

## AFCC 49<sup>th</sup> Annual Conference, Chicago

Plenary Paper.

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June 9, 2012.

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### 1. INFANTS AND OVERNIGHTS: THE DRAMA, THE PLAYERS & THEIR SCRIPTS

Indeed - controversy about infant overnight care in family law matters has reached another crescendo. Assertions by stakeholders are passionate, and deeply felt, as academics and advocates, parents and professionals joust across a dichotomous divide. At times, the saga resembles a three ring drama, on one stage. In the first two rings, at their worst, the dramas can look a little like this:

**In the first ring**, stage right, is the “mother knows best” drama: written by soft pro-mother types. Centre stage is a cradle, lovingly rocked by a 1950’s suburban mother, wearing an ironed apron, smiling with delight in her full time domestic role. At night, she protectively locks the gate to the house, and pockets the key. The father cannot get in. She calls out to him –see you in 3 years; you’ll be important then.

**In the second ring**, stage left, is the “fathers matter too” drama: written by pro-father types, the actors are forthright. The set depicts a modern world, and computers bling messages from ‘father’s for equality’ chat rooms. The actors discuss the sociology of modern fatherhood. They are *quite* loud, and seem a little angry. Front of stage is scattered an array of childhood delights: balls, bicycles, books, tents and adventure maps that evidently only fathers know how to use. Background is the demonic shadow of father absence, looming over a young child.

**In the middle there is a third ring.** The players are thoughtful, intelligent AFCC members. They are resting - weary from a decade long debate about infants and overnight care. They meet in a windy city, and gather around all the on-point data available on the subject. They find there isn’t enough to roast a marshmallow on. In contrast, towering behind them is a mountainous pile of advocate views, academic and pseudo-academic reviews, legislation, speculation, opinion,

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projection, countertransference, rumour and parallel process, all jumbled up together. They feel strangely immobilized, and wonder what to do.....

One might reasonably ask where the infant is on this stage. This AFCC *conference* is about writing development back into the script. This *plenary* is about placing front of stage the infant: finding the infant's testimony about the meanings and possibilities of overnight arrangements for her or him, within the context of each infant's unique caregiving environment.

So, enter centre stage a toddler, **Frankie**, who we'll give the gift of speech and an academic degree. Frankie looks a little perplexed and says to us, why do you guys persist with this dichotomous view of things? If you are either on my dad's side or my mum's side, then who is on my side? So Mr. Demille, says Frankie – I'm ready for *my* close-up in this drama. First - use a powerful lens that helps people see me complexly. And second - I've brought my own script: It's my testimony in this dispute. It has not a single line about parent gender or equality, nothing about which of my parents is more important than the other, or who loves me more. My lines aren't about whether overnights are right or wrong: my script is about who I am, what I can handle, what is going well for me, what I find stressful, and what goes on around me that is just plain distressing. Call me egocentric if you will, but when I'm this little, my wants pretty much ARE my needs. Can science help you predict what I need? I'm not sure...

## 2. A synopsis of the current research : justified and unjustified conclusions

So can *science* help us fit an overnight care arrangement for Frankie, an infant under 3, who lives in her parents' world of separation? Let's back up and consider this word: *science*. To attribute the status of *science* to a field is to say we have attained a reliable level of disciplined knowledge, founded upon a wide, deep, rigorous and well replicated body of research. Let's be clear: we *do not* yet have a *science* of overnight care. What we have are small and loosely connected pieces of psychological research. *Psychological research* examines underlying *processes* that contribute to certain outcomes. It identifies patterns in group data. Precision in those patterns grows as our data sources and methodologies develop. But here's my take: even if we *do* one day have a well founded science of overnight care, fitting overnight care arrangements to an individual baby will always require bespoke tailoring.

Let me describe first what patterns are emerging from the research that is exactly on the point for our topic: believe me, this won't take long.

There have to date been 2 studies of overnight care arrangements focusing on early infancy, and two major studies that focused on the pre-school years. (The three authors involved, minus our co-authors, are all in this room, and all will speak to you this morning). Why so little research?

- a) high frequency overnight arrangements for infants under 3 years are *uncommon*– In Australia –6% of the general population of separated parents live this way. Internationally, shared time rates increase with the child’s age. What this means is that in the study of infants, obtaining a large, representative sample who share care between their parents is a formidable challenge.
- b) The other thing researchers can do is recruit small volunteer samples, but in so doing, you have to drop a gold standard or two: like randomization and statistical power. Frankly the ethics get complicated if you want to randomly allocate babies to week on week off care, or some other overnight condition.
- c) So, having slim research pickings in this area is understandable. But even when we have better data sources, *there will be no such thing as the perfect study for the individual baby.*

**Here’s a sketch of the three major studies we do have to date on babies and very young children.** Being studies of human beings, you should read the *original* studies for the designs, methodologies, and limitations of each, or if you read or hear secondary commentaries, understand the context in which they were written. And in contrast to attempts throughout the field to polarize us and our studies, please know that the three authors of these studies who are here today are colleagues who admire and respect each other’s attempts to study what are complex and difficult issues.

In the first study of its kind, **Solomon and George (1999)** used attachment observations at one year and follow-up observations at 2 ½ years to compare organization of attachment behavior in 145 infants: some who had regular overnight arrangements, some who had no overnight stays, and infants in intact families. At follow-up they found more anxious, unsettled, and volatile angry behavior in toddlers who had regular overnights as infants, notably toddler breakdown on *reunion* with the primary caregiver, following a separation. They found significantly higher rates of insecure and disorganized attachment with that caregiver in the regular overnight group. They noted conditions of high parental conflict, anxiety, and parents’ inability or unwillingness to communicate with each other about their baby as moderators in the baby’s outcomes.

**Kline Pruett et al (2004)** report on older children (on average 4.9 years at follow up), whose

parents were part of a collaborative divorce project. They took mother and father reports on children's behaviour at two points in time, and compared outcomes for children who had had *any* overnight time during the study with those who had *none*. With respect to parenting time, overnighing children aged 4 to 6 years when their parents filed manifested fewer problems than did younger children. Girls aged 4-6 years benefitted from a consistent timeshare schedule that included overnight stays. Poor parenting and poor ex-couple relationships were associated with adverse child outcomes. Having multiple care-givers was a significant problem for young children.

The third and most recent study was conducted by **Bruce Smyth and Margaret Kelaher and myself**. Following recent neuroscience and attachment studies, we decided to focus in tightly on *emotional regulation*. We explored a large randomly selected general population dataset – the LSAC data. This amounts to 10,000 children 0-5 years. We extracted the sample of separated families, and looked at three age groups: infants under 2 years, 2-3 years, and 4-5 years. We defined 3 thresholds of overnight care for each age group – no overnights but some day contact; some overnights, and more frequent overnights (x 2 definitions by age: weekly or more for babies under two years, and 35% or more for 3-5 year olds).

First, as Smyth has noted many times elsewhere, we found that these overnight groups in the general population had different characteristics. Parents who shared the care of young children at high frequencies (35%+) were an advantaged group. Relative to the other groups, they had significantly higher incomes, were better educated, most likely to have co-habited in a committed pre-separation relationship, and most likely to have a cooperative relationship post-separation). Several have attributed good outcomes to shared time arrangements, without carefully accounting for the influence of characteristics of families who choose to live this way. This is important for our understanding of family court populations, who very often do not have these resources. Approaches to modelling the data therefore need to ask, in the *absence* of these qualities, is more shared time in and of itself helpful to infants? This is what we found in our study of the LSAC general population data:

1) **Consistent** with *both* the Solomon and George and the Kline-Pruett et al studies, deficits in parenting warmth, co-parenting relationship and psycho-social resources predicted several poor outcomes for young children.

2) **Consistent** with Solomon and George, having more frequent overnight care independently predicted difficulties in emotional regulation for infants *3 years and under*. **Consistent** with Kline-Prueett et al, we did *not* find this for children *4 years and over*.

**For infants 0-2**, signs of stress in the ‘more frequent’ overnights group (one night a week or more) were: more irritability and fretful behaviours with the main care-giver, and more vigilant monitoring of the whereabouts of the main care-giver.

**In the 2–3 year old group** signs of stress in the ‘more frequent’ overnights group (35%+) were: lower persistence with play, activity and learning, and a range of distressed behaviours expressed with the main care-giver (crying or hanging on to that parent when he or she tried to leave; worrying a lot or seeming very serious; not reacting when hurt; often becoming very upset; gagging on food; refusing to eat; hitting, biting, or kicking that parent). Again, these disturbed behaviours were shown during interactions with the main care-giver. They were not evident *socially*. They were not *global* difficulties. They were very specific affect regulation difficulties expressed in the context of their main care-giving relationship.

To cut a long story short, we took these findings, looked at the other studies, saw a pattern (see if you can spot it)..... and said, hmm..... Having any overnights at all - *ever* - doesn't seem to be the problem. There *does* seem to be a greater chance of difficulty with emotional regulation for infants younger than 3 to 4 years - who have *high frequency* overnight schedules. Until we get new evidence to the contrary, *maybe* some caution is warranted when applying presumptions for equal or near equal time splits to *infants three and under*.

Well.... That upset one or two people.... and the misuse of these findings began. We have all found the purposes, designs and findings of our respective studies twisted beyond recognition, and motivations and intent attributed to us that defie belief.

### 3. Justified and unjustified conclusions

Before you too use the findings of these studies for a specific case or cause, please understand this about them all:

1. You would not be justified in using these data to support any argument either way about the significance of parent gender in the overnight equation.
2. You would not be justified in using these data to support an argument against all overnight care of infants.

Here is what we believe the available data *do* suggest about infants:

*All else being equal*, at three years and under, frequent overnight arrangements are more *likely* to be taxing on emotional security and regulatory processes than they are at four years and over.

*All else being equal....* (Bridges pictures) In the *individual case*, there are parents, co-parents, temperaments, needs and circumstances that will combine to make ANY arrangement a *struggle* for the baby– There are parents, co-parents, temperaments, needs and circumstances that will combine to make ANY arrangement *supportive* for their baby.

And as ever, lessons from the individual case rightly lead us to a multitude of remaining empirical questions– Some key outstanding questions include:

1. Which babies do better in higher frequency time splits?
2. In what circumstances are overnights and higher time splits protective or necessary? Babies with tired, ill and stressed parents come to mind.
3. What parenting behaviours support security in overnight schedules?
4. What of babies from cultures where communal night care is normative? Attachment mechanisms do not work differently cross cultures – but the caregiving context does.
5. What is the place of other confounders in the mix: busy parents, child care, distance, violence, poverty, alcohol, drugs – siblings, supportive grandparents, health, wealth and social capital; there are many things that work for and against infant security in the individual case.

Part of the inelegance of the current debate – indeed part of the ugliness of it – is in the reaching for black letter law, for rules and for universal policies that establish a formula about overnight care for infants. The infant herself *defies this at every turn*, in her uniqueness and in the uniqueness of her caregiving environment. The infant invites us to look deeply at *her* developmental testimony - and to think *complexly* about her developing emotional security, to approach her case *wondering* about who this baby is, and what her caretaking environment enables her to be.

#### 4. Summary: In search of the infant's testimony

With a foot in both my research and clinical worlds, here is my pared down version of what the infant's testimony might look like if the parenting arrangement - overnights or not - was developmentally supportive.

In this testimony, we would see that:

1. the infant is physically safe
2. the infant is emotionally safe
3. the infant's daily stress is manageable
4. the infant remains organized in seeking comfort from each parent
5. the infant finds at least some delight with each parent
6. the infant remains reasonably settled across caregiving contexts

In this simple language, I'm talking about organized attachment – noting that attachment *organization* and attachment *security* are *not the same thing*. Organized attachment does not mean a perfect world in which infants cope in perfect ways. Organized attachment allows the infant to seek and find emotional regulation *without collapse*. Over time, organized attachments help buffer the infant from *many* developmental risks.

I for one would like an infant to be safe and to have an organized attachment platform in their life. Now apply that wish to the family court population, and you may agree that we have to do more than cross our fingers and hope for it. Can we place a skillful task like managing frequent overnight arrangements on top of deep mistrust, or fear, or incompetent and uncoordinated co-parenting and expect an infant to thrive? In the high conflict arena of family law matters, I suggest King Solomon's solution has little, if any place.

In evoking the kings, I may as well go on and evoke the gods: My new prayer to the secular God/Goddess of Family Law is this:

Please – whoever you are - grant this field better data sources and funding, and remove the temptation to grind axes. Give us sensitive research tools, and deliver us from shallow methodologies. Give us depth and skill to describe the mysteries of the infant's experience .... Give us the wisdom to ask the right questions, to patiently tolerate the gaps in our developmental knowledge and not to backfill them with ideology and unsubstantiated opinion. Help us to have intelligent conversations, to build a body of reliable information, to debate and to discover, through thoughtful inquiry. Help us to see and respect the infant's testimony in each case. All this we ask on behalf of the infant. "Amen".

Chicago, June 9, 2012