ongoing therapeutic support and parenting education in these cases are of critical importance.

CENTERPOINT: NATURE AND QUALITY OF THE PARENT–CHILD RELATIONSHIP

We suggest that both attachment and parental involvement perspectives point to a common centerpoint upon which decisions about overnights are best grounded: the nature and quality of the

parent-child relationship. It is here that most young children have their early psycho-emotional needs met, and where the young brain receives the developmental nourishment that sets a future course for healthy maturation. Attachment security, child mental health, resilient coping, and cohesive family environments hinge squarely on each parent's history of providing consistent, sensitive responses to the child's needs.

In all families, an essential condition for implementation of overnight care in the years 0–3 includes a pre-existing relationship with the nonresident parent, generally for at least six months, in which the infant has been safe and felt comforted. Hence, early overnights are more likely to occur with parents who have lived together through pregnancy and in the early months of the child's life, or by non-cohabiting parents who are cooperative and mutually invested in the child's relationship with both parents. In all contexts, it is important that parents monitor their child for signs of overload, and respond accordingly.

Within our suggested framework, individual infant needs and parents' circumstances may dictate the need for more or less daytime contacts, or overnights, and different starting points. The guidance provided should not prevent parents from adapting their arrangements to ensure more effective, responsive parenting. From the child's perspective, caregiving schedules are designed to minimize separation-induced distress and support routines in the child's day-to-day life. The schedule should not create lengthier separations from either parent than the child can manage. Symptoms in the child as described in the table above (see Point 5) may signal the need for changes in the schedule or in aspects of parenting, co-parenting, or the transition itself, to better accommodate the child. Patience will be needed while finding the right balance for the individual child.

Some parents have not established or consolidated a relationship with the child, or with each other, yet co-parenting has clear merit, and a plan to support its growth is needed. In this scenario, the duration of parenting time with an unknown or lesser known parent would initially be limited to a few hours on each occasion, and of sufficient frequency, until the parent-child relationship is on sure footing. This will encourage familiarity and growth within the infant of memories of trust and comfort (Main, Hesse, & Hesse, 2011). A focus on safety and security for the child means that in cases of chronic parental or interparental disturbance, manifested in abusive or neglectful parenting, apportioning parenting time to ensure the development of at least one organized attachment, with one person determining how day-to-day care will proceed for the child's sake, becomes a necessary priority.

MEANINGS FOR LEGISLATION AND POLICY

Understanding the confusion and anxiety that indeterminate legal standards can engender, family lawyers and advocates for mothers, fathers, and children have sought presumptive rules that can be applied to most or all families. We believe, however, that unqualified presumptive "for" or "against" rules regarding parenting plans will not adequately protect the best interests of very young children. We suggest that a hierarchy of priorities, such as that offered here, can guide both the decisions that parents and family court professionals make, as well as the expectations of parents in settlement and parenting time planning. Given the general developmental, divorce and separation-specific research about overnights described in Part I of our shared writing, we recommend a thoughtful approach. In general, when there are concerns about any key aspect of the child's development and/or the caregiving environment, parenting plans that are initially conservative about overnight frequency, and that have built in step-ups, are appropriate. Optimally, growth in the plan would be forecast in advance, and step-ups would occur within a specified timeframe, guided by the young child's adjustment to each change, and without the need to return to family court.

We support co-parenting as a general rule and principle. We also support the goals of developing parenting capacity and supporting the deepening of skills and knowledge within each parent and between parents, whenever possible. Availability of specialized parent-infant mental health interven-

tions, parent education programs designed for infancy through age 3, and programs for high conflict situations that help parents understand the destructive nature of their behaviors and implement positive change are important in this regard.

There are families within the court population for whom this co-parenting principle will not apply, and for whom these interventions will not be successful. For multiple reasons, some parents involved in postseparation disputes demonstrate significant impediments to collaborating over child rearing, including in decision-making. Increasingly, parents are entering the family court younger, with fewer social and socioeconomic resources (Kaspiew et al., 2009). Most important, many of these parents lack the foundation provided by having once had some relationship with each other of an affectionate and trusting nature before having a baby together. Others have had only sporadic contact with the infant since birth. Chronic mental health problems, drug or alcohol addictions, histories of engaging in high risk behaviors, ongoing threat and coercion, and personality disorders are some of the confounding dynamics that further inhibit development of a collaborative co-parenting alliance (Johnston, 2006; Kaspiew et al., 2009). One or both parents may lack the skills or intent to collaborate with the other, reject the importance of the other, and have no desire to co-parent toward the purpose of jointly protecting and enriching their child's development.

Conflict is not always perpetrated or maintained by both parents (Kelly, 2003). Conundrums exist when the parent caring for the child a majority of time is also the one to unreasonably reject or block the meaningful participation of the other parent. Severe borderline pathology and/or rage associated with the separation often underlie the unreasonable behavior and accompanying conflict. Especially in these situations, individualized planning becomes essential. From the perspectives of attachment and parental involvement, when a nonresident parent has been an involved parent prior to separation in ways beneficial to the parent and child, it may be important to implement a parenting plan involving that parent regularly in all aspects of the child's care, despite the lack of a parenting alliance. These are likely to be situations requiring careful mental health and parenting evaluation and intervention, and skilled parenting coordination (Kelly, 2014; Sullivan, 2013), monitoring and weighing multiple parent and family based conditions that will impact the child's current and future mental health.

Parents who did not have a trusting relationship with each other and/or the child before separating will need some assistance that helps each to appreciate the value of the other in the child's life, to become aware of their responsibilities and parental obligations, to parent effectively, to find ways to communicate with each other, and to co-parent despite potentially little knowledge of each other. Parenting courses or specialized infant-parent therapies can help parents transcend fragile beginnings, while mediation and parenting coordination can assist in determining if, and to what extent, parents are able to participate meaningfully in the child's care, including overnights.

CONCLUSIONS

Building on the theoretical, developmental, and empirical consensus established in Pruett, McIntosh, & Kelly, Part I (this issue), this paper takes the task of integration a step further, by detailing a practice framework for crafting developmentally supportive arrangements for children 0–3 years. This framework prioritizes *both* the early establishment of organized attachment *and* the early nurturance and maintenance of enduring relationships between each parent and their child. When infants enjoy trusting relationships with both parents, and when their parents can work together to implement plans that support these goals jointly, there is more opportunity to advance both goals concurrently. When conflict and other qualities of parent(s) or their interaction render it impossible to advance both goals simultaneously, it becomes necessary for the developmental goals to be staggered.

In normal development, new competencies and skills rarely come “online” simultaneously, or with equal efficacy. Staggered or uneven development naturally occurs in the 0–3 years, especially as the young child tackles a new or higher order developmental challenge. While working to gain competence in one area, such as speech, a pause or temporary lapse is often evident in a more physically determined skill, as the child pours their energy into the new challenge. We believe this scenario is a

metaphor for what happens with overnights, and provides a useful lens for parents and other decision makers to apply. Despite parents' best efforts, when a young child shows that they cannot concurrently master both attachment security and the developmental demands placed on her by overnights, delaying overnights may simply allow development to catch up with the challenge of the new situation. Often, this requires little more than a slower pace of progression in the parenting plan to afford the child time to grow or advance her ability to self-regulate and adjust. If supported to do so, the child will soon signal that she is able to manage, if not eager to assume the next step.

As one parent described in a letter to the therapist involved, recognizing and supporting the need for staggered progress can be key to ensuring the child's confident movement into higher levels of overnights¹:

. . . Our son is nearly three. We separated shortly after he was born, and had court orders for increasing overnights, which would have led to 50/50 by the time he was two. He started to stay overnights with me when he turned one but was clearly distressed with the separations. I couldn't have him be distressed. I chose (despite friends believing otherwise) to work with his desires and wants. So we discontinued the overnights for awhile. He was always happy with me in the day including being put to bed for his day time sleep, and we kept that going, and brought the nights back slowly. Over time, through his own volition he became comfortable with staying overnight. Now, he will just state (for the record!) that he will be staying "all night" with me and that's it. Sometimes, after this declaration he might back track a little but by then I just reassure his doubts and we move on and he is happy, and sleeps soundly. He often now wants to stay on longer with me and transition times are joyfully undertaken. We are on a roll. So, needless to say I'm happy with the decision to allow him to come to this in his own time.

A basis of trust between parents for working through overnight care issues supports a triadic base of security for early development, and beyond. The case of parents who have never lived together during the child's lifetime or never shared an intimate bond is clearly different. Here, support to forge a safe connection between parents is necessary for the very young child to forge a safe connection with each parent. Given the diversity in parenting circumstances endemic to the family-law field, we suggest that case-by-case planning for children 0–3 years is essential. This need not be a lengthy, arduous or specialist task. Using the assumptions and considerations mapped in this paper as a guide, a shared analysis by parents and family law practitioners of the pertinent qualities within the family triad is possible.

In time, we hope to better differentiate circumstances that allow young children to benefit from various overnight parenting plans, and to distinguish those that do not. Research will help advance the discussion from supposition to a nuanced understanding that accounts for the incredible diversity evident in developmental trajectories and family constellations. Our work here represents only a beginning in this task. As clinical experience in using this framework increases, we expect that patterns will emerge that are instructive to designing interventions and policies that support parents with the challenge of creating a developmentally supportive life for a young child, after separation.

Ultimately, informed policies and practices that both embrace the unique complexity of the first three years of life, and build strong relationship foundations for the coming years, will best protect the life-long developmental interests of the young child. We hope our shared interest in safeguarding children and families has provided a useful framework for parents and for professionals to thoughtfully resolve their own uncertainties about these issues, case by case.

NOTES

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1. Printed with permission, with identifying details altered.

REFERENCES

- Johnston, J. R. (2006). A child-centered approach to high-conflict and domestic violence families: Differential assessment and interventions. *Journal of Family Studies, 12*(1), 15–35.
- Kaspiew, R., Gray, M., Weston, R., Moloney, L., Hand, K., Qu, L., & the Family Law Evaluation Team. (2009). *Evaluation of the 2006 family law reforms*. Melbourne, Australia: Australian Institute of Family Studies.
- Kelly, J. B. (2014). The origins and development of parenting coordination. In S. Lally & S. Higuchi (Eds.), *Handbook of parenting coordination* (pp. 13–34). Washington, DC: American Psychological Association.
- Kelly, J. (2003). Parents with enduring child disputes: Multiple pathways to enduring disputes. *Journal of Family Studies, 9*, 37–50.
- Main, M., Hesse, E., & Hesse, S. (2011). Attachment theory and research: Overview with suggested applications to child custody. *Family Court Review, 49*, 426–463.
- Pruett, M., McIntosh, J. E., & Kelly, J. B. (2014). Parental separation and overnight care of young children, part I: Consensus building through theoretical and empirical integration. *Family Court Review, 52*, 240–255.
- Sullivan, M. J. (2013). Parenting coordination: Coming of age? *Family Court Review, 51*, 56–62.

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