

Payoffs and Pitfalls of Listening to Children

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Children's perspectives can enlighten decisions regarding custody and parenting plans, but different opinions exist about how best to involve children in the decision-making process. This article discusses why most procedures for soliciting children's preferences do not reliably elicit information on their best interests and do not give children a meaningful voice in decision making. Instead, these procedures provide children with forums in which to take sides in their parents' disputes. In addition to hearing an individual child's voice, decision makers can use the collective voice of children, as revealed in research on such topics as joint custody, overnight stays, and relocation to help understand what children might say about these issues with the hindsight of maturity and in the absence of parental pressure, loyalty conflicts, inhibitions, and limitations in perspective and articulation.

Controversies about the long-term legacy of divorce are relevant to the families who experience it themselves, as well as to scholars and researchers. How one construes the consequences of divorce also has implications both for clinical practice and for policy making. Implications for clinical work are discussed by Haine et al. (2003) and Ahrons and Tanner (2003) in this issue of *Family Relations*. Implications for divorce policy are discussed from an international perspective in Walker (2003, this issue). The current article addresses the implications of divorce research for a specific divorce policy: how professionals involve children in decision-making processes. The perspective developed here is illustrated through its application to the issues of joint custody, overnight stays, and relocation.

Throughout history, the voices of children have been conspicuously absent from decisions that affected their welfare following their parents' divorce. Instead, concepts of parental rights and gender stereotypes determined the postdivorce fate of children (Roth, 1976; Warshak, 1992, 1996). Throughout most of the 20th century, the beliefs (a) that women, by nature, are better suited to love and care for children, and (b) that children need mothers more than they need fathers resulted in most children living with their mothers after divorce and infrequently spending time with their fathers.

The weakening of gender stereotypes and growing concern about equal protection under the law led to the adoption of the best-interests-of-the-child standard in the early 1970s (Scott, 1992). This standard was intended to substitute a broad range of gender-neutral criteria for the a priori preference for sole mother custody of young children. The goal of individualized custody decisions was not immediately realized until the emergence, a decade later, of a genuine understanding of the impact on children of various custody dispositions. Pioneering projects by Wallerstein and Kelly (1980) in California and Hetherington, Cox, and Cox (1978, 1982) in Virginia measured various aspects of psychological functioning and helped show conventional postdivorce arrangements from the children's perspective as revealed in interviews and self-report scales. Research with father-custody families (e.g., Rosen, 1977; Warshak & Santrock, 1983a, 1983b) and joint-custody families (e.g., Greif, 1979; Steinman, 1981; Wolchik, Braver, & Sandler, 1985) gave further voice to children's concerns and preferences in the aftermath of parental divorce.

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Judith Wallerstein was an early, passionate, and eloquent champion of children from divorced families. Her work with these children led her to conclude that their feelings and preferences should be given serious consideration by the courts. Writing about relocation, she stated, "Especially at the time of a contemplated move, the court should be responsive to the child's voice, amplifying it above the din of competing parents. Only in this way can it ascertain and respect 'the best interest of the child'" (Wallerstein & Tanke, 1996, p. 323).

Here, two basic rationales for seeking children's input when formulating parenting plans for divorced and never-married parents are described. Some of the dangers of listening to children are described, as well as how these pitfalls can be mitigated by considering children's voices as reported in empirical studies of children's divorce-related attitudes and as inferred from studies of long-term outcomes. Last, what these studies reveal about children's perspectives on three issues is summarized to show how this knowledge can inform decisions made on their behalf.

Potential Payoffs of Listening to Children

The plea to hear children's voices carries almost axiomatic appeal to career child advocates, but it is not universally accepted. Many societies would reject as inappropriate the idea of seeking counsel from children on such important decisions; they would regard such a proposal as an inversion of the proper relationship between adults and children. A discussion of the potential benefits and risks of inviting children's participation when formulating parenting plans will help clarify how best to listen to children and what to do with what is heard.

Enlightenment

The call to hear children's voices was a response to the growing awareness that decisions made by adults on behalf of children too often missed the mark and resulted in unnecessary suffering (Kelly, 1994). In the playrooms of therapists and the laboratories of researchers, children showed us, through their words and behavior, that their burden was heavier as a result of a host of errors promulgated by parents, courts, and society.

Parents avoided and evaded open discussion of the divorce and their children filled the gap with misinformation, anxiety, and self-blame (Wallerstein & Kelly, 1980). We learned that children needed to construct an understanding of the family transition and that sensitive explanations geared to their level of cognitive development could help them do this (Garvin, Leber, & Kalter, 1991).

Courts wrote orders prescribing "reasonable visitation" for children and fathers. The children helped us see the ill consequences of such ambiguous language (Kelly, 1994). They were

distressed by not knowing when they were going to see Dad and by witnessing repeated acrimonious negotiations each time the two parents held different notions about what “reasonable visitation” meant.

The norm was that children should see their fathers two or four nights per month. We learned that this was insufficient to sustain meaningful parent-child relationships (Hetherington, 1979; Kalter, 1987; Wallerstein & Kelly, 1980; Zill, Morrison, & Coiro, 1993). Children longed for more contact, and relationships often cratered under the pressure of trying to pack two or four weeks of living into two days (Hetherington et al., 1978; Kruk, 1993; Warshak & Santrock, 1983a; Wallerstein & Kelly, 1980).

These and other insights were direct benefits of seeing divorce through the eyes of children. Their words and behavior directed our attention to factors that had been overlooked or underemphasized. Therefore, one answer to the question, “Why listen to children?” is the *enlightenment* rationale: Children have something important to tell us that may change the decisions we make on their behalf and the way in which we make them.

The enlightenment rationale assumes that input from children will raise decision makers’ awareness of children’s needs, feelings, and preferences. In turn, this awareness should result in parenting plans that promote healthier postdivorce adjustment. A majority of states include the child’s preferences as one factor to consider in determining the child’s best interest (Lyster, 1995). To be enlightened by children’s views does not necessarily mean that their stated preferences determine the final outcomes. It means that children are given a voice in divorce-related decisions just as loving parents give children a voice in major decisions that affect them prior to divorce. For instance, when parents contemplate buying a new house or moving to another city, the children are not usually charged with making the final decision. Yet sensitive parents faced with such decisions will consider their children’s needs, may elicit the children’s concerns, will try to anticipate their children’s reactions to the proposed changes, and will keep their children’s perspective in mind when dealing with the children regardless of their ultimate decision.

Empowerment

A second argument advanced in favor of giving children a voice in divorce matters is the *empowerment* rationale. This is the idea that children profit by participating in decisions that affect central aspects of their lives. A moderate version of the empowerment rationale has been articulated by Wallerstein and Blakeslee (1989): “Children feel powerless at divorce and should be invited to make suggestions that the adults will consider seriously. In this way, they can feel like active instead of passive agents in the crisis” (p. 287). Similarly, Kelly (2001) wrote:

In listening respectfully to children, being willing to seriously consider and integrate their ideas, and helping them feel more empowered at a time of great upheaval, anxiety, and change, we may help children cope more effectively with the divorce experience. (p. 113)

This rationale lacks a strong foundation in the divorce research literature; nonetheless, it appeals to many parents and mental health professionals.

A radical version of the empowerment rationale interprets the mandate to be responsive to the child’s voice as a responsibility to solicit and honor children’s stated preferences (Neme-

chek, 1998). Those who advocate giving children such authority share the lament of Wallerstein and Lewis (1997):

Youngsters whose lives were governed by court orders or parental agreements were distressed that they had lost the freedom that their peers take for granted. They opined that they had less say, less control over their schedules, less power to determine when or where they would spend their time, especially their precious vacations. . . . [The court-created child] is given no formal opportunity to express her views or even a preference among plans. (pp. 381–382)

Pitfalls of Listening to Children

Child custody evaluators generally agree that children’s feelings should be considered when formulating schedules of contact with parents who live apart (Ackerman, 1997; Gardner, 1989; Gould, 1998; Stahl, 1999). Giving children formal opportunities to participate in custody decisions simultaneously introduces risks to their emotional welfare. If we fail to understand the basis for their stated preferences, rather than be enlightened, we may be misled. If we delegate too much authority to children, rather than assist their coping, we may burden them with an inappropriate degree of power.

The basic pitfall of the enlightenment rationale is that we will confuse what children tell us with what is in their best interest. Some evaluators, advocacy groups, and parents (particularly those whose children support their position in the custody dispute) assume that children’s words always express their genuine thoughts and feelings, and they equate children’s thoughts and feelings with expressions of their true best interests. That is, children know and are accurate reporters of what is best for them. Proponents of this position believe that a child’s strong preference for or aversion to a parent should weigh heavily in custody decisions. In this view, any child’s rejection of a parent is *prima facie* evidence of severe mistreatment by the rejected parent (for a discussion of this position see Mantell, 1988).

All but the most radical child advocates understand that children do not always know what is best for them. Particularly during family turmoil, children’s attitudes often are temporary, transient, or fluctuating (Wallerstein & Kelly, 1980). Their complaints about a parenting plan are apt to arise in the face of minor frustrations. The “grass is greener” phenomenon may operate in the absence of any realistic understanding of the drawbacks of alternative plans. Indeed, this phenomenon may account for the complaints made by the children who spoke to Wallerstein and Lewis (1997) about their peers having more freedom than they had (surely not a unique adolescent grievance); the children assumed that in nondivorced families, vacation plans are made by the children and not the adults.

Children may tell each parent what they think that parent wants to hear at the time (Garrity & Baris, 1994). Strong preferences may represent reactions to a recent crisis, rather than reflect the full history and context of the relationship with each parent. For instance, an isolated physical altercation between the parents, or a parent’s atypical yet frightening emotional outburst followed by the absence of that parent, may leave a disproportionate imprint on the child’s thoughts and feelings. Love and comfort built up over years of living together can be erased by an isolated incident that lasts a few minutes (Gardner, 1998a; Kelly & Johnston, 2001; Warshak, 2002a).

Even when a child’s preference to be with a parent is stable and long-term, it may not reflect the child’s best interests as

understood by objective observers. For instance, a boy may have a close identification with a father who treats the mother with violence and disrespect. The boy's closer tie to his father may be long-standing and may lead the boy to express a preference for a parenting plan that maximizes time with his father while minimizing time with his mother. Such a plan is likely to further entrench the boy's unhealthy identification. Another example is a boy who is chronically overly enmeshed with and dependent on his mother. His parents' divorce presents him with an opportunity to spend more time alone with his father and achieve a more age-appropriate degree of psychological autonomy. Yet the boy fears separation from his mother and expresses a strong preference to spend all his free time with her and none with his father. Honoring this child's current preferences may handicap his future emotional development.

Children sometimes express a preference for reasons that most adults would consider a poor basis for a custody disposition. Consider the following brief examples. A 5-year-old girl wants to live with her father because he lets her eat as much candy as she wants. A 10-year-old boy wants to live with his mother because she lets him stay up as late as he wants. A 15-year-old girl wants to live with her father and stepmother because they impose no curfew, allow her to drink alcohol, and promise her a luxury car if she moves in with them.

In some families children align themselves with the parent they most fear, or the parent they regard as most unstable (Clawar & Rivlin, 1991; Gardner, 1998a). Other children take on the responsibility of caring for a needy parent (Hetherington & Kelly, 2002). Although these children may be outspoken in their custodial preferences, their wishes may not reflect their genuine best interests.

Those who advocate the radical empowerment of children may not be swayed by the above considerations. They might argue that even if we know that a child's rejection of a parent is misguided, irrational, or pathological, the child's preference should be honored either because it is a value in itself to respect children's autonomy or because of the belief that, even if children are being unreasonable, they will be better off if they are allowed to dictate the level of contact they have with each parent.

The basic pitfall of the empowerment rationale is that it fails to recognize the tension that exists between empowering children and placing them in the middle of their parents' disputes. The more weight accorded children's stated preferences, the greater the risk of children being manipulated or pressured by parents. Through a variety of tactics such as selective attention, repetition, intimidation, overindulgence, and suggestion, a parent can corrupt a child's view of the other parent (Ceci & Bruck, 1995; Clawar & Rivlin, 1991; Gardner, 1998a, 1998b; Warshak, 2002a). Once a child forms a predominantly negative opinion of a parent, and particularly once this opinion is expressed publicly, it is liable to become deeply entrenched and highly resistant to modification even in the face of information that directly contradicts misconceptions (Festinger & Carlsmith, 1959; Jelalian & Miller, 1984; Ross, Lepper, & Hubbard, 1975; Schauss, Chase, & Hawkins, 1997).

Depending on the case and the court, children have several forums through which they can advocate a specific position within a custody dispute. They can have independent court-appointed counsel whose duty is to advocate for whatever position the child directs, give testimony in open court, be interviewed in the judge's chambers, speak to a custody evaluator, be deposed, and execute an affidavit of custodial preference. Such affidavits can

be used in motions before the court and during trial. Each forum risks creating a climate that pressures a child to form a pathological alignment with one parent and a pathological alienation from the other. Rather than participating meaningfully in developing an optimal parenting plan or being empowered, the child is stripped of a genuine voice; the child's voice is dubbed with the words of the parent who exercises the most influence over him or her. Another problem with these mechanisms for involving children in litigation is that they set up a dynamic that can weaken a parent's authority over his or her children and can undermine the children's motivation to resolve conflicts with a parent. I have seen many cases in which a child utters some variation of, "I don't have to listen to you. If you ground me, when I'm 12 I'll tell the judge that I don't want to live with you anymore." This threat actually has some teeth to it, if it is clear that the other parent will be receptive to such a declaration of preference. Under current Texas practices, such a declaration in writing greatly increases the chance of obtaining an earlier hearing for a custody modification motion (Green, 2002).

The option of an attorney ad litem is perhaps least likely to enlighten decision makers regarding a child's best interests. Depending on the prevailing case law, the attorney may be obligated to present evidence that supports only the child's explicit position in the litigation, even when this position clashes with the child's best interests. Given that a child's stated position is highly susceptible to parental influence, the appointment of an attorney ad litem may work against the goal of amplifying the child's own voice. The same can be said for a child's courtroom testimony, deposition, or affidavit of preference. Further, if the goal of involving children in custody litigation is to empower them, the process may backfire if the court does not grant their request. In such cases the children complain that no one listened to them—meaning that they did not get what they wanted (Lehrmann, 2002).

Eliciting a child's perspective through an interview with a judge or attorney has its own drawbacks. Without specialized understanding of child development and training and experience in interviewing children, lawyers and judges may not effectively elicit children's private feelings, nor discriminate between children's mature and reasonable positions and positions that are immature, transient, irrational, or heavily influenced by the favored parent. Such problems may be avoided if the child speaks to a competent child custody evaluator. However, a court-ordered custody evaluation generally is not part of a collaboration or mediation process; thus, it carries the same potential to place the child in the middle of the dispute and perhaps involve the child as an ally of one parent against the other in an adversarial process.

In a typical scenario, a child either testifies in open court; speaks with the judge in chambers; instructs an attorney appointed for the child; confides in a guardian ad litem; or tells a custody evaluator, "I think I'd like to live with my father." His mother learns of this and says, "What do you mean you'd rather live with daddy? If you don't tell the evaluator that you want to live with me, you won't see very much of me." So perhaps the boy goes back to the psychologist and says he wants to live with his mother. Or, having gone on record favoring his father, he attempts to bring his beliefs more in line with his actions and begins, perhaps with Dad's assistance, to find fault with Mom, magnifying and exaggerating minor parenting blemishes, so his crucial expression of a preference now has, in his and perhaps in his father's mind, firm support. Either way, by putting the

child in this position, we have done no favor for him or for his family.

Avoiding the Pitfalls

One option for bringing the child's voice before the court without involving the child directly in the litigation is the appointment of a guardian ad litem charged with the responsibility to protect the child's interests, rather than merely advocate on behalf of the child's directives. Because the guardian ad litem participates in the litigation, this option fails to protect the child from being pressured by parents to take sides in the dispute.

The best way to give children a meaningful role in helping to formulate parenting plans while protecting them from direct involvement in litigation is to involve them in collaborative or conciliatory processes. The collaborative divorce model (Tesler, 2001) includes an option to have children meet with a mental health specialist, alone and in family sessions, to contribute their perspective on their needs, desires, concerns, and reactions to various proposed living arrangements. The specialist can then bring the child's voice into subsequent collaborative sessions with the parents and attorneys. Children can make similar contributions during formal mediation sessions or during consultation with a therapist who specializes in working with divorcing and divorced families (Warshak, 1992).

Amicable approaches to formulating parenting plans allow an option that potentially can increase the value of children's contributions: Families can adopt a residential schedule on a trial basis and then evaluate its appropriateness before it is incorporated into the final divorce decree. In this situation adults may listen more closely to children, because the children's feedback has the benefit of actual experience (although it is not immune from the risks discussed earlier).

The challenge facing the mental health specialist is to give children a voice that can make critical contributions to the creation of optimal parenting plans and to parents' subsequent behavior, but in a manner that protects them from pressure to align with one parent against the other and minimizes other sources of unnecessary discomfort. A description of the art and science of conducting interviews with children that successfully meets this challenge is outside the scope of this article. The information obtained from such interviews, however, can help decision makers navigate a delicate course between the Scylla of neglecting children's needs and the Charybdis of making children pawns in their parents' battles or overly empowering them to be responsible for adult decisions.

It is ironic that a child's eagerness to participate in the litigation may (but certainly does not necessarily) signal the need for caution in attending to the child's voice, whereas a child who is reluctant to voice opinions may be the one who has the most to contribute to an optimal parenting plan. In general, the less conflict between parents, the easier it is to elicit children's input in a manner that eases, rather than exacerbates, anxiety (Kelly, 2001).

Alternative dispute resolution processes may lessen parental pressure on children to take sides in a dispute when evidence obtained during these sessions is inadmissible and the professionals are shielded from testifying in any subsequent litigation. Nevertheless, children often regard the invitation to participate in the process of formulating parenting plans as a burden rather than a blessing (Garrity & Baris, 1994). Even when attempts are made to relieve them of feeling responsible for the ultimate de-

isions, the atmosphere of marital conflict leaves many children feeling uncomfortable about expressing any feelings that may be seen as favoring one parent over the other (Stahl, 1999). In this sense the children may know what is best for them.

A fairly robust finding in the divorce and parenting literature is that children do best in authoritative structures (those that combine warmth and control) both at home and in school (Baumrind, 1971; Hetherington et al., 1982; Santrock & Warshak, 1979; Santrock, Warshak, & Elliott, 1982). Although all children complain about not having as much control over their lives as they wish (Wallerstein & Lewis, 1997), from the standpoint of developmental psychology, empowerment of children must be carefully tied to their level of maturity; giving children too much authority can create excessive anxiety, a narcissistic sense of entitlement, and impaired relations with adults. Children raised in nonauthoritative environments are more likely to be impulsive, aggressive, and irresponsible (Baumrind; Hetherington & Kelly, 2002).

Developmental Considerations

In some aspects of children's lives, the older they become the more respect society accords their voices in decisions that govern their lives. At 6 years old a child cannot obtain a driver's license; at 16 he can. At 8 she cannot vote; at 18 she can. In general, the older the child, the wider the scope of the child's decision-making authority and the more weight adults assign to the child's preferences. This reflects the assumption that older children have better capacities for understanding, reasoning, and judgment, an assumption strongly supported by the literature on the age progression of children's cognitive competence and the measurement of intelligence (Steinberg & Cauffman, 1996; Wechsler, 1991). Also, compared with younger children, older children are less suggestible (Ceci & Bruck, 1993, 1995) and less likely to have difficulty accurately identifying the source of their memories (i.e., distinguishing between a memory for a real versus an imagined event; Foley & Johnson, 1985; Johnson, Hashtroudi, & Lindsay, 1993). These findings suggest that, compared with younger children, older children can provide more accurate testimony on issues such as child abuse. Children older than 6 years of age, however, are not immune to suggestion (Ceci & Bruck, 1995).

The literature on cognitive competence and suggestibility has limited relevance to children's competence to participate in formulating parenting plans. Garrison (1991) evaluated the competence of children between 9 and 14 years old to state a reasonable custodial preference and to articulate reasonable bases for their choice in response to two hypothetical vignettes. The children's responses were compared with those of 18-year-olds according to an index of reasonableness derived from judges' ratings of the two vignettes. All participants were from intact families with no history of divorce. This study found that 14-year-olds showed as much competence as the 18-year-olds. In some respects, but not all, the responses of the younger children did not differ significantly from those of the 14- and 18-year-olds. Garrison recognized that her data do not support a policy of involving children in custody disputes. A child who can reason and express objective judgments regarding hypothetical situations in an emotionally neutral atmosphere cannot necessarily exercise such ability in the emotionally pressured milieu that characterizes many families facing decisions about custody.

Wallerstein and Kelly (1980) found that children between

the ages of 9 and 12 were particularly vulnerable to forming alignments with one parent against the other. They concluded:

Although the wishes of children always merit careful consideration, our work suggests that children below adolescence are not reliable judges of their own best interests and that their attitudes at the time of the divorce crisis may be very much at odds with their usual feelings and inclinations. . . . Several of the youngsters with the most passionate convictions at the time of the breakup later came shamefacedly to regret their vehement statements at that time. (pp. 314–315)

Despite the relative cognitive maturity of adolescents, their judgments are highly vulnerable to outside influences. At times they show extreme deference to others' views. Other times they make choices primarily to oppose another's preferences (Steinberg & Cauffman, 1996). Both of these dynamics can result in the formation of a pathological alliance with one parent against the other. Grisso (1997) points out that the preferences of adolescents often are unstable. Choices made early in the process of identity formation often are inconsistent with choices that would be made when a coherent sense of identity is established, generally not before age 18. For these reasons, even the preferences of adolescents merit cautious scrutiny, rather than automatic endorsement.

Beyond the studies cited, the empirical research literature gives no definitive guidance on the issue of when and to what extent a child's input should be considered in decisions about custody and access to parents. The literature does document prevailing practices among child custody evaluators. When evaluators ($n = 198$) were asked at what age they seriously considered a child's preference in regard to custody decision criteria, 12 years was the most frequent response (Bow & Quinnell, 2001). Also, evaluators tend to give less consideration to the wishes of younger children (particularly children 5 years old and under) than to those of older children (Gould, 1998).

Litigating parents and courts do not always operate along the same lines. In granting the injunction barring the removal of 6-year-old Elián Gonzales from the United States, the 11th U.S. Circuit Court of Appeals ruled the following:

Not only does it appear that Plaintiff might be entitled to apply personally for asylum, it appears that he did so. Plaintiff—although a child—has expressed a wish that he not be returned to Cuba. He personally signed an application for asylum. Plaintiff's cousin, Marisleysis Gonzalez, notified INS that Plaintiff said he did not want to go back to Cuba. And it appears that never have INS officials attempted to interview Plaintiff about his own wishes. (Gonzales ex rel. Gonzalez v. Reno, 2000)

Hearing the Collective Voice of Children

In addition to hearing the voice of the individual child in question, the best way to enlighten parents and courts about children's needs is to attend to children's voices in general as revealed in two types of data from clinical and empirical research. The first type of data consists of children's attitudes about various aspects of divorce, such as their preferences regarding access to each parent. The second type of data consists of children's actual long-term adjustment (as opposed to their conscious attitudes) in various spheres, such as personality, behavioral, and social development. The first type of data is assessed through

children's responses to interview questions and self-report items that directly address divorce-related attitudes. Because these data reveals what children have to say about divorce-related issues, it may be thought of as the explicit voice of groups of children. The second type of data is assessed through measures, such as personality tests, parent checklists, and direct observations, that address children's actual adjustment as opposed to their conscious views on aspects of divorce. Although, admittedly, this stretches the concept of children's voice, this literature may be thought of as the implicit voice of groups of children to the extent that we can assume that reasonable adults would endorse the decisions made on their behalf during their childhood that fostered optimal adjustment and would regret those that hindered their optimal adjustment. That is, these findings reveal the perspective of what a child would say with the benefit of maturity. Consulting such findings certainly will not satisfy any individual child's wish to be heard, but there are four main benefits to supplementing the child's individual voice with the perspective of other children.

First, the collective voice bypasses the problem of the child being used as a mouthpiece for one parent's views. Other children define the range of attitudes that is typical for children in similar circumstances. This serves as a frame of reference to evaluate any individual child's attitudes. When a child's stated preferences veer sharply from those of his or her peers, this signals the need for caution because of the possibility that the child's voice is being distorted by the manipulations of a parent or the child's own maladaptive reactions (Warshak, 2002a).

Second, the experiences of clinicians and the findings of researchers can substitute for children who are unable or unwilling to speak for themselves. Infants have definite needs that should inform decisions made on their behalf, but they certainly cannot convey these in words. Researchers determine the needs and feelings of young children through nonverbal measures. Older children may be too anxious or inhibited to let adults know what they are thinking and feeling about the family transition.

Third, research can direct our attention to important aspects of the child's experience that might not occur to the child to communicate or might not be easy for the child to articulate. An example would be the benefits of being raised in an authoritative environment. With the hindsight of maturity, an adult can look back and appreciate the value of limits enforced by his or her parents. At the time, how many children will tell an evaluator, mediator, or guardian ad litem that they need their parents to be more in control?

Fourth, research can assist decision makers in anticipating the likely future impact of custody dispositions. One of the limitations of a child's contributions to divorce-related decisions is that they reflect only current opinions. Even a skilled and sensitive custody evaluator is getting only a snapshot of the child's inner life when what is needed is a videotape. This snapshot is at a point in time that may not be representative of the child's general experience in the family. Decisions regarding parenting plans necessarily entail predictions about the future needs of the children. Studies of the attitudes of people who grew up in divorced families—the aspects of their experience that were helpful and those that were troubling—help us anticipate the likely future explicit voice of children. Studies that identify the conditions that best promote optimal development suggest the likely future implicit voice of children—the type of decisions that reasonable adults would say they wished adults had made on their behalf when they were younger.

In sum, the collective voice of children can help decision makers understand what children might say with the hindsight of maturity and in the absence of parental pressure, loyalty conflicts, inhibitions, and limitations in perspective and articulation. As such, this collective voice can help implement the proposal made by Chambers (1984) that courts attempt to define children's interests in custody disputes by asking, "Which placement would most children in comparable positions experience more positively, now and in hindsight?" (p. 494).

Lessons From Clinical Practice and Research

Even before Wallerstein and Kelly's (1974, 1980) trail-blazing project, clinicians wrote about their observations of children from divorced homes and began to educate parents, professionals, and the children themselves about the divorce experience as seen through the eyes of children. As early as 1953, Despert called attention to the pitfalls of empowering children in custody disputes.

A judge may doff the mantle of Solomon and ask the child to choose which parent he wants to live with.

On the surface this seems a kindly offer, and surely it is meant in kindness. But it is double-edged. It cuts to the heart of the child's most painful confusions. It confronts him with his already divided loyalty. It demands that he choose between two people who for him should never have been parted at all. Whichever he chooses, he is likely to be left with doubt, regret, and guilt toward the other. (Despert, 1953/1962, p. 196)

Gardner's (1970) self-help book for children of divorce accurately identified many of their typical thoughts, feelings, and dilemmas; this perspective, gained through his clinical work, was subsequently confirmed by more systematic clinical observations and empirical research (e.g., Hetherington & Kelly, 2002; Wallerstein & Kelly, 1980). Gardner's advice to children addressed such problems as blaming themselves for the divorce, harboring reconciliation fantasies, longing for the absent parent, and getting caught in the middle of their parents' conflicts.

Insights gained in the consultation room and in clinical research provide an invaluable foundation for the study of psychological phenomena, but these insights need to be verified, supplemented, or corrected through systematic empirical research. This is especially true when legislatures, courts, and parents look to mental health professionals for guidance in formulating parenting plans. Clinical observations without a nonclinical control group can lead to faulty generalizations about various living arrangements. For instance, if the only father-custody children studied are those who develop psychological problems severe enough to motivate a parent to seek professional intervention, thoughts about the impact of father custody on children are apt to be negatively skewed. Similarly, therapists often hear complaints from children, teachers, and parents about the child's residential schedule. The children blame their unhappiness on the frequency of transitions between homes; some want more transitions, and some want fewer. The teachers blame children's poor school adjustment on "being bounced back and forth between homes." The parents blame their children's behavior problems on the schedule; they usually assume that the children would do better if they spent more time in the home of the parent making the complaints.

In some cases the schedule does create unnecessary burdens.

In other cases, the problems rest more within the child or within the family system and would not yield to changes in the parenting plan. Empirical research on the impact of various residential schedules can shed light on such issues. Such research may rule out the likelihood that a particular schedule is primarily responsible for a child's difficulties, or it may demonstrate that the sort of difficulties the child is experiencing are typical for his age. At the least, research can remove a priori explanations for the child's problems and instead direct the clinician's focus to an in-depth investigation and understanding of what is not working for this child at this time in this family.

Empirical research has long since laid to rest the "tender years" presumption that all children belong in the sole custody of their mothers unless the mother is proved exceptionally unfit (Kelly, 1994; Warshak, 1986, 1996). Research on divorce and on parental absence has led to the general acceptance that children of divorce profit from having meaningful relationships with both parents (Amato, 2000; Lamb, Sternberg, & Thompson, 1997; for a dissenting opinion see Silverstein & Auerbach, 1999). One of the most robust findings in the literature on child development and divorce validates the concerns voiced by Despert (1953) and Gardner (1970) about the pitfalls of placing children in the middle of parental conflicts: children are at much lower risk for psychological disturbances when they are shielded from parental hostilities (for a review see Kelly, 2000).

Despite general agreement on the importance of protecting children from parental hostilities and providing them with opportunities for relationships with both parents, certain issues continue to divide experts. The following is a brief summary of the collective child's perspective on three of these issues: joint custody, policies regarding young children's overnight stays with parents, and presumptions regarding children's placement in the event of one parent's relocation.

Joint Custody

Studies revealing children's explicit attitudes about joint physical custody and most studies regarding their adjustment under this disposition were conducted with families in which the arrangements were arrived at by agreement of the parents, rather than imposed by the court against the wishes of a parent (McKinnon & Wallerstein, 1986; Shiller, 1986; Steinman, 1981). Such findings may not generalize to families in which joint physical custody is imposed by courts. The same factors that may have led to the selection of joint custody also may be responsible for the outcomes seen in these families. For instance, couples who are highly educated, families in which the fathers were highly involved in raising the children prior to divorce, and couples with relatively little postdivorce strife are more likely to adopt joint custody (Braver & O'Connell, 1998). Such factors might lead to better outcomes in these families whether or not joint custody is awarded (but see the discussion below of Gunnoe & Braver, 2001, which supports another view).

Nevertheless, the research findings about joint or shared physical custody directly address the most frequently voiced concern of adults regarding this arrangement: it leaves children feeling "bounced back and forth" between two homes, and thereby promotes feelings of instability and insecurity. This concern is so prominent that in one study, even when both parents requested joint physical custody, the court overruled the parents' preference in 46% of the cases (Maccoby & Mnookin, 1992).

Studies have reported that children and adolescents in joint

physical custody were more satisfied with their residential arrangement, enjoyed the closeness of their relationship with their father, had less of a sense of loss about the divorce, and yearned less for their father than did children in sole residential custody homes (Leupnitz, 1982; Maccoby, Buchanan, Mnookin, & Dornbusch, 1993; Shiller, 1986). Although such attitudes may not be representative of children whose parents did not agree on the custody arrangements, particularly children who are exposed to continuing high levels of strife between parents, these positive attitudes do allay concerns that joint physical custody necessarily imposes a greater burden on children, and they show that in many cases a more equal balancing of time between the two homes will be responsive to children's preferences.

The satisfaction reported by children currently in joint-custody homes matches the opinions and feelings of young adults who grew up in divorced families. A study asked 820 college adults to rate the best living arrangement for children of divorce (Fabricius & Hall, 2000). The results showed that 70% chose the option *equal amounts of time with each parent*. Because only about 10% of these college students grew up in joint physical custody families, this study shows what they thought would have been best, rather than their actual experience with this arrangement. Nevertheless, the investigators ruled out the explanation that this was a "grass is greener" phenomenon, because 93% of those who actually did grow up in an equal-time arrangement endorsed this as best. Another analysis with the same sample found that 48% reported that they had wanted to see their fathers *a lot* or spend *equal amounts of time with each parent* (Fabricius, 2003). A study of 99 college students found that those who had lived with joint physical custody arrangements before coming to college reported less of a sense of loss about the divorce than those who had lived in sole residential custody homes (Lauermann-Billings & Emery, 2000).

Children's attitudes about joint custody are consistent with the results of studies with both clinical and nonclinical samples of children: a majority of children consistently complained about the loss of contact with the noncustodial parent as the major drawback of divorce (Hetherington et al., 1982; Wallerstein & Kelly, 1980; Warshak & Santrock, 1983a). Further, when the relationship with the noncustodial parent was positive, children with expanded and flexible visitation were more satisfied, viewed the divorce less negatively, showed higher self-esteem, and had fewer behavior problems (Healy, Malley, & Stewart, 1990; Neugebauer, 1989; Rosen, 1977; Wallerstein & Kelly, 1980; Warshak & Santrock, 1983a). In their study of 173 adults 20 years after parental divorce, Ahrons and Tanner (2003, this issue) found that adult children whose fathers were less involved during the first 5 postdivorce years were more likely to report a deterioration over time in the quality of their relationships with their fathers.

According to current divorce literature, it appears that the answer to Chambers' (1984) question—which placement would most children experience more positively now and in hindsight?—is joint physical custody. In this case the children seem to know what is best for them. Although earlier narrative literature reviews reached disparate conclusions about the impact of joint custody on child adjustment (Bender, 1994; Johnston, 1995; Kelly, 1993; Twaite & Luchow, 1996), a recent meta-analysis of 33 studies found that children in joint physical custody arrangements were better adjusted than those raised in sole mother custody homes, even after controlling for levels of parental strife (Bauserman, 2002). This meta-analysis was based on a combined sample size across studies of 1,846 sole-custody and 814 joint-

custody children. A systematic and quantitative review of this magnitude should go a long way toward amplifying the voice of children regarding their preference for parenting plans that more evenly balance their time between homes. Most of the joint physical custody families reflected in the meta-analysis chose the arrangement as opposed to having it imposed by the court; one study of joint legal custody families did control for predisposing factors (Gunnore & Braver, 2001). The fathers in this latter study were more involved with their children and approximated a de facto joint physical custody arrangement. Controlling for factors that differentiate families that choose sole versus joint custody, considerable benefits still were found for joint legal custody. The children growing up in this arrangement were significantly better adjusted, and they showed less antisocial and impulsive behavior than did children in sole-custody arrangements.

Even when joint legal custody was awarded over the mothers' objections, child support compliance was high (Braver & O'Connell, 1998). This is consistent with a substantial literature showing that frequent and continuing father-child contact results in a higher percentage of child support payments and less incidence of fathers dropping out of their children's lives (Clarke-Stewart & Hayward, 1996; Maccoby & Mnookin, 1992; Peterson & Nord, 1990; Seltzer, Schaeffer, & Charng, 1989). It is reasonable to assume that, given a choice, most adult children of divorce would prefer that their father had provided financial and emotional support, rather than to have dropped out.

It is important to note that the collective voice of children, as expressed in the attitudes reported by a majority of research subjects, should not be applied thoughtlessly to all children in all situations. Although 70% of college students from divorced homes endorsed shared custody, 30% did not (Fabricius & Hall, 2000). In any particular family, if an individual child's stated preference veers sharply from attitudes that we would expect based on research, this alerts us to the likelihood that the family differs significantly from those represented in the empirical studies. In such cases it is important to investigate the basis and meaning of the child's preference.

Particularly when a child expresses a strong preference to avoid a parent, we should be alert to three possibilities. Either (a) the preference is reasonable because the rejected parent is much worse than those in the studies where children wanted more contact with their parents; (b) the parental strife is so great that the child believes the only way to escape it is to avoid a parent; or (c) the child has developed an irrational, pathological alienation (Warshak, 2002a). When a child is seeking to avoid contact with an extremely impaired parent, the child's voice should receive significant weight. When a child is mainly concerned with avoiding the war zone, if at all possible a plan should be developed to shield the child from the hostilities while protecting his or her relationship with both parents. When the child is suffering from pathological alienation, the stated preference is probably a poor guide to the child's welfare. In such a case, those charged with crafting a parenting plan may find the collective voice of children more enlightening than the child's individual voice.

Overnight Stays for Young Children

The voices of children were heard and echoed in legislation calling for frequent and continuing contact between children and both parents after divorce (Lyster, 1995). A footnote to such policy mandates that the contact young children have with one

of their parents may not occur overnight (i.e., young children must sleep in the same home every night, although during the day they may spend time, and even nap, in either parent's home). The ostensible goal of "blanket restrictions" (a term introduced by Warshak, 2000a, 2002b) is to promote greater security in the young child's relationship with one parent—usually the mother. The concern is that the separation from their mother during the night will cause or increase the risk of infants and toddlers feeling excessive anxiety and that it will harm the quality of their attachment to their mother.

Blanket restrictions are prevalent and advocated with authority in books, custody evaluation reports, and courtroom testimony (e.g., Garrity & Baris, 1994; Hodges, 1991; Skafte, 1985). Nevertheless, this policy was promulgated in the absence of any research on the direct impact on children of overnight access with parents who live apart. Instead, these guidelines were defended, and continue to be defended, by extrapolating from attachment theory and psychoanalytic theories of early child development and from research associated with these theories (e.g., Bowlby, 1973; Erikson, 1963; Mahler, Pine, & Bergman, 1975).

Recent reviews called into question the wisdom, logic, and scientific basis of blanket restrictions (Kelly & Lamb, 2000; Lamb & Kelly, 2001; Warshak, 2000a, 2002b). These reviews drew on a wide range of scientific literature including studies on the processes through which children develop relationships with parents, the roles of mothers and fathers in promoting psychological development, the impact on infants of separation from mothers such as occurs in daycare, the ability of fathers to competently manage the care of infants and toddlers, and the role of parent-child relationships in fostering optimal development in children whose parents live apart.

This literature provides no evidence that children are harmed by spending overnights with their fathers. The concerns raised in defense of blanket restrictions grew out of studies of children in prolonged institutional care who were deprived of contact with both parents, often for severely traumatic reasons (Provence & Lipton, 1962; Yarrow, 1963). Clearly this situation is not comparable to the custody situation in which children are separated from one parent and left in the care of the other parent.

The literature also shows that, in addition to not being harmful, overnights have clear benefits. Studies on infants' multiple attachments (for reviews see Biller, 1993; Lamb, 1997; Parke, 1981; Warshak, 1992) have discredited the belief that children have only one psychological parent. This has led to a greater appreciation of the importance of facilitating and maintaining the child's attachments to both parents.

Numerous studies have shown that children do best when they enjoy close and positive relationships with both of their parents following divorce (for a review and consensus statement by 18 nationally recognized experts, see Lamb et al., 1997). The best way to promote and consolidate deep attachments is to allow children to interact with parents in a wide variety of contexts (Kelly & Lamb, 2000). Overnight stays are important, because bedtime and waking rituals provide opportunities for a wider range of involvement including activities such as bathing, preparing for bed, putting to bed, soothing when the child awakes in the middle of the night, getting up in the morning, and preparing for the day. Depriving infants and toddlers and their fathers of such opportunities places unnecessary obstacles in relationships that are already vulnerable (Ahrons & Tanner, 2003; Zill et al., 1993).

Applying Chambers' (1984) standard—which arrangement

would most children experience more positively now and in hindsight?—leads to the following formulation. Based on current knowledge about the needs and capacities of young children and their parents, the best answer is that we have no reason to believe that most children would want to be deprived of the chance to stay overnight with each parent. Further, we have good reason to believe that they would welcome the opportunities provided by overnight stays for laying a stronger foundation to their relationships with both parents. This is particularly likely given the findings that the probability of a father maintaining a connection with his child is greater when there is overnight contact during the first few years of the child's life (Lamb et al., 1997; Maccoby & Mnookin, 1992).

Others see it differently and continue to believe that if infants could speak on behalf of their best interests, they would ask to spend every night with the same parent despite the fact that this could handicap the depth and nature of their relationship with the other parent (Biringen et al., 2002; Solomon & Biringen, 2001). Nevertheless, the weight of empirical evidence supports clinical and common experience that sleeping away from their mothers does not necessarily harm young children (they do this while napping in daycare). As opposed to blanket restrictions against overnight stays, I conclude (Warshak, 2000a, 2002b) that overnights should be among the options considered for infants, toddlers, and older children and that overnight stays neither be made mandatory nor be routinely excluded. Caution should be exercised before depriving children of parents who live apart of a formative and valuable experience that can help sustain their normal interaction with both parents.

Relocation

Disputes that arise from the request of one parent to move children to a distant location away from the other parent present some of the most complex, controversial, and heart-wrenching issues in family law. Much is at stake. Unless the parent proposing the move reconsiders, or the other parent elects to relocate to the same city, both know that one of them is going to lose the opportunity to attend weekly soccer games, scout meetings, awards ceremonies, music recitals, science fairs, and other memorable school events. Divorce alters the rhythms of each parent's contact with the children. Living in separate cities, however, transforms the relationships in a way that neither parent had previously envisioned.

When a parent's move requires the children to live far away from their other parent and to leave their familiar environment, peers, community, and school, the child's perspective is most apt to clash with that of the moving parent (although not necessarily). Hence, it is in relocation cases that the child's perspective may be most central. Until recently, no studies directly addressed the impact of relocation on children's welfare after divorce. As in the case with blanket restrictions, in the absence of direct studies, policy regarding relocation has been advanced by extrapolating from other research (Austin, 2000; Gindes, 1998; Wallerstein & Tanke, 1996; Warshak, 2000b).

Based on 10 studies, Wallerstein and Tanke (1996) argued for a presumption in favor of the custodial parent's relocation with the children. They offered two justifications for this position. First, they argued for the overriding importance of "the family unit" that includes the primary custodial parent and children but excludes the other parent. Second, they represented that the scientific literature finds that frequent and continuing contact

between father and child has no relation to child adjustment. It seems contradictory that Wallerstein and Tanke beseech courts to hear the child's voice in relocation disputes, but they advocate a policy that places a priority on the preferences of the primary custodial parent and assumes that the best interests of the child are identical to those preferences.

In contrast, Warshak (2000b) concluded that a comprehensive and critical reading of a wider body of more than 75 studies generally supports a policy of encouraging both parents to remain in close proximity to their children. This conclusion is consistent with a substantial literature documenting both the long-term benefits to children of maintaining high-quality relationships with both parents and the harm associated with disrupted relationships. Warshak (2000b) also argued that relocation decisions are complex, with benefits and hazards usually attached to each possible outcome. Thus, such decisions require individualized determinations, rather than a formula uniformly applied to all cases.

Relocations involving very young children carry special risks. Living a long distance apart from a parent sets up formidable obstacles to establishing, maintaining, and strengthening healthy attachment relationships. As mentioned in connection with the discussion of blanket restrictions, good parent-child relationships generally develop in the context of regular and frequent contact in which the parents relate to the children through a broad range of normal activities. For these reasons, Kelly and Lamb (2002) recommended that relocations be postponed until the children are at least 2 or 3 years old and better able to sustain a long-distance relationship. Parenting plans for such young children whose parents live far apart too often reflect a grossly inadequate understanding of the development and the capacities of these children. An example is a schedule that alternates the residence of an infant or toddler every few months and thereby requires the child to sustain extended separations that overly tax the developing relationships with each parent. Although no studies of such schedules exist and the youngest of these children cannot put their distress into words, in my clinical practice these children communicate their discomfort to their parents with non-verbal behaviors.

For older children, relocation brings a different set of problems. Although these children generally want to maintain contact with the distant parent, to a great extent their lives revolve around the community in which they live. Relocation creates a conflict for children between participating in their usual social and extracurricular activities versus traveling to a parent (Shear, 1996; Wallerstein & Tanke, 1996; Warshak, 2000b). This fragmentation can be avoided to some extent when the distant parent travels to the child's location. However, that option has its own drawbacks. Shear (1998) recommended a balance between parent-child contacts taking place at the parent's location and in the child's community. Such a plan allows the child some experience of living with the parent and perhaps strengthening ties to a stepparent, stepsiblings, and half-siblings, and it spares the parent the loss of income associated with taking time to travel and the additional expense of securing lodging in the child's community. At the same time, it allows the distant parent to meet the child's teachers and friends and to attend special school events and extracurricular activities, and thus have a better first-hand understanding of the child's daily life (Warshak, 2000b).

Relocation brings potential benefits to children along with the hazards. In some cases the move may result in easier access to extended family, schools better suited to the child, safer com-

munities, improved emotional and financial status of the relocating parent, and separation from an abusive or disturbed parent. In general, the impact of relocation depends on a number of factors, including the nature of each parent-child relationship; the psychological status and parenting skills of both parents; the extent to which the relocating parent supports and facilitates the child's relationship with the absent parent; the nature, extent, and manner of expression of conflict between the parents; the distance in travel time between the two homes; the logistics of travel between the two homes (e.g., direct nonstop flights from an airport close to one home to an airport close to the other versus the need to change planes or drive long distances to and from airports); the degree of flexibility and control that the non-moving parent exercises over his or her work schedule; the economic resources available to support the travel necessary to bring child and parent together; the actual (as opposed to expected) benefits to the relocating parent of the move; the motives behind the move; and characteristics of the child such as age, temperament, and gender (Austin, 2000; Gindes, 1998; Kelly & Lamb, 2002; Wallerstein & Tanke, 1996; Warshak, 2000b).

Weighing and integrating all these factors is a tall order. Even decisions that appear at first glance to be easy may carry unexpected consequences. For instance, when apparently a parent will reap great benefits by moving, the other parent lacks the personality and skills to relate well to the children, and the children have a weak relationship with the nonmoving parent, most people might agree that the benefits of the move will outweigh the drawbacks (Braver, Ellman, & Fabricius, 2003; Kelly & Lamb, 2002). Yet, Shear (1998) raises important considerations that underscore the complexity of these decisions. If the children's contact with the parent with weaker skills takes place in the community where the children live, the contacts are apt to benefit from the structure of the children's regular extracurricular activities. One-on-one contact between parent and children will be reduced, because the children will be spending time in activities with peers. This places less of a burden on the parent to structure the children's time and supervise them and gives the children a more comfortable experience during the time away from the primary residential parent. Also, it allows the healthier parent to be more immediately available to the children in the event that the other parent's mental health or behavior deteriorates rapidly or unexpectedly. Living across the country makes it difficult to know, until it is too late, that the parent to whom the children are traveling to see for a month-long stay in the summer is on the verge of decompensating and incapable of providing or securing adequate child care arrangements.

Given the difficulty of relocation decisions, any study specifically on the impact of relocation would be welcome. Fortunately, Braver et al. (2003) have initiated this line of inquiry. Using a wide range of outcome measures, they examined 602 college students whose parents were divorced, 170 of whom had relocated with one parent more than an hour's drive away from the other parent. The students whose divorced parents remained in the same geographical vicinity had more positive outcomes than those who had a parent relocate either with or without the children. The outcomes included less hostility, inner turmoil, and divorce-related distress, and better reported global health, all of which predict lower risk of premature mortality. The students who did not experience the relocation of a parent also saw their parents more favorably as sources of emotional support and role models, and they received from their parents more financial help with and worried less about college expenses. Consistent with

this is a prior finding that the less contact children had with their fathers while growing up, the less their fathers contributed to college expenses (Fabricius, Braver, & Mack, in press).

In the context of prior research showing a link between less time spent with the noncustodial parent and weaker parent-child relationships, Braver et al. (2002) concluded that there is no basis to assume that a move intended to benefit the custodial parent will necessarily benefit the children. They interpreted their findings to suggest that, from the point of view of the child, the best policy may be to discourage divorced parents from relocating. They suggested that this could be accomplished through conditional change-of-custody orders (in which a change of primary custody takes place only if the custodial parent moves; such orders are not allowed in some jurisdictions), and they cited data showing that if such orders were imposed, they would be effective deterrents to the move in up to two thirds of cases (Braver, Cookston, & Cohen, in press).

Recent analyses (Kelly & Lamb, 2002; Warshak, 2000b), together with this latest study (Braver et al., 2002), support the impression that the collective voice of children would cry out that, if at all possible, parents remain in the same geographical area and thereby spare their children fragmentation in their living routines and the challenges to maintaining a meaningful relationship with an absent parent. As with other issues, in any individual case the child's voice and other factors may lead to the conclusion that the child's best interests are served with the relocation.

Conclusion

Unpacking the phrase "hearing a child's voice" is complicated. It makes a difference whether our objective is to use the child's perspective to enlighten and contribute to decisions, or whether we want to empower children to make the decisions themselves. One problem with radical empowerment is that adults can—and do—delude themselves into thinking that they are hearing a child's voice when, in fact, they may be receiving a distorted broadcast laced with the static of a charged emotional atmosphere; or the voice may be delivering a script written by another; or it may reflect the desire to placate, take care of, or pledge loyalty to a parent. When we have good reason to suspect that a child is speaking in a voice that is not his or her own or that does not advance his or her best interests, well-designed empirical research can assist parents, attorneys, mediators, custody consultants, and courts to hear what the child might say as an adult looking back on childhood and judging the decisions made on his or her behalf.

The voices of children, as expressed in the studies reviewed above, should inform public policy regarding children's contact with divorced and never-married parents. Rather than regarding the maintenance of relationships with parents in two homes as an unrealistic burden, legislatures, courts, parents, and their advisers should recognize that children can and want to maintain high-quality relationships with both parents and generally should be afforded the opportunity to do so.

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