

The Psychological Effects of Relocation for Children of Divorce

by
Marion Gindes, Ph.D.†

I. Introduction

The divorce of parents significantly undermines their children's sense of security and stability. The two people upon whom the child is dependent are no longer equally accessible to the child and the foundation of the child's world is splintered.

From the child's perspective, the best of all possible worlds, after parental divorce, includes parents who are amicable, do not display overt hostility, can communicate with each other about the child, and live close enough to each other so that child can have the same playmates when with either parent.¹ These conditions maximize the potential for the child developing strong, positive relationships with both parents as well as for both parents' involvement in the child's school and extracurricular activities and for frequent and regular contact with the nonresidential parent.

When a residential or custodial parent, then, seeks to move to a different geographic region, that best possible post-divorce scenario for children is threatened. The wish to relocate poses the most dramatic example of the conflicting needs and wishes of parents and children and of the conflicting needs and wishes of custodial and noncustodial parents. For the most part, children do not wish to leave the environment in which they live nor do they wish to leave their noncustodial parent, who also does not want them to go. Parent and child relocation, which has become a major problem facing mental health and legal professionals, is, however, inevitable in a mobile society.

† Psychologist in private practice in New York City and Larchmont, New York.

¹ Michael E. Lamb et al, *The Effects of Divorce and Custody Arrangements on Children's Behavior, Development, and Adjustment*, 35 FAM. & CONCILIATION CTS. REV. 393 (1997); Joan B. Kelly, *The Best Interest of the Child: A Concept in Search of Meaning*, 35 FAM. & CONCILIATION CTS. REV. 377 (1997).

Psychological research has yet to focus extensively on the impact of relocation on children. Perhaps this is because relocation as an issue is relatively new, too infrequent to obtain a sufficient sample of cases, and, of course, too geographically widespread to make the study of these families feasible.² A vast body of psychological literature, however, exists regarding the relationship of other variables, such as interparental conflict, to children's well-being following parental divorce.

In this article, I present the major considerations involved in examining relocation cases, such as definitions of relocation, psychological issues germane to relocation decisions, the context in which relocation occurs, and the various motivations for relocation. The research dealing with psychological factors, such as the child's contact with the nonresidential parent, interparental conflict, the age of the child, parent-child relationships, and the parents' level of functioning, are discussed in terms of their significance for relocation. Finally, several factors are identified that are consistently related to positive adjustment in children of divorce. These factors include positive adjustment of the custodial parent, a positive relationship between the child and custodial parent, and a low level of conflict between the parents. Findings regarding contact with the noncustodial parent have been found to be inconsistent and subject to wider variation than the other factors mentioned. The need to consider the potentially conflicting wishes of the child and of the parents is also explored. Finally, the delicate task of reconciling the relocation issue with the best interests of the child is addressed. While the best interests of the child standard should be a priority in any custody decision, the larger family system cannot be neglected, especially in relocation cases. The importance of the family context is acknowledged in the standards adopted by of the Association of Family and Conciliation Courts which state that the

² Judith S. Wallerstein & Tony J. Tanke, *To Move or Not to Move: Psychological and Legal Considerations in the Relocation of Children Following Divorce*, 30 *FAM. L.Q.* 305 (1996); Leslie Ellen Shear, *Life Stories, Doctrines and Decision-Making: Three High Courts Confront the Move-Away Dilemma*, 34 *FAM. & CONCILIATION CTS. REV.* 439 (1996).

primary purpose of a custody evaluation is to assess the family.³ As T. Richard Saunders, Marion Gindes, James Bray, Sylvia Shellenberger, and Rodney Nurse note, in discussing child custody assessment, the goal “is to *preserve* what is sound and successful within any given family system. . . .”⁴ The needs of a particular family member cannot be considered in isolation from the needs of other family members.⁵

Constance Ahrons uses the term “binuclear” to describe the postdivorce family.⁶ According to her, the binuclear family consists of two households, with the child living in both. The binuclear family includes stepparents, step-siblings, even former spouses of stepparents as well as parents, full siblings and half-siblings. While this is a broad definition of the postdivorce family constellation, it highlights the interconnectedness of the various people involved.

Children usually continue to consider both of their parents as part of their family, even following the parents’ separation or divorce. When children are asked to draw a picture of their family, they include both of their parents even if their parents have long been divorced. If the interests of the entire family, which includes the parents, other children, extended family members, and, sometimes, other parties who may have significant relationships with the children are ignored, there may be negative consequences for all members of the family system.⁷ Thus, relocation cases, like other custody or visitation cases, need to be considered from a developmental or life cycle family systems perspective.⁸ The parties need to be considered as “individuals at

³ ASSOCIATION OF FAMILY AND CONCILIATION COURTS, *Model Standards for Practice for Child Custody Evaluation*, in RESOURCE GUIDE FOR CUSTODY EVALUATORS: A HANDBOOK FOR PARENTING EVALUATIONS (1994).

⁴ T. Richard Saunders et al., *Should Psychotherapists be Concerned About the New APA Child Custody Guidelines?* 31 PSYCHOTHERAPY BULL. 28 (1996).

⁵ Shear, *supra* note 2.

⁶ CONSTANCE AHRONS, *THE GOOD DIVORCE: KEEPING YOUR FAMILY TOGETHER WHEN YOUR MARRIAGE COMES APART* (1994).

⁷ MARION GINDES, *Child Custody* in HANDBOOK OF COUPLE AND FAMILY FORENSICS (*in press*).

⁸ JAMES BRAY & SANDRA BERGER, *Nonresidential Family-child Relationships Following Divorce and Remarriage*, in NONRESIDENTIAL PARENTING: NEW VISTAS IN FAMILY LIVING 156 (1992); Maris Hetherington & W. Glenn

different developmental stages in the context of a separating family.”⁹ The term “separating” is used because a relationship between the parents continues past the physical separation, divorce, and even remarriage. The most psychologically sound approach is to determine the best interests of the family, with the children’s interests paramount. Even then, what is in the best interests of siblings of different ages and characteristics may not be the same.

II. Defining Relocation

From the moment parents physically separate, greater geographic distance is imposed between the children and the non-residential parent, and their relationship changes qualitatively.¹⁰ For the non-residential parent and the child, the separation interrupts the natural rhythm of the parent-child relationship. Non-residential parents lose the normal day-to-day contact with their children, so much of which revolve around the commonplace activities of life.

The full burden of daily child care falls to the residential parent, who must now assume responsibilities that were the realm of the now-absent parent. Under the best circumstances, the child’s relationship with both the nonresidential and the residential parent changes dramatically from the moment of parental separation.¹¹ The major psychological task facing children and parents is to consolidate their relationships under the new conditions of their lives.

Most mental health professionals agree that, following separation and divorce, as few changes as possible should be made in the lives of children. Staying in the family home, at least for sev-

Clingenpeel, *Coping With Marital Transitions*, MONOGRAPHS OF THE SOC’Y FOR RES. IN CHILD DEV., 57 (1992). FLORENCE KASLOW & LITA LINZER SCHWARTZ, *THE DYNAMICS OF DIVORCE: A LIFE CYCLE PERSPECTIVE* (1987); Saunders et al., *supra* note 4.

⁹ Marion Gindes, *Competence and Training in Child Custody Evaluations*, 23 AM. J. FAM. THERAPY 272, 278 (1995).

¹⁰ ELEANOR MACCOBY & ROBERT H. MNOOKIN, *DIVIDING THE CHILD: SOCIAL AND LEGAL DILEMMAS OF CUSTODY* (1992).

¹¹ *Id.*

eral months, often helps children maintain a sense of stability and continuity, as does remaining in the same school.¹²

Moving from one home to another is generally not an issue that comes before the court. In fact, it is a frequent consequence of divorce as parents move from the marital home to another residence. When moving becomes cast as relocation, and the residential parent seeks to remove the children from the home community, moving may then become a legal issue.

A. Relocation As A Distance Continuum

Relocation can be viewed in terms of a continuum of distance between the noncustodial or nonresidential parent and the child. The implications for visitation between the nonresidential parent and the child change significantly with the distance. Eleanor Maccoby and Robert Mnookin found that as distance increased, the children in their sample saw their noncustodial parents less.¹³

Living a few minutes apart enables the nonresidential parent to continue to be involved in the children's lives in a more spontaneous way. The parent can attend school functions as well as pick children up at school. Older children may be able to visit on their own, and "dropping by for a visit" is also possible. Children can have the same friends, whether they are with their mother or father. The natural flow of the child's life does not have to be further disrupted. Where the child and residential parent stay in the same community, as described above, one might consider this as a residential move but not a relocation.

According to Leslie Ellen Shear, once a child lives more than twenty minutes away from the nonresidential parent, sustaining the relationship between them necessitates fragmenting the child's life and activities.¹⁴ A move that results in a new town, a new school, and an hour or more of traveling time, produces yet another qualitative shift in the impact of the move. Brief visits are no longer possible. The child has a different life, one in which the nonresidential parent is now an outsider, no

¹² Barbara Jameson, et al., *Psychologists' Ratings of the Best-Interests-of-the-Child Custody and Access Criterion: A Family Systems Assessment Model*, 28 PROF. PSYCH. RES. AND PRAC. 253 (1997); Lamb et al., *supra* note 1.

¹³ Maccoby & Mnookin, *supra* note 10.

¹⁴ Shear, *supra* note 2.

longer sharing the same experiences or even the same environment. Spending time together requires serious planning and interferes with the child's routine. Moving to a new town certainly constitutes a relocation, but day visits may still be feasible, depending on the distance. For most people, the term relocation evokes the image of moving three thousand miles across the country. Whenever a move necessitates overnight visitation, extensive travel time or expense, the potential for significant psychological repercussions is magnified.

Relocation cases can be further divided into those where weekend visits are possible and those that require an even greater span of time. When children spend one or two weekends a month away from their primary residence, their own social networks may be disrupted. They cannot join the soccer team that has practice on Saturday or go to a friend's birthday party. When the distance is too great to permit weekend visits, children may spend their holidays and vacations away from their residential family and friends. By a certain age, most children do not want to spend the bulk of their weekend or vacation time with either parent but prefer to spend it with peers. One thirteen year old boy succinctly told his residential mother that he did not want to spend a month with his father or a month with her only. He just did not want to spend that much time with either parent and not with his friends.¹⁵

Greater physical distance also imposes increased financial demands. Travel (and lodging expenses, if the parent travels) need to be considered in planning visits for the child and nonresidential parent. In one case, a custodial mother sought to return with her child to her home in Europe. The judge's decision to allow her to do so was, in part, based on the father's great wealth which enabled him to visit frequently.¹⁶

¹⁵ This is one example drawn from the author's clinical work. Identifying information has been omitted from all case examples presented throughout this article and details have been modified or disguised to ensure confidentiality.

¹⁶ This example is based on a case from the author's practice.

B. The Context Of Relocation

1. Relocation in intact families

Approximately twenty percent of American families move every year, that is, they change their residence and establish a new address.¹⁷ Relocation, even for an intact family, is generally considered a stressful event, in part, because it frequently occurs as a result of other life changes, such as a new job.¹⁸ T.H. Holmes and R.S. Rahe listed "change in residence" as one of the life events assessed in their stress test for adults.¹⁹

Many child experts believe continuity and stability are necessary for positive development in children.²⁰ Moving disrupts that continuity and stability. Whether relocation has positive or negative effects on the adjustment of children relates to many variables, such as the distance of the move, the frequency of moves, and parental attitude toward the move.²¹ Frederic Medway notes that moving can be more difficult for those family members who have the least choice about the decision, such as the children and, in an employment situation, the spouse of a transferred worker.²² Children with prior psychological or academic problems may also experience increased difficulty following relocation.²³ The significance of the child's prior psychological status was underscored in a study of the effects of corporate mobility on children's adjustment. Based on the mothers' reports Linda Stroh and Jeanne Brett found no differ-

¹⁷ Christiane Humke & Charles Shaefer, *Relocation: A Review of the Effects of Residential Mobility on Children and Adolescents*, 32 J. HUMAN BEHAVIOR 16, (1995); Darryl E. Matter & Roxana Marie Matter, *Helping Young Children Cope with the Stress of Relocation: Action Steps for the Counselor*, 23 ELEM. SCH. GUIDANCE & COUNS. 23 (1988).

¹⁸ Daniel Stokols & Sally Ann Shumaker, *Psychological Context of Residential Mobility and Well-Being*, 38 J. SOCIAL ISSUES 149 (1982).

¹⁹ T.H. Holmes & R.S. Rahe, *The Social Readjustment Rating Scale*, 11 J. PSYCHOSOMATIC RES. 213 (1967).

²⁰ James H. Bray, *Psychological Factors Affecting Custodial and Visitation Arrangements*, 9 BEHAV. SCI. & L. 419 (1991); JOSEPH GOLDSTEIN ET AL, *BEYOND THE BEST INTERESTS OF THE CHILD* (1979); Kelly, *supra* note 2; Lamb et al, *supra* note 1.

²¹ Humke & Shaefer, *supra* note 17.

²² Frederic J. Medway, *Aiding Families with Moving and Relocation*, in *BEST PRACTICES IN SCHOOL PSYCHOLOGY* 977 (1995).

²³ *Id.*

ence between middle-class children who had moved and those who had not. The two major factors that accounted for the children's adjustment were the children's prior adjustment and parental satisfaction and self-confidence.²⁴

Factors such as characteristics of the child, special needs, or ethnic differences may also contribute to difficulty in relocation for particular children. For example, a child with specific academic needs may move from a school with excellent resources to one with limited resources. Similarly, a child may move from a diverse community to a more homogeneous one where he or she is a member of a minority group. Upon moving from a large city to a small town, one child expressed distress because he was not used to dressing the way everyone else did.

While no definitive conclusions can be reached because of the limitations and comparability problems of the existing studies,²⁵ it should be noted that very little research support exists for long-term negative effects of moves for children in intact families.²⁶ Under ordinary conditions, children generally adjust to the move after a relatively short amount of time.²⁷ Although for an intact family, extended family members and friends may be missed, children still have the support and presence of their parents when the family moves together. For an intact family, the move can be a positive event. Daniel Stokols and Sally Ann Shumaker report some studies that indicate preventing a move may be more harmful than moving, where benefits are derived from moving.²⁸

2. *Relocation in the postdivorce family*

No studies have specifically examined the impact of relocation of the residential parent and the child, where relocation in-

²⁴ Linda Stroh & Jeanne Brett, *Corporate Mobility: Parents' Perspectives on Adjustment*, 7 CHILDREN'S ENV'TS. Q. 26 (1990).

²⁵ In their review of the literature on the effects of moving on children and adolescents, Humke and Schaefer divide the studies into those based on parent reports, child reports, and clinicians' reports. In addition, some studies they cite used middle class children as their subjects, while others used lower class children. Humke & Schaefer, *supra* note 17.

²⁶ Medway, *supra* note 22.

²⁷ Thomas Cornille, *Support Systems and the Relocation Process for Children and Families*, 19 MARRIAGE & FAM. 281 (1993).

²⁸ Stokols & Shumaker, *supra* note 18.

volves moving away from the general home community and nonresidential parent. The impact of environmental change, which may include moving to a different residence or community has been explored in a few studies. In an early study by Arnold Stolberg and James Anker, amount of environmental change was found to have an impact on children from divorced families but not from intact families.²⁹ Arnold Stolberg, Christopher Campbell, Kathlyn Currier, and Mary Wells concluded that children's life changes, which included changing schools, mother starting work, and moving to a new house, are the "most significant determinants of children's post-divorce maladjustment."³⁰ Lawrence Kurdek, however, reported that degree of environmental change (represented by a composite score based on moving to a different home, different neighborhood, or different school) was negatively related to frequency of father visits for low-conflict divorced families only.³¹ It was not related to regularity or duration of visits or regularity of child support payments for either low or high conflict families. Most of the data collected in these studies were based on reports of custodial mothers.

In these studies, moving cannot be separated from other variables that could account for the results. For instance, a mother beginning work following a divorce or the children and residential parent moving to lower quality housing can confound the effects of moving itself.

Divorce already separates the child from one parent, even if that parent spends a significant amount of time with the child post divorce. Even grown children have reported anxiety when parents move out of the family home, whether related to divorce or to married parents leaving an empty nest for a smaller place.³²

²⁹ Arnold Stolberg & James Anker, *Cognitive and Behavioral Changes Resulting from Parental Divorce and Consequent Environmental Changes*, 7 J. Div. 23 (1983).

³⁰ Arnold Stolberg et al., *Individual, Familial and Environmental Determinants of Children's Post-Divorce Adjustment and Maladjustment*, 11 J. Div. 51, 65 (1987).

³¹ Lawrence Kurdek, *Custodial Mothers' Perceptions of Visitation and Payment of Child Support by Noncustodial Fathers in Families with Low and High Level Preseparation Interparent Conflict*, 7 J. APPLIED DEV. PSYCHOL. 307, 307-323 (1986).

³² See LITA LINZER SCHWARTZ & FLORENCE KASLOW, *PAINFUL PARTINGS: DIVORCE AND ITS AFTERMATH* (1997).

The loss of the family home marks a loss of the familiar and safe. For a child as well as an adult child of divorce, the loss provides a concrete marker to the end of their childhood family. Relocation to a new area may be experienced as the final representation of the family break-up for the child.

III. Motivations for Relocation

For intact families, relocation is most often associated with job changes, whether under civilian or military circumstances. Following a separation or divorce, a residential parent's wish to relocate beyond the marital community may stem from a variety of reasons.³³ The stated reason may be positively or negatively motivated and may or may not be a true representation of the underlying reason for seeking to move. No empirical studies exist indicating the types or frequencies of the various motivations of primary residential parents for relocation. Some of the commonly identified reasons are discussed below.

A. Change In Marital Status

For most adults, divorce triggers the desire to start over. Moving to a new community that does not have the markers associated with the ended unhappy marriage may be seen as the first step toward a new life. Based on a national sample of married people, Alan Booth and Paul Amato reported that, over an eight year period, those who divorced were significantly more likely to change their residence than those who did not divorce.³⁴ Of those who moved, sixty-two percent of the divorced subjects and fifty-seven percent of the married subjects changed communities. In a smaller study of geographic mobility, most people did not consider relocating after separation.³⁵ Those separated or divorced women who did relocate were better adjusted than those who did not. Interestingly, the men who moved manifested

³³ Sondra Miller, *Whatever Happened to the "Best Interests" Analysis in New York Relocation Cases?*, 15 PACE L. REV. 339 (1995); HERBERT WEISSMAN, *Psychotherapeutic and Psycholegal Considerations: When a Custodial Parent Seeks to Move Away*, 22 AM. J. FAM. THERAPY 176 (1994).

³⁴ Alan Booth & Paul Amato, *Divorce, Residential Change, and Stress*, 18 J. DIV. & REMARRIAGE 205 (1992).

³⁵ Shirley Asher & Bernard Bloom, *Geographic Mobility as a Factor in Adjustment to Divorce*, 6 J. DIV. 69 (1983).

poorer adjustment after the move than women who moved or men who did not move. The study did not identify whether or not the men or women had children.

Remarriage is also a motivator for relocation, sometimes because the new spouse lives in a different area and sometimes because the new couple wishes to start their life together away from the former spouse.

B. Greater Economic Opportunities

The opportunity to reduce costs or increase income are often mentioned by parents who want to relocate. In some cases, parents may be offered positions, in a distant location, that are more lucrative or may advance their careers. It is well-documented that the economic status of many custodial mothers and their children declines after marital dissolution.³⁶ While the decline of income may account for some of the negative impact of divorce on children, it does not appear to be a primary determinant.³⁷ The economic consequences of divorce, however, may encourage custodial parents to seek better conditions beyond the marital community.

C. Better Support Systems

Seeking more emotional, social, or practical support is another reason parents give for wanting to relocate. In some instances, primary residential parents wish to return to their childhood region, where their own parents live. In one situation, a mother said that she would be able to work full-time if she lived near her retired parents, who could provide free child-care.³⁸ In the often cited study by Shirley Asher and Bernard Bloom, men more often said they wanted to move for job considerations and women for social support systems.³⁹ It is difficult to know if these findings would be different more than a decade later when more women work.

³⁶ E. Mavis Hetherington et al., *What Matters? What Does Not? Five Perspectives on the Association Between Marital Transitions and Children's Adjustment*, 53 AM. PSYCHOL. 167 (1998).

³⁷ *Id.* Paul Amato & Bruce Keith, *Parental Divorce and Adult Well-Being: A Meta-Analysis*, 53 J. MARRIAGE & FAM. 43 (1991).

³⁸ Author's clinical experience.

³⁹ Asher & Bloom, *supra* note 35.

D. Desire To Distance Self From Former Spouse

For the most part, the reasons described can be seen as emanating from positive rationales. In contrast, the desire to relocate is sometimes prompted by the wish to get away from the other parent. Paula Raines cautioned courts to look beyond the stated reasons for relocation because so many parents primarily want to increase the geographic distance between themselves and their former spouses.⁴⁰ Raines, who strongly advocates joint custody, suggests that this would not be a legitimate reason for relocation. Nonetheless, where a highly conflictual relationship exists between the parents, reducing the contact between hostile parents can reduce the level of stress for children as well as for the parents.⁴¹ Furthermore, where violence is present, continued exposure of children to violence can be detrimental to their well-being.⁴²

In one of the few psychological articles specifically addressing motivation for relocation, Herbert Weissman considers the consequences to be significant when a custodial parent relocates to a geographically distant community.⁴³ Although he acknowledges the wide span of motivations for relocation, he proposes two kinds of typical cases. In the first case, the residential parent is described as acting to deprive the nonresidential parent of access to the child. This scenario is similar to that described by Raines⁴⁴ and assumes deliberate manipulation. In the second case, Herbert Weissman states that the primary parent "usually a middle-upper class, educated homemaker mother, seeks to escape the perceived humiliation of remaining in the "father's community. . .".⁴⁵ Moreover, he suggests that relocating becomes an attractive idea because the mother experiences powerlessness

⁴⁰ Paula Raines, *Joint Custody and the Right to Travel: Legal and Psychological Implications*, 24 J. FAM. L. 625 (1985-6).

⁴¹ Paul Amato & Sandra Rezac, *Contact with Non-residential Parents, Interparental Conflict, and Children's Behavior*, 15 J. FAM. ISSUES 191 (1994); E. Mavis Hetherington et al., *Effect of Divorce on Parents and Children*, in NON-TRADITIONAL FAMILIES: PARENTING AND CHILD DEVELOPMENT 233 (1982).

⁴² Janet Johnston, *Children's Adjustment in Sole Custody Compared to Joint Custody: Families and Principles for Custody Decision Making*, 33 FAM. & CONCILIATION CTS. REV. 415 (1995).

⁴³ Weissman, *supra* note 33.

⁴⁴ Raines, *supra* note 40.

⁴⁵ Weissman, *supra* note 33.

and fears losing her children. In this description, the mother appears to be unaware of the dynamics motivating her wish to move. In either scenario, relocation may or may not be an appropriate action. Weissman's typology most likely derives from clinical data and needs to be further explored. When the different motivating factors result in more or less detrimental consequences for the children is not yet known.

When a custodial parent requests permission to relocate, the dynamics between the parents and between the parents and children change. Whether or not the question becomes a matter of litigation, the power balance between the parents, as well as the children's perceptions of their parents, is likely to be altered. As Judith S. Wallerstein and Tony J. Tanke state, "the serious relocation request marks a turning point in the life of the post-divorce family".⁴⁶ Regardless of the end result, there is no way to return to the previous relationships.

IV. Relevant Psychological Factors: Implications of Relocation

It is generally accepted that children from divorced families tend to have more psychological difficulties than children from continuously intact families.⁴⁷ A number of researchers embrace the view that children's responses to family disruption are varied, with most children adapting appropriately to their parents' divorce and a minority suffering long-term negative psychological consequences.⁴⁸ In contrast, based on their clinical study, Judith Wallerstein & Sandra Blakeese offer a more pessimistic

⁴⁶ Wallerstein & Tanke, *supra* note 2.

⁴⁷ Paul Amato, *Children's Adjustment to Divorce: Theories, Hypothesis, and Empirical Support*, 55 J. MARRIAGE & FAM. 23 (1993). [hereinafter Amato, *Children's Adjustment*]; PAUL AMATO, *Life-span Adjustment of Children to Their Parents Divorce*, in THE FUTURE OF THE CHILDREN: CHILDREN AND DIVORCE 143 (1994). [hereinafter Amato, *Life-span*]; Hetherington et al., *supra* note 36.; Lamb et al., *supra* note 1.

⁴⁸ Amato *Life-span*, *supra* note 47; E. Mavis Hetherington, *Coping with Family Transitions: Winners, Losers, and Survivors*, 60 CHILD DEV. 1 (1989); Lamb et al., *supra* note 1.

perspective of widespread, severe, and long-lasting negative effects.⁴⁹

While it is true that adult children of divorce are over-represented in clinical populations, the difference in psychological well-being between adult children of divorced parents and adult children of nondivorced parents is generally small. The impact of divorce in fact, may be weakening as it has become more commonplace. Studies conducted in the 1980's indicate weaker effects than earlier studies.⁵⁰ In the context of the overall literature on the effects of divorce on children, a diversity of reactions appears to be the most reasonable conclusion, with most children adjusting well after the initial period of trauma and transition pass.⁵¹

The consensus among professionals in this field is that several factors relate to these results.⁵² The prospective relocation of the residential parent needs to be considered in the context of these variables.

A. *Contact With The Nonresidential Parent*

Relocation has a direct and immediate impact on the physical contact between the child and the nonresidential parent. Realistically speaking, in about eighty percent of divorce situations, the residential parent is the mother and nonresidential parent is the father.⁵³ When one talks about contact with the nonresidential parent, one is most often talking about time with Dad. The significance of that contact is especially relevant to relocation decisions.

The consensus among most mental health professionals is that, absent unusual circumstances, children are better off if they have contact and good relationships with both parents.⁵⁴ What,

⁴⁹ JUDITH WALLERSTEIN & SANDRA BLAKESLEE, *SECOND CHANCES: MEN, WOMEN & CHILDREN: A DECADE AFTER DIVORCE* (1989).

⁵⁰ Amato & Keith, *supra* note 37.

⁵¹ Gindes, *supra* note 7.

⁵² Amato *Life-span*, *supra* note 47; Hetherington, et al., *supra* note 36; E. Mavis Hetherington & W. Glenn Clingenpeel, *supra* note 8; Lamb, et al., *supra* note 1; Wallerstein & Blakeslee, *supra* note 49.

⁵³ Maccoby & Mnookin, *supra* note 10.

⁵⁴ Hetherington et al., *supra* note 36; Bruce Sales et al, *Social Science Research and Child-custody Decision Making*, 1 APPLIED & PREVENTIVE PSYCHOL. 23 (1992).

then, happens to children who are deprived of frequent and regular contact with one parent because of geographic distance?

Early research on father absence suggested that the younger the child, the greater the negative impact of the father's absence on the child.⁵⁵ Many of the early studies did not differentiate, however, whether the father was absent due to divorce, military service, death, or abandonment. Other reports suggested that children of particular ages are more vulnerable than others.⁵⁶

While children with parents absent because of death or divorce generally have more problems than children in intact families, children in divorced families have more problems than those who lost a parent through death.⁵⁷ Children who experience the death of a parent may be subjected to fewer negative events and more positive ones. They generally have not been exposed to interparental hostility or asked to choose between their parents. They also have additional sources of support, such as the extended family of the absent parent.⁵⁸

Following divorce, more than twenty percent of children have no or infrequent contact with their noncustodial fathers.⁵⁹ Increased distance between noncustodial fathers and their children appears to be related to decreased paternal involvement.⁶⁰ Non-custodial mothers are more likely to stay in contact with their children than non-custodial fathers.⁶¹ They also tend to be more supportive of their children and more effective in parenting behaviors than nonresidential fathers.⁶²

It is difficult, however, to predict the parenting behavior of fathers after a divorce on the basis of their pre-divorce behav-

⁵⁵ Sales et al., *supra* note 54

⁵⁶ JUDITH WALLERSTEIN & JOAN KELLY, *SURVIVING THE BREAKUP* (1980). *See also infra* text at notes 84-100.

⁵⁷ Amato & Keith, *supra* note 37.

⁵⁸ E. Mavis Hetherington, *Effects of Father Absence on Personality Development in Adolescent Daughters*, 7 *DEV. PSYCHOL.* 313 (1972).

⁵⁹ Hetherington et al., *supra* note 36.

⁶⁰ *Id.*; Maccoby & Mnookin, *supra* note 10; Judith Seltzer, *Relationships Between Fathers and Children Who Live Apart: the Father's Role after Separation*, 53 *J.MARRIAGE & FAM.* 79 (1991).

⁶¹ Catalina Herreras, *Noncustodial Mothers Following Divorce*, 20 *MARRIAGE & FAM. REV.* 233 (1995).

⁶² Hetherington et al., *supra* note 36.

ior.⁶³ Some fathers who were actively involved with their children find intermittent contact with their children painful and withdraw from them. Other fathers may increase their involvement with their children. In many conflictual marriages, spouses may avoid contact with each other, often leaving fathers with fewer opportunities to be with the children, if the mother is the primary caregiver. Once the parental relationship is severed, the noncustodial father no longer has to engage his spouse in order to be with the children and the mother's role as a buffer or gatekeeper is modified. Because of this unpredictability, the level of pre-divorce parental involvement is not necessarily a valid determining factor for the effects of relocation on the noncustodial parent-child relationship. Because geographic distance makes it more difficult to maintain the prior level of closeness or to achieve a new level of closeness, relocation may exacerbate the withdrawal of noncustodial fathers.

The research provides mixed results regarding the effect of contact with the nonresidential parent.⁶⁴ For some children, contact with their nonresidential parent was associated with greater well-being, whereas, for others, it was associated with poorer adjustment or was not associated at all. Frequency of contact alone is not associated with positive effects for the child.⁶⁵ Where low conflict exists between the parents, contact with the noncustodial father appears to have a positive impact on children.⁶⁶ For adolescents, even a relatively small amount of contact may be sufficient to maintain a solid relationship between the child and the noncustodial parent.⁶⁷ Based on the general body of developmental literature and my experience, younger children, however, may not be able to develop and maintain as close a relationship with a nonresidential parent, if geographically separated.

The nature of contact and the relationship appear to be more significant than the frequency of contact. In a study of resi-

⁶³ *Id.*; Charles Hoffman, *Pre and Post-divorce Father-child Relationships and Child Adjustment: Non Custodial Fathers' Perspectives*, 23 J. DIVORCE & REMARRIAGE 3 (1995).

⁶⁴ Amato & Keith, *supra* note 37.

⁶⁵ Valarie King, *Variation in the Consequences of Nonresident Father Involvement for Children's Well-being*, 56 J. MARRIAGE & FAM. 963 (1994).

⁶⁶ Amato & Rezac, *supra* note 41.

⁶⁷ Eleanor Maccoby et al., *Postdivorce Roles of Mothers and Fathers in the Lives of Their Children*, 7 J. FAM. PSYCHOL. 24, 24-38 (1993).

dential arrangements, eighty-eight percent of the adolescents reported that they visited their nonresidential parents because they liked being with them.⁶⁸ When noncustodial parents share a variety of activities, including the routine, everyday activities, with their children, the children's well-being is enhanced.⁶⁹ The major implication of these findings is that, subsequent to divorce, children need the nonresidential parent to fulfill the customary parental roles of monitoring homework, attending school events, spending holidays together, making decisions, and disciplining them. Being a "vacation" parent may not be sufficient. Most nonresidential fathers are more likely to act as friendly companions rather than to assume these usual parental roles.⁷⁰

The greater the geographic distance between the child and the nonresidential parent, the less likely that the nonresidential parent can assume the traditional parental roles or participate in the ordinary activities of the child's life. Contact with the nonresidential parent becomes special and takes both the child and parent away from their normal routines. As one child noted, when contemplating traveling two thousand miles to spend her vacation with her nonresidential parent, she wanted to stay home so she would not miss time with her friends. Children at different ages, of course, have different reactions to long spans of time with parents.

In exceptional circumstances, such as where one parent suffers from a severe mental illness, is physically or sexually abusive, or has a substance abuse problem, no contact with that parent may be best for the children.⁷¹ If one parent is incapable of providing adequate care and supervision of the child, supervised visitation or no visitation may be in the child's best interests. Where the parents have a highly conflictual relationship, little or no contact between the child and the non-residential parent has been related to more positive child adjustment.⁷² In these situations,

⁶⁸ *Id.*

⁶⁹ K. Allison Clarke-Stewart & Craig Hayward, *Advantages of Father Custody and Contact for the Psychological Well-being of School-age Children*, 17 J. OF APPLIED DEV. PSYCHOL. 239 (1996); Lamb et al., *supra* note 1.

⁷⁰ Hetherington et al., *supra* note 36.

⁷¹ Schwartz & Kaslow, *supra* note 32.

⁷² Amato & Rezac, *supra* note 41; Hetherington et al., *supra* note 41.

the less contact between the parents, the less exposure of the child to overt parental hostility.⁷³

Clearly, contact with the noncustodial parent is one factor that contributes to the adjustment level of the child. The quality of the contact appears to be more important than the length or frequency of contact. The two, however, are not independent variables because the type of relationship may be subtly influenced, in part, by the frequency of contact. A child may not ask for advice about his or her friends if the parent does not know the friends. Similarly, a parent may be reluctant to help a child when the parent does not know the people or circumstances involved. Additionally, research techniques may not be sufficiently sophisticated to identify the impact on the child of missing a parent or of a parent not sharing the child's first recital or not knowing the child's best friend.

B. *Conflict Between Parental Figures*

Parental conflict has been consistently associated with poor psychological outcomes for children.⁷⁴ Conflict is a primary factor related to the adjustment of children after the divorce of their parents.⁷⁵

Children whose parents fight in front of them are likely to exhibit a wide range of negative behaviors, whether or not their parents remain together or divorce. Children from high-conflict intact families exhibited lower self-esteem and poorer adjustment than children from divorced families or from low-conflict, intact families.⁷⁶

⁷³ See *infra* Section IV.B. for a discussion of parental conflict.

⁷⁴ Paul Amato, *Children's Adjustment to Divorce: Theories, Hypothesis, and Empirical Support*, 55 J. MARRIAGE & FAM. 23 (1993); Kathleen Camara & Gary Resnick, *Styles of Conflict Resolution and Cooperation Between Divorced Parents: Effects on Child Behavior and Adjustment*, 59 AM. J. OF ORTHOPSYCHIATRY 560 (1989); Janet Johnston, *High-conflict Divorce*, 4 THE FUTURE OF THE CHILDREN: CHILDREN AND DIVORCE. 165 (1994); Lamb et al., *supra* note 1.

⁷⁵ Amato *Life-span*, *supra* note 47; Marsha Kline et al., *Children's Adjustment in Joint and Sole Physical Custody Families*, 25 DEV. PSYCHOL. 430 (1989); Wallerstein & Kelly, *supra* note 56.

⁷⁶ Amato, *Life-span*, *supra* note 47; Hetherington et al., *supra* note 36; Hetherington et al., *supra* note 41. The data in Hetherington 1982 landmark longitudinal study, comparing divorced and non-divorced families, were gathered through a multimeasure approach, including parent interviews, parent per-

Parental conflict has been identified as the differentiating variable in studies comparing the success of mediation and litigation in resolving custody disputes⁷⁷ and of joint versus sole physical custody.⁷⁸ In high conflict divorces, court-ordered joint physical custody and frequent visitation were related to poorer child adjustment, particularly for girls.⁷⁹ The most deleterious effects of conflict are manifest in those children whose parents involve them in the battle by encouraging alliances, using them to communicate to the other parent, and making negative statements about the other parent to the children.⁸⁰ The negative consequences of parental conflict may be attenuated by positive conflict resolution strategies, expression of the conflict, and adjustment of the parents.⁸¹

In a review of the effects of high-conflict divorce, Janet R. Johnston states that, although the results of many studies on conflict are correlational and should be viewed as tentative, the findings are, however, fairly consistent. "Interparental conflict after divorce (for example, verbal and physical aggression, overt hostility, distrust) and the custodial parent's emotional distress are jointly predictive of more problematic parent-child relationships and greater child maladjustment."⁸² Generally little change occurs over time in the degree of conflict that parents exhibit to

sonality inventories, structured diary records made by the parents, observations of parent-child interactions in the home and in the laboratory, as well as several other measures of child behavior. They also differentiated parent-child conflict, husband-wife conflict, and encapsulated conflict from each other in their analyses. They found that encapsulated conflict (where children are not exposed to the conflict) did not have negative effects on the children whereas overt parent-child or husband-wife conflict did. Amato and Hetherington provide excellent overviews of the research on the effects of divorce on children.

⁷⁷ Katherine Kitmann & Robert Emery, *Child and Family Coping One Year after Mediated and Litigated Child Custody Disputes. Special Section: Contexts of Interparental Conflict and Child Behavior*. 8 J. FAM. PSYCHOL. 150 (1994).

⁷⁸ Kline et al., *supra* note 75.

⁷⁹ Johnston, *supra* note 74.

⁸⁰ Hetherington et al., *supra* note 36.

⁸¹ Joan Kelly, *Current Research on Children's Postdivorce Adjustment: No Simple Answers*, 31 FAM. AND CONCILIATION CTS. REV. 29 (1993).

⁸² Johnston, *supra* note 74.

each other. Highly conflicted couples are unlikely to become cooperative.⁸³

When overtly acrimonious marriages end, the children may manifest better levels of psychological adjustment because of their reduced exposure to parental conflict. In an analogous fashion, for children caught in highly conflicted postdivorce families, relocation may further lessen their exposure to the parental conflict, thereby reducing the negative consequences of divorce for them. Such children may fare better when no longer entangled in the parental enmity.

Precipitating a high conflict relationship with the nonresidential parent is not, however, a recommended tactic for a residential parent wishing to relocate. Low overt conflict between parents is still better for children than high conflict defused only by geographic distance.

C. *Age Of Child*

Children of different ages have varying developmental levels of cognitive and emotional resources that may influence how they react to parental separation and divorce. While some reports demonstrate that children of particular ages, *e.g.* preschool, are most vulnerable to psychological distress following family dissolution⁸⁴ other studies have not found one age group to be more at risk than another.⁸⁵ It has been suggested that the effects of age are intertwined with other variables, such as amount of time since parental separation.⁸⁶

In terms of most developmental theories, the younger the child the greater the impact that separation may have with regard to the relationship with the non-residential parent. For infants and very young children, the emotional attachment to the non-custodial parent may be tenuous, since it gradually develops over the first few years of life. Although usually one primary attachment figure exists, children develop relationships with a number of caregivers, who are sources of nurturance and safety for

⁸³ Johnston, *supra* note 42; Maccoby & Mnookin, *supra* note 10.

⁸⁴ Paul Allison & Frank Furstenberg, *How Marital Dissolution Affects Children: Variations by Age and Sex*, 25 DEV. PSYCHOL. 540 (1989).

⁸⁵ Amato & Keith, *supra* note 37.

⁸⁶ Allison & Furstenberg, *supra* note 84; Hetherington et al, *supra* note 36.

them.⁸⁷ Separation prior to the consolidation of a parent-child relationship may interfere with the formation of that relationship. Furthermore, children may be more vulnerable in the face of environmental change during the period when they are exploring their sense of themselves as independent and autonomous (also known as the “terrible two’s”).⁸⁸

From a cognitive perspective, infants and very young children do not have the resources to understand the absence of a significant attachment figure, such as a parent. Although they may not be able to verbalize or identify their feelings, they may experience distress.

Preschool children often assume they are to blame for the divorce, relating it to some behavior on their part, such as making too much noise.⁸⁹ They may also express fantasies about their parents reuniting, even when their parents were never married or have already re-married.⁹⁰ For example, one child wanted to introduce her step-mother and step-father to each other so they would fall in love and then her mother and father would get back together.

Moving away from the home community may, on the one hand, feed children’s guilt and blame fantasies, e.g. feeling responsible for the absence of the left-behind parent. Feelings of abandonment may also be part of the moving experience for preschoolers, who cannot understand why the parent left-behind did not move with them.

Children of this age are also very literal in their thinking and cannot project what their new life will be like. One three-year

⁸⁷ Bray, *supra* note 20.

⁸⁸ This statement derives from the author’s clinical experience, reviews of psychological research, as well as the perspectives of theoreticians, such as John Bowlby, Erik Erikson and Margaret Mahler. See e.g., JOHN BOWLBY, ATTACHMENT AND LOSS. VOLUME I: ATTACHMENT (1969); VOLUME II: SEPARATION (1973); VOLUME III: LOSS (1980); ERIK H. ERIKSON, CHILDHOOD AND SOCIETY (1963); MARGARET S. MAHLER ET AL., THE PSYCHOLOGICAL BIRTH OF THE HUMAN INFANT: SYMBIOSIS AND INDIVIDUATION (1975).

⁸⁹ Ruth Stirtzinger & Lorraine Cholvat, *The Family Home as Attachment for Preschool Age Children after Divorce*, 15 J. DIVORCE & REMARRIAGE 105 (1991).

⁹⁰ JUDITH WALLERSTEIN ET AL., *Children of Divorce: a 10-year Study*, in IMPACT OF DIVORCE, SINGLE PARENTING, AND STEPPARENTING ON CHILDREN (1988).

old child's lack of enthusiasm after seeing her new large, but empty, room was clarified when she asked where she was going to sleep.⁹¹

Elementary school-age children are developing interests and activities outside the home and are usually very involved with peer relationships. They are the children who want to keep everything fair and balanced with respect to their parents. For example, they may want to assure that each parent has "equal time" with them, which is not possible, in most cases, and certainly not in relocation cases. In some respects, children of this age group are more vulnerable to the effects of divorce than preschool children because they have a better understanding of the situation but can no longer effectively use fantasy to deny or escape the reality. These children, however, have a better sense of time and continuity and understand that they will continue to see the noncustodial parent.⁹²

Pre-adolescents or young adolescents generally have better coping skills than younger children, have established strong peer relationships, and may be more responsive to therapeutic intervention.⁹³ They are, however, susceptible to loyalty conflicts between the parents and may get caught up in the parents' battles, often siding with the parent they perceive as the weaker or wronged one. Children in this age group, particularly boys, are more likely to express anger or aggressive behavior.⁹⁴ They may take a stand for or against the move as a way of supporting one parent. As with all school-age children, leaving friends, activities, and the familiar school are major sources of anxiety, whether the family is intact or one parent is staying behind. Younger and older adolescents may be slower to adjust to the impact of family disruption than younger children.⁹⁵

Adolescents possess the cognitive capacity to understand their parents' divergent viewpoints and to appreciate that their parents' failed marriage is not their fault or responsibility. They are, therefore, able to distance themselves from the parental in-

⁹¹ Mary Jalongo, *When Young Children Move*, 40 *YOUNG CHILDREN* 51 (1985).

⁹² Bray, *supra* note 20.

⁹³ Wallerstein & Kelly, *supra* note 56.

⁹⁴ Sales et al., *supra* note 54.

⁹⁵ Hetherington, et al., *supra* note 48.

teraction better than younger children. Adolescents are coping with their developmental tasks of identity resolution, independence, and intimacy in relationships.⁹⁶ Paradoxically, however, while these tasks ultimately separate them from their parents, they still want and need the family to remain intact during this process. Divorce disrupts the stable family base to which an adolescent can return when he or she needs parental nurturance in order to continue the move toward adulthood.⁹⁷

With regard to relocation, adolescents can maintain the relationship with the noncustodial parent on a long distance basis more easily than younger children.⁹⁸ Moving to a new school in the middle of high school, however, can significantly increase an adolescents' level of stress and may interfere with integration into that school.⁹⁹ In the clinical setting, adolescents frequently resist moving, following the divorce of their parents.

In the divorce situation, particularly where relocation is contested, it is very difficult for children of any age to view it in a totally positive frame. Some evidence exists that the acute effects of divorce dissipate and most children and parents adjust after two years.¹⁰⁰ While no empirical evidence directly links the timing of a relocation to the child's quality of adjustment, one can infer from psychological research and clinical experience that it would be better for the child to adjust to the divorce in a familiar environment, prior to relocation.

D. Parent-Child Relationships

For the most part, a child who has positive relationships with both parents is likely to be better adjusted than a child who does not.¹⁰¹ As noted earlier, where the family situation involves severe parental pathology, a history of physical or sexual abuse, or high overt interparental conflict, children may fare better psycho-

⁹⁶ ERIK ERIKSON, *CHILDHOOD AND SOCIETY* (1963).

⁹⁷ *Id.*; Wallerstein & Kelly *supra* note 56.

⁹⁸ Eleanor Maccoby et al., *supra* note 67.

⁹⁹ JANETTE J. JURGENS ET AL., *Behavioral Manifestations of Adolescent School Relocation and Trauma*, 18 *CHILD AND FAMILY BEHAVIOR THERAPY* (1996).

¹⁰⁰ Hetherington, *supra* note 48; Hetherington & Clingempeel, *supra* note 52.

¹⁰¹ King, *supra* note 65; Sales et al., *supra* note 54.

logically when they have a limited or no relationship with that parent.¹⁰² With regard to the relationship between the child and the custodial parent, the research indicates that a positive relationship affects a wide range of variables, such as academic achievement, self-concept, and general psychological adjustment.¹⁰³

E. Parental Functioning

The residential parent's level of psychological adjustment has been found to be related to the child's adjustment following divorce.¹⁰⁴ The association, however, seems to be a consequence of an overall decrease in the quality of the parent's functioning, which affects childrearing skills along with other functions.¹⁰⁵

The immediate impact of divorce is to increase stress and distress. It is not surprising, therefore, that parental effectiveness is generally lower during this time. A parent who is stressed or depressed, for example, is likely to be less attentive and less sensitive to the needs of the child than a parent who is not depressed. Custodial parents (usually mothers) have been found to be less affectionate with their children and less consistent in their discipline.¹⁰⁶ Poor adolescent functioning was associated with decreased parental functioning and parenting skills.¹⁰⁷ Forgatch, Patterson, and Ray proposed that stressed or depressed mothers were most likely to have disrupted discipline practices and consequently their children would exhibit antisocial behaviors, which would then act as a feedback loop. That is, the poor parental discipline would generate child behavioral problems, which would increase parental stress and depression and perpetuate ineffective parenting. Of course, this feedback loop can also be initiated if the children have behavioral problems prior to di-

¹⁰² Johnston, *supra* note 42; Schwartz & Kaslow, *supra* note 32.

¹⁰³ Amato *Children's Adjustment*, *supra* note 47.

¹⁰⁴ F. P. FURSTENBERG & A.J. CHERLIN, *DIVIDED FAMILIES: WHAT HAPPENS TO CHILDREN WHEN PARENTS PART* (1991). Johnston, *supra* note 74; Kline et al., *supra* note 75; Stolberg et al., *supra* note 30.

¹⁰⁵ Amato *Life-span* *supra* note 47; Hetherington et al., *supra* note 36; Hetherington et al., *supra* note 41; Sales et al., *supra* note 54.

¹⁰⁶ Hetherington et al., *supra* note 41.

¹⁰⁷ R. Thomas Forehand, et al., *Role of Maternal Functioning and Parenting Skills in Adolescent Functioning Following Parental Divorce*, 99 J. ABNORMAL PSYCHOL. 278 (1990).

orce. Some researchers have estimated that behavioral problems precede parental divorce for 12-15% of boys.¹⁰⁸ The effect of child behavior on parenting competence has not been well-documented.

It is also difficult to separate the nature of the relationship among the variables. As Amato points out, parents who are psychologically maladjusted may be at greater risk for divorce and may be more likely to have children who have psychological problems, prior to divorce.¹⁰⁹

The vast majority of studies find support for the association between the psychological well-being and parenting practices of the custodial parent with child adjustment.¹¹⁰ On the one hand, the different subject populations and different methods for obtaining the data across the various studies limit their comparability. For example, the primary source of data in the Stolberg et al (1987) study was the report of the mother.¹¹¹ Only one of several measurements involved the child directly. In other studies, such as Forehand et al 1990; Forgatch et al 1995; Hetherington et al 1982, parent-child interactions were directly observed.¹¹² On the other hand, the consistency of the findings across the various studies makes the association between these particular variables more compelling.

While it is generally assumed that parents who are functioning well are more likely to have better relationships with their children and their children are then likely to show higher levels of adjustment, some paradoxical findings have been reported.¹¹³ In one of the studies cited by Bruce Sales, the children of mothers who were functioning poorly one year after divorce were actually better adjusted than children whose mothers were functioning better. They suggested that mothers who were more stressed may have spent more time with their children, thus serv-

¹⁰⁸ MARION FORGATCH ET AL., *Divorce and Boys' Adjustment Problems: Two Paths with a Single Model*, in STRESS, COPING, AND RESILIENCY IN CHILDREN AND FAMILIES 67 (1995).

¹⁰⁹ Amato, *Children's Adjustment*, *supra* note 47.

¹¹⁰ Forehand, et al., *supra* note 107; Johnston, *supra* note 74; Kline et al., *supra* note 75; Stolberg et al., *supra* note 30.

¹¹¹ Stolberg et al., *supra* note 30.

¹¹² Forehand, et al., *supra* note 107; Forgatch et al., *supra* note 108; Hetherington et al., *supra* note 41.

¹¹³ Sales et al., *supra* note 54.

ing as a buffer for the children. The circumstances of this particular study may be atypical. Clinical data suggest that many distressed residential parents rely too heavily on their children for support and closeness and are not able to provide the children with the emotional guidance that the children need.

VI. Conclusions

The psychological issues surrounding the relocation of custodial parents and their children are complex and interdependent. Relocation, following family dissolution, does not occur in a vacuum but rather is associated with other significant life events that may have positive or negative consequences for the family members. Because of the complexities of the variables involved, social science research has not yet been able to identify the contributions of each of the variables in a definitive fashion. Most of the studies can only indicate an association between two variables, not a causal relationship. Studies that specifically address the relationship between relocation following divorce and the adjustment of children are essential, but virtually absent. The differences across studies in procedures, ages of children involved, subject selection, and socioeconomic status, narrow the generalizability of the findings.

With these limitations, how then can psychological knowledge inform the legal community about the well-being of children in the midst of a relocation/custody dispute? It is possible to extrapolate from the existing research on geographic mobility and on variables affecting the adjustment of children of divorce, as well as from clinical experience, the factors most likely to affect children.

A. Significant Psychological Factors

The following factors have been consistently related to positive child adjustment:

1. positive custodial parent adjustment, which is associated with effective parenting;¹¹⁴

¹¹⁴ See Amato, *supra* note 41, Hetherington *supra* note 36, Hetherington et al, *supra* note 41, Sales et al, *supra* note 54.

2. positive relationship between custodial parent and child;¹¹⁵

3. low level of conflict between parents.¹¹⁶

The findings regarding the relationship between child adjustment and contact with the noncustodial parent are inconsistent and do not lend themselves to a general conclusion. In situations where high levels of conflict exist between parents, contact with the noncustodial parent often involves interactions between the hostile parents, thus, increasing the likelihood of negative outcomes for the child. The nature of the pre-divorce relationship between the child and now-nonresidential parent does not predict their postdivorce relationship. Frequency of contact with the noncustodial parent does not seem to be related to child well-being but the nature of the contact does.¹¹⁷

For the most part, mothers tend to be the custodial parents. Despite the inconsistent or absent evidence regarding the benefit of contact with noncustodial fathers, one is reluctant to conclude that custodial mothers should be allowed to relocate without careful consideration of the circumstances in the particular case. The research evidence, as has been noted, may not be applicable to all groups of parents and children. The complicated nature of these issues and the overlapping, sometimes conflicting, variables involved do not lend themselves to tight research designs. Much of the research also relies on volunteer subjects and the reports of custodial mothers.

B. *When Parents' Needs And Children's Needs Clash*

The wish to relocate is an example of parental and child needs conflicting with each other. As Eleanor Maccoby and Robert Mnookin state "both parents should have the right to reorganize their lives . . . even if this entails moving some distance from the former partner."¹¹⁸ Despite the difficulty in establishing research support for the advantage of continued contact with the noncustodial parent, they as well as many of their colleagues maintain that positive relationships with both

¹¹⁵ See *supra* text at note 103.

¹¹⁶ See *supra* text at notes 74-83.

¹¹⁷ See *supra* text at notes 64-70.

¹¹⁸ Maccoby & Mnookin, *supra* note 10.

parents are important to the psychological health of the child.¹¹⁹ Moreover, the noncustodial parent, who is most often the father, has a right to have access to his or her children. Leslie Ellen Shear in discussing the *Browner v. Kenward*¹²⁰ decision, objects to the mother's need for emotional support from her parents being placed above the child's need for emotional support from the father.¹²¹

In a relocation case, the needs of all parties rarely can all be satisfied. Relocation will deprive the child and the noncustodial parent of valuable times together. Prohibiting relocation will deprive the custodial parent of the opportunity to find greater satisfaction in life. Noncustodial parents face no restrictions on relocation, yet we do not know the impact on the child if a noncustodial parent moves away. Research indicates that a distressed parent may not be able to provide adequate parenting and the child's well-being may suffer. Many of the studies, however, are based on relationships involving traditional divisions of labor between mothers and fathers. We have no way of knowing the impact of relocation in a family where parenting responsibilities may have been more equitably shared prior to the divorce.

C. *Serving The Best Interests Of The Child In Relocation Cases*

According to Sondra Miller the usual factors considered under the best interests criterion should be applied in relocation cases in the context of whether the move will have a positive impact on the child.¹²² Will, for instance, the child's educational opportunities be enhanced in the new environment? While the American Psychological Association has not taken a specific position regarding relocation, it has issued guidelines for custody evaluations which advocate the "best interests of the child" standard.¹²³

¹¹⁹ Furstenberg & Cherlin, *supra* note 104; Sales et al., *supra* note 54.

¹²⁰ 655 N.E.2d 145 (N.Y. 1996). Trial court and appellate courts' decisions affirmed permitting mother to relocate approximately 130 miles away. The mother sought permission to relocate because her parents, with whom she and the child resided, were moving to another town.

¹²¹ Shear, *supra* note 2.

¹²² Miller, *supra* note 33.

¹²³ American Psychological Association, *Guidelines for Child Custody Evaluations in Divorce Proceedings*, 49 AM. PSYCHOL. 677 (1994).

How can the relocation issue be reconciled with a best interests standard? First, all the factors must be considered on a case-by-case basis. Although we have some idea of the importance of various factors, in general, we need to assess them in each situation. When mental health professionals conduct evaluations, they need to test the fit of the research findings and their own clinical experience to the individual set of circumstances.

Second, a family systems perspective must be maintained. A parent who believes that his rights or needs are discounted may not be able to parent effectively or encourage the child's relationship with the other parent. While the best interests of the child need to be primary, they will be served if the solution is also in the best interests of the family.

Third, the psychological residue of the relocation issue, regardless of whether it is permitted or blocked, may be considerable. Steps must be taken to minimize the negative impact of either decision. If relocation is to occur, age-appropriate plans need to be developed for preparing the children for the move. Specific arrangements need to be in place so that the child and the left-behind parent know when and how they will maintain their relationship. If relocation with the children is not allowed to occur, then the custodial parent may need psychological help to deal with the anger, resentment, or depression that may be present. The children, in these situations, often feel a mixture of guilt, anger, and fear, and may need to be helped through this period with their own counseling.

D. Caveats And Concerns

While beyond the scope of this article, two additional issues need to be noted when considering relocation issues.

1. Since mothers account for about ninety percent of all custodial parents,¹²⁴ permitting relocation may be viewed as pro-women, while prohibiting relocation may be viewed as pro-men. It may be tempting to cast relocation as a gender bias issue, thus losing sight of the necessary focus on the psychological well-being of the children and adults involved. Considering each situation according to its own merits may serve to defuse this concern.

¹²⁴ Maccoby & Mnookin, *supra* note 10; Schwartz & Kaslow, *supra* note 32.

2. Perhaps the greatest danger to the well-being of children is inherent to the legal system, which allows for appeals and reversals of previous court orders.¹²⁵ Children (and adults as well) thrive when their lives are consistent and stable. The threat of being moved from one geographic locale to another because of changing court decisions can disrupt the healthy psychological development of the children. Less adversarial ways of resolving family disputes truly would be in the best interests of the children.

¹²⁵ See *Burgess v. Burgess*, 913 P.2d 473 (Ca. 1996). Trial court granted mother permission to relocate 40 minutes away and modified father's visitation schedule to provide father with liberal visitation. The appellate court reversed the trial court's decision because the move would significantly impact the existing pattern of care and adversely affect the nature and quality of father's contact with the child. The supreme court reversed the court of appeals' decision and ultimately the mother was permitted to relocate.