

INTRODUCTION

Following a series of meetings and discussions during late 1997 and early 1998, the Washington State Supreme Court Gender and Justice Commission and the Domestic Relations Commission resolved to undertake a study of the Washington State Parenting Act.¹ The research questions to be addressed in the study were developed by the Subcommittee to Reduce Family Conflict and approved by the Commissions. See Appendix A for the complete text of the research questions.

In late spring 1998, the Gender and Justice Commission contracted with the author to conduct a study of the Washington State Parenting Act. The overarching goal of the study was to gather information about how parents seeking a dissolution of marriage make arrangements for parenting, and how those arrangements operate after the marriage is dissolved.

The Washington State Parenting Act Study has four distinct components. Each one of these components addresses specific research questions posed by the Commissions that illuminate the larger research goal.

What Parents Say:

This study component comprised focus groups with Washington State parents who have a court approved parenting plan. Ten focus group meetings were held at four locations around the state. The focus groups provided information about how parents formulate their parenting plans, their satisfaction with the civil justice system, how parents use their parenting plans, whether they are satisfied with their parenting plans, and whether they follow their parenting plans.

Findings include:

- Parents find the civil justice system hard to access and utilize.
- While some parents find every-other-weekend residential schedules acceptable, many are frustrated by this common schedule.
- Few parents exercise joint decision-making.
- Many parents follow their parenting plans rather loosely.
- Parents are profoundly frustrated by the lack of enforcement mechanisms when an ex-spouse is uncooperative.
- Domestic violence survivors find the civil justice system especially difficult to access and utilize, and often have plans they believe compromise their own and their children's safety.

What Providers Say:

This study component comprised structured, in depth, open-ended interviews with 47 professionals working with the Washington State Parenting Act. These key informants were recruited from throughout the state, and include judges, court commissioners, attorneys, family law facilitators, mental health professionals, parenting evaluators, guardians ad litem, and activists. The key informants were recruited to represent the breadth and diversity of professional experience working with the Parenting Act.

Findings include:

- Key informants strongly support the policy goals of the Parenting Act.
- Key informants, especially those who work with pro se litigants, believe that the process of getting a finalized parenting plan is extremely difficult for parents.
- Too few parenting plans are individually tailored.
- Joint decision-making does not work well.
- Mediation is useful for formulating parenting plans and dispute resolution except in cases involving domestic violence.
- The Parenting Act fails to adequately protect survivors of domestic violence.

What the Records Show

This study component comprised a standardized analysis of the contents of a representative sample of nearly 400 recently approved final parenting plans. The sample of plans was drawn from eight counties selected to reflect the social and economic diversity of Washington State.

Findings include:

- Forty-five percent of the plans provided for a primary residential parent and an every-other-weekend schedule of alternate residential time for the other parent.
- Among first plans, three-quarters of primary residential parents were mothers.
- Only a handful of plans provided for more alternate residential time than every other weekend, including 50/50 schedules.
- One-fifth of the plans included restrictions on one parent's residential time; one-third of these plans nevertheless had every-other-weekend schedules.
- Nearly one in every five plans has no specified residential schedule, leaving it to be agreed between parents or between the parents and the child.
- Three-quarters of plans specify joint decision-making.

What Experts Say:

This study component comprised a critical review of scholarly research on post-divorce parenting and child well-being. Over 100 peer-reviewed articles and monographs were reviewed. A bibliography and direct quotes from leading experts are appended to the review.

Findings include:

- No single post-divorce residential schedule has been demonstrated to be most beneficial for children.
- Absent high levels of parental conflict, there are no significant disadvantages to children of shared or 50/50 residential schedules. Nor are there significant advantages to children of shared or 50/50 residential schedules.
- Parental conflict is a major source of reduced well-being among children of divorce.
- Shared or 50/50 residential schedules have adverse consequences for children in high conflict situations.
- Shared or 50/50 residential schedules and frequent child nonresidential parent contact do not promote parental cooperation.
- Increased nonresidential parents' involvement in their children's lives may enhance child well-being by improving the economic support of children.

Organization of this Report

This report presents the detailed findings, and complete descriptions of the research methodologies for all four components of the study. Each component of the study is described and discussed in a separate chapter of this report, each of which may be read as a stand-alone report. Chapter summaries are presented at the beginning of each chapter.

Findings and recommendations and policy issues for discussion are presented after this introduction, before the four main chapters.

The complete list of research questions is included in Appendix A.

¹The Washington State Supreme Court established the Gender and Justice Commission in 1994 and the Domestic Relations Commission in 1996. The Gender and Justice Commission's mission is to promote gender equality in the system of law and justice through education; coordination and cooperation with other organizations; and programs and projects designed to eliminate gender discrimination and bias. The Domestic Relations Commission's objectives are: 1) to improve system access; 2) to create a system which reduces family conflict; and 3) to create a court process that is flexible and responsive to families involved in the justice system. The Office of the Administrator for the Courts (OAC) provides staff support for both Commissions.

FINDINGS AND RECOMMENDATIONS: POLICY CHALLENGES

The three most important findings of the Washington State Parenting Plan Study are:

1. The Parenting Act works well for most Washington State families.

Most parents are able to develop a workable parenting plan and come to a satisfactory working day-to-day relationship. These parents use their parenting plans as a fall back arrangement; their day-to-day parenting arrangements are flexible and responsive to their own and their children's changing needs. In these families, both parents sustain ongoing involvement in their children's lives.

2. There is widespread, strong support for the policy goals of the Parenting Act.

Washington State parents and professionals who work with the Parenting Act express strong support for the policy goal that post dissolution parenting arrangements should be based on serving the best interests of children. Parents and professionals strongly endorse the goal of continued, on-going involvement by both parents after a dissolution of marriage. Parents and professionals support the goal of the Act to provide parents with clearly defined, specific post dissolution parenting arrangements that are flexible and tailored to the needs of the individual child and family.

3. The provisions of the Parenting Act are consistent with the findings of scholarly research about post divorce parenting and child well-being.

Child development and post-divorce parenting experts agree that different families and different children have different needs for post dissolution parenting; the Parenting Act provides for such an individualized approach. Child development and post-divorce parenting experts agree that the best interests of most children are served by the continued involvement of both parents; the Parenting Act provides for on-going involvement by both parents. Child development and post-divorce parenting experts agree that 50/50 or shared parenting arrangements are only appropriate where parents have good relations, and they can harm children where parental relations are conflicted. The Parenting Act limits these arrangements to families where parental cooperation is high.

Despite these strong, positive findings, there are still opportunities for better serving the needs of Washington State's families. The following are some of the steps that could be taken. The list is undoubtedly not complete; some of the suggestions are mutually exclusive and others are redundant.

Some of the policy suggestions are beyond the remit of the Gender and Justice Commission. However, there is a clear role for the Commission in many of these activities, particularly in the development of informational materials and in the provision of training.

1. Provide parents with more information.

Parents need information on a variety of topics, including:

- The process of getting a parenting plan.
- The purpose and goals of the Parenting Act.
- Good language to use on a parenting plan (and language to avoid).
- Creative residential schedules.
- Creative extra provisions for making the plan work.
- What does joint decision-making mean and how is it done.
- What does it mean to be the custodian?
- What is mediation? How does it work? And which parents are (and are not) good candidates for mediation.
- When and how to invoke the dispute resolution mechanism.

This information could be provided in a variety of ways, including:

- More emphasis on the practicalities (and less emphasis on abstract or general information) in parenting classes.
- Workshops for divorcing parents.
- Help pages on the OAC website, including FAQs (frequently asked questions).
- Help sheets and FAQs distributed with parenting plan forms.
- Extended instructions on completing the parenting plan forms distributed with the forms.
- Help telephone lines or email lines.

Information of this type will be useful to litigants with or without attorneys, but will be especially helpful to pro se litigants.

2. Encourage more creativity and individualizing of parenting plans.

Too many Washington State parents have cookie cutter parenting plans that are centered on the every-other-weekend residential schedule. For many parents, this schedule works well; however, some parents find this schedule too limiting and

would be better served by more creativity in devising their parenting plan. Strategies to encourage creativity and individualizing include:

- Discourage the routine use of prescriptive alternate residential time guidelines in favor of informational materials.
- Disseminate information about diverse residential schedules and the benefits of individualizing residential schedules to attorneys, judges, court commissioners, guardians ad litem, court facilitators, and other professionals involved in the formulation of parenting plans.
- Provide parents with information about diverse residential schedules in the informational materials described in 1. on the previous page.
- Discourage the use of versions of the parenting plan forms that list only one or two possible residential schedules.

These days, fewer families follow traditional parenting arrangements where mothers are caretakers and fathers are breadwinners. The social and cultural meanings of motherhood and fatherhood have dramatically changed since the early 1970s. Creative schedules that offer alternatives to every other weekend will be better able to accommodate these changes in family life and parenting. Encouraging more individualization of parenting plans and less routine use of every other weekend is also consistent with the Parenting Act's goal of an individualized approach that serves the best interests of each individual child.

3. Strengthen protections for survivors of domestic violence and improve services to survivors of domestic violence.

Survivors of domestic violence reported a particularly difficult time accessing the civil justice system and securing parenting plans that adequately protect their safety. These problems appear to be related to the way the Parenting Act is implemented, rather than to shortcomings in the Act itself. Several measures could be taken to support domestic violence survivors.

- Develop special packets of information tailored to the needs of domestic violence survivors. This information should inform survivors of their right not to participate in programs that may be dangerous to them, such as parenting classes and mediation, and explain how to opt out of these programs.
- Improve awareness of issues relating to domestic violence as it relates to the Parenting Act among professionals working in the civil justice system. This might be achieved through workshops, bulletins, and other educational programs. This information should be available to judges, court commissioners, facilitators, mediators, attorneys, guardians ad litem, parenting evaluators, and so forth. These professionals should be alerted to the possibility of the use of harassment, intimidation, threats, and inappropriate trading by abusers, and encouraged to

recognize and redress such problems. These professionals should also be alerted to the threats to domestic violence survivors' safety posed by releasing addresses and other information to abusers.

- Encourage courts to clarify policies regarding domestic violence survivors' obligations to attend parenting classes and mediation. Encourage courts to develop and implement clear means for domestic violence survivors to opt out of these programs.
- Improve security for all parents working to develop a parenting plan.
- Clarify the circumstances under which *as agreed* and 50/50 residential schedules are permitted. These schedules should never be allowed in families with a history of domestic violence.
- Examine the routine use of the every-other-weekend residential schedule. Encourage judges and court commissioners to pay special attention to whether this residential schedule is appropriate for families with a history of domestic violence.
- Clarify which agencies and individuals are appropriate as supervisors of alternate residential time and of exchanges of children. Generally, members of the abusers' family and friends are not appropriate supervisors.
- Clarify the circumstances under which joint decision-making is permitted. This should never be allowed in families with a history of domestic violence.
- When domestic violence is alleged, or where professionals working in the civil justice system suspect domestic violence has occurred, an immediate broad-based investigation of the charges must be ordered, including a risk assessment of the potential danger to the victim posed by the abuser. Early, comprehensive parenting evaluations by a single, outside evaluator should also be considered.

In combination, provisions like these can reduce the likelihood of a domestic violence survivor encountering her abuser in the context of developing her parenting plan and can reduce the number of hurdles a domestic violence survivor must clear before securing a final decree of dissolution and parenting plan. These provisions may also reduce the number of parenting plans that require unsafe encounters between a survivor and an abuser.

4. Improve the mandatory parenting plan forms.

At present, several different versions of the mandatory parenting plans forms are in circulation and use. Some of the versions are poorly printed. All are difficult to use.

Strategies to improve the mandatory forms include:

- Enhance the layout and graphic design of the form.

- Improve standardization of the form.
- Provide comprehensive directions for completing the form on the form itself (perhaps on the reverse side of pages, or on the left-hand page of a side-by-side layout).
- All forms should include information about whether this is a first or modified plan, the place of residence of the parents, and whether the parents were pro se litigants.

5. Clarify and maintain restrictions on shared or 50/50 residential schedules.

Child development and post-divorce parenting experts agree that shared or 50/50 residential schedules can harm children when parental relations are conflicted. This information, together with information about the limits the Parenting Act places on shared or 50/50 residential schedules, should be disseminated to parents and professionals working in the civil justice system. While these schedules should be supported for families where they are mutually sought, and are practical, they should not be permitted in families where parental relations are conflicted.

6. Discourage *as agreed* plans.

Plans that do not specify a residential schedule, but leave arrangements to be agreed between parents or between the child and the parents, appear to be contrary to both the spirit and the letter of the Parenting Act. Since parents always have the option of informally agreeing to vary the residential schedule, plans with *as agreed* residential schedules should be discouraged. If these plans are to be permitted, the circumstances under which they are allowable should be specified and this information disseminated. *As agreed* plans should never be approved for families with a history of domestic violence or conflicted parental relations.

7. Reconsider the routine use of joint decision making in parenting plans.

Most parents do not adhere to the joint decision-making provisions in their plans, and most professionals believe these provisions promote conflict. Parents should be provided with more information about the intent and meaning of joint decision-making and should be encouraged to formulate individualized plans for decision-making, rather than routinely adopting joint decision-making. Joint decision-making should never be approved for families with a history of domestic violence.

8. Enhance the dispute resolution provisions in parenting plans.

Dispute resolution provisions should provide detailed, step-by-step directions for invoking the dispute resolution mechanism. Information to this effect should be disseminated to professionals involved in the formulation of parenting plans and to parents. Court commissioners and judges should not approve plans that do not tell parents exactly how to invoke the dispute resolution procedure.

9. Strengthen monitoring and enforcement of parenting plan provisions.

Parents need a clear recourse if their ex-spouses refuse to follow the parenting plan, attempt to undermine the parenting plan, or engage in other abusive behavior.

- The authority of the court to deal with these issues should be clarified.
- At the time the parenting plan is finalized, parents should be provided with clear information on how to report violations of the parenting plan and how to seek redress.

10. Support efforts to improve the standard of practice for professionals working with the Parenting Act.

Mediators, guardians ad litem, parenting evaluators, parenting class instructors, and other professionals working with the Parenting Act have made significant strides toward enhancing their professional standards of practice. This has been accomplished through links to state, national, and international professional organizations that provide training, accreditation, and codes of conduct. These efforts should be commended and supported. Standards of practice can also be enhanced by the provision of clear guidance from the courts about the appropriate roles of these professionals working with the Parenting Act. The Gender and Justice Commission can help in this effort by assisting with training on a range of issues, including issues related to gender fairness and domestic violence.

11. Clarify the situation with regard to relocation of the primary residential parent.

Most parents and professionals working with the Parenting Act believe the present situation, with regard to the relocation of the primary residential parent, is too uncertain. The present situation should be clarified and improved procedures to handle relocations should be developed.

12. Enhance parenting classes.

Nearly all professionals working with the Parenting Act, and many parents, believe that parenting classes are extremely valuable. These programs could be further enhanced in a number of ways.

- Expand the amount of specific information about the process of getting a final parenting plan.

- Consider holding classes in locations (e.g., community centers) and at times (e.g., evenings and weekends) that are more easily accessible to parents.
- Consider directing parents seeking a first parenting plan and parents seeking to modify a parenting plan to separate classes.
- Reconsider mandatory parenting classes in favor of voluntary classes, so that resources can be directed at those most likely to benefit from them. Or consider separating parents who wish to attend from parents ordered to attend.
- Survivors of domestic violence should not be required to attend parenting classes. Specialized information should be made available to domestic violence survivors.

CHAPTER 1

WHAT PARENTS SAY: WASHINGTON STATE PARENTS TALK ABOUT THE PARENTING ACT

**Report to the Washington State
Gender and Justice Commission
and
Domestic Relations Commission**

**Diane N. Lye, Ph.D.
June 1999**

SUMMARY

In late spring 1998, the Washington State Supreme Court Gender and Justice Commission and the Domestic Relations Commission began a study of the Washington State Parenting Act. One of the goals of the study was to gather information about parents' experiences with the Parenting Act. The Commissions were particularly interested in learning about how parents formulate their parenting plans; their satisfaction with the civil justice system; how parents use their parenting plans; whether they are satisfied with their parenting plans; and whether they follow their parenting plans.

Methodology

Ten (10) focus groups with Washington State parents with a court-approved parenting plan were held at four locations around the state. Focus group participants were recruited through the Office of Child Support listing of parents and through community organizations. The researcher led the participants through an informal, nondirected discussion of the parenting plan, the civil justice system, and post-divorce parenting.

Findings

Most parents develop their parenting plans as pro se litigants and find the civil justice system extremely difficult to access and utilize. Parents who have legal representation express dissatisfaction over its cost. Parents find the mandatory parenting plan forms hard to use. Parents have limited information and few places to seek help. As a result, parents often end up with "the standard plan" or "what most people do."

Most parenting plans provide for an every-other-weekend residential schedule. Many primary residential parents regard this as the most practical and workable schedule. But many nonprimary residential parents regard every other weekend as too little time and inimical to real parenting. Some parents favor 50/50 arrangements, but most parents regard this as impractical and undesirable. There appears to be considerable support for arrangements that provide the nonprimary residential parent with more time than every other weekend, while still having the child live most of the time in one household.

Most parenting plans provide for joint decision-making. Few parents follow this provision. Generally, the primary residential parent exerts greater control over decisions. Primary residential parents tend to view this as most practical; nonprimary residential parents tend to view this as an expropriation of their parental authority.

Most parenting plans provide for dispute resolution by mediation. Most parents had little information about mediation and did not know how to invoke the dispute resolution

procedures in their plans. Most parents were skeptical about the likely success of mediation.

Most parents adopt a flexible approach to following their parenting plans, making adjustments to adapt to changing circumstances. However, a significant minority of parents follow their plans quite closely, and a smaller, but troublesome, minority refuse to follow their plan and seek to undermine it. Parents whose ex-spouses refuse to cooperate are extremely frustrated at the lack of an enforcement mechanism other than going to court, and live with constant uncertainty and anxiety about parenting issues.

Domestic violence survivors have particular difficulties negotiating and using a parenting plan. They find the civil justice system particularly hostile. Their abusers often attempt to use the civil justice system to continue to harass them by stalling the process or by showering them with bogus paperwork. Domestic violence survivors may also encounter unsafe situations as they navigate the system, when, for example, they are required to attend parenting classes and their abuser is present, or if they are pushed into mediation. Some provisions in the final parenting plan may also be unsafe, or allow for continued harassment of domestic violence survivors, including unsupervised exchanges of children and joint decision-making.

1. PURPOSE AND GOALS

In designing this research project, one of the most important priorities of the Gender and Justice Commission and the Domestic Relations Commission was to gather information about parents' experiences with the Parenting Act. The Commission was especially interested in parents' interactions with the civil justice system, how parents formulate their parenting plans, how parents use their parenting plans, and parents' satisfaction with the civil justice system and the provisions of the Parenting Act. In order to meet this research goal, it was essential to gather information directly from parents. In addition, the Commission was committed to developing information that would go beyond a straightforward description of current patterns, and would also provide insights into the processes that give rise to various outcomes. In order to meet this goal, an open-ended research format was preferred to a traditional survey approach.

The dual research priorities of the Commissions, to gather information about parents' experiences and to learn about processes, shaped the study design and methodology. Focus groups with parents with a current Washington State parenting plan were held at four locations around the state. These focus groups allowed information to be gathered directly from parents, while providing an open-ended, process-oriented research format. The information from the focus groups was supplemented with information gathered through interviews with professionals who work with the Parenting Act, and with information drawn from a sample of recent parenting plans (see Chapters 2 and 3).

In the course of conducting the focus groups with Washington State parents it became apparent that some of the research questions were overly narrow, or overly broad and, as a result, the research questions were rephrased. Information from other parts of the study, including interviews with professionals and the analysis of a sample of parenting plans, also prompted some rephrasing of the research questions.

The research questions addressed in this report include:

Questions about formulating a parenting plan:

- When, and from whom, do parents first learn that they must develop a parenting plan?
- Do parents receive adequate information about formulating a parenting plan?
- What discussions/negotiations take place as parents formulate a parenting plan?
- Who, if anyone, helps couples formulate a parenting plan?
- What post-divorce parenting issues are most difficult to resolve?

- Are false allegations, where one parent makes an untrue claim about the other parent in order to gain an advantage in a parenting action, a widespread problem?
- Are parents satisfied with the process of developing a parenting plan? What additional assistance would have been helpful? What parts could have been streamlined?

Questions about the mandatory parenting plan forms:

- How do parents use the mandatory forms in the process of formulating a parenting plan?
- Are the forms easy to use?
- Are the forms helpful to parents?

Questions about parenting seminars:

- What proportion of parents attend parenting seminars?
- What is the content of parenting seminars?
- Are the seminars helpful to parents?

Questions about mediation and arbitration:

- What proportion of parents attempt mediation or arbitration?
- When is mediation or arbitration successful?
- What are the limitations of mediation and arbitration?

Questions about post-divorce parenting:

- What are the most common post-divorce parenting arrangements in Washington State? Is there a “standard” parenting plan?
- How common is “shared parenting,” meaning arrangements where parents have equal or nearly equal residential time with their children after divorce?
- How do final, court-approved parenting plans compare to parents’ proposed parenting plans? Are parents getting what they want?
- How closely do parents follow their plans?
- When do parents go back to the civil justice system to modify a parenting plan? What are the most common modifications made to plans?

The focus group discussions of these topics were wide ranging. Frequently, not all the topics were covered in the allotted time, and often time was spent on issues that are not directly mentioned in the research questions. This additional information is included in this report (see 3. FINDINGS).

2. METHODOLOGY

The research questions outlined earlier (see 1. PURPOSE AND GOALS) focus on parents' experiences in formulating and living with parenting plans, and their satisfaction with these experiences. In order to address these questions, information was gathered directly from parents with a current Washington State parenting plan¹ in focus groups held around the state.

a. Advantages and Limitations of Focus Groups

Focus groups are small groups of study participants who meet to engage in a focused, facilitated discussion of a particular topic. Focus groups provide relatively detailed, process-oriented information about a topic in a naturalistic, conversation-like setting.

Focus groups have a number of significant advantages.

- Participants tell the investigator what they think is important about a topic in their own words. This is in contrast to survey-type research where the researcher must define the issues ahead of time.
- The topics for discussion are open-ended, so participants can provide as much detail as they think necessary and can explain the chain of events or processes that led to a particular outcome.
- Participants' interactions with each other increase the detail in the information and promote candor.
- Focus groups are efficient and cost effective, because a substantial amount of information is gathered from a small number of participants.

Thus, focus groups are an excellent research method in studies like the present one where the goals include issue identification and understanding the processes that give rise to patterns of outcomes.

The most important limitation of focus groups is that the participants in focus groups are generally not representative of the population as a whole. This means that information gathered in a focus group should not be assumed to be applicable to the population as a whole.

b. Participant Recruitment

In order to be eligible for participation in a focus group, individuals were required to be parents with a decree of dissolution of marriage and a current court-approved Washington State parenting plan, and living in Washington State². Identifying and contacting individuals who met these criteria was challenging because there is no single, statewide list of divorced parents that includes up-to-date address information. Court records, for example, do not contain up-to-date addresses. Parents were recruited to participate in the study by two means: through the Office of Child Support and through community organizations.

i. Recruitment through the Office of Child Support

The Office of Child Support (OCS) maintains the most complete list of divorced parents living in Washington State. The OCS list includes all divorced parents with a current child support order, whether as payer or recipient. Since nearly all dissolutions of marriage involving children have a child support order, the OCS list includes nearly all divorced parents. Moreover, the OCS list contains current addresses. The use of the OCS database is strictly regulated in order to protect the privacy of the individuals in the database. Therefore, OCS could not provide the names and addresses of divorced parents to the researcher. Instead, the researcher provided OCS with stamped envelopes containing a letter of invitation to participate in a focus group and a stamped, addressed reply card on which the invitee could provide his or her telephone number. The letter of invitation and the reply card are reproduced at the end of this chapter. OCS printed mailing labels for the envelopes and mailed them. In this way, invitations to participate in focus groups were distributed using the OCS list while protecting the confidentiality of the list.

Letters of invitation to participate in focus groups were mailed to 800 parents in King, Spokane, and Snohomish Counties (the three most populous counties in the group of eight (8) counties included in the analysis of parenting plans). The 800 invitees were selected at random from the OCS list by OCS computer staff, and included equal numbers of women and men and equal numbers of payers and recipients of child support. By design, no ex-husband-ex-wife pairs were included in the mailing to avoid bringing former spouses into contact with each other at the meetings.

Eighty-eight (88) invitees returned the reply card indicating that they would like to participate in a focus group. While this response rate, 11 percent, would be unacceptably low for survey research, it is within expected bounds for focus group recruitment, particularly where the initial contact is made by unsolicited letter. It is important to recognize that the parents who returned the reply card are not representative of the population of divorced parents as a whole. It is likely

that parents who were having difficulties with their parenting plans would be more motivated to return the reply card and attend a focus group. Thus, the focus groups help identify problems with the Parenting Act and the civil justice system, but do not provide any indication of how widespread those problems are.

The researcher contacted the invitees who returned the reply card by telephone to inform them of the date and locations of the focus group. All invitees who returned the reply card were contacted at least twice; once one month before the focus group and once five to three days before the focus group. Invitees who were eager to participate but who could not attend at the scheduled time were given the option of having a brief telephone interview with the researcher. Eleven (11) invitees elected to be interviewed. Their comments were combined with the materials from the focus group they were scheduled to attend.

Eight (8) focus groups were held with participants from the OCS list. Three (3) groups met in Seattle, two (2) met in Bellevue, one (1) met in Everett, and two (2) met in Spokane. A total of 52 parents participated in the groups, 24 men and 28 women. The group sizes ranged from three to eleven. One of the groups in Seattle was all-male. All the other groups were mixed gender.³ The focus group participants included members of diverse minority groups and people from a wide range of economic backgrounds.⁴ Although no ex-husband/ex-wife pairs were invited to focus groups, one woman brought her ex-husband, with whom she had a positive coparenting relationship, to the focus group. Three (3) focus group participants brought new spouses/partners with them to focus groups, and two (2) participants brought friends with parenting plans to focus groups.

ii. Recruitment through Community Organizations

In addition to the focus groups held with participants recruited from the OCS list, two (2) focus groups were held with participants recruited through community organizations. Numerous community organizations were solicited for help in recruiting focus group participants, however, only two organizations expressed an interest in becoming involved with the research: the King County Coalition Against Domestic Violence and Taking Action Against Bias in the System.

One focus group was held with participants recruited through the King County Coalition Against Domestic Violence. Ms. Toni Napoli, M.A., Chair of the Coalition and a psychotherapist who works with domestic violence and abuse victims, coordinated the recruitment of participants in this focus group. Ten (10) women attended the group, which was held in Seattle. The participants included members of diverse minority groups and people from a wide range of economic backgrounds. It was important to hold a separate focus group for victims of domestic violence and abuse as these women may not have felt able to share their experiences with the Parenting Act in a broader group⁵.

One focus group was held with participants recruited through Bellevue attorney Ms. Lisa D. Scott, who is a cofounder of a community organization called TABS: Taking Action Against Bias in the System. TABS' mission statement includes:

“TABS believes in presumptive custody, equal and shared without gender bias for both parents who have a record of responsible, caring behavior.”

Thus, TABS advocates a presumptive residential schedule that would give equal or nearly equal time to both parents, and Ms. Scott testified in favor of such a presumption to the State House of Representatives Judiciary Committee. Eighteen (18) men attended this focus group which was held in Bellevue. While some of these men described themselves as TABS activists, or as fathers' rights activists, others did not self-identify as activists. All these men, however, expressed the view that the civil justice system is heavily biased against men and fathers and felt that they had been unfairly treated by the system. It was important to hold a separate focus group for these men because they felt their experiences and perspectives tended to be discounted or minimized in a broader setting.

c. Focus Group Protocols

All the focus groups, whether recruited through the OCS list or through community groups, adhered to the following protocols:

- i. All focus group participants received a letter, signed by either Justice Richard P. Guy, former Chair of the Gender and Justice Commission, or Justice Barbara A. Madsen, current Chair of the Gender and Justice Commission, that explained the purpose of the Parenting Act Study and the focus groups in particular. The letter provided participants with the following reassurances:
 - Their involvement was entirely voluntary.
 - They had the option of participating anonymously (all printed materials including the RSVP card provided for this option also).
 - The research was being conducted by a researcher from outside the civil justice system.
 - Their remarks could never be linked to court records.
- ii. The researcher contacted all focus group participants by telephone prior to the focus group and invited participants to ask questions about the research.
- iii. All focus groups were held in community meeting rooms such as community centers and public libraries. The facilities were selected to be centrally located, easily accessible by public transport, and with ample free parking. The groups were held in private; that is, no observers were present and members of the general public were not present. Ms. Toni Napoli and Ms. Lisa Scott attended the focus groups they had helped organize but did not participate.
- iv. Childcare was available at the request of the focus group participants. Childcare was provided in an adjacent, but separate space (where the focus group conversation could not be heard by the children) by a Washington State licensed childcare provider.⁶
- v. As the focus group participants arrived at the meeting they were greeted by the researcher, offered refreshments, and invited to sign a sheet consenting to participate in the discussion for the specified research. The participants who did not wish to remain anonymous were also invited to sign a sheet authorizing the researcher to acknowledge their contribution to the study in the report. The participants received a cash honorarium of \$25 to help defray their travel expenses.

- vi. The researcher opened the focus group with a brief (five minute) introduction to the study goals and aims. Because the study goals were explicitly presented to the participants, no deception was involved in these focus groups. The researcher also advised the participants that she is not an attorney and could not provide legal advice.
- vii. After introducing the research, the researcher introduced a series of topics for discussion. The researcher did not offer opinions or responses to the topics, instead the conversations were allowed to continue naturally. If conversation lagged, or wandered too far from the topic, the researcher introduced a new topic. Occasionally, the researcher supplied prompts to steer the discussion. The same topic list was used for all focus groups and was as follows:
- Tell me about how you got your parenting plan. Where did you get information? Who helped you? What was the process like?
 - Tell me what you have in your parenting plan. Is that typical? Do you like your parenting plan?
 - Do you and your ex stick to your parenting plan? How do you use it? When do you not follow it? When and why not?
 - Do you and your ex make decisions together?
 - If you came into money and wanted to take your kids on a trip, say to Disneyland, would you feel comfortable buying nonrefundable plane tickets?
 - Did you ever try mediation? How did that work for you?
 - Did you ever attend a parenting seminar or class for divorced or divorcing parents? Was that helpful?
 - Have you ever thought you might want to change your parenting plan?

Notice that although the topics are phrased as questions, the questions are left vague and open-ended. This is consistent with the format of the focus group as an open-ended discussion in which the participants define what is most important through their conversation. This approach is most consistent with the goals of the study as defined by the Gender and Justice and Domestic Relations Commissions.

- viii. After 75 minutes of discussion on the topics listed above (in point vii.), the researcher drew the conversation to a close, whether or not all the topics on the list had been discussed. During the final 15 minutes, the participants were invited to summarize their main concerns and to mention any matters that had not yet been discussed that they thought were important for the Commission to hear. By following this schedule, the focus groups were completed in 90 minutes.
- ix. All focus groups were tape recorded (audio only), and the tapes were transcribed. The findings reported in the next section are based on multiple listenings of the tapes, together with readings of the transcriptions, and a computerized search of the text to scan for commonly used phrases and words (e.g. “child support” “visitation”, etc.).

3. FINDINGS

This section presents the findings from the focus groups. Consistent with the open-ended, nondirected nature of focus group research, the material is presented thematically and is organized around the themes that recurred most often in the focus group discussions. Some direct quotations from the focus groups are presented in this section. These quotations are typical statements indicative of widely stated views. For ease of identification, quotations from the focus groups are presented in italics.

The organization of this section is as follows. The section begins with a discussion of parents’ experiences finalizing a parenting plan. The next three sections talk about the three main sections of a parenting plan: the residential schedule, decision-making, and dispute resolution. Next, information about parents’ perspectives on parenting classes is presented. Finally, parents’ accounts of how they actually use their parenting plans and what problems they encounter, are presented. This order of subject matter does not reflect the significance parents attached to each of these issues nor the amount of time parents spent discussing each of these issues.

(1) Getting a Parenting Plan

All the focus groups began with a discussion of how the participants got their particular parenting plans and what sources of information they had relied upon. The participants’ experiences varied greatly. Some had worked with attorneys, but most had not. Some had begun the process as pro se litigants and had later sought the help of an attorney. Some had begun by working with an attorney but had completed the process unassisted. A few had worked with more than one attorney. Some of the participants described their dissolutions as “very straightforward” or as “agreed,” while others recounted their experiences through protracted legal battles. Only a few, however, had actually gone to trial. The

members of the two focus groups recruited through community organizations were more likely to have gone to trial than the participants recruited through the OCS lists.

In describing their experiences formulating, negotiating, and finalizing their parenting plans, the following themes were most important:

i. Access to the Civil Justice System and Information – Pro Se Litigants

Most parents, as pro se litigants, first learned about the Parenting Act when they obtained a packet of mandatory forms necessary to complete the dissolution of marriage process. For parents the parenting plan form was one more lengthy, complex form among a rather large packet of forms.

Rather than approaching completing the parenting plan form as an opportunity to discuss their child's well-being, many parents seem to have viewed completing the form as a necessary chore and expressed the attitude that it was simply a routine formality.

“I got all the paperwork for my divorce from a community center. I think it was free. It [the parenting plan] was one of the forms. I did it all myself, on the kitchen table.”

Overburdened courthouse staff, such as facilitators, who steer people through the process may inadvertently reinforce the notion that completing the parenting plan form is routine. Many participants, when faced with the lengthy and highly detailed parenting plan form, asked courthouse staff, “What do most people do?” and, as will be discussed later, were advised that the so-called every-other-weekend schedule was most normal. Other parents gleaned the same information from friends and acquaintances.

“I bought a packet of forms and someone down at the courthouse told me how to fill them out. She said it was standard.”

Another factor in many parents' perception that completing the parenting plan forms was routine and standardized was the use of guidelines in some counties. County guidelines typically outline residential schedules that are deemed appropriate for children of various ages. Some county guidelines, like those in Spokane County, for example, are lengthy, detailed documents. The Spokane guidelines were based on the work of an internationally renowned panel of child development experts and provide rationales for the proposed schedules. They also encourage parents to review the guidelines and assess the guidelines' applicability to their own child. Thus the guidelines are intended as informational. Other guidelines, like those in Yakima County, for example, are

brief and prescriptive—they tell parents what they should do. Many parents in the focus groups believed the guidelines were the law—that they had no choice in the parenting plan.

“Why do they make you fill out that stupid form when it’s all fixed anyhow. They should just give you a copy.”

“We thought we could pretty much decide ourselves. But the judge said we had to do this [every other weekend] because of the state guidelines. What a crock. . . . We know our kid best.”

For many pro se litigants the civil justice system was clearly overwhelming and extremely difficult to access and use. Many focus group participants recounted their struggles in trying to understand what was required of them and their struggles to get help in the system. Parents regarded “the system” with suspicion and dislike. For parents, dealing with “the system” is extremely stressful. One woman humorously recounted the following experience, laughing at her earlier naivete:

“One day I got this letter—more of a form really. Well every time anything came from the courts I was a mess right away—thinking it was my ex—you know—trying to mess with me. So when I opened it up I couldn’t make sense of it—something about a dissolution of marriage and seeing a court commissioner. I freaked. What was all that stuff about marriage? I wanted a divorce. And I didn’t know who a court commissioner was. I decided I’d better go down there and try and sort it out. So I called work and told them I wouldn’t be in the next day—the whole nine yards. Then that evening, I got to thinking, and I realized it was just my appointment to go and get the papers signed. But that’s what it’s like—you’re in such a state that you can’t think straight and there is all this paper.”

Many focus group participants said they wished they could have accessed low cost legal advice. A few had tried Internet web-sites but expressed concerns about the accuracy and reliability of the information.

None of the participants in the focus groups had accessed any free legal services. A few knew about or had tried to access low cost legal services, available through law schools and community organizations, but these focus group participants were extremely critical of these services, regarding them as second best or as worse than going unrepresented. Focus group participants were especially critical of community organizations using paralegals to provide advice and assistance.

None of the parents in the focus groups had accessed so-called unbundled legal services, where litigants pay a flat fee to an attorney to prepare a specific document or perform a specific task.

Parents perceived family law facilitators as overburdened and as hard to get to talk to. They tend to interpret facilitators' refusals to provide legal advice as either an unwillingness to help or as a desire to push all parents into the same plan.

Although all the focus group participants expressed frustration with the civil justice system, the women who were survivors of domestic violence were particularly vocal and appear to have found the experience especially difficult. They described waiting around for days, not knowing where to go at the courthouse, or who to talk to for help. They described hearings as brief and impersonal where they felt disrespected, demeaned, or ignored.

"I came tonight because I thought there'd be a judge here. I want to talk to one of them so bad. [Researcher: What would you say?] If I could talk to my judge I'd tell her, 'I'm a person just like you. I'm smart; I'm a professional. Look at me. [She begins to cry.] I've got a good job and I'm raising three kids on my own, and I never see a child support check. But four years ago when I was on my knees pleading for help you [the judge] crushed me.'" [Researcher: How?] "It wasn't anything she did. It was what she didn't do. She never even looked at me. Just sat there, leafing through papers while he smarmed and slimed."
Other women: *"They're all like that. It's always like that. Yeah."*

Many of these women also felt that their abusive former spouses had been able to use the system to continue their abuse and harassment—by showering them with legal paperwork requiring responses and causing confusion and fear. One woman in the domestic violence survivors' focus group had spent so much time attending to bogus legal matters raised by her abuser that she lost her job.

Thus, most parents in the focus groups began the process with inadequate information about the Parenting Act. Parents received and completed the mandatory forms with little or no guidance about the purpose and intent of the forms. Few parents saw completing the forms as an opportunity to reflect about what would best meet the needs of their child. Rather, with limited access to additional information or to creative ideas about how to develop a parenting plan parents did what they understood, through folklore or informal advice, to be "the usual thing." When parents were provided with guidelines, they tended to interpret them as rules (as indeed they are in some counties). Parents experienced the civil justice system as baffling, confusing, overwhelming, and occasionally as abusive.

ii. Access to the Civil Justice System and Information – Litigants With Attorneys

A minority of the parents in the focus groups began the process of getting their dissolution of marriage with legal representation. These parents learned about the Parenting Act and the legal process from their attorneys.

It might be expected that parents with attorneys would be better informed about the Parenting Act and its goals, and would have seen greater creativity and flexibility in the process of authoring a parenting plan. For the most part this was not the case. Like their pro se counterparts, parents who had attorneys often saw completing the parenting plan forms as routine and standard.

“We didn’t know anything. We asked the lawyer what most people did.”

“Our lawyer—well actually my wife’s lawyer, although I paid the bills, told us we had to have a parenting plan. She made out like it was a standard deal, no big thing. It was only later when I realized I should have had help.”

As is discussed elsewhere (see What Providers Say), many attorneys adhere to the view that there is a standard plan that “most” parents should and do have.

Very few of the focus group participants had anything positive to say about their attorneys. Most participants, who had attorneys, grudgingly admitted, as they heard the stories of their pro se counterparts, that their attorneys had helped them get through the system.

Anti-lawyer rhetoric was a recurrent theme in all the focus groups. Many participants claimed that their attorney (or their ex-spouse’s attorney) had deliberately stirred up conflict in order to prolong the process and increase their fees. A few of the pro se litigants mentioned a belief in this phenomenon as a rationale for not seeking legal assistance.

An important caveat must be noted here. The parents in the focus groups, whether or not they had legal representation, were extremely critical of the civil justice system and the professionals who work in the civil justice system. However, it is unlikely that individuals reflecting on their divorce experiences are able to separate their feelings about “the system” or “attorneys” from their broader emotional state at the time. Divorce is a difficult, emotionally painful, and stressful time, and people’s opinions about the civil justice system are likely to be colored by their emotional state at the time of their divorce.

Occasionally, the researcher asked focus group participants to consider the possibility that their highly negative evaluations of the civil justice system

reflected the negativity of the divorce experience. Many of the focus group participants agreed that they were evaluating the emotional process of getting divorced as much as they were evaluating the legal process. One man remarked:

“I didn’t want to get divorced. I was dumped. So I hated everyone and everything that was helping me get dumped—the judge, her lawyer, my lawyer, the lady receptionist at the courthouse. I hated it and I hated them.”

Most focus group participants had no suggestions for how the civil justice system could be improved. A few suggested that excluding attorneys from the process would help, but most people rejected this idea.

iii. Costs

Almost as soon as the discussions of formulating and negotiating a parenting plan began parents spoke about the high costs of getting a dissolution of marriage. Many of the pro se litigants said that they would have preferred to have legal representation but could not afford it. Participants who had approached attorneys reported that attorneys often gave figures between \$1000 and \$5000 for a “simple, uncontested divorce.” Some participants reported being asked to pay attorneys’ advances or retainers of \$1,000 or more. Parents in Spokane generally reported lower amounts—several said that their expenses had totaled around \$500.

Focus group participants who had worked with an attorney often reported that their legal bills had been very high. Several reported figures of \$10,000 to \$15,000, and many parents reported that they had sold property, including real estate, cars, and boats, to cover legal expenses. One parent observed:

“I spent my kids’ college tuition on legal fees.”

This remark stimulated considerable discussion. Many parents expressed the same sentiment, but parents were divided about whether the expense had been worthwhile. Some said they believed that what they were fighting for (generally more residential time) was so important to their child that they would do it over. Others, however, concluded that the advantages of a college education outweighed the benefits of more time with them. A few observed that the conflict itself had been detrimental to their children.

The fathers who participated in the focus group organized by Ms. Lisa Scott reported the highest legal expenses; two of these fathers had gone bankrupt.

Although most parents focused on attorneys’ fees as the central component of the high costs of divorce, parents also mentioned other expenses, including the costs of parenting classes, mediation, parenting evaluations, and supervised residential

time. Many parents, including some of the pro se litigants, reported incurring large expenses for these services, and some parents were angered that they had to pay for services that were court-ordered and that they did not want. Others were angered at having to pay for services they believed had not benefited them. One woman, a participant in the domestic violence survivors focus group, explained that she had given up trying to get a divorce and parenting plan once a parenting evaluation had been ordered as she had no money and felt the evaluation would be biased against her. Instead, she had kept herself and her children hidden from her abusive husband.

Many of the focus group participants pointed out that the high costs of getting a dissolution of marriage can introduce inequities into the civil justice system, especially when one ex-spouse can afford legal help, and private parenting evaluators, mediators, and so forth, and the other can not.

“It’s not a man woman thing—it’s a dollars and cents thing.”

Domestic violence survivors were particularly vocal about inequities in the civil justice system. Many of them had fled situations where they believed their lives (and their children’s lives) to be in danger and had no resources whatsoever.

Many participants expressed the view that they had not secured the parenting plan they wanted because they could not afford any, or good enough, representation. Among these participants, some had agreed to parenting plans because they had run out of money. A few talked about one day modifying their parenting plans, if they could ever amass enough money to “really fight.” But most parents held such negative views of the civil justice system they said they would never go back to the courts.

Despite these problems, the parents in these focus groups did not view the Parenting Act as the cause of the high legal fees. There was a widespread view that “custody battles” are expensive whatever the legal environment. Some parents used this observation to explain why they had refrained from contesting the residential schedule with their ex-spouse. Others argued that their rights to parent were so fundamental that any expense was justifiable, and even that the state should assume the expenses. Parents were far more likely to blame “the system” meaning judges, court commissioners, and mental health professionals for the high costs than they were to blame the law. But most parents in the focus groups blamed attorneys for the high costs.

iv. Time

Most parents in the focus groups believed that the process of getting a dissolution of marriage and establishing a final parenting plan was too slow. Parents complained about long waits to meet court-imposed requirements (such as attending parenting classes or undertaking mandatory mediation). Most parents, by the time they obtained the packet of forms, had decided to divorce, had an outline of the arrangements they wanted in mind, and were eager to formalize their arrangements and get on with their lives.

Some parents reported that as the process dragged on, relations with their ex-spouse deteriorated, and the lengthy process promoted conflict rather than a businesslike relationship.

Some parents reported that their ex-spouses deliberately slowed the process, for example, by refusing to attend a mandatory class in an effort to harass them. In King County the wait for a parenting seminar is six weeks. If one parent refuses to attend the one s/he is originally scheduled for, it may be a further six to eight weeks before family court services reschedules the parent. Depending on the circumstances, the court may wait until a parent has missed three or four scheduled classes before waiving the requirement that both parents attend. Recalcitrant parents can use mediation and parenting evaluations in a similar way to slow the process. Domestic violence survivors were particularly likely to report that they had been harassed in this way.

v. The Mandatory Forms

As already noted, many of the parents who participated in focus groups approached developing a parenting plan as a routine task involving the completion of the mandatory forms. However, whether or not parents viewed completion of the forms as routine, they were very critical of the forms. Parents found the forms extremely difficult to understand and complete. Many pro se litigants reported making several trips to the courthouse before satisfactorily completing the forms.

Common problems included:

- Parents misunderstood the list of factors that can justify restricting one parent's residential time. Some parents thought they had to check at least one of the factors and that these factors constituted the "grounds" for the divorce.
- Parents misunderstood the residential schedule and had difficulties specifying the schedule they wanted.
- Parents did not provide adequate detail in the transportation arrangements.

- Parents did not realize that decision-making is separated from the residential schedule and failed to complete this part of the form.
- Parents did not complete the dispute resolution mechanism part of the form.
- Parents did not understand the designation of custodian and either left it blank or interpreted it as applying to residence or decision-making.

The focus group participants favored simpler, more clearly printed forms. Many also said they would have liked an instruction booklet with the form or even as part of the form.

vi. Trading

A dissolution of marriage necessarily involves negotiation between the parties as they divide their property and make arrangements for their children, and some of these negotiations involve the parties in trading. However, the Parenting Act intended to emphasize that children are not property, and that time with children should not be traded in divorce proceedings. Despite this goal, parents in the focus groups reported that parents frequently made trades involving time with children.

Common trades included:

- **Time for Money**
Some mothers reported that their ex-husbands had sought more residential time in order to reduce their child support obligations. The law allows for child support to be adjusted downwards if the child spends more than 35 percent of overnights in the paying parent's household.
"He fought for 35 percent of the time. And he got a break on his child support because of it. But now he doesn't show up."
- **Time for Money**
Some fathers reported that they made informal deals with their ex-wives to have extra residential time beyond that contained in the parenting plan by promising not to seek to reduce their child support obligations.
"I buy the time with my kids. Who knows what she spends it on—not the kids that's for sure. But it's worth it for me to see them more often."
- **Time for Dropping Domestic Violence Charges**
Some domestic violence victims reported that their abusive ex-husbands had threatened to fight to be primary residential parent unless the woman dropped her domestic violence allegations.

Summary

The parents who participated in the focus groups found the process of developing and finalizing a parenting plan extremely arduous. Parents had little information, found the system unfriendly, and had little success accessing possible sources of assistance. Parents found the mandatory forms very difficult to work with. Parents found the process extremely costly and too slow. Faced with these difficulties, many parents adopted a rather routine approach to filling out the parenting plan forms.

b. The Residential Schedule

For the parents in these focus groups the residential schedule IS the parenting plan. When asked to talk about their parenting plans, parents invariably talked about their residential schedules and only provided additional details about their plans when specifically asked. Parents who considered their divorce and the finalizing of their parenting plans to have been straightforward meant that there had been no significant conflict over the residential schedule. Parents who had been involved in a protracted dispute had invariably been at loggerheads over the residential schedule.

i. Language

As noted elsewhere (see What Providers Say), the goal of the Parenting Act to eliminate the language of custody and visitation had not been achieved. Just as most providers speak about custody and visitation, rather than about residential time, so do most parents. But parents also use the new language, speaking of “residential time,” or simply saying where their children live at various times. The following is a common account of a particular residential schedule:

“The kids live with me most of the time but they live with their dad every other weekend and for half the summer.”

In other words, while the old language of custody and visitation is not gone, the new language of residential time has become quite widely used. In fact, the language of residential time is more widely and consistently used among parents than by the providers who were also interviewed for the research (see Chapter 2, What Providers Say).

ii. Every Other Weekend

By far the most common residential schedule, comprising nearly half of all plans, is the so-called every-other-weekend schedule (see Chapter 3, What the Records Show). Under this arrangement children live with a primary residential parent

most of the time, and have residential time with the other parent every other weekend (typically Friday after school till Sunday evening) and one evening a week (from after school until 8 or 9 o'clock). As noted elsewhere (see What Providers Say), this arrangement is promoted by many professionals working in the civil justice system as well as by county guidelines.

Many primary residential parents are satisfied with every-other-weekend schedules. These parents view this arrangement as practical and sensible. Primary residential parents are particularly concerned that the school week should not be disrupted by additional overnights with the other parent.

“Let’s be honest. We all want more time with our kids. But you can’t have it all. That’s part of getting divorced. You have to be practical.”

“My ex wanted the kids to stay over with him Wednesday or Thursday night. I fought that. It just shows how much he knows. They need to be home on school nights. I wouldn’t let them sleep over with a friend on a school night.”

“Really you have to do every other weekend. Anything else gets too complicated what with their activities and all.”

“Even that Wednesday visit is too much really. They’re exhausted by it, and I see it the next day. They’re always wiped out after his weekends. So I really think every other weekend is about the best you can do.”

“I read in a book that parents should live close enough to each other that the kids can ride bikes between houses. Then the kids can see both parents as often as they like. But that’s just not realistic for most people.”

In contrast, many nonprimary residential parents viewed every-other-weekend schedules as unfair, token, and completely unacceptable. Many parents were very angry about this schedule.

“Every other weekend sucks. You spend all your time in the car and that’s not really being in your kid’s life. It’s just a visit.”

“You need to be with your kids on regular days—not just weekends. You need to see them day to day—when they get in from school, doing homework, all that stuff.”

“They can call it residential time, but it’s the same old ... a visit.”

For many parents the every-other-weekend schedule had been a source of conflict.

“Of course I fought. When my lawyer said I could get every other weekend, I said, ‘No—she can get every other weekend—they can live with me.’”

“It makes you fight—you can’t be a parent on 26 weekends. So if you want to be a parent, a real parent, you fight.”

iii. 50/50 or Shared Parenting

Although very few court approved parenting plans provide for 50/50 schedules (see Chapter 3, What the Records Show) a significant minority of parents at the focus groups had experimented with these types of schedules at one time or another.

“I call it reality based parenting—and it works great.”

“We did 50/50 while we were getting the legal stuff together and it worked fine. But then the court said we had to follow the guidelines. And that’s when the fight began.”

Some of the nonprimary residential parents who were dissatisfied with the every-other-weekend schedule favored 50/50 schedules. They argued that these schedules were fairest to the parents and that a legal presumption in favor of these schedules would reduce conflict between parents.

“The restrictions on 50/50 are unfair. They say you can only do it if there is no conflict. But there’s always conflict when a marriage ends. And that means one parent can veto 50/50. Women have no incentive to even try—because the court will most likely favor the mother.”

However, many parents, including some with every-other-weekend schedules that they disliked, felt that 50/50 schedules were unfair to children and put parents’ wants above children’s needs.

“Fifty/fifty sounds OK—but it’s not good for the kids. They need a home. And what if the parents can’t both live close to school. There are too many practical problems. But there has to be something better than every other weekend.”

“I don’t want 50/50—my son needs a place to be and his mom does a good job. But you can’t be a real parent every other weekend.”

iv. As Agreed

About one in every five plans does not specify a residential schedule but instead leaves the schedule to be agreed between the parents. A few of the parents in the

focus groups had this type of schedule. Most of them were pleased with the arrangement and found it workable. However, all of them were concerned about the possibility of changing circumstances and of not continuing to agree with their ex-spouse.

v. Gender Bias

All the male focus group participants and many of the female participants believe that the civil justice system is biased in favor of mothers so that mothers are more likely to become the primary residential parent.

“The bias works both ways. The feminists only care about getting child support and the conservative judges think the only way to be a dad is to be a breadwinner.”

This study was not designed to assess the extent of gender bias in the system, and thus we do not know whether this perception is accurate or not. To be sure, mothers are the primary residential parent in 75 percent of first parenting plans. But mothers and fathers are almost equally likely to be primary residential parent in modified parenting plans. Furthermore, the prevalence of mothers as primary residential parents does not by itself provide evidence of gender bias. The high prevalence of mothers as primary residential parents may reflect other factors such as the parents’ preferences.

Even so, the fact that most parents believe the civil justice system to be stacked in favor of mothers is worthy of note and attention. There may be widespread, systematic bias. Or the belief in bias could be based on parents hearing about a few isolated events, the behavior of a few individuals in the system, or events that happened in the past. Even when fathers had successfully become the primary residential parents, they still viewed the system as biased.

“I don’t think the judge in my case was biased—he was fair. After all, the kids live with me most of the time. But I think the system as a whole is biased against dads.”

In contrast to most of the focus group participants, who felt that the courts had a fairly straight forward pro-mother bias, women who were survivors of domestic violence felt that the bias in the civil justice system was more complex.

[Participant 1]: *“I think they favor the mom unless you somehow get labeled a bad mother. And once you get that label you can’t get rid of it—no matter what you do, no matter how awful your husband is, even if it was never true.”*

[Researcher]: How do you get the label?

[Participant 1]: *“Well maybe if your husband says you drink or take drugs.”*

[Participant 2]: *“And then they believe him and not you. That’s the real bias in the system.”*

[Participant 1]: *“And sometimes you get the bad mom label just for telling someone you were battered. It’s like if you were a real woman, a good mother he wouldn’t have hit you.”*

[Participant 2]: *“And they take what he says much more seriously than what you say. Drinking is more serious than hitting.”*

Another women in a different focus group provided a similar account.

“He was found guilty of assault. The abuse was documented. But he got the same old visitation—every other weekend. Meanwhile, I had to attend AA and a drug program. I never had a drinking problem and I never used drugs. All my UAs [urine analyses] came back clean. It took me 18 months to get out from under that.”

Summary

The most common post-divorce residential schedule in Washington State is the every-other-weekend schedule. Most primary residential parents are mothers, so children spend every other weekend and a midweek evening with their father. Many primary residential parents are satisfied with this arrangement, viewing it as practical and sensible. Many nonprimary residential parents are extremely dissatisfied with this arrangement regarding it as old-style custody and visitation. Frustration with every other weekend has led some parents to call for mandatory 50/50 schedules. Most parents, however, view 50/50 as impractical while still wanting more than every other weekend. A large majority of parents view the civil justice system as biased in favor of mothers. Domestic violence survivors, however, point out that there are countervailing biases that favor men and that abusive men are often able to exploit the civil justice system to continue their abuse.

c. Decision-Making

Nearly three-quarters of all parenting plans provide that major decisions should be made jointly by the parents (see Chapter 3, What the Records Show). Practically speaking, there is almost a presumption of joint decision-making—the only group of parents who are substantially less likely to have joint decision-making are those whose decision-making authority has been restricted by the court. Although in theory parents can specify a range of major decisions, in practice most parenting plans identify three areas of major decision-making: education, health, and religion. For the most part, joint decision-making is specified for all three of these areas, although parents have the option of specifying joint decisions for some areas and sole decision-making for others.

In the focus group conversations it was clear that very few parents were actually able to sustain joint decision-making. Often one parent spent so much more time with the children than the other parent that they effectively operated sole decision-making—with or without the other parent’s consent. Also many parents’ relationships were so discordant that they were unable to communicate well enough to share decision-making. The following issues came up in every focus group and sparked lively discussions:

i. Practicality and Enforcement

The parents in the focus groups were forthright about why joint decision-making hardly ever works: most of them quite simply did not get along well enough with their ex-spouse, or did not communicate with their ex-spouse often enough, to make joint decision-making practical.

Many of the parents in the focus groups had deliberately arranged their parenting plans and parenting behavior to minimize contact and communication with their ex-spouse. Often attorneys, mediators, counselors, and other professionals had encouraged them to create this distance to avoid situations in which conflict might arise. (This tendency was also apparent in the analysis of the sample of parenting plans—see *What the Records Show*.) Thus, most parents avoided each other and avoided conversations. This type of distanced relationship is antithetical to joint decision-making, which requires parents to enter into a dialog either in person, by telephone, or in writing. Moreover, many of the parents had experienced conflict over parenting issues prior to their divorce, and differences over parenting had contributed to the marital break-ups of some of the parents in the focus groups. In short, for most of the parents in the focus groups joint decision-making was unrealistic and impractical.

When parents were unable to make decisions jointly the parent with most residential time assumed de facto sole decision-making authority.

Primary residential parents tended to view their assumption of sole decision-making as the only practical way to proceed, and regarded the Parenting Act’s goal of continued joint decision-making as unrealistic. These parents often viewed the nonprimary residential parent as having a low level of involvement in their child’s life and as not knowing important information.

“He doesn’t know anything about my kid’s life.”

“He’s not interested. I left messages about schools, but he never called or anything. It’s sad, but that’s the way it is.”

“I never see him. How can I ask him anything?”

Several pointed out that their ex-spouse's low level of involvement was not recent:

"He was never interested. I tried to get him to come and check out day cares with me. He said, "You decide." Now suddenly he's gonna be interested?"

Primary residential parents also justified their assumption of sole decision-making by arguing that most of the decisions were minor and did not require input from their ex-spouse.

For some nonprimary residential parents, the primary residential parent's assumption of sole decision-making authority was acceptable and practical.

"We talk stuff over—but the kids live with her most of the time so she has the final say."

But many nonprimary residential parents were profoundly angered by what they viewed as their exclusion from decision-making and as the usurping of their parental rights.

"Mutual decision-making—it doesn't mean anything."

"It's [mutual decision-making] a joke. Sometimes she tells me afterwards."

These nonprimary residential parents repeatedly said that the courts ought to enforce joint decision-making or abandon it.

Although the parents in the focus groups were dissatisfied with joint decision-making, very few parents, except those who had been abuse victims (see 3.c.ii. Abuse), had sought sole decision-making. Those who had sought joint decision-making had generally been advised to do so by divorced friends.

"That was the only thing we fought over. The kids are living with me, and I didn't want the decision thing coming back to bite me. I didn't want to be beholden to him. So I have sole decision-making."

ii. Abuse

A substantial minority of primary residential parents in the focus groups reported that their ex-spouses had used the provision for joint decision-making to harass or psychologically abuse them. Some of this harassment is low level and takes the form of not returning phone calls, stalling, and so forth. Of course, while this behavior may be stressful for the primary residential parent, children are most adversely affected as they must wait for a parent to sign a routine consent form.

But often the harassment occasioned by joint decision-making is sustained and severe and constitutes continuing emotional abuse. This type of behavior includes making arbitrary or capricious decisions and changing the decision multiple times, insisting on certain decisions, linking one decision to another, and making threats. Sometimes the perpetrator of this type of harassment is able to use the civil justice system to increase the harassment by filing numerous court papers.

Many women in the focus groups had experienced this type of harassment around decision-making. However, the most adversely affected were domestic violence survivors. All the women in the domestic violence survivors' focus group had experienced sustained harassment of the type described above. On occasion, their abusive ex-husbands had used the joint decision-making provisions in the parenting plans to force unwanted contact, to threaten their victims, and to try to force their victims to behave in certain ways.

Some readers may question whether this behavior, undesirable as it is, really constitutes abuse. Domestic violence researchers have shown that threats of abuse and creating a state of uncertainty for the victim are important components of abusive behavior in addition to physical violence because they create and sustain a climate of fear and terror. Domestic violence victims, who are often suffering emotional and psychological consequences of abuse, are particularly susceptible to this type of terrorization, even after they have left the relationship. Because joint decision-making in the parenting plan forces ongoing negotiations and discussions between the victim and the abuser it provides the abuser with an opportunity to sustain the abuse. Therefore, joint decision-making is not appropriate in families with a history of domestic violence and abuse.

iii. Money

Joint decision-making is often problematic for parents because decisions have financial consequences. Perhaps the most commonly mentioned decision in this regard was the decision to seek orthodontic treatment (braces) for children, which can be very costly. But the choice of daycare provider and extra-curricular activities were also frequent topics.

Primary residential parents often justified their assumption of sole decision-making by arguing that their ex-spouses were not interested in paying for extra-curricular activities or orthodontia.

“Anything that might cost him a cent—well he’ll just say no. So I don’t ask him and I pay.”

In contrast, nonprimary residential parents often felt that the only time they were involved in decision-making was when a choice had financial consequences; i.e., when they were being asked to contribute toward paying for something.

“She only involves me if she wants money for something.”

iv. Confusion with the Designation of Custodian

Many parents in the focus groups, both primary residential and nonprimary residential, were confused about the purpose and meaning of the designation of custodian in the parenting plan. Many parents interpreted the designation of custodian as overruling joint decision-making. Since the custodian is usually the primary residential parent, some primary residential parents saw this as justifying their assumption of sole decision-making.

“We have joint. And after four years of 50/50 parenting and getting along real well, we’re headed back to court. She wants to move our daughter [aged 14] to a group home—she’s severely disabled and needs a lot of care. I’m still willing to do it [care for her]. I’m not ready to let her go yet although I know I’ll have to someday. So my wife says she’s going to do it anyway. She says she can because she’s the legal custodian.”

Summary

Although most parenting plans provide for joint decision-making, very few parents actually make decisions jointly. More often, the primary residential parent assumes decision-making authority. Joint decision-making is especially problematic for domestic violence survivors, as abusers may try to use this provision to continue the abuse.

d. Mediation and Dispute Resolution

Eighty (80) percent of parenting plans specify mediation as the mechanism for dispute resolution (see Chapter 3, What the Records Show). In addition, many counties require mediation for couples formulating a parenting plan if any disagreement arises.

Many of the parents in the focus groups had experience with mediation either with services associated with the court or with mediators in private practice. Despite this wide experience with mediation, many parents had a limited understanding of mediation, were very critical of mediation, and were very dissatisfied with their experiences.

i. Lack of Information

Many parents in the focus groups, even parents who had been involved in mediation, had little information or knowledge about mediation. Parents often did not understand how mediation is conducted and what the goals of mediation are. Thus, they entered mediation with the view that it was merely a hurdle they had to go through before they could go to court. This lack of awareness about mediation is an obstacle to effective mediation.

Some parents, including a few living in counties with mandatory mediation for parents formulating parenting plans, were unaware that they could use mediation to help develop a parenting plan.

“I didn’t think you could do mediation until after you had a plan.”

Parents whose parenting plans provided for dispute resolution by mediation were also unsure about how it should work. Often they did not know how to invoke the dispute resolution mechanism, or how to get themselves and their ex-spouse into mediation.

“I don’t know how it works—how do I start off the dispute resolution? I don’t know who to call.”

ii. Lack of Cooperation

Many parents in the focus groups said they were interested in mediation, but they had been frustrated by their ex-spouse’s refusal to participate.

“It takes two to mediate and she wasn’t interested.”

Some parents had tried mediation but had been frustrated by lengthy waits for services. In King County it can take six to ten weeks for a family to get into mediation through family court services. Other parents had tried mediation but were frustrated when a resolution was not achieved and saw the mediation as a source of delay in reaching a satisfactory resolution.

“It was a waste of time. I had to go to court anyway.”

A few parents in the focus groups felt they had been inappropriately or disrespectfully treated in mediation, and had been pushed into agreements they did not really want. Several participants said they felt that the mediator was more interested in getting to a solution than in being fair. This underscores the point that “agreed” solutions are not necessarily low-conflict solutions.

[Participant 1]: *“I sat in a room for three hours getting badgered. There was no negotiation—they just kept telling me ‘do this’. So I gave in. I wish I would have gone to court.”*

[Participant 2]: *“Why didn’t you just leave? That’s what I did.”*

It is unlikely that a plan developed in this manner will be satisfactory and workable for both parents.

Finally, a significant minority of parents was completely opposed to mediation, viewing it as inferior to litigation as a means for dispute resolution.

“I’m an American. I pay my taxes and I have a right to my day in court.”

iii. Costs

Many focus group participants viewed mediation as costly, even though many dispute resolution centers offer low cost mediation and utilize a sliding scale for fees, and even though mediation is typically far less expensive than litigation. In general, the focus group participants were reluctant to pay for mediation which they regarded as unlikely to succeed and as subject to the whims of their ex-spouse with whom they are in dispute.

“I’m sick of paying for it. He won’t go along. Then I’m left with the bills. And still no solution.”

iv. Domestic Violence and Abuse

As noted elsewhere (see Chapter 2, What Providers Say), there is considerable controversy concerning whether mediation is appropriate in situations where domestic violence and abuse have occurred. In general, counties that mandate mediation for couples in dispute as they formulate a parenting plan explicitly provide an exemption for situations involving domestic violence, so that victims are not “forced to negotiate” with their abuser unless they explicitly choose to.

Despite these efforts, domestic violence survivors sometimes do end up in mediation against their wishes. Thus, protections for domestic violence victims are not always adequate. Several of the women in the domestic violence

survivors focus group, as well as other women in the study who self-identified as domestic violence survivors, reported that they had been required to enter mediation with their abusers against their wishes. All these women experienced the mediation as highly stressful, if not abusive, and as extremely frightening. Several of the women were motivated to participate in the study solely because they wanted to recount this experience.

Summary

The parents in the focus groups had little information about mediation and tended to be very skeptical of its benefits. Parents saw mediation as unlikely to succeed, as easily sabotaged by an uncooperative ex-spouse, as expensive, and as a potential waste of time.

e. Parenting Classes

Many courts require parents filing for divorce to attend a parenting class or seminar. Some courts require all parents to attend, while some require only parents who are in dispute to attend. Occasionally a judge may order a parent to attend a class.

Most professionals involved with the Parenting Act believe parenting classes to be extremely beneficial to the parents and their children, and believe that classes can assist parents as they negotiate their way through the civil justice system (see What Providers Say).

At the end of each parenting class session, parents are invited to evaluate the usefulness of the class by completing an evaluation form. These evaluations are generally extremely positive. (Evaluations from King County were provided to the researcher by the instructor.)

In contrast to the generally positive view of parenting classes held by providers, the parents in the focus groups held rather mixed views of parenting classes.

i. Parents' Views about Parenting Classes

Some parents, including a few who had not attended classes, were very positive about the parenting classes.

“Wow—what a good idea. I wish I’d known about it. Could I go now?”

“It was really good. It made me think about how my behavior affected my kids.”

“I went and found a class on my own. It was very helpful to learn what my kids were going through.”

In contrast, other parents were critical of parenting classes, and felt that they did not need the information. Some parents saw the requirement to attend a class as an imposition, as an implied criticism of their parenting, and as an additional hurdle and expense in the divorce process.

“I really resented it. It was like one more thing I had to do. And my ex refused so they let him off.”

“I mostly knew all the stuff anyway. And I’m a good parent. I resent the idea that suddenly I need a class.”

“It was not useful. It was mostly aimed at blue-collar wife-beaters—Joe and Jane six-pack. My wife and I are professionals. We were both laughing by the end.”

ii. Domestic Violence and Abuse

Like other court imposed requirements, mandatory parenting classes can be used by abusive parents to increase the time it takes for a marital dissolution and parenting plan to be finalized, and in this way to harass their ex-spouses. This is particularly likely where there is a significant waiting time to attend a parenting class, and where there is a time lag before the court either attempts to enforce the requirement or waives it. Domestic violence survivors were most likely to report that they had been harassed in this way. But parents who did not report that they had previously been victims of domestic violence and abuse also reported that their ex-spouses had attempted to frustrate them and delay the dissolution process by refusing to attend classes.

Mandatory parenting classes may also pose a threat to the safety of parents fleeing violent marriages. In theory, husbands and wives are not supposed to attend the same sessions of parenting classes. In practice, however, this occasionally happens. For domestic violence victims, encountering their abuser at a mandatory class can be a terrifying ordeal and can raise concerns that their abuser will follow them home or attack them outside the class site.

“It was a nightmare—no that doesn’t describe it. My ex was there. I was terrified...horrified. It was the worst three hours of the whole ordeal.”

Summary

Parents’ opinions about parenting classes and seminar were mixed. Some parents found them useful and enjoyable. Others did not find them useful, and some parents were

strongly opposed to parenting classes. Domestic violence victims expressed concerns that required classes could put them in unsafe situations or enable their abuser to continue to harass them.

f. Post-divorce Parenting

The research findings presented so far have focused on parents' experiences in formulating a parenting plan (the civil justice system, mediation, parenting classes), and on parents' experiences and opinions concerning various sections of the parenting plan: the residential schedule, decision-making, and dispute resolution. In this, the final set of research findings, information about how parents use their parenting plans and about post-divorce parenting more generally, is presented.

i. Following the Plan

The parents in the focus groups used their parenting plans in a wide variety of ways. In general, parents can be divided into four groups: flexible followers, close followers, strict followers, and resisters.

- Flexible Followers

Around half the parents in the focus groups followed their plans very loosely. These parents had generally started out following the parenting plan quite closely in the months soon after their divorce but had gradually moved toward less formal and more flexible arrangements to accommodate their changing circumstances. For these parents, the parenting plan was a kind of safety net—a statement of what to do if they should disagree.

“We have a plan. But I can see my kids whenever I want to—I just call over.”

“He can come when he likes. We still do things together. But he’s getting less and less interested. It’s sad. I just got back from taking the kids to Montana—to his parents—all those other family ties matter too.”

“We stick to it pretty much—well less now than we used to. Sometimes we juggle a bit—you know, you have to.”

- Close Followers

About a quarter of the parents in the focus groups followed their parenting plan quite closely, especially the residential schedule. Many of the parents who followed the plan quite closely kept a copy in an accessible place in

their home (taped to the refrigerator or by the telephone) so that they could use the plan as an aid to planning and arranging their children's schedule. Several of these parents brought well-thumbed, heavily annotated copies of their plans to the focus groups, and some asked how they could get extra copies. Often one parent assumed responsibility for keeping track of the schedule and keeping the other parent informed.

"She doesn't mean to screw up. It's just so complicated and we're busy. She's always calling me about where they're supposed to be. I'm glad it's all written down."

Many of the parents who follow the plan closely would like to be more flexible, but have been unable to coordinate this with their ex-spouses. As mentioned earlier (see 3.b.ii. Every other weekend) many nonprimary residential parents with every-other-weekend schedules would like more residential time than is provided for in the plan and are frustrated by the reluctance of their ex-spouses to cooperate. Others would just like flexibility.

"Yeah—we follow it. The only time I get a break [i.e., additional time] is when she wants some free baby sitting."

"Oh she sticks to that thing. A couple of weeks ago I had some free tickets to the M's. Good seats, an afternoon game. So I called her up to see if I could take them. I said we could swap my Sunday afternoon for hers—I know better than to ask for an extra couple hours and I won't beg her. I said I'd bring the kids back early the following Sunday when it would have been my turn anyhow. But Oh No. We have to follow the plan. ... I bet they weren't doing nothing anyhow."

- **Strict Followers**
Some parents placed great emphasis on following the parenting plan exactly. Some of these parents were using the parenting plan to precisely structure their parenting and interactions with their ex-spouse in the period immediately after their dissolution of marriage, a time of great stress and uncertainty. However, some parents were following the parenting plan exactly because they feared punishment by the courts or their ex-spouse if they deviated. During the focus group conversations, domestic violence survivors placed particular stress on the care and diligence with which they followed their parenting plans. Many of these women had plans that they were not happy with, that provided for more residential time for their ex-husbands than they wanted. However, they all said they were particularly careful to follow the plan exactly, even if their ex-husband did

not, for fear that deviating from the plan could somehow result in them losing their children.

“I took my kids to Fred Meyer in Lynnwood every other Friday evening for a year and he never once showed up. They knew what we were doing there—I couldn’t pretend we were shopping. It broke their hearts.”

- Resisters

About a quarter of the parents in the focus groups reported that either they or their ex-spouses do not follow their parenting plans and seek to undermine the plan.

Nonprimary residential parents who are resistant to the plan often do not begin and end their residential time on schedule, or, as in the previous quote, do not exercise their residential time at all. This creates uncertainty and disruption for the primary residential parent and the children.

“It’s not worth the paper it’s written on. My husband has authority issues and he’s not going to follow anyone’s rules. He brings our son back when he’s ready and I sit there wondering if this time he won’t be back.”

Primary residential parents who are resistant to the plan may prevent the other parent from spending his or her time with the children. Parents who deny their ex-spouse’s residential time, often justify their actions by saying the child does not want to go or that the ex-spouse is not an adequate parent.

“My son’s just a little boy and his dad’s clueless. He’s never really been a parent. So I’m not going to make my little boy go when he doesn’t want to anyhow.”

Sometimes, when one parent withholds the child from the other, that parent becomes discouraged and gives up trying to see the child.

“I drive and I drive [from Wenatchee to Everett] and I never know if I’ll see them when I get there. I’m so hurt that right now it’s best for me not to go.”

Several of the men who participated in the focus groups had not seen their children for lengthy periods of time, in some cases months, and in a few cases years.

Although the parents whose ex-spouses resist and undermine the parenting plan feel the greatest uncertainty and anxiety about post-divorce parenting,

all the parents in the focus groups were anxious and uncertain about their parenting arrangements. Even parents, who were getting along well with their ex-spouses and had worked out mutually agreeable coparenting arrangements, expressed the fear that the arrangements might prove unstable and were dependent on the good faith of their ex-spouses. The uncertainty felt by divorced parents, and the anxiety this generates, was most evident when the researcher asked parents if they would feel comfortable purchasing nonrefundable plane tickets to take their children on a trip. Only a handful of parents said yes.

ii. Enforcement and Monitoring

For parents whose ex-spouse was resisting and undermining the parenting plan, enforcement of the plan was the single most important issue. Parents whose ex-spouse refuses to follow the plan feel they have nowhere to turn.

[Participant 1]: *“Oh sure. I could go down there with my copy of the plan and the police and they’d make her give me the kids. But my kids are 8 and 11. I can’t let them see that. I can’t do that.”*

[Participant 2]: *“I wouldn’t count on the police to help you. They hate this stuff. They just told me to take her back to court.”*

[Participant 3]: *“The court won’t do anything—just tell her off. The only person who’ll benefit is your lawyer.”*

Some parents’ plans specify that their ex-spouses must meet certain conditions in order to have residential time with the children. For example, some plans specify that parents may not drink alcohol or use drugs within 24 hours of the residential time. Other plans specify that parents must have a valid driver’s license, insurance, and car seats before collecting their child.

Some parents saw these provisions as token—and said that even though they believed their ex-spouse was drinking and using drugs they had to leave their children with the ex-spouse. These parents felt that monitoring and enforcement of these provisions was inadequate.

A few parents had refused to leave their children with an ex-spouse who appeared drunk or did not have a car seat but were reluctant to deny the residential time for fear of “getting into trouble.” However, a few parents routinely denied visitation for this reason, and some parents who had been denied their residential time felt that their ex-spouses abused these parenting plan provisions to prevent them from seeing their children.

iii. Lifestyle Issues

Most of the parents who participated in the focus groups were critical of some aspect of their ex-spouse's lifestyle. These disagreements between ex-spouses often had repercussions for parenting.

The biggest lifestyle issue was the presence of a new partner or spouse. Most parents in the focus groups were not comfortable with the new partner or spouse. Sometimes these concerns were very serious, involving allegations of substance abuse or child abuse.

"This guy he's got a record like you wouldn't believe. He can't even get a driver's license he's been caught driving drunk so often. And I'm supposed to let my son go with him? I don't think so."

For other parents the concerns were less dramatic.

"He wants to send her to pick our son up from daycare because he doesn't get out of work on time. Well, I'm not sending him with a stranger." [Researcher: How long has he been remarried?] Oh he remarried right away after the divorce. They were carrying on—you know. So four years now. [Researcher: And your son has been spending time with them for all that time?] "Yes—but she's still a stranger."

Often parents' concerns about new spouses focused on differences in discipline or parenting styles. Some parents took great exception to their children calling stepparents mom or dad, and most parents resented stepparents' involvement in decision-making, even though the stepparent was likely to be affected by any decision.

Some parents were critical of other aspects of their ex-spouse's lifestyle—sex and housekeeping were common themes.

"Don't get me wrong—she's a good mother. But I don't feel that she sets a good example. Every time I go over there, there's a different fellow there. Oh they're nice enough, don't get me wrong. And it's all very pleasant—she always introduces me, we chat. But a different one every week. I don't care who they are and what they're like, I don't think that's a good example for a young black girl to see."

"We married very young, and I've grown up but he hasn't. I've got a house and a car, and it's a nice place for children. But he's still living like a college student—in an apartment with a bunch of guys. I know they have women there. It's just not a good place for children."

“We really think my husband’s children from his first marriage should come and live with us. After all—she hasn’t even got a washing machine. I’ve called Child Protective Services—but they don’t do anything”

These differences represent some of the most intractable differences between parents. Many parents felt that the courts or some other public agency, such as Child Protective Services, should intervene. Others felt that the court should include an assessment of a parent’s morals and values in developing the parenting plan.

“He was the one that cheated—not me. So he should have to pay for that.”
[Researcher: How?] *“By not having the children. He’s not a good moral influence.”*

iv. Transportation

One of the most common problems recounted by parents at the focus groups had to do with transporting the children and exchanging the children. As discussed elsewhere (see Chapter 2, What Providers Say, and Chapter 3, What the Records Show), exchanges are often flash points for conflict between the parents and many plans include provisions aimed at reducing contact between parents at exchanges. For parents, however, the transportation itself is the main problem. Parents resent having to drive their children to their ex-spouse’s home even if the distance involved is quite short. If the distance is substantial, for example if one parent has moved, transportation is a source of considerable anger and frustration.

“She moved to Seattle [from Redmond]. So now, every other Friday, I sit on the bridge [SR 520] in rush hour traffic. So sometimes I’m late. I can’t help it—but she gets pissed. She keeps threatening not to wait for me. Of course, she drives on Sunday evening when the bridge is deserted.”

“She moved the kids to Walla Walla. They’re happy there and my daughter wants to finish high school there. I wouldn’t make them move again. But now I have to drive to Walla Walla every other weekend.”

“We spend all our time together in the car, it seems like. Oh we talk and stuff. There are some good things about it. But it’s not real. It’s not living with your kids—driving around with them.”

v. Child Support

Child support was a frequent topic of conversation at the focus groups. Indeed, it would have been easy for the parents to talk only about child support, and many

of the parents participated in the focus groups because they wanted to air their concerns about child support.

Generally, nonprimary residential fathers felt that child support awards were excessively high.

“You’re not telling me it takes \$500 a month to raise a kid—that’s ridiculous.”

Some men reported that they had nothing to live on after paying their child support; some reported working two jobs. Fathers who had fallen into arrears had lost vehicles and property. These fathers were angry that the courts were unsympathetic to their financial circumstances and felt that child support enforcement was punitive and overly aggressive. Fathers said that they were treated as “guilty until proven innocent” and were made to feel like criminals. Several different fathers compared the Child Support Enforcement Agency to the Nazis, and likened their own treatment to that of Jews by the Nazis.

Fathers felt that the emphasis on child support enforcement demeaned their non-monetary parenting.

“When they look at a man all they see is money. That’s all they care about. That’s their idea of a dad—a machine spitting out money. I’m not a father—I’m a ... cash machine.”

Fathers also reported that making high child support payments prevented them from spending time with their children—either because they had to work extra hours, or because they could not afford to travel and pay for activities with their children.

“I pay so much child support that now I can’t afford to go and see them. I haven’t seen them since [four months].”

Many fathers resented paying child support because they did not believe that their ex-wives spent the money on the children. These fathers said they thought that parents who receive child support should have to provide a yearly accounting of how they spent the money.

“For that money those kids should have only the best—Nordstroms all the way. But when I pick them up they’re in rags. She’s spending it on her new boyfriend’s motorbike payments.”

“We’re always buying the kids clothes—she never does. I bet she’d take the clothes back to get the money if she could.”

“Attorney’s fees—that’s what she spends it on.”

“I should have the option of putting it into a savings account for my son—for college or braces or whatever. At least it would be there then. Now it just disappears.”

Generally, mothers at the focus groups did not mention child support until fathers raised the topic. Most of the mothers reported that their child support was adequate and that their ex-husbands paid regularly. However, some of the mothers had only very low child support awards, and some had experienced difficulties enforcing their awards.

“Well I’m fascinated hearing about these \$500 and \$800 awards. I’m supposed to get \$25. He doesn’t work. Of course he does—it’s all under the table.”

“I’m supposed to get \$700 a month. But I never see it and there’s nothing I can do. I’m not on welfare so there’s no one to help me. I have an OK job. But I can’t afford an attorney.”

Women who were survivors of domestic violence were particularly likely to have experienced problems collecting child support, but most were reluctant to try to pursue the matter.

“He never pays. But I just let it go. I don’t want to go to court again. I don’t want to get into another battle with him.”

vi. Changing the Plan

Although, as noted above (3.f.i. Following the plan), many of the parents who participated in the focus groups informally varied their parenting arrangements. However, only a handful had legally modified their parenting plan.

Most of the parents in the focus groups perceived the modification process, which requires them to re-enter the civil justice system, as too expensive, too difficult, and too risky.

“Nothing would ever get me back [into the civil justice system]. Anyhow, I wouldn’t waste any more money on it.”

“It’s too painful. You get emotionally caught up in it. And even if you win you’re a wreck afterwards. It’s not worth it.”

Parents' reluctance to re-enter the civil justice system posed a dilemma for many parents who had informally adjusted their parenting plan, but feared that their ex-spouse might someday want to revert to the plan as written.

"Well the parenting plan says every other weekend. But we're closer to 50/50. But if he changed his mind he could insist on every other weekend. I don't know what I'd do then."

"Right now things are good. But she could get pissy any time. I wish there were some simple way to keep the plan in line with what you're really doing."

With respect to one particular change—relocation—parents felt that modifying the plan should be difficult. Many of the nonprimary residential parents in the focus groups were scared that their ex-spouse might move far away and that their residential time with their children would be severely curtailed as a result. This had actually happened to a few parents all of whom were extremely hurt and angered by this outcome.

"My daughters are in Colorado. I see them a couple times a year. They're growing up not knowing me. They know her new husband."

[Participant 1]: *"She moved to Florida. I was supposed to go see him there. Then just before I go, a letter comes back—returned to sender. I never did get her next address. That was six years ago. My son was seven then. I haven't seen him since. [He begins to cry.] Do you know who I should call? How I can get help?"*

[Participant 2]: *"I wouldn't call anyone. They'll want six years of child support."*

Interestingly, most primary residential parents also felt that modifying a parenting plan for relocation should be difficult.

"Sometimes you have to move—for work or something. But you shouldn't just be able to up and take the kids. That's not right. So the courts should look at it. And you better have a ... good reason."

Summary

For the majority of parents the Parenting Act works well. They are able to develop a plan that is acceptable, and reach a stable, sometimes flexible, working relationship with their ex-spouses. They may not like their ex-spouses and may be very critical of aspects of their lifestyle, but they manage an effective coparenting arrangement.

But for a minority of parents the Parenting Act does not work. Some parents are overly rigid, leaving their ex-spouses frustrated and angry. Some parents deliberately seek to undermine the parenting plan, often causing great pain and anguish to their ex-spouse and children in the process.

All parents express the concern that there is no enforcing agency for parenting plans. Nearly all parents are very reluctant to re-enter the civil justice system, with the result that they feel they have nowhere to turn if and when problems arise.

4. CONCLUSIONS: ANSWERING THE RESEARCH QUESTIONS

At the beginning of this report, the research questions were outlined. This section summarizes the answers to those questions and offers some interpretations of these findings. The material is organized to map onto the research questions presented in section 1. PURPOSE AND GOALS.

a. Getting a Parenting Plan

Most parents found the process of going through the civil justice system and getting a parenting plan extremely difficult. In part, this is because the process of divorcing and making arrangements for post-divorce parenting is inherently difficult and emotionally wrenching. But parents' difficulties also reflect the complexity of the system and the limited help available to parents as they negotiate the system. Imagine a typical case.

A parent seeking a dissolution of marriage obtains a packet of forms from a community center, courthouse, or from the Office of the Administrator for Courts' website. The parent then fills out these forms, often with scant information and little advice. The parent may find the forms hard to follow or misunderstand the purpose of parts of the forms. Some of the information and advice a parent receives, from friends and acquaintances or various publications, may be inaccurate or misguided. Once the parent has completed the forms he or she may take them to the courthouse where a facilitator checks them over for completeness.⁷ If a question arises, the parent asks, "What should I do? What do most people do?" The overburdened facilitator provides the best help he or she

can, but is limited by time constraints and the fact that facilitators are not supposed to provide legal advice. Depending on the circumstances and the county, a parent may be asked to attend a parenting seminar or embark on mediation. He or she must wait for these services and will be expected to bear some of the costs. Most likely he or she will have to take time off work. If things go smoothly, any disagreements between our parent and his or her spouse will be worked out and after about a year they will be divorced with a final, court-approved plan in place. Most likely their children will live with one of them most of the time, and will spend every other weekend and a midweek evening with the other parent.

A minority of parents seeking a dissolution of marriage begin the process by seeking the help of an attorney. The attorney will guide them through the process providing information, help, and advice. The attorney may have some creative suggestions for resolving disputes and arranging the residential schedule. Or the attorney may steer the parent toward “what most people do.” Either way, at the end of the process our parent will have spent at least \$1000 on legal help (somewhat less in the East of the state), and maybe much more.

But what if things do not go smoothly, as the scenario earlier assumes? What if the parents can’t agree about where the child should live and for how much of the time? What if one or both parents have a history of substance abuse or mental health difficulties? What if domestic violence or abuse brought about the divorce? What if one partner uses legal stratagems to harass the other? In these cases the process of formulating a parenting plan may be very lengthy and very costly. A host of legal and psychological professionals may be involved, there may be several temporary parenting plans, parenting evaluations, a guardian ad litem, protection orders, drug and alcohol testing, and so on. The case may drag on for two years, or longer. Eventually, there may be a trial to finally resolve the parenting issues. For parents without legal representation there will be many opportunities along the way for mistakes and missed deadlines. Parents with legal representation will face mounting bills, they may have to sell property, and may eventually be forced to settle.

Thus, given the circumstances under which most parents develop their parenting plans, it is hardly surprising that they find the process arduous, burdensome, and complex. It is also not surprising that so many parents seek what seems like the simplest solution and try to do “What most people do.”

b. Parenting Seminars

There is considerable variability in parents’ attitudes toward parenting seminars. Some parents view them as a valuable service and were truly helped by the seminar. Other parents view them as an imposition, a waste of time, and even as

insulting. It is likely that what the parent gets out of the seminar is strongly influenced by his or her attitude going into the seminar.

For survivors of domestic violence, parenting seminars can be dangerous. Abusers may use the parenting seminar as an opportunity to attempt to contact their victim. Abusers may use stalling tactics to avoid attending mandatory parenting seminars and so to stall the dissolution. These stalling tactics, and other legal ploys, may constitute harassment of domestic violence survivors by their abusers.

c. Mediation

Most parenting plans provide for mediation of disputes about the parenting plans. Many counties, including those containing most of the state's population, require parents in dispute as they formulate a parenting plan to attend mediation. Thus, many parents have been involved in mediation.

Despite this widespread and increasing use of mediation, parents have little information about the purpose, goals, and methods of mediation. Some parents are hostile to mediation, regarding it as inferior to litigation, or as an unnecessary extra step in the process of getting a parenting plan. Most parents are skeptical about the benefits of mediation—they do not believe it can work and feel it is too easily sabotaged by a hostile ex-spouse.

The domestic violence survivors who participated in this research were strongly opposed to mediation. They felt it was unsafe and gave too much authority and power to their abusers who could too easily exploit the process to harass them.

d. Post-divorce Parenting

The most common post-divorce parenting arrangement in Washington State is for the children to live with one parent, most often the mother, and for the children to spend every other weekend and a midweek evening with the other parent, most often the father. The children may spend as much as half the summer with their father.

Primary residential parents, mainly mothers, usually view this arrangement as acceptable, if not ideal. These parents emphasize the practicality of an every-other-weekend residential schedule.

Many nonprimary residential parents, mainly fathers, view the every-other-weekend schedule as unacceptable—they want to spend more time with their

children. They emphasize that an every-other-weekend schedule limits their opportunities to be involved in their children's lives.

For many parents, perhaps the majority, the tension between mothers wanting a practical schedule and fathers wanting more time is resolved.⁸ These parents adopt a flexible working relationship and vary the residential schedule to suit their own and their children's changing needs. However, even when parents manage an amicable, mutually acceptable arrangement, the parent with less time written in the parenting plan is always left wondering what would happen if his ex-wife ceased to cooperate.

For parents who can not achieve an amicable working relationship the dilemmas are more complex. Some parents have become so frustrated with the every-other-weekend schedule that they favor scrapping the parenting plan in favor of a presumption of 50/50. But most parents regard these arrangements as unworkable or as for the short-term only—even parents who want more time with their children. Many parents are seeking creative solutions that provide for greater paternal involvement than every other weekend, do not involve the parents in extensive contact and negotiation with each other, and also provide their children with stability, continuity, and flexibility. Some parents manage this by themselves. Those who do not are looking to the civil justice system for help.

Parents' relationships after a dissolution of marriage are often very difficult. Most parents manage to maintain a working relationship, often while being extremely critical of their ex-spouse. Issues such as lifestyle choices, remarriage, transportation for the children, major decisions about their children's lives, the possibility of relocation, and finances provide continuing sources of friction between ex-spouses. Some parents resist and seek to undermine the parenting plan in an effort to harass their ex-spouse. All divorced parents operate in an environment of uncertainty and anxiety about parenting.

A Final Note from the Researcher

Throughout this report I have tried as much as possible to separate the “news” from the “editorial,” to allow the parents who participated in the study to speak for themselves in their own words. As much as possible, I have avoided reinterpreting the parents' words. I believe that, for the most part, the meanings and the implications of the parents' words are clear. However, I would like to offer some final comments on how this research should be construed.

The research presents a picture of parents' frustrations and difficulties with the civil justice system and with the Parenting Act. Should we scrap the whole thing and start again? I think not.

To begin with, research like this is better at finding what is wrong with a situation than it is at finding what's right with a situation. Focus groups are not a tool for identifying representative or common patterns. Rather, focus groups identify the issues that most concern people—what are people so bothered by that they will come out, for little or no reward, perhaps even at some expense to themselves, to talk to a stranger about. In short, we need to remember that, by their nature, focus groups show us the problems, and that the people with the most serious problems are most likely to participate in focus groups.

For most people, including many of the parents in the focus groups, the Parenting Act works well. Parents make it through the system with a parenting plan they can live with, and many are able to achieve a good working relationship with their ex-spouse. These parents benefit from the flexibility of the parenting plan, as well as from the plan's detail.

The parents who have difficulties generally have problems that go beyond the Parenting Act. These difficulties have to do with negotiating the civil justice system with little legal help and inadequate information at a time of great personal stress and emotional pain. The difficulties also have to do with the reality of post-divorce parenting. Parents must sustain a relationship with their child's other parent—a person they no longer love, they may no longer like, who they may wish would disappear from the face of the earth, whose lifestyle choices they may not approve of, whose new partner they may dislike. For some parents the challenge is even greater—they must manage their child's relationship with a person who is bent on harassing them and undermining the parenting plan, or with a person with substance abuse problems or other issues. Some parents, rightly or wrongly, must manage their child's relationship with a person who abused and assaulted them.

These problems are greater than the Parenting Act and would persist even if the law changed. No legislation would ensure that all parents always acted in the most responsible fashion, always putting their child ahead of their own needs, and always behaving in a civil and respectful fashion toward their ex-spouse. No legislation could suddenly alter the complex mix of social changes, particularly changes in the roles of men and women as workers and parents, that have made parenting so much harder to define over the past three decades. Under other legal frameworks, many parents would lack information and help as they worked through the civil justice system, and many parents would find attorney's fees prohibitively high.

But just because the problems parents face are often greater than the Parenting Act does not mean that they are unfixable, or that we should not try to develop solutions. This research clearly points toward some immediate needs:

- Parents need more information, early on in the process, about the process of getting a dissolution of marriage and the goals of the parenting plan.

- Parents need more access to creative strategies to develop parenting plans that really work for them—manuals, workshops, and so forth.
- Parents need forms that are simple to use, easy to understand, and that come with comprehensive directions.
- Parents whose circumstances are more complex or challenging should be identified early in the process and steered toward help as soon as possible. Some parents will be able to afford to pay for this help. Finding resources to help parents who can not pay will continue to be a major challenge.
- Parents need information, early in the process, about the purpose and goals of programs such as mediation and parenting classes. In an ideal world, parents who are unlikely to benefit from these programs should be steered out of them, so that resources can be concentrated on those most likely to benefit.
- Parents need the system to be safe, so that they do not risk unnecessary and potentially dangerous encounters with abusers. Parents who are fearful must be supported as they struggle to keep themselves and their children safe, not pushed into potentially unsafe situations such as mediation, parenting classes, joint decision-making, and frequent unsupervised exchanges of children.
- Parents need to know how to utilize the dispute resolution sections of their parenting plans. Plans should not be written and approved that do not detail the steps a parent can take to invoke the dispute resolution.
- Parents need a mechanism for enforcing the parenting plan, to help reduce the uncertainty and anxiety associated with post-divorce parenting, and to limit the capacity of one parent to use the plan to harass the other parent.

¹Three individuals who participated in the focus groups did not have a current Washington State parenting plan. In one case, the participant had a parenting plan for several years, before his youngest child reached age 18 shortly before the focus group. In the second case, the participant was involved in an international custody dispute and was appealing a court ruling that Washington State did not have jurisdiction over the children. In the third case, a woman had dropped out of the civil justice system and fled her violent husband because she could not afford the costs associated with divorcing and getting a parenting plan.

²Initially we hoped to further limit participation to parents with a recent parenting plan. This proved impossible because the date of the most recent parenting plan was not available on the database used to generate the list of parents who were invited to participate in focus groups.

³Initially we hoped to conduct single-gender focus groups because some other family researchers have suggested that single-gender settings are more conducive to conversations about family issues. However, it was not possible to recruit sufficient participants to hold single-gender groups within the time line and budgetary constraints of the present study.

⁴It was not practical to attempt to recruit participants by race/ethnicity minority status. Nor did the researcher solicit information about race/ethnicity minority status or economic background. However, many focus groups participants volunteered information about their race/ethnicity or economic background and highlighted ways in which their background shaped their expectations for and experiences with the Parenting Act.

⁵Three women who were recruited through the OCS list identified themselves as domestic violence survivors. One of these women attended a focus group; the other two elected to talk with the researcher by telephone. Two of the women explicitly mentioned their fear of encountering their ex-husbands at a focus group in conversation with the researcher. In fact, as noted above no ex-husband-ex-wife pairs were included in the individuals contacted through the OCS mailing list.

⁶One focus group participant, who had not previously requested childcare, so none was available, brought her 2-year-old daughter to a focus group. After consulting with the participant and with the other focus group participants the conversation continued with the child present.

⁷Nineteen of the thirty-one Washington State superior court judicial districts have courthouse facilitators. There are facilitators in each of the counties where focus groups were held.

⁸The use of gendered terminology here reflects the differences between the mothers and fathers that were observed during the focus group discussions.

5. ACKNOWLEDGEMENTS

The following Washington State parents generously gave of their time and participated in the Parenting Plan Study focus groups:

Anonymous (29)	Brad Hartman
Bill	Ed Hartnett
Jill	Victor Hebert
Kevin	Ted Heckathorn
Narinder	Jim Henches
Yvette Agustin	Bonnie Hombel
Socorro Apodoca	Tritia Johnson
Ronald M. Balazs	Joe Kearney
Steve Bansbach	Molly Lawless
Mike Belfield	Brad Moore
Danielle Bradshaw	Douglas A. Nelson
Tim Bruce	Joe Parr
Bob Bunch	David Rogers
Tom Burdick	Richard Dennis Rutz
Steve Burling	Bill Schwartz
Grace Bussell	Kelly Sjostrom
Keith Butler	Barb Smeby
Cathy Christianson	Mark and Krstine Smith
Paula Clark	Jeff Snow
Tim Collins	Chad Steben
Garry Cornell	Shauna Troy
Pam Davis	Jeff Van Hurston
David Day	Lawrence Mitch Waritz
Wendy Dubinsky	James White
Paul Glasgo	Clyde Wilbanks
Gary Harmon	Deanna Williams

6. LETTER OF INVITATION

Letter of Invitation to Focus Group Participants and Reply Card

The Supreme Court
State of Washington

Barbara A. Madsen
Justice
Temple of Justice
PO Box 40929
Olympia, Washington
98504-0929



(206) 357-2037

February 10, 1999

Dear Washington State Parent:

The Gender and Justice Commission of Washington State is conducting a study of the Washington State Parenting Act. As you probably know, this is the law that deals with parenting arrangements after dissolution of marriage. The law requires that parents obtaining a marriage dissolution must have a parenting plan.

As part of the Parenting Act study, the Gender and Justice Commission wants to hear directly from parents who currently have a court approved parenting plan. We want to know how well your plan works for your family, what problems you have faced and how have you solved them, how well you have been served by the court system, and how you think the law and the system could be improved.

To learn about your experiences with the Parenting Act, the Gender and Justice Commission has organized a series of focus groups. We invite you to participate in one of the upcoming focus groups.

Focus groups are taking place at a variety of locations around Washington State on several different dates. A focus group meeting lasts approximately 90 minutes and is conducted by a trained researcher. Childcare and refreshments will be available.

Participation in the focus group is entirely voluntary. Your remarks will be kept anonymous and will never be connected in any way with you, nor will any records be kept by the court system. If you prefer to participate anonymously, you do not need to tell the researcher your name.

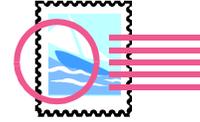
Your participation in the Parenting Act study is important. The findings from the focus groups will be shared with judges, attorneys, and other professionals working in the civil justice system throughout Washington State. The information will also be shared with the State Legislature, and with legislators and activists in other states that are considering adopting similar legislation. If you participate in a focus group, your contribution will be acknowledged in the Gender and Justice Commission's report (unless you opt to remain anonymous), and you will receive a \$25 honorarium.

If you decide to participate in this important project, please complete and mail the enclosed reply card. A researcher from the Gender and Justice Commission will contact you with information about the dates and times of focus groups in your area. If you have questions about the study, please call the Commission at (360) 705-5290 and leave a message. A researcher will return your call.

We hope you will decide to participate in the Parenting Act study. It is your chance to have your voice heard and to help us better serve the families of Washington.

Very truly yours,

Barbara A. Madsen, Chair
Gender and Justice Commission



Washington State Gender and Justice Commission
PARENTING ACT STUDY
PO Box 41170
Olympia, WA 98504-1170

**Yes, I will participate in a Focus Group for the
Washington State Parenting Plan Study**

Name: _____ (second name is optional)

Phone: (____) _____ Day
(____) _____ Evening

Preferred Location:

Spokane Everett Seattle King Co. Eastside

Preferred Day:

Mon Tues Weds Thurs

I will need childcare: Yes No

CHAPTER 2

WHAT PROVIDERS SAY: INTERVIEWS WITH PROFESSIONALS WORKING WITH THE WASHINGTON STATE PARENTING ACT

**Report to the Washington State
Gender and Justice Commission
and
Domestic Relations Commission**

**Diane N. Lye, Ph.D.
June 1999**

SUMMARY

In late spring 1998, the Washington State Supreme Court Gender and Justice Commission and the Domestic Relations Commission began a study of the Washington State Parenting Act. The Commissions developed a wide range of research questions, covering all aspects of the current implementation of the Parenting Act. One particular set of research questions concern the difficulties parents encounter in finalizing a parenting plan, the use of mandatory parenting plan forms, and the potential benefits and limitations of programs such as parenting classes and mediation.

Methodology

This report presents the results of structured, in-depth, open-ended interviews with 47 professionals working with the Washington State Parenting Act. These key informants were recruited from throughout the state. The key informants include judges, court commissioners, attorneys, family law facilitators, mental health professionals, parenting evaluators, guardians ad litem, and activists. The key informants were recruited to represent the breadth and diversity of professional experience working with the Parenting Act.

Findings

There is very strong support for the Parenting Act among the key informants. The key informants steadfastly endorse the major policy goals of the Parenting Act—to require divorcing parents to focus their attention on their children’s needs and to promote the continued involvement of both parents in children’s lives. The key informants also strongly supported the Act’s requirement that parents formulate a detailed plan for their children, and applauded the intent of the Act to allow parents to individually tailor their plans.

Most key informants believe that the process of getting a finalized parenting plan is extremely difficult for parents, many of whom are pro se litigants. Many key informants would like to see more help provided to pro se litigants, although some key informants see this as a stop gap solution and feel that affordable representation is the only real solution. Most key informants believe that the mandatory forms are too difficult for parents to use, and do not meet the needs of judges, court commissioners, and attorneys.

Most key informants acknowledge that the goal of individually tailored parenting plans is not often met, and that many parenting plans follow a “standard” every-other-weekend residential schedule. While some key informants defended this schedule as practical, others expressed frustration with its routine application.

Most key informants felt that joint decision-making, which is routinely specified in about three-quarters of all parenting plans, does not work well. Many key informants felt that joint decision-making is not well defined in most plans and is not well understood by

parents. Many key informants view joint decision-making as a source of continuing conflict.

Most key informants support mediation both for formulating parenting plans and for resolving later disputes. Most key informants also believe that mediation should never take place in situations where domestic violence has occurred, and many key informants believe that mediation is inappropriate where there are substantial power differences between parties.

Most key informants believe that current provisions for modifying parenting plans are acceptable. Most believe that it should be quite difficult to modify a parenting plan in order to provide stability for children and to discourage relitigation. Most key informants believe that the current situation with respect to parental relocation is too vague and would like greater clarity in the procedures and principles.

Most key informants would like to see greater clarity in the roles of parenting evaluators and guardians ad litem.

Many key informants believe the Parenting Act is not working well for survivors of domestic violence. Key informants report that the civil justice system is especially unresponsive to domestic violence survivors. Domestic violence survivors' concerns about safety may not be adequately addressed so they have difficulties securing needed limitations on their abuser's residential time and may be pushed into unsafe situations in parenting classes or mediation. Abusers may co-opt the civil justice system to harass their victims by refusing to comply with court orders, such as attendance at mandatory classes, or by using legal tactics to intimidate their victim.

1. PURPOSE AND GOALS

Many of the research questions developed by the Gender and Justice Commission and the Domestic Relations Commission concern parents' interactions with the civil justice system. Some information about these topics was gathered through focus groups with parents. To complete the picture, information was also gathered from professionals working in the civil justice system with the Parenting Act.

In the course of conducting interviews with professionals working with the Parenting Act it became apparent that some of the research questions were overly narrow or overly broad and, as a result, the research questions were rephrased. Information from the focus groups and an analysis of a sample of parenting plans also prompted some rephrasing of the research questions.

The research questions addressed in this report include:

Questions about formulating a parenting plan:

- When, and from whom, do parents first learn that they must develop a parenting plan?
- Do parents receive adequate information about formulating a parenting plan?
- What discussions/negotiations take place as parents formulate a parenting plan?
- Who, if anyone, helps couples formulate a parenting plan?
- What post-divorce parenting issues are most difficult to resolve?
- Are false allegations, where one parent makes an untrue claim about the other parent in order to gain an advantage in a parenting action, a widespread problem?

Questions about the mandatory parenting plan forms:

- How do parents use the mandatory forms in the process of formulating a parenting plan?
- Are the forms easy to use?
- Are the forms helpful? To parents? To professionals working in the civil justice system?

Questions about parenting classes:

- What proportion of parents attend parenting classes?
- What is the content of parenting classes?
- Are the classes helpful? To parents? To professionals working in the civil justice system?

Questions about mediation and arbitration:

- What proportion of parents attempt mediation or arbitration?
- When is mediation or arbitration successful?
- What are the limitations of mediation and arbitration?

Questions about post-divorce parenting:

- What are the most common post-divorce parenting arrangements in Washington State? Is there a “standard” parenting plan?
- How common is “shared parenting,” meaning arrangements where parents have equal or nearly equal residential time with their children after divorce?
- How often are restrictions imposed on parents’ residential time and/or decision-making?
- When do parents go back to the civil justice system to modify a parenting plan? What are the most common modifications made to plans?

In addition, many of the professionals interviewed volunteered information about aspects of the Parenting Act that are not covered by these questions. Some of the professionals reflected on their particular role in the civil justice system and on what they saw as the roles of other professionals in the system.

2. METHODOLOGY

Information about professionals' experiences with the Parenting Act, and about the functioning of the Parenting Act in the broader context of the civil justice system was collected through structured, open-ended interviews with professionals working in the civil justice system. As explained below (2.a. Recruitment of Key Informants), the professionals who were interviewed were selected for their particular experience and expertise about the Parenting Act. For this reason the interviewees are referred to as key informants.

The key informant interviews furnish information about the Parenting Act from the perspective of parenting plan providers. Provider perspectives strengthen the study in several ways:

- Providers often have many years of experience working with divorcing and divorced families, and can locate the issues in a broader context.
- Providers often have highly specialized knowledge of particular groups of families such as minority families, low-income families, or families with special needs.
- Providers often have highly specialized knowledge of a particular stage in the process of parenting plan development and implementation, such as mediation, parenting assessment, or litigation.

a. Identification of Key Informants

Professionals to be interviewed as key informants for the study were recruited in a variety of ways. An initial pool of potential key informants was generated by nominations from members of the Gender and Justice Commission and members of the Domestic Relations Commission.

Additional key informants were nominated by previously interviewed key informants. At the end of each interview the researcher asked the key informants if they would like to nominate anyone to be interviewed for the study.

Key informants were also identified by Office of the Administrator for the Courts (OAC) staff. OAC staff provided the researcher with the names of judges and court commissioners with particular expertise and experience in the area of family law. These nominees included judges who had served on various Washington State commissions or committees of the Superior Court Judges' Association, as

well as individuals who had worked with OAC on other projects. OAC staff also provided the researcher with the names of court facilitators, many of whom were also nominated by judges and court commissioners.

Finally, a few key informants contacted the researcher and volunteered to be interviewed for the study. Often these individuals had learned about the research through progress reports made to the Commission or from other key informants. Some of the volunteers are activists with community organizations promoting change in the Parenting Act. Many of the volunteers were also nominated by other key informants. Consistent with the Gender and Justice Commission's wish that the study should be inclusive, no individuals who wished to be interviewed for the study were denied their request.

b. Recruitment of Key Informants

Once a potential key informant had been identified, the researcher contacted him or her by telephone or e-mail. In a brief conversation or letter the researcher outlined the purpose of the study, assured the potential key informant that their remarks would be kept confidential and would not be directly attributed to them in any written reports, and invited him or her to participate in the study. If the potential key informant agreed to participate in the study, an appointment for the interview was scheduled.

Nearly all the potential key informants agreed to participate in the study. Only one potential key informant refused to be interviewed. However, about 20 percent of the potential key informants did not respond to three attempts at contact by telephone or e-mail¹ and so did not participate in the study.

Forty-seven (47) key informants participated in the study. The names and professional affiliations of the key informants are listed at the end of this report (see 5. ACKNOWLEDGEMENTS). The key informants include professionals from a wide variety of backgrounds with diverse experiences recruited from across Washington State. Many of the key informants had worked in Washington State before the Parenting Act became law, or had worked in other states with more conventional legislation regarding post-divorce parenting and so could compare the Parenting Act to other legal frameworks. Some of the key informants had been involved in drafting the Parenting Act, some had strongly opposed passage of the Parenting Act. Many of the judges and court commissioners who were interviewed had practiced family law for many years before joining the bench. The attorneys who were interviewed include attorneys providing free or low cost services to low income people, attorneys working in small communities providing diverse services, and attorneys working with middle and upper income families. Other key informants include court facilitators, mediators, guardians ad litem, parenting evaluators, and activists with various

community organizations. Thus, the sample of key informants includes professionals from virtually every point in the civil justice system that works with parenting plans as well as professionals from outside the civil justice system who routinely work with parenting plans.

Obviously, the sample of key informants is not a representative sample of all the professionals working with the Parenting Act in Washington State; developing a representative sample was beyond the scope of this study. However, the structured but open-ended format of the interviews provides information about the Parenting Act that is both broad and in-depth. This combination of breadth and depth of information would not have been achievable in a traditional sample survey format. The emphasis on broad, yet detailed, information is also more consistent with the Gender and Justice Commission's goal of developing information about the processes that give rise to various patterns of outcomes.

c. Interview Protocols

Interviewing for the study began during the summer of 1998 with the bulk of the interviews completed before the end of January 1999. However, a few interviews were postponed until the spring of 1999, usually to accommodate the scheduling needs of key informants.² The last interview was conducted in June 1999. Approximately half the interviews were conducted by telephone, one was conducted via e-mail, and the remainder were conducted face-to-face.

All interviews followed the same protocols:

- i. The researcher began by reviewing the purpose and goals of the study with the key informant.
- ii. The researcher reassured the key informant that all the information he or she provided would be regarded as confidential and that none of his or her remarks would be attributed to him or her in the report.
- iii. The researcher informed the key informant that she would be keeping detailed notes on the conversation. The researcher offered the key informant the opportunity to review the notes by receiving a copy in the mail within a few days of the interview. Key informants were also asked whether they would like the originals of the notes returned or destroyed after the completion of the study.
- iv. The researcher began each interview by asking the key informant to describe his or her professional background and experience and the ways in which he or she worked with the Parenting Act. At this point some key informants also volunteered personal information, such as whether they

were married or divorced, whether they had children, and their own parenting arrangements. This professional and personal information helped the researcher understand a particular key informant's perspective on the Parenting Act.

- v. The researcher then asked the key informant what he or she saw as the main strengths of the Parenting Act. This usually led to a fairly extended and wide-ranging discussion. The researcher posed follow-on questions as necessary, following the lead of the key informant.
- vi. Next, the researcher asked the key informant what he or she saw as the main shortcomings of the Parenting Act. Again, this usually sparked an extended, wide-ranging discussion. The researcher posed follow-on questions as necessary, following the lead of the key informant.
- vii. These discussions usually covered all or most of the areas of interest to the Gender and Justice Commission and usually exhausted the available time. However, if the key informant had not already commented on certain topics of interest to the Commission, and time was available, the researcher invited the key informant to comment on the following topics:
 - The effectiveness and desirability of parenting class or classes
 - The effectiveness and desirability of mediation and arbitration
 - The effectiveness of the Parenting Act's provisions intended to protect domestic violence victims
 - What policies ought to be adopted with respect to parental relocation
- viii. If the key informant made any comment that the researcher thought should be quoted verbatim in the report, the researcher read the quote back to the key informant and invited him or her to edit the remark as necessary.
- ix. Most interviews lasted between 30 and 45 minutes; a few were longer. All interviews were terminated after one hour, and the key informant was invited to submit additional information in writing.

3. FINDINGS

This section presents findings from the interviews with key informants. The material presented reflects common themes that recurred throughout the interviews. This section includes verbatim quotes from key informants which are intended to illustrate the main

points. For ease of identification, quotes are shown in italics and the profession of the key informant is noted.

The presentation of the findings is organized as follows. First, key informants' responses to the question, "What are the main strengths of the Parenting Act?" are described. However, this is NOT followed by key informants' responses to the question, "What are the main shortcoming of the Parenting Act?" This is because key informants' analyses of problems with the parent act were diverse and often contradictory. Therefore, the rest of the findings are presented thematically. Thus, the second set of findings refers to the process of getting a court-approved parenting plan. The third and fourth sets of findings contain key informants' perspectives on specific parts of a parenting plan: the residential schedule and decision-making. The fifth and sixth sets of findings include key informants' perspectives on parenting classes, mediation, and arbitration. The final set of findings present key informants' perspectives on issues related to changing parenting plans.

a. Strengths of the Parenting Act

Throughout the key informant interviews there was very strong support for the Parenting Act. Nearly every key informant went to some pains to stress to the researcher that he or she supported the Parenting Act—even key informants who were quite critical of parts of the Act, or current implementation of some sections of the Act, or the civil justice system. The following comments were typical:

"I know I've complained most of the time. But this is basically very good public policy—excellent public policy." —Attorney

"It was a godsend. You have to understand what things were like before."
—Activist

Key informants identified three specific strengths of the Parenting Act.

i. Policy Goals

There was very strong support for the policy goals of the act. Key informants identified two (2) policy goals as especially important:

- Parents should put aside their own issues and focus on their children and figure out what is best for their children.
- Parents should recognize the continuing importance of both parents' involvement in their children's lives and should plan for that involvement.

“It is a very progressive piece of legislation. It redefines children and says they aren’t property and that parents have to meet their needs... it promotes coparenting and says parents have to normalize their post-divorce relationship.”
—Mediator

“This Act insists that you pay attention to your children.” —Mediator

ii. Specificity and Flexibility

Key informants stressed that the Act’s combination of individual tailoring of post-divorce parenting arrangements with a clear, well-specified plan was a major public policy contribution. Key informants from a wide variety of professional backgrounds mentioned “specificity” or “detail” or “a clear structure” as the greatest strength and benefit of the Parenting Act. Most key informants also noted that while the Act requires parents to develop a rather detailed and quite specific plan, the law also provides for individual tailoring of plans, and enables parents to be quite flexible, if they can manage this with their ex-spouses.

“A lot of parents need the detail and clarity. The parenting plan says, ‘Here’s a list of things to figure out and here’s what we’re going to be doing.’ That’s good.” —Facilitator

“Reasonable visitation only worked for reasonable people. Most people need the details specified that are there in the plan. It’s much better than the old days.”
—Judge

“It gives parents a structure and a way to make a plan. But there’s also individual tailoring and parents know their kids best.” —Psychologist

“Part of the beauty of the Act was not having a prescribed arrangement.”
—Activist

In combining specificity with the option of individual tailoring, the Parenting Act is in accordance with the recommendations of leading divorce and child development experts. These experts are in agreement that “one-size-fits-all” approaches to post-divorce parenting are poor public policy because they are unlikely to meet the needs of all children and families (see Chapter 4, What the Experts Say). The experts also advocate clear, predictable, stable arrangements for children.

iii. Dispute Resolution

Many key informants mentioned the requirement that parenting plans specify a dispute resolution mechanism as an important strength of the Parenting Act.

“Anything will work with reasonable people who are getting along. A major strength of the parenting plan is that it says, ‘Now what are you going to do when you don’t get along, when you can’t agree, can’t decide?’” –Judge

b. Getting a Parenting Plan

Many of the shortcomings of the Parenting Act identified by key informants had to do with the process of getting a parenting plan. Many key informants felt that the Parenting Act had made the legal aspects of divorce unnecessarily complex and expensive for parents and may have inadvertently heightened conflict between parents. Several specific themes were common in key informants’ accounts of the shortcomings of the Parenting Act and difficulties facing parents seeking a parenting plan.

i. Pro se Litigants

Nearly all the key informants believed there has been a huge increase in the proportion of litigants who do not have legal representation as a source of problems in the civil justice system. The Office of the Administrator for the Courts reported 48% of superior court domestic cases in 1998 involved at least one pro se party.³ Nevertheless, key informants reported that:

- Seventy (70) percent of family law cases in Washington have at least one pro se litigant.
- Seventy-three (73) percent of family law cases in King County have at least one pro se litigant.
- Sixty-five (65) percent of new family law filings in Thurston County are by pro se litigants.
- Nearly fifty (50) percent of the family law cases Yakima County have a pro se litigant

In order to help pro se litigants navigate their way through the civil justice system, many superior courts now have family law facilitators who help pro se litigants complete necessary paperwork but are not able to dispense legal advice.

However, many facilitators are overwhelmed by the demand for their services and sometimes litigants must wait for an appointment with a facilitator. Several facilitators could only arrange time to be interviewed for the study in the evening or on the weekend.

The reasons for the increase in pro se litigants are not clear. Several factors seem to be important.

Reduced free and low cost legal services due to the elimination of public funding sources for these services.

Increased reluctance by the public to pay for legal representation.
Increased lawyers' fees that render legal representation too expensive for many people.

Some key informants stressed the need to provide more services to assist pro se litigants. Most key informants, however, were skeptical of this approach.

"Really and truly they need representation. King County is a very difficult place to be a pro se. It's a difficult place to practice law—the court rules, the case schedule, everything." –Court Commissioner

ii. Costs

Most parents who participated in the focus groups felt that the costs of getting a dissolution of marriage and parenting plan were extremely high (see What Parents Say). Many key informants shared this opinion—often blaming rising legal fees for the increase in pro se litigants.

Some key informants felt that the Parenting Act had contributed to rising legal costs.

"It's a longer, more complex document. So it costs more." –Attorney

Like the parents in the focus groups (see What Parents Say), key informants also pointed to the costs of mediation, parenting evaluations, and guardians ad litem as part of the high costs of getting a divorce. Some key informants expressed concerns that the high costs of these services might drive some parents outside the civil justice system.

"Once there's a GAL appointed, that's it. They can't pay and the GALs in this county often want money up front. So we don't see a lot of them again. They go off and do their own thing." –Facilitator

Key informants also pointed to larger social trends as the cause of higher legal costs.

"Families are more complex these days—you don't have mom at home and dad at work. And they want more—they want a more complex deal, not just mom gets the kids." –Attorney

"Of course it's expensive to get a divorce—it's complex unraveling two lives. And that's without the kids." –Attorney

iii. Time

Like the focus group participants (see What Parents Say), key informants expressed concern about the length of time to finalize a decree of dissolution and a parenting plan. Several key informants felt that the process had become unreasonably slow, and that the complexities of the Parenting Act were partly to blame. Key informants also pointed to the number of steps involved in many dissolutions: parenting classes, mediation, parenting evaluations, and so forth; all of which add to the time it takes to finalize a parenting plan.

Some key informants in King County were very critical of the King County Case Tracking System. These key informants felt that the case tracking system tended to increase conflict in divorces by “keeping things on the boil” instead of providing for a cooling off time early in the process followed by a swift resolution later in the process.

iv. Forms

Most key informants reluctantly accept that the mandatory parenting plan forms are necessary and useful. Key informants saw the forms as providing parents with a helpful checklist of issues to be resolved.

“The mandatory forms provide structure and ensure that all the issues are addressed.” –Psychologist

However, most key informants also identified problems with forms—although different informants tended to see different problems.

Many focus group participants reported that the parenting plan forms were difficult to use (see What Parents Say). Facilitators and other key informants who work with pro se litigants shared this view. Some key informants suggested that the complexity of the parenting plan form is one reason why so many parents find it difficult to develop a creative residential schedule that meets both parents’ and children’s needs.

“It’s hopeless. Most people need a lot of help, but we can’t do it. So they just go home and fill it out—a routine form kind of thing.” –Facilitator

“Most people [who come to the facilitator] are really desperate. They need to get something accomplished and the forms are really hard.” –Facilitator

Some key informants, especially judges and court commissioners reported that the forms were too long and too detailed. Several key informants expressed the view that the detail in the forms could sometimes spark conflict.

“There is way too much paper. The forms are necessary, but they must be reducible.” –Court Commissioner

“Well now they have to decide every single thing ahead of time—where Johnny’s going to be on Presidents’ Day in odd-numbered years. And so they fight about every single thing.” –Attorney

Finally, some key informants pointed out that the format and language of the parenting plan forms sometimes created difficulties.

“They are unreadable. In the end you get to a document that is unreadable and unintelligible. A competent attorney could draw up a simple, clear, readable document in a couple of pages.” –Judge

“Do you know what that part about priorities means? It’s gobblydegook. They have to be able to be clearer.” –Mediator

“There’s not enough space—we always end up writing all over the margins.”
–Mediator

Surprisingly, although the forms are supposed to be standard across the state there is a considerable amount of variation. Some forms list all the possible restrictions at the beginning; some do not. Some forms provide parents with two or three choices of residential schedules to select from; some do not, and so on.

Many of the problems that arise with the forms stem from the way the forms are used and the wide range of users. The forms aim to accommodate the differing needs of pro se litigants, attorneys, mediators, and judges. The problems with the forms also reflect the differing needs of the parents using the forms. Some parents need detail and specificity and some do not.

v. Parenting Evaluations and Guardians ad Litem

Many of the key informants and some of the parents who participated in the focus groups (see Chapter 1, What Parents Say) expressed concern or uncertainty about the various roles of parenting evaluators and guardians ad litem in the civil justice system.

Typically, a parenting evaluation is ordered or a guardian ad litem appointed when there are allegations of serious problems that might limit one or both parents' ability to parent, or when the parents are unable to agree on a parenting plan and the court is seeking to determine the best interest of the child. Parenting evaluators are professionals with expertise in child development and parenting. Guardians ad litem are often attorneys. Parenting evaluations are sometimes conducted by individuals working for the courts or may be conducted by private practitioners. Parenting evaluations can involve several meetings with parents and children, as well as conversations with other involved parties, such as school teachers, and detailed readings of medical, educational and other files. Private parenting evaluations can cost up to \$10,000, although \$4,000 to \$6,000 would be more typical. Private guardians ad litem are also expensive, although volunteer services are available.

Aside from the expense, the concerns raised about parenting evaluations and guardians ad litem included the following:

- Time
- Many key informants felt that the process of ordering an evaluation or appointing a guardian ad litem is too slow. As noted later (see 3.c.v. Limitations), many key informants believe that evaluations should be ordered or guardians ad litem appointed as early in the process as possible. Key informants also felt that some evaluators were unreasonably slow in completing their reports—many said that six months was not uncommon. Finally, judges and court commissioners expressed frustration that reports were often quite dated by the time a case came to trial. In short, the process ought to be streamlined, and the timing of reports more closely matched to the timing of hearings and trials.
- Background and Training
- Many key informants expressed concerns about the background, experience, and training of parenting evaluators and guardians ad litem. Some key informants felt that evaluators and guardians ad litem often interject their own cultural and class-based expectations about parenting into their reports. Key informants who work with domestic violence

survivors expressed concern that some parenting evaluators and guardians ad litem have little training and knowledge about domestic violence and tended to be easily manipulated by abusers and not empathetic toward victims who were suffering the psychological consequences of abuse.

At present there is only one graduate-level training program for parenting evaluators in Washington State—the program offered by the University of Washington. Very few parenting evaluators have received this training., Guardians ad litem or Court Appointed Special Advocates appointed after January 1, 1998 are required to complete the curriculum developed by the Office of the Administrator for the Courts or an alternative program approved by the OAC.⁴

- Standards of Practice

Standards of practice for evaluators and guardians ad litem are not well established and some evaluators and guardians ad litem engage in practices that many key informants (including the evaluators and guardians ad litem interviewed for the study) found unacceptable. In general, key informants felt that evaluators and guardians ad litem should adopt a forensic role, providing the court with evidence, rather than an advocacy role, promoting the interests of one party. Key informants also felt strongly the evaluators and guardians ad litem should avoid including anything other than first-hand information in their reports; i.e., they should not include evaluative statements about individuals they had not interviewed. Key informants also felt that parenting evaluators and guardians ad litem should not give great weight to reports from parents' family members and friends. Many attorneys felt that greater clarity is needed in specifying the role of the guardian ad litem.

- He Says/She Says

Some highly conflicted cases involve two evaluators where both parties secure their own private evaluations. This amounts to a he said/she said situation by proxy. Some evaluators working in King County have a clear reputation as “dad’s evaluators” or as “mom’s evaluators.” Most key informants were prepared to name individuals with these reputations, and most felt that such situations should be strongly discouraged by the courts.

- Who Writes the Plan

Some evaluators and guardians ad litem offer their findings and recommendations in the shape of a parenting plan written on a parenting plan form. Most key informants felt that this was unacceptable. Key informants felt that in highly conflicted cases where evaluators and guardians ad litem are involved, it is imperative that attorneys draft parenting plans so the rights of parents are protected, and the court should make a final ruling, rather than simply adopting a recommendation.

- vi. Domestic Violence

This portion of the report has focused on the process of getting a parenting plan. Key informants pointed to a series of issues that can complicate the process of getting a parenting plan: pro se litigants, high legal costs, a complex and lengthy time schedule, complex forms, and the system of parenting evaluations and guardians ad litem.

All these problems are far more severe for survivors of domestic violence.

- Key informants who work with domestic violence survivors believe they are nearly always pro se litigants. They often leave their abusers with no resources, and their abusers may have tried to minimize their access to resources. Abusers often have access to legal representation.
- The legal process is more complex for domestic violence survivors and may involve more hearings and more paperwork because it includes seeking protection orders. Domestic violence survivors may also need to get special exemptions from some court-required procedures like mediation.
- Cases involving domestic violence are more likely to be referred to a parenting evaluator or guardian ad litem.

All these factors combine to make the Parenting Act especially difficult for domestic violence survivors to use.

In addition, domestic violence survivors may face a form of legal harassment as their abusers manipulate the court system. Abusers may use stalling tactics or unnecessarily complicate the legal situation to harass, frustrate, and terrorize their victims. Examples of this include repeatedly refusing to attend mandatory parenting classes and thereby forcing the victim to seek a resolution to her case without his compliance, and threatening to use legal tactics to step up the conflict unless the victim accedes to certain demands. Many key informants reported

direct experience with tactics of this type, and more information is provided elsewhere in this report. Comparable accounts from focus group participants are provided in Chapter 1, What Parents Say.

c. The Residential Schedule

Most key informants identified the residential schedule as the core of the parenting plan and as the source of most conflicts between parents. Many key informants saw discord, or at least differences, between parents over the residential schedule as almost inevitable. Commentary on the types of difficulty that can arise as couples plan residential schedules occupied a large portion of most interviews.

i. Gender Bias

Nearly three-quarters of first parenting plans provide for the mother to be the primary residential parent. Among modified parenting plans, mothers are only slightly more likely than fathers to be the primary residential parent (see What the Records Show).

As noted elsewhere (see Chapter 1, What Parents Say), most parents believe the dominance of mothers as primary residential parent is due to gender bias in the civil justice system.

Many providers agree that there is a gender bias in favor of mothers in the civil justice system. Providers tend to blame numerous factors for the bias in the system.

Some providers see gender bias in distribution of primary residential parents as a reasonable reflection of larger social patterns of parenting.

“Maybe it creates the appearance of bias. But in reality, in most families, mom is the primary caretaker. And when mom has been primary caretaker that’s where the kids need to stay.” —Guardian Ad Litem

In contrast, other key informants reject the argument that the distribution of primary residential parents reflects broader social patterns, and see gender bias as inherent in the language of Parenting Act.

“The emphasis on who gave primary care in the past is not well thought out—it’s a built-in bias against men that rewards child care over income support.”
—Guardian Ad Litem

Others accuse judges of being gender biased in favor of mothers.

“Some judges are very conservative about men’s ability to parent.” —Attorney

And others blame attorneys.

“I don’t represent women or men. I represent both. But men are disadvantaged from the get go. It is often very hard for them to find someone who’ll even take their case.” —Attorney

In general, however, providers tend to view gender bias in favor of mothers as far less automatic than do parents and as far weaker than it was before the Parenting Act.

“Fathers that know how to respectfully and properly approach the court can get an equitable result.” —Activist

“It allows us to look at how dad does once he has the kids alone for periods of time. This gives dads more equal standing.” —Parenting Evaluator

“Dad gets the kids in about 40 percent of my cases. I don’t automatically assume that mom is the best parent.” —Guardian Ad Litem

Providers who work with domestic violence survivors, like the survivors themselves (see What Parents Say), tend to point to other more subtle patterns of gender bias in the civil justice system that work against women.

“Well if there’s a bias in favor of mothers—and I’m not sure there is any more—it’s the only bias that works in favor of women. In general the courts are much less likely to believe women than men. [Researcher: Believe them about....?] Well, violence to start with. But also money.” —Activist

“I think in general the courts take women’s problems much more seriously than men’s. If a mother drinks or uses drugs it’s a big deal. But they don’t look at why she drinks—at the whole picture. That maybe that’s how she copes with being abused and battered.” —Attorney

“They just don’t take domestic violence seriously—they don’t believe the women and they don’t see the seriousness of it for the kids. So the courts are creating the next generation of batterers—little kids who see their father’s got away with it. The ideas are still there that maybe she asked for it. Or that it’s just a relationship thing—between the adults—and it shouldn’t affect his relationship with the kids. Well it should—because of the message it sends to the kids and the danger it [continued contact between the father and the children] places the woman in.” —Attorney

ii. Language

Nearly all the key informants used the language of custody and visitation as they talked about the Parenting Act. The use of this terminology appears to have been extraordinarily resistant to change among professionals working in or with the civil justice system. Even key informants who said they found the “old” terminology unhelpful or offensive occasionally lapsed into talking about custody and visitation, rather than discussing the residential schedule and the primary and nonprimary residential parents. By the end of the study the researcher had formed the opinion that professionals working with the Parenting Act were more likely to use the obsolete terminology of custody and visitation than parents were.

A couple of attorneys, when asked directly about their use of “custody and visitation” said that their clients found the Parenting Act’s terminology confusing and difficult. The researcher did not observe this in the focus groups (see What Parents Say). Parents talked fluently about their arrangements, usually referring to “my house,” “mom’s house,” “dad’s house,” and where their children live at various times.

The issue of language is not trivial. The continued use of “visitation” and “custody” by some judges, court commissioners, attorneys, parenting evaluators and guardians ad litem, legitimizes these terms and undermines the intent of the Parenting Act to reject these distinctions in favor of the more neutral “residential schedule.” It is unlikely that parents in highly conflicted cases will be able to put aside their emphasis on “having custody,” with its undertones of ownership and control of children, while they continue to be exposed to this language among parenting plan providers.

iii. Every Other Weekend

By far the most common residential schedule is the so-called every-other-weekend schedule. Under this arrangement the children live with one parent, usually the mother, most of the time, and spend every other weekend and a mid-week evening with the other parent (see What the Records Show). Not only is this arrangement the most common, it is extremely unusual for a nonprimary residential parent to have more time with his or her children than is provided for by every other weekend. In many cases every other weekend is a maximum schedule for nonprimary residential parents.

Many parents, especially primary residential parents, find this arrangement satisfactory (see What Parents Say). These parents emphasize that an every-other-weekend schedule provides for continuing involvement of the nonprimary residential parent while minimizing disruption of the child’s school week and the amount of communication and coordination the parents must undertake.

However, many parents, especially nonprimary residential parents are profoundly dissatisfied with every-other-weekend schedules (see What Parents Say). These parents feel that the schedule limits their opportunities for parenting by limiting their involvement during the school week and leaves them in a marginal position. Many of these parents argue that every-other-weekend schedules are effectively the same as old-style visitation, and, as is noted below, some key informants agree with them.

The dominance of the every-other-weekend schedule is troubling. It is at odds with the advice of child development and post-divorce parenting experts who emphasize the importance of individualized post-divorce arrangements that are tailored to the needs of particular children and families (see What the Experts Say). Further, it suggests that the goals of the Act, to provide parents with flexibility and to encourage them to individually tailor their parenting arrangements, are not being met. Rather, many parents are getting cookie-cutter parenting plans that are not very different from the arrangements they would have had before the Parenting Act.

“Well, it’s my impression that the Parenting Act has just really codified what we were doing before anyhow. Most cases are every other weekend. That’s what we were doing before.” —Court Commissioner

Why is the every-other-weekend schedule so dominant? Several factors seem to be involved.

- The Normal Arrangement

Because every other weekend is the most common arrangement it has come to be regarded as the “normal” arrangement. This is significant because many parents begin the process of developing a parenting plan by asking, “What do most people do?” or “What is normal?” Faced with this question, court facilitators who assist pro se litigants, mediators and attorneys, answer with the every-other-weekend schedule.

“It’s very unusual to vary from this [every other weekend]. All the attorneys use it, too.” —Facilitator

Like many parents, many key informants favored every-other-weekend schedules as more practical and manageable.

“I just don’t think most families can really do much better than alternate weekends.” —Judge

“So many people just have unrealistic expectations. They think everything can be the same with their kids after the divorce as it was before. Well it can’t. What works for most people is every other weekend.” —Judge

When parents propose something other than every other weekend, most attorneys and mediators steer their clients toward every other weekend.

“The typical plan? Well 70 percent have every other weekend with Wednesday evening. They trade off holidays and breaks.” —Mediator

“I tell my clients that, realistically, they can get alternate weekends and a weekday evening.” —Attorney

“I try to formulate a plan to get my client to be reasonable and to adjust to the norm.” —Attorney

“They fight and they fight and they end up with the same plan anyway.” —Attorney

- Guidelines

A second factor in the dominance of every-other-weekend schedules is the widespread use of guidelines for the residential schedule. While some counties, like Thurston County, do not have guidelines or, like King County, have guidelines that are rather infrequently invoked, other counties rely heavily on guidelines. For the most part guidelines advocate every-other-weekend schedules for all but the youngest and oldest children.

Spokane County has the most elaborate set of guidelines. These guidelines were developed by an internationally renowned set of child development experts. The guidelines identify important considerations in developing a child’s residential schedule and offer suggestions for a residential schedule while encouraging parents to consider the particular needs of their own child. The guidelines also provide parents with information about the developmental needs of children of various ages. Thus, the Spokane guidelines are largely informational, although their recommendations regarding the residential schedule are quite widely followed in Spokane County.

Other counties use guidelines in a far more prescriptive fashion. For example, Yakima County’s guidelines are a single page that says what residential schedule ought to be followed by children of a certain age; for most children an every-other-weekend schedule is recommended. The Yakima guidelines provide little rationale for the schedules and do not

encourage parents to adjust them to their children's circumstances. Many parenting plans approved in Yakima County do not specify a residential schedule but simply refer the reader to the guidelines. This use of guidelines might be regarded as contrary to the spirit of the Parenting Act.

- The Best Schedule

A third reason for the dominance of the every-other-weekend schedule, which is related to the widespread use of guidelines, is the belief among many key informants that every other weekend is the "best" schedule.

"I think we have to pay close attention to what child development experts tell us. And my understanding is that every other weekend is best for most families." —Judge

"Well—the mental health community. They've really pushed every other weekend." —Court Commissioner

Some key informants blamed attorneys for the continued dominance of every-other-weekend schedules, arguing that attorneys are not creative in the parenting plans they formulate and making a connection to the continued widespread use of the language of custody and visitation.

"Practitioners haven't given the plan a real chance—they fight over it like it's a traditional custody/visitation battle. There are so many traditional plans. They decided a tool wasn't useful so they didn't bother to learn to use it well."—Activist

"Most lawyers just aren't very creative—they get paid win or lose."
—Activist

Some key informants expressed dissatisfaction with both guidelines and the every-other-weekend schedule, often pointing to dramatic social changes over the past 30 years that have resulted in fathers being far more involved in their children's lives.

"I think some of these guidelines are unnecessarily restrictive. I'm a grandparent and I'm amazed at how my son is with his children. We have to catch up to that." —Judge

Finally, some key informants noted that the every-other-weekend schedule was itself changing.

"Weekends are getting longer. They often start on a Thursday now. And men can get close to half the summer." —Attorney

“I’m not so sure about the midweek visit—I think it can be disruptive. It makes more sense to make the weekends longer, to have them start on a Thursday or even a Wednesday, or have them run until Monday evening.”
—Psychologist

iv. Shared Parenting or 50/50

The Parenting Act gives parents the option of a 50/50 schedule, providing they meet certain stipulations (see *What the Records Show*). In practice, however, few parents have this schedule and few parents want this schedule (see *What the Records Show* and *What Parents Say*). Nevertheless, some parents are so frustrated with every-other-weekend schedules that they advocate a presumption of 50/50 parenting. Proposals to this effect have been introduced into the Washington State Legislature regularly since 1982, however, the state Legislature has refused to enact a “joint custody” law.⁵ Child development and post-divorce parenting experts generally do not favor a presumption of 50/50 parenting (see *What the Experts Say*). They point out that such arrangements are unmanageable for many parents, that most parents do not communicate and cooperate well enough after a divorce to effectively share parenting 50/50, and that if the parents are in conflict 50/50 arrangements can be harmful to children.

Nearly all the key informants were strongly opposed to shared parenting or 50/50 residential arrangements. Most key informants explained their opposition by referring to the needs of children, although some noted that not all parents could successfully manage shared parenting.

“When people tell me they want every other week I just cringe.” —Mediator

“The bottom line is it does not work for the kids. It works beautifully for the parents—they get the benefits of time with the kids and time off. But the children bear the stresses.” —Guardian Ad Litem

“Fifty/fifty is really about people putting their needs ahead of their kids’ needs.”
—Attorney

“Coparenting is not just about time. When parents do 50/50 the kids are bounced around in constant chaos, stress, and upheaval.” —Psychologist

“It’s a tremendously bad idea. It forces people to have too much interaction. Eighty percent of my clients need limited contact.” —Attorney

Several key informants noted that few married people divide parenting responsibilities evenly, and argued that the emphasis on continuity for children in the Parenting Act all but precluded 50/50 arrangements.

“Should it be required for married people too?” —Judge

Although most key informants were strongly opposed to 50/50 residential schedules, a few were open to the idea, provided the parents were in agreement.

“There’s a presumption that it’s bad for the kids—but we don’t really know.”
—Court Commissioner

“I’ve really come round to it. When it’s what parents want, and they’ve thought it through, and they’re in agreement, I think it can be good.” —Court Commissioner

“Well I don’t think it’s usually a good idea. But, yes—I will do it in certain cases.” —Court Commissioner

Finally, three (3) key informants favored a presumption of a 50/50 residential schedule.

“I support a rebuttable presumption of joint and equal custody... the Parenting Act has not met its goals of encouraging parents to cooperate...the system does not encourage cooperation, it encourages litigation.” —Attorney

v. As Agreed

Nearly one in every five parenting plans does not specify a residential schedule, but leaves arrangements to be agreed between the parents or between the parents and the child (see What the Records Show). At first glance this finding might appear discordant with the finding that most key informants regard the specificity and detail of the parenting plan as a significant benefit of the Parenting Act.

However, some key informants believe that a clear subset of families simply do not require the details required by the Parenting Act, and are better off without the details which can be the source of conflict (see 3.b.iv. Forms).

“Some people just don’t need it [a parenting plan]. They do fine on their own.”
—Attorney

“The main strength of the plan is also its main weakness. Sometimes all that detail is unnecessary.” —Attorney

Other key informants expressed great concern about the persistence of “as agreed” arrangements.

“It’s what the Parenting Act was supposed to stop. It’s all right while everyone gets along. But when they don’t it’s a disaster.” —Court Commissioner

“I can’t believe that judges and commissioners will sign those plans. They ought to know better. I see plenty of plans that should never have been approved—they come to me when they need to clean up the mess.” —Attorney

vi. Limitations

Nearly one in every five parenting plans specifies that one or both parents’ residential time should be limited. The most common reasons for these limitations are substance abuse and domestic violence (see What the Records Show). Nearly one third of the parenting plans that specify that one parents’ residential time should be limited nevertheless have every-other-weekend schedules. These plans tend to have restrictions on the circumstances of residential time rather than on the amount of residential time.

Many key informants believe that the Parenting Act’s provisions for limiting one parent’s residential time works adequately—that when there is clear evidence of a factor that ought to limit one parent’s time, those limitations are usually imposed and enforced.

“The limitations are a real strength of the law—they force the problems out into the open.” —Court Commissioner

But a substantial minority of key informants expressed concerns that the system was not working well. Some pointed to the widespread misunderstanding of the limitations among pro se litigants who often inappropriately check one of the limitations listed on the mandatory parenting plan forms.

Key informants who work with domestic violence survivors report that it is often very difficult for domestic violence survivors to get limitations included in their parenting plans, and domestic violence survivors who participated in the focus groups confirmed this. They cited several factors:

- The courts may not believe women’s accounts of domestic violence.
- Abusers may be able to manipulate the system to gain greater credibility for their account of events than their victim’s account.
- Victims often have few resources and are more likely to be pro se litigants, while their abusers can more often afford legal representation.
- Abusers may intimidate and harass victims so that they do not report abuse.
- Victims may be fearful of “losing their children” and so do not report or minimize violence.

- The court and/or parenting evaluators may place a higher value on an abuser's contact with his children than on a woman's safety and so may permit contact when it is dangerous to the woman.

Numerous key informants reported direct knowledge of situations where these considerations had led to women who were battered not having restrictions included in their parenting plans.

"Domestic violence is tough. Sometimes it's very hard to help the woman. You know what's going on—that she's being intimidated—but unless she initiates it, you can't do anything." —Judge

"There's a lot of trading. He says don't make a fuss or else.... Then later she comes back to me wanting restrictions and there's nothing in the file." —Court Commissioner

One facilitator who worked extensively with domestic violence survivors offered the following recommendation:

"Any time there is a concern—an allegation or a suspicion among court personnel—there ought to be a safety assessment. There should be a standard form for conducting a lethality risk assessment of the batterer. We need to err on the side of safety because what the court thinks is fair is often dangerous to the women and children." —Facilitator

Mental health workers also favored early assessment of factors such as domestic violence and substance abuse.

"Often it takes too long, months. We need to identify these cases and get them into comprehensive evaluations earlier. It takes too long to process allegations." —Psychologist

Five key informants expressed concerns that sometimes limitations are inappropriately imposed, and a parent's residential time unjustifiably restricted because of false allegations. False allegations that are not substantiated and do not result in limitations can cause great harm to a parent who must undergo evaluations, and may have temporary restrictions on residential time. These key informants believe that women who accuse their husbands of domestic violence most often make false allegations.

The overwhelming majority of key informants do not consider false allegations to be a widespread problem. Most of the key informants expressed concern (unprompted by the researcher), that the stigma and fear surrounding domestic violence are so great that some women who have been victimized do not report the abuse. Nevertheless, most key informants acknowledged that false allegations

are occasionally made. Some key informants expressed the opinion that making false allegations was not gender specific, and that small but roughly equal proportions of men and women make false allegations. According to this view, men are unlikely to file false domestic violence claims but may make false allegations of substance abuse or child abuse.

“Some people read that list [of factors that can serve as a basis for restrictions] and are determined to find one to check.” —Guardian Ad Litem

d. Decision-making

Nearly three-quarters of all plans specify that divorced parents should make major decisions about their children, typically those dealing with health, education, and religion, jointly (see What the Records Show). Very few parents follow this part of their plan. Most often primary residential parents make major decisions often to the chagrin of nonprimary residential parents (see Chapter 1, What Parents Say).

i. Impracticality of Joint Decision-making

Some key informants were strong proponents of joint decision-making.

“It’s good. The ‘lead’ parent can’t call all the shots...you can’t just blow off another parent.” —Court Commissioner

Many more, however, had come to the conclusion that joint decision-making does not work for most families.

“To pretend that people will make all decisions like they’re still married is ridiculous.” —Activist

“There is almost a presumption of joint decision-making. It should be much less automatic.” —Attorney

Many key informants felt that joint decision-making allowed ex-spouses to prolong needless conflicts.

“There are some things—like religion—that they’ll never agree on. I think we should eliminate joint decision-making.” —Attorney

“Reluctantly, I now think that joint decision-making is not a great idea. It’s an invitation to endless futile dispute... for the most part [parents’ decisions] are not bad decisions—they’re judgement calls.” —Attorney

Some key informants felt the joint decision-making provisions in the parenting plan were not being effectively used or well understood by parents and practitioners.

“We stress to our clients that joint decision-making means they will discuss important matters. It doesn’t mean they’ll agree—so we try to have them figure out what they’ll do if they don’t agree.” —Mediator

ii. Harassment and Abuse

Many key informants echoed the concerns of parents (see What Parents Say) that joint decision-making can be used by one parent to harass this other. Key informants who work with domestic violence survivors were particularly likely to raise this concern.

“I think it’s a mistake. It gives people an opportunity to try to control and harass their ex. There are a lot of controlling people out there.” —Attorney

“Joint decision-making is really problematic for battered women. For them it’s like they have to ask their abuser permission. And the batterers—well they manipulate it. They use it to terrorize women.” —Attorney

iii. Children’s Access to Services

Finally, joint decision-making can make it harder for children to get necessary counseling and psychological help.

“We’re supposed to get both parents’ permission to begin counseling. It puts us in a bind. Sometimes one parent just can’t contact the other. Sometimes one parent is playing games, messing the other parent around. Some parents just won’t agree to anything.” —Psychologist

e. Parenting Classes

Many counties require parents to attend a parenting class or class about divorce and parenting. Some counties; e.g., Thurston and Snohomish Counties, require all parents filing for a dissolution of marriage to attend a class. Other counties; e.g., King County, only require parents who are in dispute over some aspect of the parenting plan to attend a class. As part of the study the researcher attended and observed two parenting classes. Parenting classes were a frequent topic of conversation in the interviews.

i. Content

Parenting classes generally cover all or some of the following four subject areas:

- The system—getting a divorce
- The effects of divorce on children
- How children cope with divorce
- How to coparent after divorce

Information about the civil justice system is particularly useful to parents seeking a dissolution of marriage. As noted elsewhere (see 3.b. Getting a Parenting Plan and Chapter 1, What Parents Say), a shortage of accurate information about the civil justice system is a major challenge to divorcing parents. Parents' lack of knowledge about the process of getting a dissolution of marriage and a parenting plan is also a major challenge facing professionals working in the civil justice system.

Advice to parents about how to achieve and manage an effective coparenting relationship after a dissolution of marriage is also very valuable. Parents tend to be more familiar with accounts of conflicted or unsuccessful post-divorce coparenting relationships than with strategies for cooperative post-divorce coparenting (See What Parents Say).

Information about how children react to their parents' divorce is also very important for parents. This information can help parents better manage their post-divorce parenting arrangements and may dissuade some parents from inappropriate behaviors, such as withholding their child from the other parent.

Information about the effects of parents' divorce on children may be less helpful to parents. Nearly all the parents attending the classes are determined to divorce (those who are seeking to modify their parenting plans are already divorced) and are unlikely to reverse their decision. Telling these parents about potential harms

to their children, rather than devoting extra time to strategies to minimize these effects, seems more punitive than helpful.

Although most of the information presented at parenting classes is potentially very useful to parents, the parents at the classes the researcher attended were not always receptive to the information. Many of the parents at the classes were so focused on their own emotional and practical needs that they could not attend to their children's needs or even distinguish between their own needs and their children's needs. This was vividly demonstrated by small-group discussions at one of the parenting classes. The instructor had the class divide into groups of six to eight parents, and asked the parents to go around the group, each parent in turn saying a sentence about their children. For example, "My son is reluctant to play with his friends these days," or "My daughter was having trouble at school but is doing better now." None of the parents in the two small groups the researcher observed were able to comply with the instruction. Instead, they talked about themselves or their ex-spouses, often swapping "horror stories" and advice with their classmates. It may be that parents' psychological states early in the divorce process do not lend themselves to attending to the information about children's needs presented at the classes.

A few parents at both the classes observed by the researcher were disruptive. This disruptive behavior took the form of recounting lengthy stories about their personal situations and pressing the instructor for detailed advice. All the parents who behaved in this way were seeking to modify their parenting plans (although not all the modifiers were disruptive). The instructors were skilled at redirecting these individuals in a respectful and helpful way. Nevertheless, these interactions used considerable amounts of class time and had a "chilling effect" on other parents who appeared to become less receptive to the abstracted information provided by the instructors as they heard the disruptive parents' first-hand accounts of the difficulties of post-divorce parenting. Thus, it would be preferable if newly divorcing parents and parents seeking parenting plan modifications attended separate classes.

ii. Instructors

The training and experience of parenting class instructors varies from county to county. Statewide, some instructors are certified through a program offered by Washington State University. Both the instructors observed by the researcher were excellent. One of the instructors shared the participants' evaluations of the class with the researcher; they were highly positive. Judges, court commissioners, and courthouse personnel uniformly report that participants provide positive evaluations of parenting classes and instructors.

iii. Benefits of Parenting Classes

Most key informants had an extremely positive view of parenting classes and judged the classes to be very useful, both to participants and to the civil justice system. Many key informants felt the classes encouraged parents to focus their attention on their children, increased parents' awareness of the adverse impacts of parental conflict on children, and promoted faster, less hostile settlements.

"Oh they're so important. People are much better prepared when they've taken the class. It just makes things easier." —Judge

"They're very useful. They reduce conflict and get parents thinking about their children." —Judge

"They're very worthwhile. Some parents figure things out after attending a class and can reach an agreement." —Mediator

"I strongly support parenting seminars. People don't want to go, but it really opens their eyes to the impact they're having on their kids." —Attorney

A minority of key informants were more qualified in their support for parenting classes. They felt that classes were of greatest use to parents who were positively disposed toward them in the first place. Some of these key informants suggested that people who had to be forced to go generally do not benefit from attending the class, and that parents involved in the most conflicted cases also receive little benefit.

"Parents who are receptive find them useful. But ordering people to go is not helpful." —Psychologist

"They work well for the people who don't really need them." —Attorney

Finally, a couple of key informants were completely opposed to parenting classes, pointing to the lack of high-quality research demonstrating clear benefits of attending a class.

"The courts should stop wasting people's time. There's no research to show they help." —Psychologist

iv. Domestic Violence

Key informants who work with domestic violence survivors are strongly opposed to requiring their clients to attend parenting classes. These key informants point out that lapses in security can result in abusers attending the same class as their

victims. This creates a very dangerous situation for the victim. At the very least the victim is likely to be extremely frightened during the class. After the class the victim is especially vulnerable; she may be followed to her car or even to her home or secure temporary accommodation. In addition, key informants who work with domestic violence survivors report that parenting class staff sometimes accidentally reveal information about victims and their whereabouts to abusers.

County courthouse personnel who provide parenting classes report that they take every precaution necessary to minimize the dangers to domestic violence survivors, including not publicizing the location of the classes and having sheriff's deputies present at the classes. Despite these precautions, focus group participants who were domestic violence survivors reported that they had encountered their abusers at parenting classes (see Chapter 1, What Parents Say).

Key informants who work with domestic violence survivors raise other concerns about parenting classes. They point out that one parent can use a requirement that parents must attend a parenting class to stall the divorce process and harass the other parent. Several court commissioners and judges had handled cases where this had actually happened—one parent had repeatedly failed to attend a required parenting class thereby increasing the other parent's wait for a final parenting plan and decree of dissolution.

Finally, key informants who work with domestic violence survivors question whether much of the information presented at parenting classes is really helpful or relevant to domestic violence survivors. For some domestic violence survivors the threat posed by their abuser is so severe that the goal of a cooperative coparenting relationship after divorce is neither realistic nor desirable. Similarly, domestic violence survivors' children may have very different needs and reactions to the divorce than other children. Finally, domestic violence survivors' legal situations are also likely to be more complex than those of other parents. In the parenting classes the researcher attended, the special needs of domestic violence survivors were not addressed; there was not enough time. The handout materials did contain information about local resources for domestic violence survivors.

v. Cost of Parenting Classes

Parenting classes are costly, both to the county courts and to parents.

The costs to the courts include:

- Instructors' time spent in preparation and presenting
- Costs of handouts provided to class participants
- Staff time for scheduling the classes and monitoring attendance of parents who are ordered to attend by the court
- Adequate security

A number of courts do not offer parenting classes because of these costs.

Costs to the parents include:

- A fee which may be reduced or waived for low income parents
- Time away from work
- Travel and parking
- Childcare

For many parents, especially, but not only, domestic violence survivors, these costs are onerous. One judge in a rural county reported that she was strongly opposed to mandatory parenting classes because the costs would be burdensome to many parents living in the county.

f. Mediation

Eighty (80) percent of first parenting plans and 71 percent of modified plans specify mediation for dispute resolution. In addition, many counties require divorcing parents to mediate any disputes about the parenting plan before going to trial. Thus, mediation has become the primary means of dispute resolution in dissolutions of marriage with children.

Despite the widespread use of mediation, it is quite unpopular with parents. Many parents know very little about the goals and principles of mediation, and regard it as expensive, time-consuming, unlikely to succeed, and inferior to litigation (see Chapter 1, What Parents Say).

i. Attitudes Toward Mediation

The key informants interviewed for this research held a wide variety of opinions about mediation. There were many staunch advocates of mediation and a few outright opponents of mediation. Most key informants offered qualified support for mediation, and most specified circumstances under which they felt mediation was either inappropriate or unlikely to succeed.

The proponents of mediation generally argued that mediation reduced conflict between parents and was faster and less expensive than litigation.

“I’m a big fan of mediation. It can be so helpful. It’s quicker, cheaper, and it keeps the relationships alive.” —Court Commissioner

However, critics of mediation suggested that the benefits were sometimes overstated. Some attorneys suggested that long and complex mediations could be as costly as litigation.

“Mediation is getting more and more expensive—and it doesn’t always work. Mediators have to know when to call it quits.” —Attorney

Other key informants were concerned that mediation was being pushed as a way for county courthouses to reduce costs without adequate oversight to ensure that inappropriate cases were not sent to mediation.

“There is a temptation to dump cases into mediation that should be in court.”
—Court Commissioner

Other key informants, including some mediators, expressed concern that mediators were often so focused on getting a solution that important legal principles were brushed aside.

“I’m in favor of mediation. But I worry that people don’t have the proper representation. They don’t know their legal rights.” —Attorney

“I saw a case, not long ago, where the mediator had come up with a plan. It was outrageous. I refused to sign it. The kids were being jerked all over the place.”
—Court Commissioner

“People should never sign those papers, agree to a plan, in the mediator’s office. Even if the mediator is an attorney. There’s just too much ethical uncertainty there. They need to get their own advice.” —Mediator

Many key informants argued that certain cases are simply not appropriate for mediation, for example, when there is too little common ground between the parents to form the basis for a negotiated agreement. Judges were especially likely to believe that these cases should go to trial and that unsuccessful mediation might backfire and increase conflict between the parties.

“In 70 percent of my cases there is no possibility of agreement—one person is too dysfunctional” —G.A.L.

“A judge is elected and so has to reflect community values to some extent. I think that’s important in deciding the toughest cases.” —Judge

ii. Domestic Violence

The greatest controversy with respect to mediation is how cases involving domestic violence should be handled. Some mediators claim that all cases, including those involving domestic violence, can be mediated.

“It’s a good idea. With a competent mediator anyone can mediate. Even the most violent people are amenable to mediation. The alternative is to leave it to a judge.” —GAL and Mediator.

“Yes, I think you can mediate even if there’s a history of domestic violence. Of course, you can never mediate the violence—you never do that. But other issues.” —Mediator

“For some of these women it’s the only way they’re ever going to get back any control over their lives. They need to stop being victims and start participating in the solution.” —Mediator

But most key informants rejected this view and argued that mediation was never appropriate for cases involving domestic violence. Key informants who work with domestic violence survivors argued that mediators who advocated mediation for cases involving domestic violence misunderstood the nature of domestic violence and were too easily hoodwinked by abusers.

“A lot of the victims don’t come across well—they’re scared for a good reason but to an outsider they seem paranoid, irrational, and unreasonable. After being terrorized for years they’ve often got lots of emotional and psychological problems. The abusers, well they’re smart, they dress well, they talk well. They seem like such nice men. They’re smooth. So they can manipulate things. Too many mediators and judges just aren’t tuned into this stuff.” —Facilitator

Most key informants pointed to obvious safety concerns for victims of domestic violence who, even if they were not in the same room as their abuser, run the risk of encountering him at the place of mediation or of being followed after the mediation. Because of these safety concerns, most counties that require mediation of parenting plans explicitly exempt domestic violence cases from the requirement. These policies are not always followed, however. Several women in this study’s focus groups who self identified as domestic violence survivors reported that they had been “pushed into” mediation against their wishes.

Many key informants cited an additional reason for opposing mediation in cases involving domestic violence—the power imbalance between parties. And many key informants pointed out that significant power imbalances are present even when there is no domestic violence. These imbalances can result in one party

agreeing to an arrangement that is not in his or her own best interest or favors the other party. These key informants speculated that mediation when there is a significant power imbalance between the parties can lead parties to make inappropriate trades—for example, women may be persuaded to drop domestic violence charges in exchange for the husband agreeing not to seek to be the primary residential parent. Several parents who participated in the focus groups reported they had made these kinds of inappropriate trades (see Chapter 1, What Parents Say).

“I think it’s a good idea—for some cases. But there are a lot of cases when mediation is inappropriate. Domestic violence—obviously. The risk of intimidation is too high. But other cases, too. It’s not a level playing field out there. The power imbalances are often too big to mediate.” —Judge

“Women are trained by society to be agreeable, so they don’t stand up for themselves, they don’t play hard ball. Often they’ll trade away anything to keep the kids.” —Attorney

iii. Who Are the Mediators?

Many key informants expressed concern about the background, training, and experience of mediators. As noted earlier, key informants who worked with domestic violence survivors were especially likely to raise these concerns. Similarly, attorneys, judges, and court commissioners often expressed the view that mediators needed more legal background.

In contrast many mediators stressed their depth of experience, training, and connection to national organizations that certify mediators and establish standards of practice. One mediator remarked:

“If only lawyers were allowed to do this work, then there’d be no one doing it.”
—Mediator

Mediators come from many backgrounds. Some are attorneys but more have backgrounds in psychology, counseling, or social work. Some mediators work in private practice, some work for the courts in family court services, and some are volunteers at nonprofit agencies such as dispute resolution centers.

Many mediators expressed frustration with what they perceived as widespread ignorance about mediation and alternative forms of dispute resolution among both parents and members of the legal professions.

iv. Arbitration

Arbitration is much less widely used than mediation. Only one percent of parenting plans designate arbitration for dispute resolution (see What the Records Show). Most key informants felt this was appropriate, expressing the view that if a single individual was going to decide disputes for families it ought to be a judge. Some mediators and attorneys felt that arbitration could be useful in certain cases, typically cases where there was general agreement but a single point of contention remained.

“Sometimes people just need to be told what to do about that one last thing.”
—Attorney

g. **Changing the Parenting Plan**

The key informants had little to say about parents’ experiences living with their parenting plans. Typically, key informants only worked with parents when they were formulating their first plan, if one parent refused to follow the plan, or if one or both parents wished to modify their parenting plan.

i. Following the Parenting Plan

Most key informants expressed the view that most parents do not follow their parenting plans closely. Indeed, many key informants viewed the ability of parents to use a plan as a “back-up” and “get on with their lives” as a measure of the success of a plan and as a strength of the Parenting Act.

However, key informants pointed out that flexibility and informality sometimes generate problems for parents.

“People play with their plans. But when something goes wrong there’s a mess.”
—Activist

“Even agreeing to deviate [from the plan] won’t necessarily work. People should get it in writing while they agree.” —Activist

Many of the parents who participated in the focus groups were very concerned by the lack of enforcement and monitoring mechanisms for parenting plans (see What Parents Say). Many parents were frustrated that their only recourse faced with an ex-spouse who refused to follow the plan was to return to court. Many key informants agreed with this sentiment, and argued that the courts should take persistently violating the parenting plan, harassing the other spouse, and trying to undermine the parenting plan far more seriously. Key informants were especially

concerned about the lack of monitoring of specific conditions or restrictions imposed on some parents, such as remaining drug-free or keeping children out of the presence of certain named individuals.

“We need an enforcement process. Too often the visiting parent sees it as optional. And we need to be as serious about [enforcing] visitation as we are about child support. And we need a monitoring process for issues with drug and alcohol abuse.” —Judge

“There is no recourse for a parent when the other parent is really causing problems. The court just dismisses cases where the kids are being eaten alive. Women see their children being destroyed and they have no recourse. It’s just not clear what the power of the court is with regard to contempt.” —Attorney

Key informants who worked with domestic violence survivors were particularly likely to stress the need for monitoring and enforcement of parenting plan provisions.

“Often the men get sent to treatment programs. They go the first couple of times and then they’re not seen any more. And no one checks up on them. There’s no follow through.” —Facilitator

ii. Modifications

Many parents, who participated in the focus groups, said that it was too difficult and costly to change their plans. They said they would like a simplified way to adjust their plans. A few of the key informants agreed with this.

“People’s plans get out of line with reality. So they need to be able to get back in here and tidy things up.” —Facilitator

But overwhelmingly, the key informants believed that changing parenting plans ought to be quite difficult, and that the present system was adequate. The key informants felt it was important to discourage frivolous or routine changes to plans, and that making modifications difficult provided greater stability for children.

“A well thought-out plan thinks ahead and makes some provision for likely changes in circumstances.” —Activist

“That’s what the dispute resolution process is for—if the circumstances change and they can’t agree how to follow the plan. They shouldn’t be running back to court.” —Attorney

iii. Relocation

What should happen when the primary residential parent wants to relocate some distance away, taking the child with them, is a highly contentious issue. Nearly all the key informants were frustrated by what they perceived as a lack of clear guidance in the current legal situation and were hopeful that either the courts or the legislature would provide some leadership in the near future.

Most key informants believe that when a primary residential parent wants to relocate, and the other parent is opposed to the relocation, there should be a court hearing. However, the key informants were divided about what the court should be seeking to ascertain and which parent should bear the burden of proof. Most of the key informants felt that the non-relocating, nonprimary residential parent should have to demonstrate that the move would be detrimental to the best interest of the child. These key informants tended to stress the importance of maintaining the primary residential parent – child unit, and the potential benefits of relocation for the child and the primary residential parent. In contrast, a significant minority of key informants felt that the burden should be on the relocating primary residential parent to show that the move is in the best interest of the child. These key informants tended to stress the potential detriment to the child of less frequent contact with the nonprimary residential parent.

4. CONCLUSIONS: ANSWERING THE RESEARCH QUESTIONS

At the beginning of this report, the research questions that motivated this analysis of parenting plans were outlined. This section summarizes the answers to those questions.

a. Questions About Formulating a Parenting Plan

The key informant interviews confirmed and extended the findings from the focus groups with parents. Most parents first learn about the parenting plan when they obtain a packet of forms for a dissolution of marriage. Many parents are pro se litigants—they do not have attorneys—and so they complete the forms themselves. Courthouse facilitators and parenting classes are often the only source of information and assistance to parents developing a parenting plan.

The residential schedule is usually the most difficult part of the parenting plan for parents to formulate—because for parents this IS the parenting plan. The key informant interviews strongly suggest that many parents are steered toward an every-other-weekend schedule, while the focus groups suggest that many parents are dissatisfied with this schedule.

Generally, the process of divorcing and formulating a parenting plan is extremely difficult for parents. The key informants report that parents find the process expensive, time consuming, and too slow. The involvement of additional parties, such as evaluators and guardians ad litem, can make the process especially slow and expensive.

Domestic violence survivors are especially disadvantaged in the process of formulating a parenting plan. They are often pro se litigants, their cases are often very complex, and their abusers can use the legal system to continue to harass and terrorize them.

Occasionally false allegations are made. However, most key informants state that the frequency of false allegations is often exaggerated, and point out that neither men nor women have a monopoly on false allegations.

b. Questions About the Mandatory Parenting Plan Forms

Key informants confirm parents' reports that the mandatory forms are extremely difficult to use. Mistakes on the forms can cause unnecessary conflict and delays. Parents often adopt a rather routine approach to completing the forms, rather than using them as an opportunity to consider their children's needs. The lack of support and advice for parents further fuels this tendency.

Judges, court commissioners, and attorneys also express frustration with the forms. They believe the forms are unnecessarily long and complex and can spark conflict.

c. Questions About Parenting Classes

Attendance at parenting classes varies from court to court. In some courts, classes are mandatory. Other courts do not offer classes due to budgetary constraints or a reluctance to impose additional costs on parents. Parenting classes generally include information about the process of obtaining a decree of dissolution and a parenting plan, children's reactions to divorce, strategies for post-divorce coparenting, and the impact of divorce on children.

Parents' views about parenting classes are mixed—some find them helpful, others do not. For the most part the key informants viewed the classes as extremely useful, and believed they had many benefits including greater familiarity with the civil justice system, reduced parental conflict, and a greater determination to focus on the well-being of children.

d. Questions About Mediation and Arbitration

Mediation is very widely used, with most courts requiring some form of mediation for contested cases, and with three-quarters of plans specifying mediation for dispute resolution. Arbitration is rather infrequently used.

Most key informants believe that mediation is extremely valuable and can lead to easier, less conflicted, faster, and less expensive resolutions of parental disputes.

However, most key informants also see limitations to mediation. Generally, the key informants did not believe that mediation was appropriate in cases involving domestic violence. Some key informants went further and argued that mediation was inappropriate in any case involving substantial disparities in power between the parties. Most key informants also felt that mediation was not possible where one party was determined to undermine the mediation effort.

e. Questions About Post-divorce Parenting

Key informants readily identified the every-other-weekend schedule as the typical, standard, or normal post-divorce parenting arrangement in Washington State. Most key informants felt this was an acceptable, practical arrangement. However, some key informants were frustrated by the routine application of every-other-weekend schedules and the lack of creativity in formulating parenting plans.

Most key informants were strongly opposed to shared parenting or 50/50 residential schedules, and discouraged their clients from seeking these schedules. Key informants believed that 50/50 residential schedules were generally not in the best interests of children.

About one in every five parenting plans includes restrictions on one parent's residential time. Most key informants feel this system generally works well. However, domestic violence survivors often find it extremely difficult to secure needed restrictions on the amount and circumstances of their abuser's residential time with the children. Many key informants felt that the restrictions as implemented in the civil justice system, rather than as written in the law, were not providing adequate protections for domestic violence survivors.

Most key informants felt that the current system for modifying parenting plans is adequate, and that in order to provide stable arrangements for children a strenuous modification process is necessary. Most key informants also felt that parental relocations should be regarded as a special type of parenting plan modification requiring a court hearing in contested cases.

A Final Note from the Researcher

This report has presented information and opinions gathered from professionals who work with the Parenting Act on a day-to-day basis. Collectively, these professionals have a vast experience and expertise with the Parenting Act. Individually they have provided information and opinions from widely differing perspectives.

The bulk of this report is taken up with the problems of the Parenting Act. That should not surprise us—it is often far easier to say what is wrong with a situation than it is to say what is right about it. But this report should not be read as a litany of failures or as a denunciation of the Parenting Act. Without exception, the professionals interviewed for this study viewed the Parenting Act as having many strengths. The key informants in this study—even the few who were actively seeking to replace the Parenting Act with new legislation—supported the policy goals and ideas underpinning the Parenting Act. Without exception, the key informants regarded the Parenting Act as good public policy.

The problems key informants pointed to were of two types: problems that were larger than the Parenting Act and problems with the implementation of the Parenting Act.

The problems that are larger than the Parenting Act have to do with the complex set of social problems the Parenting Act is designed to address. The Parenting Act offers a framework for how parents should manage parenting when their marriage fails. The Act is tailored for parents of good faith, who endeavor honestly and fairly to work together placing their child's interests ahead of their own. By and large the Parenting Act meets the needs of these parents and serves them well. But there is a substantial minority of parents who are unable to cooperate, or who have multiple other complex problems that affect their parenting and ability to coparent. These parents are not well served by the Parenting Act. But we must ask ourselves whether any legislative framework would work well for these parents or would work any better than the Parenting Act. And before scrapping the Parenting Act we must also ask whether its replacement would work as well for the majority of parents as the current Act.

Some of the larger problems with the Parenting Act reflect the broader social environment in which it is located. The Parenting Act provides for post-divorce parenting in a time of extraordinary social change. The social meanings of motherhood and fatherhood are rapidly changing, and few parents adhere to traditional roles with mom as the caretaker and dad as the breadwinner. This has introduced a new complexity into designing post-divorce arrangements.

Finally, the Parenting Act operates in a changing legal environment. Legal expenses are increasing generally, not just in family law. There are fewer free or low costs legal resources for parents to call upon, and more parents want to represent themselves. The Parenting Act should not be held responsible for the challenges posed by these larger trends.

Problems that derive from the implementation of the Parenting Act are perhaps simpler. They are certainly more amenable to public policy interventions. Parents can be provided with more information. Parenting plan forms can be redesigned and simplified. Standards of practice for evaluators, guardians ad litem, and mediators can be established and maintained. Protections for domestic violence survivors can be simplified and strengthened. Parenting classes can be improved. Procedures for monitoring and enforcing parenting plans can be developed. Procedures for handling parental relocations can be clarified. The challenge is to develop interventions that are effective and affordable and to make a widely supported public policy initiative, the Parenting Act, work even better.

¹If a potential key informant did not respond to an initial contact by telephone or e-mail, the researcher waited two weeks and tried to recontact the individual. If this second call did not elicit a response the researcher waited a further month to make a third and final attempt to contact the potential key informant.

²Three potential key informants who agreed to be interviewed during spring 1999 were subsequently unable to schedule appointments.

³The Office of the Administrator for the Courts reviewed a sample based on 28 counties representing 70% of statewide filings to rank casetypes by the percentage of cases that involve at least one pro se party in 1998.

⁴RCW 13.34.102. The OAC curriculum for Guardians ad Litem (GAL) under Title 26 RCW, Dissolution of Marriage, provides for 28 hours of instruction in twelve topical areas and a minimum of five hours of work with a GAL mentor during the first six months on the job.

⁵See *In re Marriage of Littlefield*, 133 Wn2d 39, 940 P 2d 136 (1997). Bills which would require a preference for joint custody or joint parenting or which would establish that it was in the child's best interest to have frequent and continuing contact with both parents have been introduced in both the Senate and House every legislative session since 1982. None has ever passed. Similar bills were also introduced during the 1998 and 1999 legislative sessions.

5. ACKNOWLEDGEMENTS

The following individuals generously gave their time and expertise to participate in the Parenting Plan Study. They did not receive any compensation.

Chris Allen, Attorney at Law
King County

Douglas P. Becker, Attorney at Law
King County

G. Andrew H. Benjamin, J.D., Ph.D., Affiliate Professor of Law and Clinical Professor of

Medicine, Director, Parenting Evaluation Training Program
University of Washington

Judge Rosanne Buckner
Pierce County Superior Court

Judge Paula Casey, Presiding Judge
Family and Juvenile Court
Thurston County Superior Court

Commissioner Kenneth L. Cowser
Snohomish County Superior Court

Meg Crager, Domestic Violence Program Coordinator
King County

Patricia Davis, Executive Director
Lewis County Bar Legal Aid

Susan Dearborn, Ph.D., M.C.
Pacific Family Mediation Institute

John E. Dunne, M.D., F.A.P.A., Child and Adolescent Psychiatry
Southlake Professional Group
Clinical Faculty, University of Washington

Carol Farr, Attorney at Law and Guardian Ad Litem
King County

Paul Felver, D.Min., Pastoral Therapist and Guardian Ad Litem
Thurston County and Mason County

Evan Ferber, Executive Director,
Dispute Resolution Center of Thurston County

Judge Deborah Fleck
King County Superior Court

Angela Gregg, Family Court Facilitator
Thurston County Superior Court

Bill Harrington, Legal Assistant
Member U.S. Commission for Child and Family Welfare

Janet M. Helson, Attorney at Law
Columbia Legal Services

David L. Hodges, M.A., C.M.F.T. , Social Services Supervisor
Family Court Services
King County Superior Court

Judge Vicki L. Hogan
Pierce County Superior Court

Commissioner Hollis Holman
King County Superior Court

Wendy Hutchins-Cook, Ph.D.
Licensed Clinical Psychologist

Lawrence Hutt
Paralegal/Counselor

Julie E. E. Jacobson, A.C.S.W., Director, Divorce Lifeline
Lutheran Social Services of Washington and Idaho

Lonnie Johns-Brown
National Organization of Women, Washington State Chapter

June Krumpotick, Lead Paralegal
Northwest Women's Law Center

James Lawler, Attorney at Law
Lewis County

Cindy M. Leeder, Domestic Relations Facilitator
Pierce County Superior Court

David MacDonald, Director
United Fathers of America

Ronald K. McAdams,, Attorney at Law
Walla Walla County

Christina Meserve, Attorney at Law
Thurston County

Toni Napoli, M.A., Psychotherapist
King County

Commissioner Scott Neilson
Thurston County Superior Court

Judge Kathleen O'Connor
Spokane County Superior Court

Paul and Nancy Oldenkamp
ACES: The Association for Children for the Enforcement of Support

Eugene Oliver, Attorney at Law
King County and Snohomish County

Mary Myhre Pancake, Executive Director
Dispute Resolution Center of Lewis County

Angela M. Rinaldo, Contract Guardian Ad Litem.
Thurston County

Craig Roberts, Domestic Violence Program Coordinator
Pierce County

Karen Rosenberg, Legal Advocate
New Beginnings for Battered Women and their Children
King County

Lisa D. Scott, Attorney at Law
King County

Judge T.W. Small
Superior Court of Chelan and Douglas Counties

Commissioner Charles Snyder
Whatcom County Superior Court

Commissioner Lani Kai Swanhart
Yakima County Superior Court

Judge Heather Van Nuys
Yakima County Superior Court

Mary Wechsler, Attorney at Law
King County

Commissioner Chris Wickham
Thurston County Superior Court

Cathy Zavis, Attorney at Law
Northwest Women's Law Center

CHAPTER 3

WHAT THE RECORDS SHOW: AN ANALYSIS OF RECENT PARENTING PLANS IN WASHINGTON STATE

**Report to the Washington State
Gender and Justice Commission
and
Domestic Relations Commission**

**Diane N. Lye, Ph.D.
June 1999**

SUMMARY

In late spring 1998, the Washington State Supreme Court Gender and Justice Commission and the Domestic Relations Commission began a study of the Washington State Parenting Act. This report presents information from one of the four parts of that study, an analysis of the contents of recent parenting plans.

Methodology

A random sample of final parenting plans that were approved by the courts in eight (8) Washington State counties between May 1997 and May 1998 was drawn. The sample counties were selected to reflect the social and economic diversity of Washington State.

The sample plans were read and identical information from each plan was collated and entered into a computer database. For modified plans, the immediately prior plan was also read and information about the changes between the two plans recorded. The information was tabulated to document current patterns in parenting plans. In addition, some limited information about proposed parenting plans was gathered.

Findings

Forty-five (45) percent of the plans in this sample provided for a primary residential parent, and an every-other-weekend plus one midweek evening schedule of alternate residential time for the other parent. For the sample as a whole, two-thirds of the primary residential parents were mothers and one-third were fathers. However, for first plans only, three-quarters of primary residential parents were mothers.

Only a handful of plans provided for more alternate residential time than every-other-weekend, including 50/50 schedules. The rareness of these schedules appears to reflect the provisions of the Parenting Act, the preferences of parents, and a preference in favor of *every-other-weekend* among some professionals involved in the formulation of parenting plans.

More than a quarter of the plans provided *less than every-other-weekend* alternate residential time. These schedules are most common in families where one parent's residential time is restricted and where the parents live far apart. One-fifth of the plans included restrictions on one parent's residential time.

Nearly one in every five plans has no specified residential schedule, defining the schedule to be *as arranged* between the parents or between the child and the parent.

Modifications are common, especially four to six years after the original plan. More than one-quarter of modifications change the primary residential parent from mother to father. One-third of modifications involve a reduction in alternate residential time. One-quarter of modifications are associated with a parent's relocation.

1. PURPOSE AND GOALS

One of the research questions developed by the Gender and Justice and the Domestic Relations Commissions encompasses a number of research questions under the heading Post-divorce Parenting. Some of these questions can be answered only with information gathered directly from divorced parents. Others of these questions must be answered from the files maintained by the court system. This report addresses this second group of questions about parenting arrangements after dissolution of marriage.

As the study has evolved, additional research questions have emerged as important. Thus, the present report also contains information on some issues not mentioned in the original statement of research questions. Also, some of the original research questions have been reframed in broader terms.

The research questions addressed in this report include:

- What are the most common post-divorce parenting arrangements in Washington State? Is there a “standard” parenting plan?
- How common is “shared parenting,” meaning arrangements where parents have equal or nearly equal residential time with their children after divorce.
- How often are restrictions imposed on parents’ residential time and/or decision-making?
- How often do parents go back to court to modify their plans? What are the most common modifications made to plans?
- How do final, court-approved parenting plans compare to parents’ proposed parenting plans?

These research questions are primarily descriptive; that is, they focus on identifying patterns and determining which are commonplace and which are unusual. The answers to these questions do not tell us *why* certain patterns emerge. Insight into why certain patterns emerge is provided by the key informant interviews and the focus groups.

2. METHODOLOGY

The research questions listed above (see 1. PURPOSE AND GOALS) were addressed by an analysis of the contents of actual Washington State parenting plans. Such an analysis is possible because copies of all court-approved parenting plans are kept on file at the county courthouses.

It was not feasible to examine the contents of every parenting plan approved by the courts since the Parenting Act came into effect in 1988, since this would have entailed gathering information from over 150,000 parenting plans. Instead, a sample of recent court-approved parenting plans was drawn (see 2.a. Sample Selection). A researcher then read each of these plans and compiled identical information from each plan (see 2.c. Information Gathered). The information was then entered into the computer and the frequency distributions and cross-tabulations presented in 3. FINDINGS were generated.

a. Sample Selection

The analysis of parenting plans utilized a sample of parenting plans. Only court-approved permanent parenting plans were included in the sample. Temporary plans were not included in the sample because of inconsistencies in how these plans are included in court files and in the state Judicial Information System (JIS).¹

Two sampling criteria – a temporal criterion and a spatial criterion – were used to define the sample. Together these two criteria ensured the selection of a sample of parenting plans that is feasible and efficient but that also accurately portrays the current situation in Washington State.

i. Temporal Sampling Criterion

Parenting plans for analysis were selected from among the 16,235 plans entered between May 1, 1997 and May 31, 1998.

The temporal sampling criterion ensured that only recent plans were included in the analysis, and restricted the sample to plans that were entered before the study began. By focusing on recent plans, the analysis provides information about the current situation in Washington State rather than about earlier time periods.

ii. Spatial Sampling Criterion

Parenting plans for analysis were selected from among the 8,044 plans entered during the study period (see 2.a.i. Temporal Sampling Criterion), in the following

counties: Chelan, King, Lewis, Snohomish, Spokane, Thurston, Walla Walla, and Yakima.

The spatial sampling criterion was necessary because copies of plans for analysis must be collected from individual county courthouses. By limiting the sample to a few counties, sample selection was made more efficient and the administrative costs of the study and the timeline for the study were reduced.

To ensure that the sample of parenting plans remained as representative as possible of the state as a whole, the sample counties were chosen to represent the state's diversity. Thus, the sample counties include both predominantly urban and predominantly rural courts, as well as Eastern and Western counties.

Exhibit 1 shows selected sociodemographic characteristics of Washington State and the study counties and demonstrates that the study counties have a broadly similar sociodemographic composition to the state as a whole.

Exhibit 1 also shows the number of parenting plans entered in each of the study counties during the study period. A sampling proportion of 0.05 (5 percent) was selected in order to generate a sample that would be large enough to allow generalization, while still being small enough to be feasible within the constraints of the present study. The 0.05 sampling proportion resulted in a target total sample size of 403. The target sample sizes for each county are shown in the bottom row of Exhibit 1.

Because the sample of parenting plans was drawn at random from all the parenting plans in the study counties, with the same sampling fraction (5 percent) in each county, the sample of parenting plans is representative of recent parenting plans in the study counties. Formally, the sample of parenting plans is not representative of the whole of Washington State because not all parenting plans were eligible for inclusion in the sample (some counties were excluded from the study). However, to the extent that the study counties are typical of the state as a whole, the sample may be cautiously generalized to the whole state.

EXHIBIT 1
SELECTED SOCIODEMOGRAPHIC CHARACTERISTICS OF WASHINGTON STATE AND STUDY COUNTIES

	Washington State	Study Counties							
		Chelan	King	Lewis	Snohomish	Spokane	Thurston	Walla Walla	Yakima
Population	5,516,800	61,300	1,628,800	66,700	538,100	406,500	193,100	53,400	207,600
Percent Aged Over 65	11.5	11.6	10.9	15.2	9.7	12.4	11.3	14.8	11.8
Percent Black	3.4	0.2	5.6	0.5	1.2	1.5	2.5	1.6	1.6
Percent Indian, Eskimo and Aleut	2.0	1.2	1.3	1.3	1.5	1.8	1.7	1.1	7.2
Percent Asian and Pacific Islander	6.0	1.1	10.4	0.6	5.0	2.6	5.6	2.4	2.8
Percent Hispanic Origin ^a	5.7	14.8	3.3	3.3	2.7	2.3	3.6	15.5	33.3
Median Household Income, \$	40,608	30,132	48,727	30,024	46,813	34,576	39,513	31,800	29,955
Divorces per 1000 pop	5.0	5.1	4.3	5.1	4.5	4.6	5.4	5.3	4.1
Final Parenting Plans in Study Period 5/1/97-5/31/98	16,235	271	3,735	239	1,571	979	617	126	506
Target Sample Size	403	14	187	12	79	49	31	6	25

a. Persons of Hispanic origin may be of any race.

Sources:

The Office of the Administrator for the Courts
 Washington State Department of Public Health
 Washington State Office of Finance and Management

b. Sampling Procedures

The Office of the Administrator for the Courts (OAC) maintains the Washington State Judicial Information System (JIS). Within that system, the Superior Court Management Information System (SCOMIS) contains a computerized database of all superior court actions. Using the computerized records, OAC staff generated a list of marriage dissolutions with children that had a parenting plan entered during the study period (5-1-97 to 5-31-98) for each of the eight study counties (Chelan, King, Lewis, Snohomish, Spokane, Thurston, Walla Walla, and Yakima). Individual cases were identified on these lists by SCOMIS case identification number. OAC staff then used a computer algorithm to randomly select the target number of cases for each county.

For Chelan, Lewis, Snohomish, Spokane, Thurston, Walla Walla, and Yakima Counties, the lists of the selected cases, again identified by SCOMIS case identification number, was sent to the county courthouses. Courthouse staff made copies of all the parenting plans on file for each case (not just the parenting plan filed during the study period) and forwarded the copies of the parenting plans to the researcher.

For King County, the large number of cases meant that copying all the selected parenting plans was impractical and expensive. Instead, OAC forwarded the list of selected cases directly to the researcher. The researcher then worked in the records departments of the King County Courthouse and the King County Regional Justice Center in Kent, Washington, reading the original parenting plans and compiling the relevant information.

c. Information Gathered

For each case included in the sample, identical information was gathered. To ensure that the same information was gathered for each case, a standard coding sheet was developed. As the parenting plans were read, the information was entered onto the coding sheet. Exhibit 2 shows the standardized coding sheet. One sheet was completed for each case as follows. First, the parenting plan that had been approved by the court during the study period was defined, for the purposes of the study, as the *focal* parenting plan. The researcher recorded the date and year the focal plan was approved. The researcher then used the case docket (available on SCOMIS) to determine whether the focal plan was the first permanent plan, the first modified permanent plan, the second modified permanent plan, or the third or later modified permanent plan. For focal plans that were modified permanent plans, the researcher also recorded the date of the first permanent plan (which is usually, but not always, the date of the decree of dissolution) and calculated the number of months since the first permanent plan.

EXHIBIT 2

CODING SHEET FOR ANALYSIS OF PARENTING PLANS.

Case number

County

1. Chelan
2. King
3. Lewis
4. Snohomish
5. Spokane
6. Thurston
7. Walla Walla
8. Yakima

Month of Focal Plan (1-12)

Year of Focal Plan (97/98)

Focal Plan Type

1. First Permanent Plan
2. First Modification
3. Second Modification
4. Third or later Modification

Months since earliest perm plan (Modifications only; 999=not applicable)

Contents of Focal Plan

Number of children

Age of youngest child (as of date of plan)

Sex of youngest child

1. Male
2. Female
3. Unknown

Restrictions on one parent's residential time

1. Yes
2. No

Resides most time with (primary residential parent is)

1. Mother
2. Father
3. 50/50
4. Other

Alternate residential time for non-primary residential parent

1. Alternate weekends, with up to 1 midweek evening
2. More than (1) includes 50-50
3. Less than (1) includes 0
4. As agreed

Supervised visitation

1. Yes
2. No

Winter and spring vacation for nonresidential parent

1. Alternate years or 50-50
2. More than (1)
3. Less than (1)
4. As agreed

Summer vacation for nonresidential parent

1. Two weeks
2. More than 2 weeks less than 50-50
3. 50-50
4. All summer
5. As agreed

Parents' residence

1. Both live in WA
2. Mother outside WA
3. Father outside WA
4. Both outside WA
5. Unknown

Transportation responsibility (except financial)

1. Residential parent bears all or most
2. Nonresidential parent bears all or most
3. 50-50
4. As agreed (includes child provides own)

Child travels out of state for visitation or vacations

1. Yes
2. No
9. Unknown

Major decision-making

1. Residential Parent
2. Joint
3. Other/unknown

Restrictions on one parent's decision-making authority

1. Yes
2. No

Dispute resolution

1. Specified
2. None specified--Court only

Dispute resolution costs

1. Residential parent pays all or most
2. Nonresidential parent pays all or most
3. 50-50
4. Other/unknown

Special or additional provisions

1. Yes
2. No

Months since plan immediately prior to focal plan - **Compared to immediately prior plan, focal plan**

Changes child(ren)'s primary residence

1. No change
2. Mother to father
3. Mother to 50-50
4. Father to mother
5. Father to 50-50
6. 50-50 to mother
7. 50-50 to father
8. Other/unknown

Alt. time for nonresidential parent

1. No change
2. Increases
3. Decreases
4. Other/unknown

Winter and spring vacation for nonresidential parent

1. No change
2. Increases
3. Decreases
9. Other/unknown

Summer vacation for nonresidential parent

1. No change
2. Increases
3. Decreases
9. Other/unknown

Parents' residence

1. No change
2. Mother moved out of state
3. Mother moved into state
4. Father moved out of state
5. Father moved into state
6. Both moved out of state
7. Both moved into state
9. Other/unknown

Decision-making

1. No change
2. Increased for residential
3. Decreased for residential
9. Other/Unknown

Second, the researcher read the focal plan and recorded a standard set of information about the contents of the plan. The information recorded is shown in Exhibit 2, pages 1 to 3, and includes information about the number, age, and gender of children covered by the focal plan, the presence of limiting factors, the residential schedule, travel arrangements, decision-making, and dispute resolution.

Third, if the focal parenting plan was a modification of an earlier permanent parenting plan, the researcher identified the court-approved permanent parenting plan immediately prior to the focal plan. This plan was defined, for the purposes of the study, as the *prior* parenting plan. The researcher read the prior plan and recorded the number of months between the court-approval dates of the focal plan and the prior plan, as well as information about changes in parenting arrangements between the prior and focal plans. The information recorded is shown in Exhibit 2, page 4, and includes changes in the residential schedule, changes in either parent's place of residence, and changes in decision-making authority.

A sub-sample of 50 cases was selected at random from the study sample. These cases were re-read and re-coded by a second researcher. The inter-coder reliability was extremely high. There was only one case where the coders disagreed on more than three items; and there were three cases where the coders disagreed on one to three items. These disagreements were resolved by re-reading the files. In no cases were items of disagreement related to the residential schedule. Overall, this inter-coder reliability check suggests that the reliability of the data compiled from the files is extremely high.

d. Qualitative Information

In addition to the standardized information described above, the researcher also recorded qualitative information from the parenting plans. This information covered a wide range of topics and encompassed material the researcher found unusual or challenging. For example, the researcher noted when parenting plans included creative or innovative solutions to parenting problems and when parenting plans appeared to be relying on cookie-cutter solutions. This qualitative information is included in this report—usually in the form of an example to support a conclusion based on the standardized information—but should not be interpreted as generalizable information.

e. Final Sample Characteristics

Exhibit 3 shows the distribution of the final sample by county. In Lewis, Snohomish, Spokane, and Thurston Counties the target sample size was achieved. In Chelan, King, and Yakima Counties slightly fewer cases were included in the achieved sample than originally targeted. The shortfall reflects sealed cases and a couple of cases where crucial documents were missing from the files. Finally, one extra case from Walla Walla County was accidentally included in the sample.

**EXHIBIT 3
 TARGET AND ACHIEVED PARENTING PLAN SAMPLE BY COUNTY**

County	Target Sample Size	Achieved Sample Size	Percentage of Achieved Sample
Chelan	14	13	3.3
King	187	180	45.6
Lewis	12	12	3.0
Snohomish	79	79	20.0
Spokane	49	49	12.4
Thurston	31	31	7.8
Walla Walla	6	7	1.8
Yakima	25	24	6.1
TOTAL	403	395	100.0

Exhibit 4 shows the distribution of the final sample by the year and month of the focal plans. Only two plans, one approved by the court in March 1997 and one approved in June 1998, were approved outside the sample time frame. In both cases, the plans were selected for approval based on the dates recorded in OAC's computer system, SCOMIS, but the actual dates shown on the plans differed from those in the computer system.

EXHIBIT 4
YEAR AND MONTH OF FOCAL PARENTING PLANS

Year and Month		Number	Percent	
1997	March	1	0.3	
	April	0	0.0	
	May	33	8.4	
	June	34	8.6	
	July	32	8.1	
	August	36	9.1	
	September	41	10.4	
	October	33	8.4	
	November	23	5.8	
	December	30	7.6	
	1998	January	28	7.1
		February	20	5.1
March		28	7.1	
April		27	6.8	
May		24	6.1	
June		1	0.3	
TOTAL		395	100.0	

Exhibit 5 shows the distribution of the final sample by the type of focal plan: first permanent plan versus modification. Forty-three percent of the focal parenting plans are first parenting plans; the remainder are modified parenting plans. This pattern suggests that modifications are common, and comprise a considerable fraction of the parenting cases in the court system. However, this information can not be used to infer the frequency of modification; to do this it would be necessary to track a sample of cases from the time of the first parenting plan onward and see what proportion eventually modify their plans. Second, and especially third and later modifications, are quite uncommon. This may reflect the aging of the children, the ability of parents to reach a satisfactory set of arrangements (either with or without court approval), or the reluctance of parents to re-enter the court system.

EXHIBIT 5
FOCAL PARENTING PLANS BY TYPE

Type of Plan	Number	Percent
First Permanent	171	43.3
First Modification	171	43.3
Second Modification	38	9.6
Third or Later modification	15	3.8
TOTAL	395	100.0

3. FINDINGS

a. Characteristics of Children Served

i. Number of Children

Exhibit 6 shows the distribution of focal plans in the sample by the number of children covered by the focal plan. The number of children covered by the plans is also shown separately for first plans and for modifications.

Slightly more than 45 percent of the focal plans apply to one child only; just under 40 percent apply to two children, and the remaining 15 percent apply to three or more children. This distribution is fairly similar for first plans and for modifications, although there is a slight tendency for modifications to be more likely to apply to one child only.

**EXHIBIT 6
 NUMBER OF CHILDREN**

Number of Children	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
1	179	45.3	70	40.9	109	48.7
2	157	39.7	70	40.9	87	38.8
3	43	10.9	21	12.3	22	9.8
4 or more	16	4.1	10	5.9	6	2.7
TOTAL	395	100.0	171	100.0	224	100.0

ii. Age of the Youngest Child

Exhibit 7 shows the distribution of focal plan in the sample by the age of the youngest child covered by the plan. This information is also presented separately for first plans and modifications.

Nearly 60 percent of the youngest children covered by the focal plans are of elementary school age – six to 11 years. Over 20 percent of the youngest children are teenagers, and fewer than 20 percent are preschoolers. This age distribution of the youngest children in the sample is consistent with national data about the ages of children of divorce. Not surprisingly, modified parenting plans tend to apply to somewhat older children than first plans. This reflects the empirical observation (see below) that typically parenting plans are modified after about four to five years.

EXHIBIT 7
AGE OF YOUNGEST CHILD

Age of the Youngest Child	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
2 and younger	24	6.0	23	13.5	1	0.5
3 to 5	47	11.9	32	18.7	15	6.7
6 to 8	143	36.2	58	33.9	85	38.0
9 to 11	93	23.5	24	14.0	69	30.8
12 to 14	57	14.4	22	12.9	35	15.6
15 and older	31	7.8	12	7.0	19	8.5
TOTAL	395	100.0	171	100.0	224	100.0

iii. Sex of the Youngest Child

Exhibit 8 shows the distribution of the focal plans in the sample by the sex of the youngest child covered by the plan. This information is also provided separately for first and modified plans.

The sex of the children is not directly reported on the mandatory parenting plan forms. Instead, the researcher inferred this information based on the first name of the children identified on the form. For names that were ambiguous, the researcher checked the *Parents' Magazine* online database of children's names and read the plan for references to the child as "girl/boy" or "daughter/son." It was not possible to infer the sex of the youngest child covered by 50 parenting plans.

For the subset of focal plans where it was possible to infer the sex of the youngest child, roughly the same numbers of girls (176) and boys (169) were identified. This is reassuring, since the sample aims to be random, and in a random sample we would expect approximately equal numbers of girls and boys based on the roughly equal numbers of girls and boys in the population. There is a slight deficit of boys among the first plans. However, it is not large enough to suggest a problem with the sample.

EXHIBIT 8
SEX OF THE YOUNGEST CHILD

Sex of the Youngest Child	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
Male	169	42.8	67	39.2	102	45.5
Female	176	44.6	78	45.6	98	43.7
Unknown	50	12.7	26	15.2	24	10.7
TOTAL	395	100.0	171	100.0	224	100.0

b. Parents' Place of Residence

Exhibit 9 shows the distribution of focal plans in the sample by the parents' place of residence, for all plans and for first and modified plans separately.

More than three-quarters of the plans apply to families with both parents living in Washington State. However, there is a marked difference in patterns of parents' residence between first plans and modified plans. Whereas 85 percent of first plans have both parents in Washington State, only 70 percent of modified plans have both parents in Washington State. This pattern reflects the importance of parental relocation as a reason why parents modify their parenting plans.

The second and third rows of Exhibit 9 suggest that fathers are more likely to live outside Washington State than mothers—39 percent compared to 26 percent. This difference in the propensity of mothers and fathers to live out of state appears primarily for first plans.

EXHIBIT 9
PARENTS' RESIDENCE

Parents' Residence	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
Both Parents in WA	303	76.7	164	85.4	157	70.1
Mother Outside WA	26	6.6	2	1.2	24	10.7
Father Outside WA	39	9.8	13	7.6	26	11.6
Both Outside WA	3	0.8	1	0.6	2	0.9
Unknown	24	6.1	9	5.3	15	6.7
TOTAL	395	100.0	171	100.0	224	100.0

c. The Residential Schedule

The residential schedule comprises the largest, and most complex, section of the mandatory parenting plan forms. Information was collected on five different components of the residential schedule:

- Whether one parent’s residential time is restricted,
- Which parent the child is scheduled to spend most time with (the *primary residential parent*),
- The amount of alternate residential time scheduled with the other parent (the *non-primary residential parent*),
- Whether the non-primary residential parent’s residential time is supervised, and
- The residential schedule during school vacations.

One of the most important qualitative findings from this sample of parenting plans concerns the residential schedule. Despite the Parenting Act’s emphasis on a *residential schedule*, and the law’s intended rejection of the language of *custody* and *visitation*, many parenting plans still refer to custody and visitation. Phrases such as “the mother shall have custody of the children and the father shall have visitation every-other-weekend” were common in the sample parenting plans reviewed, especially outside King County. *As arranged* schedules (see below) are especially likely to refer to custody and visitation. Some plans rather than using the straightforward everyday language of “mom’s house” and “dad’s house” rely instead on the cumbersome language of “the custodial residence” and “the non-custodial residence” that the Parenting Act aimed to abolish. By continuing to rely on the language of custody and visitation, participants in the system help maintain the legitimacy of concepts the law rejects and undermine the process of a cultural change toward post-dissolution coparenting that the Parenting Act sought to promote.

i. Restrictions on Residential Time

Exhibit 9 shows that approximately one in every five plans specifies that one or both parents’ residential time should be restricted. Modified plans are slightly more likely to restrict parents’ residential time than first plans. The most commonly identified factors serving as a basis for restricting parents’ residential time were alcohol or substance abuse and domestic violence.

EXHIBIT 9
RESTRICTIONS ON RESIDENTIAL TIME

Restrictions on Residential Time	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
Yes	85	21.5	32	18.7	53	23.7
No	310	78.5	139	81.3	171	76.3
TOTAL	395	100.0	171	100.0	224	100.0

Among the 85 plans that restrict parents' residential time, 48 plans (56.5 percent) specify that the father's residential time should be restricted, and 36 plans (42.4 percent) specify that the mother's residential time should be restricted. One plan specified that both parents' residential time should be restricted. Thus, fathers' residential time is more likely to be restricted than mothers'.

ii. Primary Residential Parent

Exhibit 10 displays information about the primary residential parent. For the present study the primary residential parent is the parent with whom the child spends the *most* time. For most cases this was obvious, but for a few cases the primary residential parent was identified by constructing a calendar and counting how many nights the child spent in each parent's household over a four-week period. Although, strictly speaking 50/50 plans are only those with 14 nights in one household and 14 in the other, for the present study plans with as few as 12 nights in one household and as many as 16 in the other household were also counted as 50/50. Plans where the child alternated between households every month or every six months were also counted as 50/50 arrangements.

The first two lines of Exhibit 10 show that the mother is the primary residential parent for just over 60 percent of the sample (239 plans) and that the father is the primary residential parent for 32 percent of the sample (127 plans). Fifty/fifty plans were uncommon; only 27 plans, fewer than 7 percent, were of this type. Two plans provided for the children to live with adults who were not their parents.

EXHIBIT 10
PRIMARY RESIDENTIAL PARENT

		N	Mother	Father	50/50	Other
ALL PLANS	Number	395	239	127	27	2
	Percent		60.5	32.2	6.8	0.5
Type of Plan	First	171	73.1	15.2	11.7	0.0
	Modification	224	50.9	45.1	3.1	0.9
Number of Children	1	179	56.4	36.3	6.7	0.6
	2	157	59.9	30.6	8.9	0.6
	3	43	74.4	23.3	2.3	0.0
	4 or more	16	75.0	25.0	0.0	0.0
Age of Youngest Child	2 and younger	24	70.8	20.8	8.3	0.0
	3 to 5	47	74.5	19.2	6.4	0.0
	6 to 8	143	61.5	30.1	7.7	0.7
	9 to 11	93	55.9	36.6	7.5	0.0
	12 to 14	57	56.1	38.6	5.3	0.0
	15 and older	31	48.4	45.2	3.3	3.2
Sex of Youngest Child	Male	169	58.0	33.7	7.7	0.6
	Female	176	64.2	29.6	5.7	0.6
Parents' Residence	Both parents in WA	303	60.4	31.0	8.6	0.0
	Mother outside WA	26	50.0	50.0	0.0	0.0
	Father outside WA	39	76.9	20.5	0.0	2.6

The relatively high number of plans in which the father is the primary residential parent is, at first glance, surprising. However, several recent studies, using both U.S. Census Bureau data and other large-scale samples, have found a dramatic increase in formerly married father-headed single-parent families. Nationally, close to one in four formerly married single-parent families are headed by men.²

The figure of 32 percent in the present sample is clearly higher than in national data. However, it is not implausibly higher. First, for the past decade Washington State's Parenting Act has gone further than comparable legislation in many other states in its endorsement of gender-neutral post-divorce parenting.³ As a result, one would expect Washington to have a higher-than-average proportion of fathers

who are primary residential parents. Second, the present sample includes a large number of modified parenting plans, which cover children who are, on average, older than children in first parenting plans (see Exhibit 7). In national data, and in the present sample (see below), older children are more likely to reside with their fathers than are younger children.

The main body of Exhibit 10 shows the percent distribution of primary residential parent for various subgroups of the sample. Thus, the third row of Exhibit 10 shows the percent distribution of primary residential parent among first plans, and the fourth row shows the distribution among modified plans. The first number on each row is the total number of cases on which that row's percent distribution is based. By looking down the "Mother" (or the "Father") column, the reader can identify subgroups in which primary residential mothers (or fathers) are more or less frequent.

The third and fourth rows of Exhibit 10 show that for both first and modified plans mothers are more likely than fathers to be the primary residential parent. However, as already noted, first plans are more likely than modifications to have the mother as primary residential parent—73 percent compared to 51 percent. In contrast, modifications are more likely than first plans to have the father as primary residential parent—45 percent compared to 15 percent.

Exhibit 10 reveals that a number of variables influence which parent is the primary residential parent, although for every subgroup identified in the Exhibit, children are most likely to live with their mother.

The more children that are covered by a parenting plan, the more likely it is that the mother is the primary residential parent. The difference between plans covering one child and plans covering two children is small: 56 percent of one child plans have the mother as primary residential parent compared to 60 percent of two child plans. However, 75 percent of plans that cover three or more children have the mother as primary residential parent. The other side of this pattern is that fathers are less likely to be the primary residential parent in plans that cover more children.

As children grow older they are less likely to live with their mothers and more likely to live with their fathers. For children of preschool age, over 70 percent live most of the time with their mothers, and only around 20 percent live most of the time with their father. In contrast, around half the teenagers live with their mother and around 40 percent live with their father.

Both boys and girls are more likely to live with their mothers than with their fathers. However, boys are more likely to live with their fathers than are girls. In

fact, roughly one third of the plans in which the youngest child is a boy allocate most residential time to the father.

Finally, when the mother lives outside Washington State, mothers and fathers are equally likely to be the primary residential parent. Thus, mothers who move out of state are substantially less likely to be the primary residential parent than mothers who stay in state. Fathers also are less likely to be the primary residential parent if they live out of state.

As already noted, 50/50 arrangements are quite unusual—fewer than 7 percent of parenting plans are of this type. Fifty/fifty arrangements are more frequent among first plans than among modifications and are less frequent among plans that cover three or more children and among plans that cover older children.

The relative infrequency of residential schedules in which the child frequently alternates residence between parents should be interpreted in the light of the provisions of the Parenting Act. RCW 26.09.187 provides that when frequent, brief, and substantially equal intervals of residence in each parent's home are contemplated, three distinct criteria must all be met in order for the court to approve the residential schedule. First, no limitations with restrictions exist under RCW 26.09.191. Second, the parties must have agreed to the schedule voluntarily or have a history of shared parenting and cooperation; the parties are available to each other, especially in geographic proximity, to the extent necessary to ensure their ability to share parenting functions. And third, the shared parenting arrangement must be in the best interests of the child.

It is likely that newly divorced parents, who are formulating their first parenting plan, may be more willing to try a 50/50 residential schedule than parents who have been divorced longer and who may have accrued a history of conflicted or uncooperative coparenting. Also, parents who have been divorced longer are more likely to have moved further apart. These factors may explain the lower frequency of 50/50 schedules among modified plans. The lower frequency of 50/50 schedules among plans that apply to older children may reflect the greater complexity of these children's lives, with more social and extra-curricular activities than younger children, as well as the preferences of the children. Other researchers have found that 50/50 schedules are less practical for older children who wish to exert more control over their own schedules.⁴

Despite the intent of the law to limit 50/50 schedules to those parents who have voluntarily chosen this arrangement and who have a history of cooperation, there are instances in this sample of recent parenting plans where 50/50 arrangements have been approved for highly conflicted families. In a couple of instances, judges and parenting evaluators appear to have promoted 50/50 schedules as a

way to end parental disputes over which parent would be the primary residential parent. In one instance, a 50/50 schedule was approved as part of a parenting plan that also required the father to attend anger management counseling, arranged the transfer of children so that the parents would not interact with each other, and required both parents to enter mediation to discuss a possible two-hour change in the children's pick up and drop off times. It seems unlikely that the parents would be able to establish cooperative parenting under these circumstances.

In contrast, some cases with 50/50 schedules provide models of effective cooperative post-divorce parenting. One parenting plan in the sample provided for the children to remain in the family home, and for the parents to move in and out of the family home for alternating weeks. In another case, the children were taken to school each day by the parent with whom they were not currently residing. This ensured that both parents saw the children every day, and that the parents had daily opportunities to communicate about their children.

Two 50/50 arrangements sidestepped the Parenting Act's intention that parents with this schedule should live close together. Since both these plans contained elaborate provisions for transporting the children to and from school when they were living at the further parent's household, they appear to reflect the parents' strong commitment to continuing cooperative parenting. In another case, parents living on opposite sides of the Cascade Mountains appear to have achieved 50/50 parenting by moving their daughter between households each summer, necessitating a change of school. The arrangement unraveled when the daughter reached her mid-teens and demanded to be allowed to stay in one place through high school graduation.

iii. Alternate Residential Time

Exhibit 11 displays information about alternate residential time for the non-primary residential parent. Like Exhibit 10, the first two lines show the number and percentage of all plans in the sample with various residential schedules. The main body of the table shows the percentage distribution of alternate residential time schedules for various subgroups of the sample. The first number in each row is the number of cases on which that row's percentage distribution is based. By looking down the columns, it is possible to identify which groups in which various residential schedules are especially frequent and infrequent.

Throughout this analysis, alternate residential time schedules are divided into four categories:

- The so-called *every-other-weekend* schedule (which may also include up to one midweek evening, but no more than three overnights per two-week period),

- Schedules which provide for *more than every-other-weekend* alternate residential time (including 50/50),
- Schedules which provide for *less than every-other-weekend* alternate residential time (which include plans where no contact between the non-primary residential parent and the child is permitted), and
- Arrangements that do not specify a schedule, but instead provide that either the parents or the child and the non-primary residential parent should make their own arrangements, *as agreed*.

For the sample as a whole, over 45 percent of plans specify *every-other-weekend* alternate residential time. The dominance of this schedule suggests that *every-other-weekend* is, to some extent, a “typical” schedule. This conclusion is reinforced by the finding that *every-other-weekend* schedules are equally, or nearly equally, common across a number of subgroups. The type of plan (first or modified), the number of children covered by the plan⁵, the sex of the youngest child, and which parent is the primary residential parent all exert little influence on the likelihood that *every-other-weekend* alternate residential time will be specified.

However, some factors clearly do influence the likelihood that a plan specified *every-other-weekend* alternate residential time. Not surprisingly, when one parent lives outside Washington State, *every-other-weekend* alternate residential time is far less likely: 17 percent, compared to 54 percent for plans where both parents live in state. Schedules with *less than every-other-weekend* alternate residential time are most common in plans where one parent lives out of state.

Every-other-weekend schedules are less common in plans that include restrictions on one parent’s residential time. Nearly two-thirds of the plans with restrictions provide for *less than every-other-weekend* alternate residential time. Even so, 31 percent of plans with restrictions have *every-other-weekend* schedules. It may seem surprising that in nearly one third of the cases where the court believes that a parent’s residential time should be restricted, that parent has the same *amount* of residential time as is specified in a typical plan. However, the restrictions on a non-primary residential parent’s alternate residential time may involve something other than the *amount* of time. For example, a parent may be required to comply with drug or alcohol testing, or ensure that the children are not in the presence of specified individuals, or that another specified individual is present throughout the alternate residential time.

Plans that were filed in King County were also somewhat less likely than the sample as a whole to specify *every-other-weekend* alternate residential time. The age of the youngest child covered by a plan also influences the likelihood that the plan will specify *every-other-weekend* alternate residential time. The youngest and oldest children are less likely to be covered by *every-other-weekend*

arrangements. For the oldest children, this probably reflects teenagers' wishes to exert control over their own schedules, especially if they are involved in weekend activities such as sports teams. This interpretation is bolstered by the finding that plans that cover older teens are most likely to have the non-primary residential parent's time *as agreed*. For the youngest children, the relatively low likelihood of having an *every-other-weekend* schedule may reflect the belief of mental health professionals and others involved in the formulation of parenting plans (often codified in alternate residential time guidelines) that very young children should not spend more than a few hours at a time away from their primary caregivers. This interpretation is borne out by the finding that the youngest children are most likely to have plans that specify *less than every-other-weekend* alternate residential time.

As noted earlier, the analysis presented here describes common patterns in parenting plans, but can not explain how those patterns emerge. Evidence from the focus groups and key informant interviews suggests that many parents are steered toward *every-other-weekend* schedules by attorneys, court facilitators, mediators, and other professionals. In addition, some counties have guidelines for alternate residential time which encourage *every-other-weekend* schedules. In some counties, including King County, these guidelines do not appear to be widely used. In other counties, Spokane and Yakima for example, it is not uncommon for parenting plans to say, "As per county guidelines," instead of detailing the residential schedule.

EXHIBIT 11
ALTERNATE RESIDENTIAL TIME

		N	Every- other- weekend ^a	More than every-other- weekend ^b	Less than every-other- weekend ^c	As agreed
ALL PLANS	Number	395	180	31	108	76
	Percent		45.6	7.9	27.3	19.2
Type of Plan	First	171	46.2	8.2	20.5	25.2
	Modification	224	45.1	7.6	32.6	14.7
Number of Children	1	179	40.8	6.2	31.8	21.2
	2	157	49.7	7.6	21.0	21.7
	3	43	46.5	16.3	27.9	9.3
	4 or more	16	56.3	6.3	37.5	0.0
Age of Youngest Child	2 and younger	24	29.2	12.5	37.5	20.8
	3 to 5	47	48.9	12.8	17.0	21.3
	6 to 8	143	55.9	7.0	25.2	11.9
	9 to 11	93	35.5	11.8	38.7	14.0
	12 to 14	57	47.4	1.8	22.8	28.1
	15 and older	31	32.3	0.0	19.4	48.4
Sex of Youngest Child	Male	169	47.9	8.9	23.1	20.1
	Female	176	42.6	7.4	35.2	14.8
Restrictions	Yes	85	30.6	2.4	63.5	3.5
	No	310	49.7	9.4	17.4	23.6
Primary Residential Parent	Mother	239	50.2	11.3	26.8	11.7
	Father	127	46.5	3.2	33.9	16.5
Parent(s) Outside Washington State	Yes	92	17.4	1.1	58.7	22.8
	No	303	54.1	9.9	17.8	18.2
County	King	180	41.1	8.9	24.4	25.6
	Snohomish	79	46.8	1.3	35.4	16.5
	Other	136	50.7	10.3	26.5	12.5

- a. Alternate weekends may include up to one weekday evening per week, but no more than three overnights per two weeks.
- b. More than alternate weekends includes 50/50 residential schedules.
- c. Less than alternate weekends includes no contact.

The least common schedules for non-primary residential parents' alternate residential time are those that specify *more time than every-other-weekend*. Only eight percent of the whole sample, or 31 plans, had these schedules. Bear in mind that of these 31 plans, 27 were 50/50 schedules. This suggests that unless a parent is the primary residential parent or has a 50/50 residential schedule, the most alternate residential time he or she is likely to have specified in a plan is *every-other-weekend* and one evening a week.

After *every-other-weekend*, *less than every-other-weekend* schedules are the most common schedules for alternate residential time. More than one in four plans in the sample provide for *less than every-other-weekend* alternate residential time. These schedules are more common in modified plans, in plans for the youngest children, in plans for girls, in plans where the father is the primary residential parent, and in plans filed in Snohomish County.

Nearly one in every five plans in the sample does not specify a schedule for alternate residential time, using instead some variant of *as agreed*. This is surprising in view of the fact that one of the original goals of the Parenting Act was to replace such vagueness with clearly specified arrangements that would, at the minimum, serve as a fallback in the event of conflict. As already noted, *as agreed* schedules are especially common in plans for older children. *As agreed* schedules are more common in first plans than in modified plans suggesting that newly divorced parents are more willing to try flexible arrangements than parents who have been divorced for some time.

As agreed plans are not limited to low-conflict situations. In fact, just as some courts promote 50/50 schedules when parents can not agree on a residential schedule, some courts seem to leave alternate residential time to be agreed when parents are in extreme conflict over the residential schedule.

One of the criticisms of the Parenting Act has been that it prohibits informal, flexible arrangements—one key informant described the Parenting Act and the mandatory forms as a “straightjacket.” The finding that many plans use *as agreed* schedules suggests that many informal, flexible arrangements have wriggled out of the straightjacket, and that parents can have flexibility if they choose. Conversely, one of the most widely cited benefits of the Parenting Act is that it provides parents with a well-defined set of arrangements for the times when they are unable to agree. Parents with *as agreed* schedules forgo this benefit. Possibly, parents with *as agreed* schedules do not need a specific fall back schedule. A reasonable question, however, is why 50/50 schedules are limited to a clearly defined set of circumstances while *as agreed* schedules, which appear to directly circumvent the intent of the law, are not subject to special consideration.

iv. Supervised Alternate Residential Time

Exhibit 12 provides information about parenting plans that specify that the non-primary residential parent’s alternate residential time must be supervised by a designated agency or individual. Of the 395 plans in the sample, 35 (9 percent) mandate supervised alternate residential time. This percentage is approximately the same for first plans and for modified plans.

**EXHIBIT 12
 SUPERVISED ALTERNATE RESIDENTIAL TIME**

		Yes	No
ALL PLANS	Number	35	360
	Percent	8.9	91.1
Type of Plan	First	8.2	91.8
	Modification	9.4	90.6
Restrictions	Yes	37.8	62.4
	No	1.0	99.0

There is a clear overlap between plans mandating supervised alternate residential time and plans that restrict one parent’s residential time. Over one third of the 85 plans that identify limiting factors mandate supervised alternate residential time, and 32 of the 35 plans that mandate supervised alternate residential time also restrict the parent’s alternate residential time.

In addition to the 35 plans that mandate supervised alternate residential time, 10 plans order that the children should have no contact with their mothers, and six plans order that the children should have no contact with their fathers.

v. Vacation Schedules

Exhibits 13 and 14 provide information about patterns of residential time during children’s school vacations.

Exhibit 13 shows that over half the plans in the sample stipulate that winter and spring vacations from school should be shared equally between parents, either by dividing the vacations in half, or by alternating years. This equal division of winter and spring vacation is much less common in plans with restrictions—25 percent compared to over 60 percent in plans where no limiting factors are noted.

Plans that apply to very young children and older teenagers are also less likely to specify that winter and spring vacations should be divided equally. For the youngest children, who are not in school, winter and spring vacations are often not mentioned in the parenting plan. Older children often have *as agreed* vacation schedules.

Relatively few plans—less than six percent—provide non-primary residential parents with more than half of the winter and spring school vacations. Even when one parent resides outside the state, only 15 percent have more than half of the winter and spring vacations.

Approximately one in every five plans allocates less than half the winter and spring school vacations to non-primary residential parents. First plans, plans for younger children, and plans with restrictions, are all more likely to allocate less than half the winter and spring school vacations to non-primary residential parents.

EXHIBIT 13 WINTER AND SPRING VACATION FOR NON-PRIMARY RESIDENTIAL PARENT

		N	50/50 or alt. years	More than 50/50	Less than 50/50	As agreed
ALL PLANS	Number	395	211	22	81	81
	Percent		53.4	5.6	20.5	20.5
Type of Plan	First	171	52.1	3.5	25.2	19.3
	Modification	224	54.5	7.1	17.0	21.4
Age of Youngest Child	2 and younger	24	41.7	4.2	25.0	29.2
	3 to 5	47	46.8	8.5	21.3	23.4
	6 to 8	143	59.4	6.3	23.8	10.5
	9 to 11	93	51.6	7.5	19.4	21.5
	12 to 14	57	57.9	1.8	17.5	22.8
Sex of Youngest Child	15 and older	31	41.9	0.0	9.7	48.4
	Male	169	54.4	4.7	18.9	21.9
	Female	176	51.1	7.4	23.9	17.6
Restrictions	Yes	85	24.7	2.4	40.0	32.9
	No	310	61.3	6.5	15.2	17.1
Primary Residential Parent	Mother	239	53.6	5.0	22.2	19.3
	Father	127	46.5	7.9	22.1	23.6
Parent(s) Outside Washington State	Yes	92	42.4	15.2	16.3	26.1
	No	303	56.8	2.6	21.8	18.8

Exhibit 14 shows that there is considerable variation in summer residential schedules. Although very few non-primary residential parents are allotted all summer with their children, more than a quarter of all plans provide for a 50/50 sharing of summer residential time. Only 14 percent of plans specify two weeks of summer residential time. The most common summer schedules provide non-primary residential parents with between two weeks and half the summer, although nearly as many are *as agreed*. In general, the variables that influence summer schedules are similar to those described above for winter and spring breaks and for alternate residential time.

EXHIBIT 14
SUMMER VACATION FOR NONPRIMARY RESIDENTIAL PARENT

		N	Two weeks	Two weeks to 50/50	50/50	All summer	As agreed
ALL PLANS	Number	395	56	112	104	12	111
	Percent		14.2	28.4	26.3	3.0	28.1
Type of Plan	First	171	12.3	30.1	22.8	2.3	31.6
	Modification	224	15.6	26.3	29.0	3.6	25.5
Age of Youngest Child	2 and younger	24	4.2	16.7	25.0	0.0	54.2
	3 to 5	47	14.9	40.4	14.9	4.3	25.5
	6 to 8	143	15.4	30.8	28.7	2.8	22.4
	9 to 11	93	17.2	21.5	33.3	4.3	23.7
	12 to 14	57	7.0	35.1	24.6	1.8	31.6
Sex of Youngest Child	15 and older	31	19.4	16.1	16.1	3.2	45.2
	Male	169	13.0	26.0	29.6	3.0	28.4
Restrictions	Female	176	15.9	31.8	21.6	4.0	26.7
	Yes	85	23.5	11.8	5.9	1.2	57.7
Primary Residential Parent	No	310	11.6	32.9	31.9	3.6	20.0
	Mother	239	15.5	35.2	20.5	2.5	26.4
Parent(s) Outside Washington State	Father	127	15.0	21.3	24.4	4.7	34.7
	Yes	92	16.3	15.2	27.2	9.8	31.5
	No	303	13.5	32.3	26.1	1.0	27.1

d. Transportation

A number of mediators and professionals involved in the formulation of parenting plans interviewed for the present study commented that transportation issues were often a source of continuing friction between divorced parents. Likewise, parents

who participated in the focus groups often described ongoing tensions surrounding the transportation of children between households. Discord over transportation seems to be especially widespread in families where there is a considerable distance between the parents' households or where parents face a time consuming drive through rush hour traffic. Prompted by these concerns, information about transportation arrangements was gathered from the sample of parenting plans.

Exhibit 15 shows that roughly half of all parenting plans specify an equal division of transportation responsibilities. The most common wording on parenting plans is "the receiving parent will pick up the child." Primary residential parents are rarely charged with all or most of the responsibility for transporting children to their other parent's household. In contrast, nearly a third of non-primary residential parents bear all or most of the responsibility for transporting their children to and from their household. Non-primary residential parents are especially likely to be mostly or solely responsible for transportation if the plan covers very young children, if one parent lives out of state, and if their residential time is restricted. Only 13 percent of plans leave transportation arrangements to be agreed—fewer than leave the non-primary residential parent's alternate residential time to be agreed.

In addition to allocating responsibility for providing children's transportation between households, some parenting plans describe detailed arrangements for transferring children between households. Sometimes these detailed arrangements simply designate a mid-point between the parents' households where the child can be transferred, such as a freeway interchange or milepost. Most often, however, detailed arrangements are crafted to prevent parents from going to each other's homes and to avoid confrontations between parents. Roughly one quarter of the sample plans have transportation arrangements that are clearly intended to minimize contact between parents. Transportation arrangements of this type often specify that parents are to remain in their cars when picking up or dropping off their children, while the other parent remains inside the home. Other transportation arrangements require parents to transfer the children in public places, such as fast food restaurants and large stores, where presumably the parents are less likely to engage in a public dispute. Some plans contain residential schedules that require parents to collect and deliver children to school. These arrangements may also allow parents to transfer the children without knowing each other's addresses, and this can afford some limited protection to abuse and domestic violence victims. Finally, in the most conflicted cases (seven cases in this sample) children are transferred between parents at police stations, in one case with a specified "waiting time" between the departure of one parent and the arrival of the other.

EXHIBIT 15
TRANSPORTATION RESPONSIBILITY

		N	Mostly primary	Mostly non- primary	50/50	As agreed ^a
ALL PLANS	Number		20	123	200	52
	Percent	395	5.1	31.1	50.6	13.2
Type of Plan	First	171	2.9	31.6	50.9	14.6
	Modification	224	6.7	30.1	50.5	12.1
Age of Youngest Child	2 and younger	24	4.2	45.8	29.2	20.8
	3 to 5	47	2.1	25.5	59.6	12.8
	6 to 8	143	5.6	29.4	53.2	11.9
	9 to 11	93	7.5	36.6	39.8	16.1
	12 to 14	57	3.5	21.1	64.9	10.5
Sex of Youngest Child	15 and older	31	3.2	38.7	48.4	9.7
	Male	169	5.9	27.2	49.7	17.2
	Female	176	5.1	33.5	51.7	9.7
Restrictions	Yes	85	14.1	41.8	18.8	25.9
	No	310	2.6	28.4	59.4	9.7
Primary Residential Parent	Mother	239	3.8	37.2	48.5	10.5
	Father	127	8.7	24.4	48.0	18.9
Parent(s) Outside Washington State	Yes	92	7.6	45.7	32.6	14.1
	No	303	4.3	26.7	56.1	12.9

^a Includes children who provide their own transportation.

Some children must travel considerable distances to have residential time with their non-primary residential parent. Fifty plans in the sample have children travelling across state lines (either out of or into Washington State) to spend time with a parent. A similar number have children travelling the breadth of the state,

from Puget Sound to Spokane or vice versa. Most often, parenting plans for very young children do not require them to travel long distances; instead the parents are expected to travel. However, one plan in the sample has a two-year old spending two weeks out of every two months in California, with the transfer between parents taking place at an I-5 rest stop near Grants Pass in Southern Oregon.

e. Decision-making

The Parenting Act provides that decisions about the day-to-day care and control of the children should be made by the parent they are with at any given time. The residential parent of the moment is also charged with the authority to make emergency decisions about the health and safety of the children.

In contrast, the authority to make major decisions about the children covering topics such as non-emergency health care, education, religious upbringing, and any other topics specified by the parents, is explicitly allocated in the parenting plan. Decision-making authority is separated from the residential schedule; i.e., the parent with the most residential time does not automatically get a greater say in major decisions.⁶ Parenting plans may specify that major decisions will be made jointly by the parents or that one parent has the authority to make major decisions. Sole decision-making authority can be ordered by the court if limiting factors are identified in the parenting plan that justify restricting one parent's decision-making authority. Sole decision-making must also be ordered if one parent is reasonably opposed to joint decision-making, or if neither parent wants joint decision-making.

Exhibit 16 shows that nearly one in five of the parenting plans in the sample contain restrictions on one parent's decision-making authority. Restrictions on decision-making are more common in modified parenting plans than in first parenting plans.

EXHIBIT 16
RESTRICTIONS ON DECISION-MAKING

Restrictions Noted in Parenting Plan	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
Yes	76	19.2	26	15.2	50	22.3
No	319	80.8	145	84.8	174	77.7
TOTAL	395	100.0	171	100.0	224	100.0

In principle, parenting plans can specify mixes of joint and sole decision-making authority. For example, a plan can specify that parents should make educational decisions jointly, while one parent is authorized to make medical decisions. In practice, these kinds of split decision-making arrangements are unusual. Very few plans in the sample provided for split decision-making, so that nearly all plans had either sole decision-making on all major issues, or joint decision-making on all major issues.

Exhibit 17 shows that joint decision-making is far more common than sole decision-making. Nearly three-quarters of the sample plans specify joint decision-making, and just over a quarter specify sole decision-making. This pattern is reversed when there are restrictions on residential time, when three-quarters of the plans specify sole decision-making and only one-quarter specify joint decision-making. When there are restrictions on decision-making, virtually all plans have sole decision-making, as is required by the law. However, even when there are no restrictions on decision-making, 10 percent of plans still have sole decision-making, comprising plans where one or both parents is opposed to joint decision-making. Sole decision-making is also more common when one parent lives out of state, and when the father is the primary residential parent.

Parents have the option of including whatever topics they consider to be important in the list of major decision-making topics. Most parents mention just three major decision-making topics: education, health, and religion. However, a minority of parents expand the list. Common additions include the choice of daycare provider, marriage before age 18, getting a driver's license, and joining the military. Less common additions include participation in sports, getting a tattoo or body pierce, choice of clothing, and foreign travel.

EXHIBIT 17
MAJOR DECISION-MAKING^a

		N	Primary residential parent	Joint
ALL PLANS	Number		106	288
	Percent	394	26.9	72.9
Type of Plan	First	171	23.4	76.6
	Modification	223	29.6	70.4
Age of Youngest Child	2 and younger	24	25.0	75.0
	3 to 5	47	25.5	74.5
	6 to 8	143	29.4	70.6
	9 to 11	93	26.9	73.1
	12 to 14	57	22.8	77.2
	15 and older	31	29.0	71.0
Sex of Youngest Child	Male	169	26.0	74.0
	Female	176	27.8	72.1
Restrictions on Residential Time	Yes	85	77.7	22.3
	No	310	12.9	87.1
Restrictions on Decision-making	Yes	76	97.4	2.6
	No	315	10.0	90.0
Primary Residential Parent	Mother	239	26.4	73.6
	Father	127	33.9	66.1
	50/50	27	100.0	0.0
Parent(s) outside Washington State	Yes	92	39.1	60.9
	No	303	23.1	76.9

^a Total number of cases is 394 because one plan does not specify decision-making arrangements.

f. Dispute Resolution

The Parenting Act requires parents to specify a dispute resolution mechanism. Parents have the right to say that the only dispute resolution mechanism they want is to return to court. However, parents may also specify that they would like to use mediation or arbitration, and information from the key informant interviews suggests that parents are strongly encouraged to include these non-court dispute resolution mechanisms in their plans.

Exhibit 18 shows that three-quarters of all plans designate mediation or arbitration for the dispute resolution process. Nearly all these plans designate mediation—only four plans, all in King County, specifically designate arbitration. First plans are more likely to specify a non-court dispute resolution process than are modified plans. This may reflect some parents’ frustration with mediation, a topic discussed at length in the focus groups.

EXHIBIT 18

DISPUTE RESOLUTION MECHANISM

	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
Mediation or Arbitration	296	74.9	137	80.1	159	71.0
Court Hearing Only	99	25.1	34	19.9	65	29.0
TOTAL	395	100.0	171	100.0	224	100.0

The information collected on who bears the costs of non-court dispute resolution indicates that roughly equal numbers of plans specify a 50/50 sharing of costs, a proportionate sharing of costs based on the income declared on the child support worksheets, and a sharing of costs to be determined in the dispute resolution process.

g. Special Provisions

Exhibit 19 shows that more than 40 percent of all plans and over one-half of modified plans, contain additional provisions that are not part of the mandatory parenting plan form.⁷ These provisions deal with a wide variety of topics. Common topics include:

- Telephone contact between children and parents,
- Parents’ access to medical and educational records,
- Children’s participation in psychological counseling,
- Parents’ participation in school and extra-curricular functions,
- Parents’ agreeing not to move over a certain distance,
- Parents agreeing not to denigrate each other or discuss pending litigation with the children,
- Discipline plans, and
- The parenting role and title of new spouses (step-parents).

**EXHIBIT 19
 SPECIAL PROVISIONS**

Additional provisions noted	All Plans		First Plans		Modifications	
	Number	Percent	Number	Percent	Number	Percent
Yes	167	42.3	51	29.8	116	51.8
No	228	57.7	120	70.2	108	47.4
TOTAL	395	100.0	171	100.0	224	100.0

A body of standard language, dealing with these special issues, has developed and become quite widely used. However, some special provisions are clearly tailored to provide unique, creative solutions to parents’ difficulties. For example, one plan requires both parents to maintain fax machines so that the children can receive help with their homework from the non-primary residential parent. Another directs both parents to purchase identical large-format calendars for display in their kitchens and to use the same color-coded scheme to note the children’s activities and the residential schedule. Some special provisions like the detailed transportation arrangements discussed previously (see Section 3.d.), are clearly intended to minimize parental conflict. For example, one plan (which modifies a 50/50 residential schedule to an *every-other-weekend* schedule) includes the following arrangements for extracurricular activities: “Parents shall be at opposite ends of the field or room and shall have no contact at games and extracurricular activities. The residential parent [at the time of the activity] shall sit on the “team” or “school” side of activities.”

h. Prior Plans and Changes in Plans

Two hundred and twenty-four (224) of the 395 focal plans included in the sample were modifications of earlier plans. Of these, 171 were first modifications and 53 were second or later modifications.

Exhibit 20 shows that the modifications are heavily concentrated in the fourth, fifth, and sixth years after the prior plan.

**EXHIBIT 20
MONTHS BETWEEN FOCAL PLAN AND IMMEDIATELY PRIOR PLAN**

Months	Number	Percent ^a
12 or less	14	6.3
13 to 24	22	9.8
25 to 36	20	8.9
37 to 48	38	17.0
49 to 60	48	21.0
61 to 72	46	20.5
73 to 84	28	12.5
85 or more	5	2.2
TOTAL	224	100.0

Exhibits 21 through 24 detail the main changes between the focal plans in the sample and the plan immediately prior to the focal plan. Approximately half the changes involved a change in the primary residential parent, with the most common pattern being from mother to father. Changes from 50/50 schedules are also quite common, while very few parents elect to change to 50/50 schedules.

EXHIBIT 21
CHANGES IN PRIMARY RESIDENTIAL PARENT

	Number	Percent
No Change	110	49.3
Mother to Father	64	28.7
Mother to 50/50	5	2.2
Father to Mother	16	7.2
Father to 50/50	0	0.0
50/50 to Father	10	4.5
50/50 to Mother	15	6.7
Other	4	1.3
TOTAL	224	100.0

EXHIBIT 22
CHANGES IN ALTERNATE RESIDENTIAL TIME

		Number	Percent
Alternate Residential Time	No change	63	28.3
	Increases	34	15.2
	Decreases	71	31.8
	Unknown	56	24.7
Winter/Spring Vacation	No change	96	43.0
	Increases	28	12.6
	Decreases	38	17.0
	Unknown	62	27.4
Summer Vacation	No change	57	25.6
	Increases	53	23.8
	Decreases	47	21.1
	Unknown	67	29.5
TOTAL		224	100.0

Changes in alternate residential time are often quite complex, reflecting the changing needs of children and their parents. In general, however, alternate residential time is more likely to decrease than it is to increase. The exception to this is for summer vacation, where older children frequently spend longer blocks of the summer with their non-primary residential parent than in the earlier plan, or where more summer time is scheduled to compensate for less school-year time. The most common reason for increases in alternate residential time is the

elimination of restrictions following the non-primary residential parent successfully meeting certain criteria, such as the completion of drug or alcohol abuse treatment.

About one-quarter of modified plans incorporate changes in decision-making. The most common change is from joint decision-making to sole decision-making for the residential parent, either because parents were unable to make decisions jointly or because one parent relocated. Occasionally, sole decision-making is replaced with joint decision-making, generally after decision-making restrictions are eliminated.

EXHIBIT 23
CHANGES IN DECISION-MAKING

	Number	Percent
No Change	162	72.6
Increased for Residential	41	18.4
Decreased for Residential	15	6.7
Other/Unknown	5	2.2
TOTAL	223	100.0

Just over one-quarter of modifications to parenting plans reflect changes in one or both parents' place of residence. As noted earlier, mothers and fathers are equally likely to relocate out of state.

EXHIBIT 24
CHANGES IN PARENTS' RESIDENCE

	Number	Percent
No Change	159	71.3
Mother Moved Out of State	18	8.1
Mother Moved Into State	6	2.7
Father Moved Out of State	19	8.5
Father Moved Into State	1	0.4
Both Moved Out of State	2	0.9
Both Moved Into State	0	0.0
Other/Unknown	19	8.2
TOTAL	224	100.0

4. AN ACCIDENTAL SAMPLE OF PROPOSED PARENTING PLANS

The information for the sample of parenting plans (see 2.METHODOLOGY) was gathered from county courthouses around the state. The files to be included in the sample were drawn at random by OAC staff, who then asked county courthouses' staff to send paper copies of the selected parenting plans to the researcher. The sole exception to this was King County, where information was collected from the files on site.

When the county courthouse staffs sent copies of the selected parenting plans to the researcher, 83 *proposed* parenting plans were included alongside the final parenting plans. These proposed parenting plans form the basis of an accidental sample of proposed parenting plans, and were supplemented with 25 proposed parenting plans from King County to yield a total sample of 108 proposed parenting plans.

A very brief investigation of the proposed parenting plans was conducted in the hope that it might provide some information about parents' preferences for post-dissolution parenting arrangements, on the assumption that parents propose what they want.

Interpretations of these data must be very cautious as the data suffer from some limitations:

- The sample was collected “by accident” and thus we do not know whether these data comprise a representative sample of all proposed plans.
- Many files included in the representative sample of parenting plans do not contain any proposed parenting plans. It is likely that the files that do contain one or more proposed plans differ in various ways from files that do not.
- The proposed residential schedule may be a poor indicator of parents' preferences, especially if parents are “steered” by attorneys or court personnel toward certain residential schedules before the proposed plans are drafted.

Exhibit 25 shows the residential schedule proposed, by who proposed the plan. In this sample very few plans were proposed jointly. Also, very few parents, either mothers or fathers, propose a 50/50 residential schedule, which may help explain why this arrangement is so uncommon among final plans. Fathers appear to be more likely than mothers to propose a 50/50 residential schedule. Mothers tend to propose themselves as primary residential parents. In contrast, fathers are slightly more likely to propose the mother as primary residential parent than they are to propose themselves as primary residential parent. This pattern of proposed residential arrangements may be one possible explanation for why mothers are more likely than fathers to be the primary residential parent.

**EXHIBIT 25
 PROPOSED RESIDENTIAL SCHEDULE**

Plan was proposed by:				
	Both parents jointly	Mother	Father	Total
Proposed primary residential parent:				
Mother	3	41	26	70
Father	1	5	21	27
50/50	0	3	8	11
Total	4	49	55	108

Exhibit 26 compares the residential schedules proposed in the proposed parenting plans with the residential schedule approved by the court in the final plan for that family. (This was ascertained by matching SCOMIS case numbers on the proposed plans with the case numbers for the focal plan in the sample of parenting plans.) Of the 70 cases with a plan proposing the mother as the primary residential parent, 52 (74 percent) have final plans with the mother as primary residential parent. In contrast, of the 27 cases with a plan proposing the father as primary residential parent, only 11 (40 percent) have a final plan with the father as primary residential parent. It would appear from these tentative data that not only are fathers less likely than mothers to be proposed as primary residential parent, they are also less likely to get a plan approved that names them as primary residential parent. These data are tentative and further investigation is necessary before a firm conclusion can be reached.

**EXHIBIT 26
 PROPOSED AND FINAL RESIDENTIAL SCHEDULE**

Proposed primary residential parent:				
	Mother	Father	50/50	Total
Final Primary Residential Parent:				
Mother	52	15	3	70
Father	15	11	3	29
50/50	3	1	5	9
Total	70	27	11	108

5. CONCLUSIONS: ANSWERING THE RESEARCH QUESTIONS

At the beginning of this report, the research questions that motivated this analysis of parenting plans were outlined. This section summarizes the answers to those questions.

a. **What Are the Most Common Post-divorce Parenting Arrangements in Washington State? Is There a “Standard” Parenting Plan?**

The analysis presented above, based on a random sample of recent parenting plans in eight (8) Washington counties, indicates that one type of plan is far more widely adopted than any other. This most common plan generally includes the following provisions

- Children live with a primary residential parent, most often the mother.
- The non-primary residential parent, most often the father, has alternate residential time *every-other-weekend* (Friday and Saturday overnight), and one midweek evening lasting three to four hours.
- Winter and spring breaks are divided equally or alternated between the parents.
- The non-primary residential parent has more than two weeks but less than six weeks of alternate residential time in the summer.
- Transportation responsibility is shared equally by the parents.
- Major decisions about the children are made jointly by both parents.
- Parents attempt to resolve disputes through mediation.

As noted, the primary residential parent is most often the mother. In the sample as a whole, 60 percent of the primary residential parents are mothers; among first plans this rises to 73 percent. However, a substantial minority of primary residential parents are fathers—32 percent for the whole sample, and 45 percent for modified plans.

Approximately 45 percent of the plans contain an *every-other-weekend* residential schedule. Very few considerations greatly affect the likelihood that a divorced couple will have this schedule. Non-primary residential mothers are nearly as likely to have *every-other-weekend* alternate residential time as non-primary residential fathers.

Only eight (8) percent of plans provide the non-primary residential parent with more time than every-other-weekend and a mid-week visit.

After *every-other-weekend* schedules, the next most common residential schedules, comprising over one-quarter of the plans in the sample, provide for *less*

than every-other-weekend alternate residential time. These schedules are most common where one parent lives out of state or where one parent's residential time has been restricted.

Slightly under one-fifth of the plans in the sample did not specify a residential schedule, leaving alternate residential time to be agreed either between the parents or between the non-primary residential parent and the child. Although these arrangements were most common in plans covering older children, they are not limited to these groups.

Taken together, the findings of this study suggest that there is indeed a "standard" plan, and the core of the standard plan is the *every-other-weekend* residential schedule. *Every-other-weekend* alternate residential time is numerically dominant, and few plans provide for more alternate residential time. Information from both the focus groups and the key informant interviews supports the view that *every-other-weekend* is the "standard" arrangement.

b. How Common Is "Shared Parenting," Meaning Arrangements Where Parents Have Equal or Nearly Equal Residential Time with Their Children After Divorce?

Fewer than seven (7) percent of the parenting plans in this sample provide for the parents to have substantially equal residential time. Thus, shared parenting arrangements are unusual.

A number of factors contribute to the scarcity of shared parenting arrangements:

- Not all families are good candidates for 50/50 schedules. The review of scholarly research on post-divorce parenting supports this conclusion. The Parenting Act recognizes this and limits 50/50 schedules to families where the parents appear likely to cooperate and live close together, and where shared parenting serves the best interest of the child.
- Not all families want 50/50 schedules. Relatively few parents propose 50/50 schedules. In addition, focus group participants rarely mentioned 50/50 as a first choice arrangement.
- Some families who would like to try a 50/50 schedule are steered away from this schedule during the process of parenting plan formulation. This conclusion is based on information from the focus groups and key informant interviews.

c. How Often Are Restrictions Imposed on Parents' Residential Time and/or Decision-making?

Just over one-fifth of the parenting plans in this sample included restrictions on one or both parents' residential time. Restrictions were more common in modified plans than in first plans.

Restrictions on residential time do not always result in *less* residential time. Sometimes the restrictions impact the organization of the time, or specify criteria to be met before the residential time can begin, or identify individuals who must or must not be present during the residential time. Because of these considerations, nearly one-third of the plans that include restrictions on residential time also specify an *every-other-weekend* residential schedule.

On the other hand, some restrictions on residential time greatly impact the *amount* of residential time. Over 60 percent of the plans with restrictions provide for the non-primary residential parent to have *less than every-other-weekend* alternate residential time. One third of the plans with restrictions on a parent's residential time also require that parent's residential time to be supervised. Sixteen plans order that there should be no contact between a child and a parent.

Restrictions on decision-making authority are about as common as restrictions on residential time—one-fifth of the plans in the sample contained restrictions on decision-making. Restrictions on decision-making virtually always result in the non-restricted parent having sole decision-making authority.

Many plans that contain restrictions on residential time also contain restrictions on decision-making. Even so, nearly one-quarter of the plans that contain restrictions on residential time provide for joint decision-making.

d. How Often Do Parents Go Back to Court to Modify Their Plans? What Are the Most Common Modifications Made to Plans?

The current sample of parenting plans provides imperfect information on the frequency of modifications because it is based on a sample of plans that were approved during a given time period. A more accurate assessment of the frequency of modifications would track a sample of new parenting plans forward through time to see what fraction modified their plans within specified periods.⁸ Nevertheless, the fact that a random sample of recent parenting plans includes such a large number of modifications suggests that modifications are not uncommon and occupy a substantial amount of court resources.

Nearly two-thirds of the modifications in the sample had taken place within five years of the original plan. An additional fifth of the modifications took place in the sixth year.

Half the modifications involved a change in primary residential parent. Half of these changes in primary residential parent were from mother to father.

Just under one-third of all modifications entailed a reduction in the non-primary residential parent's alternate residential time. Just over one-quarter of all modifications were associated with a relocation across state lines by one or both parents. Mothers and fathers were equally likely to relocate.

e. **How Do Final, Court-approved Parenting Plans Compare To Parents' Proposed Parenting Plans?**

The information concerning proposed plans should be interpreted with caution, since it is based on a sample that may be unrepresentative or contain biases.

Few proposed plans are drafted by both parents jointly; rather husbands and wives tend to develop their own proposals, although in many cases only one parent develops a proposed plan. The proposed plans were more likely to designate the mother as primary residential parent than the father, even among plans proposed by the father. Few plans proposed 50/50 schedules, although plans proposed by fathers were more likely to include this schedule than plans proposed by mothers.

When proposed plans are compared with the final, court-approved plan, it appears that mothers are more likely to be designated as the primary residential parent than fathers. When the mother was proposed as primary residential parent, the court accepted the proposal 74 percent of the time. When the father was proposed as primary residential parent the court accepted the proposal only 40 percent of the time.

¹The overwhelming majority of families never have a temporary parenting plan.

Temporary plans are not always identified as temporary in JIS, and are more likely to be missing from the actual case file.

²For additional information see Braver (1998), Eggebeen et al. (1996), and Garansky et al. (1996), all cited in *Scholarly Research on Post-Divorce Parenting and Child Well-being*.

³This is not to say that Washington's law is always implemented in a perfectly gender-neutral fashion; only that the framing of the law is far less gendered than the law in many other states.

⁴See Braver (1998) and Buchanan, Maccoby and Dornbusch (1996) both cited in *Scholarly Research on Post Divorce Parenting and Child Well-being*.

⁵Plans that cover 4 or more children appear to be especially likely to have *every-other-weekend* schedules. However, this conclusion is based on only 16 cases and should be interpreted with caution.

⁶Although information from the focus groups suggests that this usually happens.

⁷The category "special provisions" does not include provisions that are properly part of restrictions, such as requirements that a parent undergo drug or alcohol testing or that the children are kept out of the presence of certain individuals.

⁸This exercise would be relatively straightforward using SCOMIS.

CHAPTER 4

WHAT THE EXPERTS SAY: SCHOLARLY RESEARCH ON POST- DIVORCE PARENTING AND CHILD WELL- BEING

**Report to the Washington State
Gender and Justice Commission
and
Domestic Relations Commission**

**Diane N. Lye, Ph.D.
June 1999**

SUMMARY

In late spring 1998, the Washington State Supreme Court Gender and Justice Commission and the Domestic Relations Commission began a study of the Washington State Parenting Act. This report presents information from one of four parts of that study, namely a review of scholarly research concerning post-divorce parenting and child well-being.

The review provides a general summary of the scholarly research literature. It is not intended to establish a single standard for post-divorce parenting in Washington State.

Methodology

A search of major bibliographic databases identified research articles for inclusion in the review. The review was limited to peer-reviewed research published in or after 1985. All research utilized direct measures of actual parenting behavior and child well-being. Studies were evaluated based on sample quality, study design, and use of controls and statistical techniques. Studies using probability samples, prospective, longitudinal designs, with necessary control variables and appropriate statistical techniques were judged more compelling.

Findings

The evidence reviewed here does not reveal any particular post-divorce residential schedule to be most beneficial for children. There are no significant advantages to children of joint physical custody, but also no significant disadvantages to children of joint physical custody or of any other post-divorce residential schedule.

The weight of evidence does not support the view that higher levels of child-nonresidential father contact are automatically or always beneficial to children. However, the weight of evidence also does not suggest that, absent parental conflict, high levels of child-nonresidential parent contact are harmful to children.

Parental conflict is a major source of reduced well-being among children of divorce. Research indicates that joint physical custody and frequent child-nonresidential parent contact have adverse consequences for children in high-conflict situations. Joint physical custody and frequent child-nonresidential parent contact do not promote parental cooperation.

Increased nonresidential parents' involvement in their children's lives may enhance child well-being by improving the economic support of children. This conclusion only holds if child support decisions are made independent of residential time decisions, and continuing nonresidential parent involvement does not expose children to continuing parental conflict.

1. PURPOSE AND GOALS

One of the research questions developed by the Gender and Justice and the Domestic Relations Commissions focuses on the impact of post-divorce parenting patterns on child well-being, specifically posing the question:

Does shared parenting improve the well-being of children post-divorce relative to children raised under other post-divorce parenting arrangements?

It is not feasible for the Commissions to undertake an original study of the impact of post-divorce parenting arrangements on child well-being. Instead, the Commissions determined to prepare a review of currently available scholarly research on the topic.

It is hoped that a rigorous, systematic, and methodologically critical review of current scholarly research on post-divorce parenting and child well-being will inform current debates in Washington State about what post-divorce parenting arrangements may best serve the interests of Washington State's children.

It is NOT the purpose of this review to establish a single standard or "best" post-divorce parenting arrangement for Washington State. The results of social and behavioral research are necessarily generalizations and should not be automatically applied to individual families. These generalizations may usefully inform the choices of individual families and the way legislation is framed. However, the circumstances of each family are unique, and recognition of their unique circumstances is central to making good post-divorce parenting choices. Moreover, as will be discussed below, the leading experts in the field agree that "one size fits all" approaches to developing post-divorce parenting arrangements are inappropriate and may be harmful to some families.

2. METHODOLOGICAL ISSUES

Research on the effects of post-divorce parenting arrangements on child well-being is fraught with methodological difficulties, and many of the available studies suffer from severe limitations. In order to address these problems, a number of criteria were developed for the inclusion of studies in the review of scholarly research and for the weight accorded to study findings in the review.

a. **Criteria for Inclusion of Studies in the Review**

i. Publication in a Peer-Reviewed Scholarly Journal, or in Book Form in a Peer-Reviewed Research Monograph Series

The review is limited to studies that have successfully completed the rigorous process of peer review used by scholarly research journals. In this process anonymous reviewers who do not know the identity of a study's author(s) review research papers. Authors receive extensive comments on their work, and are usually required to make revisions before a paper is accepted for publication. All journals require at least one review, and the most prestigious may solicit as many as six reviews. Eventual acceptance rates for research journals vary from as high as 70 percent to as low as 10 percent for the most prestigious journals.

The peer review process ensures that papers with significant methodological errors, flawed interpretations, or inaccurate reporting of earlier research results are not published and widely disseminated. Thus, by limiting the review to peer-reviewed publications, only the most reliable research findings are included in the results.

Limiting the review to peer-reviewed studies excludes some research, notably unpublished doctoral dissertations and masters theses, and unpublished conference papers. This exclusion is appropriate for several reasons. First, unpublished studies have not been subject to the same rigorous scrutiny as peer-reviewed studies. Second, dissertations, theses, and conference papers are often "works in progress" and may be subject to a great deal of revision before they are eventually published. The best studies of this sort eventually find their way into peer-reviewed outlets, once all the problems have been ironed out. For example, Stephens (1996) began life as a University of Washington MA Thesis.

ii. Publication after 1985

Because of the peer-review process, there is necessarily a lag between the time when data were collected and the publication of research findings. Thus, utilizing

research published before 1985 usually implies relying on data collected in the 1970s or even earlier.

Relying on older data would not be a problem if the circumstances of divorcing families had remained constant over the past 30 or 40 years. However this is not the case.

- The greatest increase in divorce occurred between 1965 and 1979, when national divorce rates doubled. Since then divorce rates have remained steady.
- Public opinion polls reveal that the social stigma associated with divorce declined dramatically during the 1970s and 1980s.
- A wave of legal change during the 1970s and early 1980s increased access to divorce and promoted changes in post-divorce parenting.
- Since the early 1980s, post-divorce parenting arrangements have become more diverse, with increases in father custody, joint custody, and in post-divorce involvement by nonresident fathers (see 3.a.iii. below).

iii. Direct Measurement of Both Post-divorce Parenting and Child Well-being

The review is limited to studies that include direct measures of both post-divorce parenting and child well-being.

- Acceptable measures of post-divorce parenting arrangements include measures that assess how much time children spend residing in the households of each parent, how much time children spend with nonresidential parents, and what types of activities nonresidential parents engage in with their children.
- Acceptable measures of child well-being include assessments of psychological, emotional, and social functioning, health status, cognitive ability, educational achievement, problem behaviors (including substance use, truancy, involvement in the juvenile justice system), and young adult family outcomes (including early home leaving, teen parenthood, and teen marriage or cohabitation).

Although it might seem obvious that to draw conclusions about the association between post-divorce parenting and child well-being, it is necessary to have measures of both, many studies lack these measures.

Some studies fail to adequately measure or define post-divorce parenting arrangements, using imprecise terms such as “joint custody” or “shared parenting” without specifying exactly what is involved in these arrangements. Research has shown that there is often little correspondence between actual living

arrangements and the living arrangements specified in court papers (Clark et al. 1988). Therefore, it is crucial that actual living arrangements are assessed, not simply court orders. Studies that confuse joint legal custody with joint physical custody, and erroneously assume that joint legal custody implies joint physical custody (e.g. Bowman and Ahrons 1985; Burnett 1991) are, for the same reasons, also not included in this review.

Other studies fail to adequately assess child well-being post-divorce, relying on parents' reports, or utilizing parents' reports of their own well-being or satisfaction with post-divorce parenting arrangements (e.g. Arditti 1992a,b; Hanson 1985; Schrier et al. 1991). Other studies use measures that are only tangentially related to child well-being, such as children's perceptions of who is a member of their family (e.g. Isaacs et al. 1987). Studies that lack measures of child well-being are not included in this review.

b. Selection of Studies for the Review

Studies included in the review were identified by searches of major on-line bibliographic data bases, including sociofile, popline, popindex, medline, psychabstracts, ssci. Additional studies were identified from the bibliographies of selected studies.

Wherever possible only original, primary research studies are included in this review. This avoids reliance on second-hand reporting of research findings.

A complete bibliography of research reviewed is attached (section 6). Citations are also provided for relevant review articles and edited books.

c. Criteria for Evaluation of Study Findings

i. Studies Using Probability Samples Are Preferred to Studies Using Nonprobability Samples

A *probability sample* is a sample with known statistical properties that make it possible to generalize from the sample to the broader population from which the sample is drawn. A simple random sample is the most common form of probability sample. Probability samples designed to study child well-being may be nationally or locally representative, and may include children of all ages, races, etc., or be limited to children from specific demographic groups.

The large scale national samples used by researchers such as McLanahan and Sandefur (1994), Furstenberg and Cherlin (1991), and King (1994a,b) are all

examples of probability surveys. So, too, are the local samples used by Amato (1994), Buchanan et al. (1996), Maccoby and Mnookin (1994), and Seltzer and Garfinkle (1990), among others.

Probability samples tend to be quite large, usually numbering several hundred, and sometimes several thousand cases. These large sample sizes support the inclusion of adequate controls in all analyses (see 2.c.iii. below). However, very large sample sizes are prone to finding “statistically significant effects” merely by chance. Moreover, even with very large sample sizes only a few cases of uncommon parenting arrangements will be included in the sample.

Nonprobability samples may be collected in a variety of ways. Nonprobability samples do not represent any particular population and should never be generalized. Widely used examples of nonprobability samples in post-divorce parenting research are snowball samples (often generated from parents’ memberships in various organizations), clinic samples, college student samples.

Nonprobability samples dominate research about post-divorce parenting. Well-known examples include the samples used by Arditti (1992), Luepnitz (1991), Shrier et al. (1991), Johnston et al. (1991), and Wallerstein and Blakeslee (1989).

The main advantage of nonprobability samples is that they can be targeted at unusual groups. However, because of the tendency to target unusual groups, these samples are not generalizable.

Nonprobability samples tend to be small. For example, Luepnitz (1986) includes only 42 families, and Arditti (1992a,b) includes only 125 families. In addition, nonprobability samples often have very poor response rates. In Arditti’s research, only around one third of those contacted agreed to participate in the study, compared to response rates of close to 80 percent in major national studies.

ii. Longitudinal Study Designs Are Preferred to Cross-Sectional Study Designs

Longitudinal study designs follow families over time so that parenting arrangements and child well-being may be tracked as they evolve. This approach allows for multiple measures of parenting arrangements and child well-being, and allows for the identification of the causal direction of any association between parenting arrangements and child well-being. Longitudinal studies also facilitate the inclusion of appropriate control variables (see 2.c.iii. below).

The best longitudinal studies are *prospective*; that is, they follow families forward through time with repeated interviews. Examples of this approach include Buchanan et al. (1996), Maccoby and Mnookin (1994), Wallerstein and Blakeslee

(1989), and studies utilizing the National Survey of Families and Households, the National Survey of Children, The Panel Study of Income Dynamics, and the National Longitudinal Sample of Youth. The following authors have utilized these samples: Allison and Furstenberg (1989), Amato (1996), Baydar (1988), Block et al. (1986, 1988), Cherlin et al. (1991, 1995), Eggebeen et al. (1996), Furstenberg and Nord (1985), Furstenberg et al. (1987), King (1994a,b).

Some longitudinal studies are *retrospective*; that is, individuals are asked to recall earlier events and circumstances so that they may be used to predict later outcomes. This approach is acceptable where the items being recalled are highly salient and may be recalled with a high degree of accuracy (e.g. were your parents divorced, how old were you when they divorced). This approach has been successfully used by Lye et al. (1995) and forms the basis of much of the work in McLanahan and Sandefur (1994).

However, research with prospective data sets has shown that retrospective reports are not reliable for many types of information, especially information with a highly normative or emotional content. Thus, reliable reports of pre-divorce conflict or of an outside father's involvement may not be gathered using retrospective techniques.

Cross-sectional studies collect data referring to only one point in time. These studies are limited because it is not possible to determine the causal sequence of various events and outcomes and because they can not capture the dynamic nature of family relationships and child developmental processes. For example, the level and type of interparental conflict appears to be a key mediator in the association between outside father involvement and child well-being (Amato and Rezac 1994; Kelly 1993; Buchanan et al. 1996) and conflict between divorced parents often diminishes over time (Maccoby and Mnookin 1994). Thus, the associations between father involvement and child well-being may vary over time. All these dynamic relationships would be inadequately captured in cross-sectional data.

iii. Studies that Control for Confounding Variables Are Preferred to Studies Without Controls

Associations between post-divorce parenting arrangements and child well-being may arise because confounding variables influence both post-divorce parenting and child well-being.

For example, father's education is an important influence on a wide variety of indicators of child well-being; child well-being tends to be higher among the children of more highly educated fathers. Father's education is also an important influence on post-divorce parenting. More highly educated fathers are more likely to have joint physical custody arrangements, tend to see their children more

often, and tend to be more involved in their children's lives (Arditti 1992a,b; Donnelly and Finkelhor 1993; Fox and Kelly 1995; Mott 1990; Seltzer 1991a; Stephens 1996). Thus, in studies of the impact of nonresidential fathers' involvement on child well-being, it is essential to control for the level of the father's education. Otherwise we can not be sure that any benefit of greater father involvement is not actually due to higher educational attainment among more highly involved fathers.

Similar confounding relationships exist for a number of other variables, including mother's and father's psychological well-being and measures of socioeconomic status.

Thus, it is necessary to control for a wide variety of potentially confounding variables when assessing the association between post-divorce parenting and child well-being. Typical controls include mother's and father's characteristics, such as psychological well-being, age, race/ethnicity, education, income, age at marriage, as well as child characteristics, such as age and gender.

Research using prospective, longitudinal data indicates that many of the differences in child well-being observed between children of divorce and children raised in intact families are present well before the parents' divorce (Block et al. 1986, 1988; Cherlin et al. 1991; Elliot and Richards 1991). This finding, that children whose parents will subsequently divorce are often doing less well than their counterparts whose parents will remain together, implies that it is also desirable for studies of post-divorce parenting and child well-being to control for the well-being of children prior to divorce.

Additionally, numerous studies show that child well-being is adversely impacted by parental conflict (Amato 1993a; Amato and Keith 1991a,b; Amato and Rezac 1994; Camera and Resnick 1989; Conger et al. 1997; Hanson et al. 1996; Jekielek 1998; Johnston et al. 1989; Kline et al. 1991). Parental conflict may also influence post-divorce parenting arrangements. For example, The Washington State Parenting Act provides that shared parenting arrangements are inappropriate in high conflict situations. Since parental conflict can influence both post-divorce parenting and child well-being, it is necessary to control for levels of conflict (preferably measured prior to child well-being) in studies that relate child well-being to post-divorce parenting arrangements.

iv. Studies That Use Appropriate Statistical Techniques Are Preferred to Studies with Poorer Methodology

Some studies do not deal adequately with the methodological challenges that arise in the course of assessing the association between post-divorce parenting and child well-being. Common problems include failure to deal with categorical and

non-numeric measurement, poor specification of statistical models, and failure to test for complex, interactive associations.

3. FINDINGS

a. Background

Before turning to specific findings concerning the impact of post-divorce parenting arrangements on child well-being, it is helpful to consider the broader literature on child well-being after divorce. This broader literature helps identify the context within which the discussion of post-divorce parenting and child well-being must be located.

i. Child Well-being Post-divorce

Although in the 1970s some experts were quite sanguine about the impact of divorce on children, by the mid-1980s there was a clear consensus among researchers that divorce can have very serious consequences for children's well-being.

Compared to children from intact families, children of divorce are more likely to experience:

- Reduced psychological, socio-emotional, and cognitive well-being, and poorer physical health

Allison and Furstenberg 1989; Amato and Keith 1991b; Cherlin et al. 1991; Crockett et al. 1993; Guidabaldi and Perry 1985; Mauldon 1990.

- Problem behaviors, substance use, and juvenile delinquency

Allison and Furstenberg 1989; Amato and Keith 1991b; Barnes and Farrell 1992; Cherlin et al. 1991; Najman et al. 1997; Peterson and Zill 1987.

- Lower educational and occupational attainments

Allison and Furstenberg 1989; Amato and Keith 1991a; Astone and McLanahan 1991; 1994; Biblarz and Raftery 1993; Biblarz et al. 1997; Cherlin et al. 1991; Haurin 1992; Krein and Beller 1988; McLanahan and Bumpass 1988; McLanahan and Sandefur 1994.

- Increased risk of early home-leaving, early unplanned pregnancy, teenage marriage, and divorce

Amato 1996; Amato and Booth 1991; Amato and Keith 1991a; Cherlin et al. 1995; Furstenberg and Teitler 1994; Keith and Finlay 1988; McLanahan and Bumpass 1988; McLanahan and Sandefur 1994.

- Weak relationships with parents and other kin in adult life

Amato 1994; Amato and Keith 1991a; Lye et al. 1995.

However, these relationships are not deterministic. Not all children of divorce experience all, or any, of these problems. For example, in one study of children from high conflict families (who are thought to suffer the severest adverse impacts), over 80 percent of the children scored within normal limits on standard tests of psychological and mental health functioning (Johnston et al. 1989).

The largest deficits appear to be in the areas of educational attainment and teen childbearing. For example, McLanahan and Sandefur (1994) report that in four different national samples roughly 57-61 percent of offspring from two-parent families attended at least one year of college compared to 48-54 percent of offspring from one-parent families. In the same samples, 11-22 percent of young women from two-parent families became teen mothers compared to 27-34 percent of young women from one-parent families.

As noted earlier, prospective longitudinal studies, using large nationally representative data sets, reveal that many of the problems experienced by children of divorce are observable several years before the divorce (Block, Block and Gjerde 1986, 1988; Elliot and Richards 1991; Cherlin et al. 1991).

ii. Factors Affecting Child Well-being Post-divorce

As noted above, the impact of divorce on children is not uniform—some children suffer greater adverse consequences than others. Several factors have been shown to influence how well or poorly children fare after divorce.

- Parental conflict¹

Parental conflict is a major cause of reduced well-being among children of divorce. Further, because conflict is often present in families before parents separate, parental conflict may also explain why children whose parents subsequently separate are often performing less well than their peers even before their parents separate.

Amato 1993a; Amato and Keith 1991a,b; Amato and Rezac 1994; Camera and Resnick 1989; Conger et al. 1997; Hanson et al. 1996; Jekielek 1998; Johnston et al. 1989; Kline et al. 1991.

- Adequate income

The single most important determinant of child well-being after divorce is living in a household with adequate income. Using four different national samples, McLanahan and Sandefur (1994) found that approximately one half of the disadvantage experienced by children in one-parent families is attributable to the lower income of one-parent families compared to two-parent families. This finding has been replicated in several other studies.

Amato 1993; Argys et al. 1988; Folk et al. 1992; Garfinkle et al. 1991; Hill 1992; Meyer 1993; Meyer and Bartfield 1996; Teachman 1991a,b; Thomson et al. 1994.

- Functioning of the primary residential parent

Children of divorce do better when the well-being of the primary residential parent is high. Primary residential parents who are experiencing psychological, emotional, social, economic, or health difficulties may transfer these difficulties to their children and are often less able to parent effectively. Primary parents tend to function best when they have strong support networks, such as kin, friends, and support groups, and when they have residential and financial security. In general, divorced parents' psychological well-being improves with increasing time since the divorce, although those who were functioning better at the time of the separation also tend to be doing better at later periods.

Amato 1993a; Astone and McLanahan 1991; Barnes and Farrell 1992; Kurdek 1988a, 1991; McLanahan and Sandefur 1994; Thomson et al. 1994.

- Neighborhood quality and frequent moves

Many primary residential parents and their children must move home shortly after the divorce. These moves are nearly always to less desirable neighborhoods. The consequences of this for children, due to loss of access to friends, familiar surroundings, changing schools, and so on, range from the traumatic to the merely disruptive. Nevertheless, these moves account for a significant portion of the disadvantages experienced by children of divorce. When circumstances necessitate frequent moves the effects are compounded.

Astone and McLanahan 1994; McLanahan and Sandefur 1994.

It is important to recognize that, for any particular family seeking to maximize the well-being of children, there may be trade-offs among these factors. For example, the adverse impact of a move may be offset if it enhances the financial stability of the primary residential parent, or improves his or her psychological functioning by allowing him or her to be closer to supportive kin networks.

iii. Typical Post-divorce Parenting Patterns

Until the early to mid-1980s, by far the predominant pattern was for mothers to receive custody (legal and physical) of children after divorce and for fathers to receive limited visitation. In addition, research conducted in the 1970s and early 1980s documented a pattern of widespread disengagement from their children's lives by noncustodial fathers.

One widely cited study, using nationally representative data, reported that around one half of all divorced fathers had effectively lost contact with their children within a few years of the divorce. The same study reported that those divorced fathers who did remain in contact with their children often fell into the role of "friend" rather than assuming responsibility for their child or serving as an active coparent (Furstenberg and Nord 1985).

More recent data suggest that these patterns are changing:

- During the 1980s, the number of father only families grew at more than double the rate of mother-only families.

Eggebeen et al. 1996; Garasky and Meyer 1996.

- The largest factor in growth of father-only families is the increase in the number of fathers heading formerly married one-parent families.

Eggebeen et al. 1996; Garasky and Meyer 1996.

- During the late 1980s and early 1990s, there were steady increases in both equal shared custody and unequal shared custody, but not in father sole custody.

Cancian and Meyer 1998.

- During the late 1980s and early 1990s, fewer than 20 percent of nonresidential fathers had no contact with their children during the year prior to the survey.

Braver 1998; Seltzer 1991a; Stephens 1996.

- Today's divorced fathers are more likely to spend time with their children, are more likely to pay child support, and are more likely to participate regularly in their children's lives.

Braver 1998; Cooksey and Craig 1998; Seltzer 1991a; Seltzer and Brandreth 1994; Stephens 1996; Teachman 1991a,b.

But despite these changes:

- Mothers receive custody more than 75 percent of the time.

Cancian and Meyer 1998.

- Among divorced families, single-mother families are 4 times as frequent as single-father families.

Garasky and Meyer 1996.

- Most fathers do not seek either sole or joint custody.

Teachman 1991a,b; Teachman and Polonko 1990.

With this background and the methodological issues discussed above in mind, I now turn to research dealing directly with the impact of post-divorce parenting arrangements on child well-being. Broadly, this research is of two types: studies which have compared child well-being among families with different physical custody arrangements, and studies which have assessed the impact of variations in nonresidential fathers' involvement with their children on their children's well-being. Each of these types of study is discussed separately below.

b. Physical Custody and Child Well-being

Six studies have assessed the impact of joint physical custody on child well-being and meet the criteria for inclusion in the review specified in 2.a. above. In these studies, joint physical custody is defined in a variety of ways, ranging from eight overnights per month in the nonprimary residential parent's household, to a precise 50-50 apportioning of time. Sole physical custody indicates that the child spends most time with one parent but may have varying levels of contact with the other parent, including overnights. All these studies include direct assessments of various measures of child well-being.

Two of the studies found benefits of joint physical custody. Three of the studies found no differences in child well-being between joint physical custody and sole physical custody families.

i. Studies Reporting Benefits of Joint Physical Custody

Luepnitz 1986:

- Reports significant benefits of joint physical custody.
- Observed benefits were mainly for the parents, especially their quality of relationship with each other, although there were limited benefits to children.
- Analysis relied on a very small (43 families) nonprobability sample.
- No controls for selection into joint custody.

Shiller 1986:

- Reports that boys in joint custody families have better psychological adjustment.
- Small nonprobability sample.
- No controls for selection into joint custody.

ii. Studies Reporting No Effect of Joint Physical Custody

Johnston et al. 1989:

- Find no differences in child psychological functioning between joint physical custody families and sole physical custody families.
- Small, nonprobability sample of high conflict families.

Kline et al. 1989:

- Find no significant differences in children's behavioral, emotional, or social adjustment between joint physical custody families and sole physical custody families.
- Probability sample of a California county.

Buchanan et al. 1991, 1996:

- Find no significant differences in adolescents' behavioral, emotional, or social well-being between those living with either parent and those with dual residence.
- Probability sample of divorcing families in two California counties.
- Prospective longitudinal design.

Donnelly and Finkelhor 1992:

- Find no evidence that children in shared custody had less conflictual or better relations with their parents.
- Children in sole custody families were more affectionate and supportive toward their parents than were children in joint custody families.
- National probability sample.

iii. Interpretation

The evidence reviewed here does not reveal any particular post-divorce residential schedule to be most beneficial for children.

The weight of evidence, bearing in mind both the numbers of studies finding benefits and not finding benefits, as well as the quality of the samples and methods employed, suggests that there are no significant advantages to children of joint physical custody.

However, the evidence also does not suggest significant disadvantages to children of joint physical custody, or of any other post-divorce residential schedule.

c. Nonresidential Parent's Contact and Involvement and Child Well-being

Twelve studies have assessed the impact of the amount of time nonresidential fathers spend with their children on children's well-being, and meet the criteria for inclusion in the review specified in 2.a. above. No studies were identified that assessed the impact of nonresidential mother's involvement on child well-being. In these studies, nonresidential father's involvement is measured in a variety of ways ranging from whether or not the father ever spends any time with his children, to detailed measures of how much time and how often. All these studies include direct assessments of various measures of child well-being.

Four studies report benefits of higher levels of nonresidential father's involvement. Six studies report no effects of higher levels of nonresidential father's involvement. Two studies report adverse effects of higher levels of nonresidential father's involvement.

i. Studies Reporting Beneficial Effects of Higher Levels of Nonresidential Father's Involvement on Children's Well-being

Bisnaire et al. 1990; MacKinnon 1989; Southworth and Schwarz 1987:

- Report improvements in child well-being among children who have more contact with their nonresidential father
- Use small, nonprobability samples such as college student samples
- Lack appropriate controls
- Two of the studies refer to highly delineated child outcomes, such as interactions with siblings and college students' trust in heterosexual relationships
- Cross sectional study designs do not allow for identification of direction of causal relationships

Guidlabaldi et al. 1987:

- Find that greater involvement by nonresidential father is associated with better child mental health
- High-quality national probability sample
- Longitudinal study design
- Limited controls for factors that may influence both father involvement and mental health
- Large sample size may result in chance "significant" finding
- Recall that mental health is one of the areas where differences between children from divorced and intact families are smallest

ii. Studies Reporting No Effects of Higher Levels of Nonresidential Father's Involvement on Children's Well-being

Argys et al. 1998; Furstenberg et al. 1987; King 1994a,b:

- Report no effects of higher levels of nonresidential father's involvement on child well-being
- Use a variety of large, national probability samples

- Longitudinal study designs
- Include appropriate controls
- Make good use sophisticated methodologies
- Have multiple high quality measures on children's well-being, including problem behavior, cognitive ability, school-related behaviors and achievement, and psychological well-being

Healy et al. 1990; Kalter et al. 1989:

- Report no effects of higher levels of nonresidential father's involvement on child self-esteem and psychological well-being
- Use small, nonprobability samples

iii. Studies Reporting Detrimental Effects of Higher Levels of Nonresidential Father's Involvement on Children's Well-being

Baydar 1988:

- Reports reduced emotional well-being among children who had frequent contact with nonresidential fathers
- National, probability sample
- Longitudinal study design
- Includes appropriate controls
- Large sample size may result in chance "significant" finding

Johnston et al. 1989:

- Report increased emotional and behavioral problems among children who had frequent contact with their nonresidential father
- Small (n=129) nonprobability sample of high-conflict families

iv. Interpretation

Among the highest-quality studies reviewed here (Argys et al. 1998; Baydar 1988; Furstenberg et al. 1987; Guidlabaldi et al. 1987; King 1994a,b), only one finds higher child well-being among children who have more contact with their nonresidential father; four find no impact of the level of contact with the nonresidential father; and one finds reduced well-being among children who have more contact with their nonresidential father.

Among the smaller, more limited studies reviewed here (Bisnaire et al. 1990; Healy et al. 1990; Johnston et al. 1989; Kalter et al. 1989; MacKinnon 1989;

Southworth and Schwarz 1987), three find higher levels of child well-being among children who have more contact with their nonresidential father, two find no impact of the level of contact with the nonresidential father, and one finds reduced well-being among children who have more contact with their nonresidential father.

Given the very serious limitations of some of the studies reviewed here, and the criteria for evaluating study findings set out in 2.c. above, greatest weight must be placed on the findings from the high-quality studies.

Thus, the weight of evidence does not support the view that higher levels of child-nonresidential father contact are automatically or always beneficial to children.

However, the weight of evidence also does not suggest that, absent parental conflict (see 3.d.i. below), high levels of child-nonresidential parent contact are harmful to children.

d. Complicating Factors in Associations Between Post-divorce Parenting and Child Well-being

Overall, the evidence reviewed above suggests that children are neither substantially benefited nor substantially harmed by joint physical custody and high levels of child-nonresidential father contact. However two factors, parental conflict and the consistency with which child support payments are made, complicate associations between post-divorce parenting and child well-being.

i. Conflict²

Evidence from two high-quality studies suggests that high levels of child-nonresidential father contact is beneficial to children in low conflict families but harmful to children in high conflict families

Amato and Rezac 1994:

- Report that among boys, high levels of child-nonresidential father contact were beneficial in low conflict families but harmful in high conflict families
- Found no consistent associations for girls
- National probability sample
- Appropriate methods and controls

Buchanan et al. 1991, 1996:

- Report that adolescents' well-being was enhanced by dual residence arrangements in low conflict families, but was reduced by dual residence in high conflict and low cooperation families
- Low conflict families comprised only 30 percent of families; 25 percent were high conflict; the remainder were low cooperation, so-called "disengaged," families
- Probability sample of two California counties
- Prospective longitudinal study

Two smaller studies (Healy et al. 1990; Kurdek 1988) report the opposite finding, namely, that frequent child-nonresidential father contact is most beneficial in high conflict families. However, both these studies rely on small nonprobability samples, and are, therefore, not as compelling as the two larger studies.

Researchers have also speculated that joint physical custody and high levels of child-nonresidential parent contact may provoke conflict resulting in reduced child well-being. Consistent with this view, one study reported more frequent relitigation among families with joint physical custody (Koel et al. 1994).

However, three other studies report that dual residence and frequent child-nonresidential parent contact does not appear to provoke increased conflict between parents (Donnelly and Finkelhor 1992; Maccoby, Depner and Mnookin 1990; Maccoby and Mnookin 1994).

In addition, adolescents in dual residence families are not more likely to feel "caught" between their parents (Maccoby, Depner and Mnookin 1990; Maccoby and Mnookin 1994).

However, just as dual residence and frequent child-nonresidential parent contact does not appear to provoke parental conflict, it also does not lead to reduced levels of conflict or promote parental cooperation. Highly conflicted parents tend to remain in conflict or disengage from each other. They do not become low conflict, cooperative parents (Maccoby, Depner and Mnookin 1990; Maccoby and Mnookin 1994).

As noted above, the most common parenting style among divorced parents is disengagement whereby parents simply have as little to do with each other as possible, including very little communication about child rearing issues. This disengaged parenting style does not support dual residence and frequent child-nonresidential parent contact, and these arrangements were associated with reduced well-being among adolescents in disengaged families (Maccoby, Depner and Mnookin 1990; Maccoby and Mnookin 1994).

ii. Child Support

Virtually every researcher who has studied the issue reports that more frequent child-nonresidential parent contact is associated with improved child support compliance. Fathers who see their children often and are active participants in their lives make child support payments more frequently and are more likely to pay the full amount than fathers who have little or no contact with their children (Arditti 1992b, Arditti and Keith 1993; Meyer and Barfield 1996; Meyer and Garasky 1993; Paasch and Teachman 1991; Pearson and Thoennes 1988; Peters et al. 1993; Seltzer 1991b; Seltzer et al. 1989; Stephens 1996; Teachman 1991a,b).

Three different explanations have been offered for the strong association between child-nonresidential parent contact and child support compliance.

- **Social-psychological:**
When nonresidential parents are involved, they are more willing to pay (e.g. Teachman 1991a,b)
- **Economic:**
When fathers pay, they want to see that their money is spent appropriately and so increase contact (e.g. Weiss and Willis 1985)
- **Selection:**
Characteristics that predispose payment also predispose involvement (e.g. Seltzer 1991b; Seltzer et al. 1989)

To date, researchers have not been able to demonstrate which of these mechanisms dominates.

Nevertheless, the close link between child-nonresidential parent contact and child support compliance findings suggests that frequent child-nonresidential parent contact may enhance child well-being by improving the financial support available to the child.

Two caveats are in order, however.

- First, in highly conflicted families, any benefits of increased child-nonresidential parent contact are likely to be offset by the harmful effects of greater exposure of the child to parental conflict.
- Second, there is some evidence to suggest that in negotiating divorce settlements, parents make trade-offs between residential time and child support (Teachman 1990; Teachman and Polonko 1990). If this is occurring, increased child-nonresidential parent contact would be associated with improved child support compliance, but a lower child support amount. This would also tend to offset the presumed financial benefits to the child of increased child-nonresidential parent contact.

4. IMPLICATIONS FOR WASHINGTON STATE AND THE PARENTING ACT

a. No Specific Pattern of Post-divorce Parenting Arrangements Has Been Clearly Demonstrated to Confer Greater Benefits to Children

The lack of clear and compelling evidence from currently available scholarly research to support any particular scheme of post-divorce parenting arrangements suggests the following policy considerations:

- i. “One size fits all” approaches, such as legal presumptions in favor or certain specified arrangements, are likely to be harmful to some families. Many researchers explicitly warn against this type of approach (see 5. below).
- ii. The current Washington State Parenting Act is generally consistent with currently available research because, at least in theory, it provides parents with considerable flexibility in tailoring their post-divorce parenting arrangements to suit their children’s needs.
- iii. Given the lack of evidence concerning either advantages or disadvantages to children of every-other-weekend residential schedules, the predominance of plans with these schedules is troubling. Similarly, the heavy reliance by some counties on guidelines urging every-other-weekend schedules is also troubling. Although there is no evidence that this schedule is harmful to children, there is also no evidence that it is beneficial. The predominance of every-other-weekend schedules suggests that the greatest potential benefit of the Parenting Act—individual

tailoring—is not being fully exploited. The Gender and Justice Commission should explore ways to further support individualization of families' parenting plans.

b. Exposure to Parental Conflict is a Major Cause of Harm to Children of Divorce

There is unanimity among researchers (see 5. below) that parental conflict is a major source of reduced well-being among children of divorce. Recent research indicates that joint physical custody and frequent child-nonresidential parent contact have adverse consequences for children in high-conflict situations, and that joint physical custody and frequent child-nonresidential parent contact do not promote parental cooperation. Taken together these findings suggest the following policy considerations:

- i. Current restrictions limiting shared parenting arrangements to low conflict, high cooperation families are appropriate and should be adhered to.
- ii. Strategies that aim to reduce parental conflict, or at least to inform parents about the devastating consequences of conflict, should be promoted. This includes classes for divorcing parents.
- iii. Although domestic violence and abuse are often characterized as the most extreme forms of parental conflict, they are best understood as entirely separate phenomena, with their own etiology that extends far beyond conflict between parents. For the most part, domestic violence and abuse have not been addressed by the studies included in this review, which for methodological reasons were unable to collect reliable domestic violence data. Widely used strategies intended to reduce parental conflict, such as parenting classes and mediation, may not be generally appropriate for families with a history of violence and abuse and may even have the opposite effect, namely, to increase the risk that the victim will be revictimized. Thus, policies and programs intending to reduce parental conflict must pay special attention to the needs of domestic violence and abuse victims, and must recognize that they may not be able to adequately serve these populations. Conflict reduction may not be an achievable or appropriate goal for violent and abusive families.

c. Inadequate Income is a Major Cause of Harm to Children of Divorce

Researchers agree that household income is the most important influence on child well-being post-divorce. There is also widespread agreement among researchers that nonresidential parents are more likely to comply with child support awards when they continue to be regularly and actively involved in their children's lives. However, additional research also suggests that parents may "trade-off" between residential time and money when negotiating a divorce settlement. These findings suggest the following policy considerations:

- i. Vigorous child support enforcement is the most important thing Washington State can do to promote the well-being of children of divorce.
- ii. Promoting nonresidential parents' involvement in their children's lives may enhance child well-being by improving the economic support of children. This conclusion only holds if child support decisions are made independent of residential time decisions, and if continuing nonresidential parent involvement does not expose children to continuing parental conflict.

5. WHAT THE EXPERTS SAY ABOUT JOINT PHYSICAL CUSTODY: QUOTES FROM LEADING DIVORCE RESEARCHERS

a. Eleanor Maccoby and Robert Mnookin

Eleanor E. Maccoby is Professor Emerita of Psychology at Stanford University and has been a leading child development scholar since the early 1960s. Robert H. Mnookin is Samuel Williston Professor of Law at Harvard Law School. Their book, Dividing the Child, won numerous awards, including the William J. Goode Book Award of the American Sociological Association for the most important contribution to family research in 1993. The study followed 1,124 families, with at least one child under age 16, who filed for divorce in two California counties between September 1985 and April 1985, for three and one half years. In 1979, California law established a presumption in favor of joint physical custody when both parents requested it and authorized the court to order joint physical custody and disputed cases. The law also suggested that in disputed cases the court should follow the preferences of the parent more willing to support continuing involvement by both parents. Thus, Maccoby and Mnookin's work relates directly to a legal environment that favors joint physical and joint legal custody.

"In the large majority of divorcing families, both parents have been involved with the children on a daily basis. Simple continuity with the past, in terms of the roles

of the two parents in the lives of the children, is hardly possible. The relationship between parents and children must change markedly.”

(Page 1 in Dividing the Child)

“...the coparental relationship between divorced parents is something that needs to be constructed, not something that can simply be carried over from pre-separation patterns. It takes times and effort on the part of both parents to arrange their lives in such a way that the children can spend time in both parental households...”

(Page 276 in Dividing the Child)

“Only a minority of our families—about 30 percent ... were able to establish cooperative coparenting relationships. Spousal disengagement, which essentially involved parallel parenting with little communication had become the most common pattern ... about a quarter of our families remained conflicted at the end of three and a half years.”

(Page 277 in Dividing the Child)

“While our study did not attempt to measure the impact of coparenting relations on the well-being of children, the results of the follow-up study of the adolescents in our sample families, as well as the research of others, makes us confident that there are important effects. Children derive real benefits—psychological, social, and economic—when divorced parents can have cooperative coparenting relationships. With conflicted coparental relationships, on the other hand, children are more likely to be caught in the middle, with real adverse effects on the child.”

(Page 277 in Dividing the Child)

“A more radical alternative to the present best interests custody standard is a presumption in favor of joint physical custody. We oppose such a presumption. ...we are deeply concerned about the use of joint physical custody in cases where there is substantial parental conflict... such conflict can create grave risks for children. We do not think it good for children to feel caught in the middle of parental conflict, and in those cases where the parents are involved in a bitter dispute we believe a presumption for joint custody would do harm . . . We wish to note, however, that joint custody can work very well when parents are able to cooperate. Thus we are by no means recommending that joint custody be denied to parents who want to try it.”

(Pages 284-285 in Dividing the Child)

b. Sanford L. Braver

Sanford Braver is Professor of Psychology at Arizona State University. His recent book, Divorced Dads, is a major critique of much of the earlier research on post-divorce parenting. The book presents information from a four-year plus study of 271 mothers and 340 fathers, from 378 different families, who filed for divorce in an Arizona county in 1986. Braver presents information suggesting that many popular beliefs about divorced fathers are inaccurate and are based on faulty research and reasoning. Braver is a staunch advocate of continued father involvement in children's lives after divorce, and of joint legal custody as a tool to promote father involvement. However, Braver's study does not include measures of child well-being post-divorce and does not directly address the issue of whether higher levels of paternal involvement benefit children. Braver's research also does not speak directly to joint physical custody, as he only assessed joint legal custody. However, like all the other divorce experts, Braver concludes that joint physical custody (50/50 or shared parenting) is rarely in the best interests of children and that a presumption of shared parenting would be poor public policy.

“... there is simply not enough evidence available at present to substantiate routinely imposing joint residential custody... the limited analyses other researchers have performed don't strongly recommend it be imposed either.”
(Page 223 in Divorced Dads)

“If each parent is empowered by joint legal custody and is allowed involvement in the full variety of child rearing activities, few parents or children will feel deprived. A parent overly concerned that he see his child exactly the same amount of time as his ex-spouse becomes more of an accountant than a parent. Furthermore, this strict accounting of time can also set the stage for many future arguments, when arrangements must be changed because of extenuating circumstances, which routinely come up. Finally, such arrangements are often transitional. As children get older, they frequently don't want to switch households so often. In short, insisting upon strict equality of time spent with the child may be in the weaker parent's interest but it is rarely in the child's.”
(Page 224 in Divorced Dads)

c. Judith Wallerstein

Judith Wallerstein is the founder and director of the Center for the Family in Transition in Corte Madera, California. She was one of the first American researchers to systematically investigate the impact of divorce on children, and is an internationally renowned authority on the consequences of divorce for children. Wallerstein is the author of numerous studies of children's well-being after divorce, including her best-selling book (with Sandra Blakeslee) Second

Chances. The study follows 60 middle-class San Francisco Bay Area families for were divorcing in spring 1971 ten years who.

“...joint custody... can be helpful in families where it has been chosen voluntarily by both parents and is suitable for the child. But there is no evidence to support the notion that “one size fits all” or even most. There is, in fact, a lot of evidence for the idea that different custody models are suitable for different families. The policy job ahead is to find the best match for each family. Sadly, when joint custody is imposed by the court on families fighting over custody of children the major consequences of the fighting are shifted onto the least able members of the family—the hapless and helpless children. The children can suffer serious psychological injury when this happens.”

(Page 304 in Second Chances)

d. Frank Furstenberg and Andrew Cherlin

Frank F. Furstenberg, Jr. is Professor of Sociology at the University of Pennsylvania. Andrew J. Cherlin is Professor of Sociology at Johns Hopkins University. Between them they have authored more than a dozen books dealing with contemporary family issues, including (Cherlin) the only college-level family studies text book to be graded A by the National Council on Families/Institute for American Values. In 1976, Furstenberg launched the National Survey of Children, which was the first nationally representative survey of America’s children and their well-being. The children were followed into young adulthood. Furstenberg also codirected the largest study to date of remarried families. Their book, Divided Families, summarizes their research based on the National Survey of Children and on other, more recent nationally representative longitudinal surveys, and integrates their research with work by other scholars. Furstenberg and Cherlin’s work was supported by grants from the NIH-National Institutes of Child Health and Development.

“Custody arrangements may matter far less for the well-being of children than had been thought.... The rationale for joint custody is so plausible and attractive that one is tempted to disregard the disappointing evidence and support it anyway. But based on what is known now, we think custody and visitation matter less for children than ... how much conflict there is between the parents and how effectively the parent the child lives with functions. It is likely that a child who alternates between the homes of a distraught mother and an angry father will be more troubled than a child who lives with a mother who is coping well and who once a fortnight sees a father who has disengaged from his family. Even the frequency of visits with a father seem to matter less than the climate in which they take place. ... Joint physical custody should be encouraged only in cases where both parents voluntarily agree to it... imposing joint physical custody would

invite continuing conflict without any clear benefits... In weighing alternative public policies concerning divorce, the thin empirical evidence of the benefits of joint custody and frequent visits with fathers must be acknowledged.”
(Pages 75-76 in Divided Families)

e. Sara McLanahan and Gary Sandefur

Sara McLanahan is Professor of Sociology and Public Affairs at Princeton University. Gary Sandefur is Professor of Sociology at the University of Wisconsin. Their book, Growing Up With a Single Parent, summarizes more than a decade of research based on several different nationally representative samples of young adults that include information about the young adults’ family arrangements when they were growing up. The data sets include The National Longitudinal Sample of Youth (sponsored by the U.S. Bureau of Labor Statistics), the Panel Study of Income Dynamics (sponsored by U.S. DHHS), High School and Beyond (sponsored by the U.S. Department of Education), and the National Survey of Families and Households Waves I and II (sponsored by the National Institutes of Health). McLanahan and Sandefur’s research includes people who were aged 18 to 32 in 1986-1992. The research was supported by grants from the NIH-National Institutes of Child Health and Development.

“Joint custody arrangements, while not common, are found in many communities, particularly in more privileged socioeconomic groups... Whether or not high levels of contact with both biological parents can reduce or eliminate the negative consequences associated with divorce is an open question. To date, researchers have found very little evidence that it does.”
(Pages 6-7 in Growing Up With a Single Parent)

“We have demonstrated that children raised apart from one of their parents are less successful in adulthood than children raised by both their parents... For children living with a single parent and no stepparent, income is the single most important factor in accounting for their lower well-being as compared with children living with both parents. It accounts for as much as half their disadvantage.”
(Page 134 in Growing up With a Single Parent)

f. Joan Kelly

Joan B. Kelly is Executive Director of the Northern California Mediation Center and is a leading authority on the consequences of divorce for children. She is the coauthor (with Judith Wallerstein) of Surviving the Break-Up (1980), and continues to publish and lecture extensively on divorce-related topics. The

following quotations are drawn from a 1993 review of research on children's post-divorce adjustment published in Family and Conciliation Courts Review.

“Recent studies suggest that the relationship between child adjustment and conflict is neither universal, simple, nor particularly straightforward... It appears that, rather than discord per se, it is the manner in which parental conflict is expressed that may affect the children's adjustment. High interparental discord has been found to be related to the child's feeling caught in the middle, and this experience of feeling caught was related to adjustment... Adolescents in dual (shared) residence arrangements did not feel more caught than did adolescents in mother or father custody type arrangements. Nor was amount of visiting related to feeling caught. There was a significant effect, however, of the interaction between type of residence and the parental relationship. Dual residence arrangements appeared to be more harmful when parents were in high discord than were sole residence arrangements. In contrast, adolescents in dual residence arrangements where there was cooperative communication between parents benefited more than did adolescents in sole residence arrangements.”
(Pages 34-35 in “Current Research on Children's Post-divorce Adjustment”)

g. Debra Friedman

Debra Friedman is Assistant Dean of Undergraduate Education at the University of Washington. Her book, Towards a Structure of Indifference, traces the origins of maternal custody after divorce in the U.S., and critically examines the consequences of maternal custody for the allocation of child rearing responsibility. The book offers a historical and theoretical analysis.

“On the face of it, joint custody seems to be an equitable solution to the problem of dividing the child.... [Proponents of joint custody] suggest that parents whose conflicts or incompatibility are so great as to necessitate divorce are somehow able to manage to concur on a joint path when raising their children.... Without coordination, and without a structure in which each parent has the means to compel the other to engage in appropriate behaviors and make investments in their children, joint custody is hardly akin to an intact family. Joint custody is at least as likely as alternative custody arrangements are to result in diffusion of responsibility for the child. When both take responsibility it is tantamount to neither doing so.”

(Page 129 in Towards a Structure of Indifference)

¹Parental conflict does NOT refer to domestic violence and abuse, which may or may not be present. Domestic violence and abuse tends to be inadequately assessed in survey research where strong social norms mitigate against accurate reporting.

²As noted earlier, parental conflict does NOT refer to domestic violence and abuse, which may or may not be present. Domestic violence and abuse tend to be inadequately assessed in survey research where strong social norms mitigate against accurate reporting.

6. BIBLIOGRAPHY

a. Research Articles

- Allison, P.D., and F.F. Furstenberg, Jr. 1989. "How marital dissolution affects children: Variation by age and sex." Developmental Psychology 25:540-549.
- Amato, P.R. 1991. "The 'Child of Divorce' as a person prototype: Bias in the recall of information about children from divorced families." Journal of Marriage and the Family 53:59-69.
- Amato, P.R., 1994. "Father-child relations, mother-child relations, and offspring psychological well-being in early adulthood." Journal of Marriage and the Family 56:1031-42.
- Amato, P. R. 1996. "Explaining the intergenerational transmission of divorce." Journal of Marriage and the Family 58:628-640.
- Amato, P.R., and A. Booth. 1991. "The consequences of divorce for attitudes toward divorce and gender roles." Journal of Family Issues 12:306-322.
- Amato, P.R., and B. Keith. 1991a. "Parental divorce and adult well-being: A meta-analysis." Journal of Marriage and the Family 53:43-58.
- Amato, P.R., and B. Keith. 1991b. "Parental divorce and the well-being of children: A meta-analysis." Psychological Bulletin 110:26-46.
- Amato, P.R., and S.J. Rezac. 1994. "Contact with nonresident parents, interparental conflict, and children's behavior." Journal of Family Issues 15:191-207.
- Arditti, J.A. 1992a. "Differences between fathers with joint custody and noncustodial fathers." American Journal of Orthopsychiatry 62:186-195
- Arditti, J.A. 1992b. "Factors related to custody, visitation, and child support for divorced fathers: An exploratory analysis." Journal of Divorce and Remarriage 17:23-42.
- Arditti, J.A., and T. Keith. 1993. "Visitation frequency, child support payment, and the father-child relationship post-divorce." Journal of Marriage and the Family 55:699-712.
- Argys, L.M., H. E. Peters, J. Brookes-Gunn, and J.R. Smith. 1998. "The impact of child support on cognitive outcomes of young children." Demography 35:159-173.
- Asmussen, L., and R. Larson. 1991. "The quality of family time among young adolescents in single-parent and married-parent families." Journal of Marriage and the Family 53:1021-1030.
- Astone, N.M., and S. McLanahan. 1991. "Family structure, parental practices, and high school completion." American Sociological Review 56:309-320.
- Astone, N.M., and S. McLanahan. 1994. "Family structure, residential mobility, and school dropout: A research note." Demography 31:575-584.
- Axinn, W.G., and J.S. Barber. 1997. "Living arrangements and family formation attitudes in early adulthood." Journal of Marriage and the Family 59:595-611.

- Barnes, G.M. and M.P. Farrell. 1992. "Parental support and control as predictors of adolescent drinking, delinquency, and related problem behaviors." Journal of Marriage and the Family 54:763-76.
- Baydar, N. 1988. "Effects of parental separation and reentry into unions on the emotional well-being of children." Journal of Marriage and the Family 50:967-81.
- Bay, R.C., and S.L. Braver. 1990. "Perceived control of the divorce settlement process and interparental conflict." Family Relations 39:382-387.
- Beller, A.H., and J.W. Graham. 1986. "Child support awards: Differentials and trends by race and marital status." Demography 23:231-245.
- Belsky, J., L. Youngblade, M. Rovine, and B. Volling. 1991. "Patterns of marital change and parent-child interaction." Journal of Marriage and the Family 53:487-98.
- Biblarz, T.J., and A.E. Raftery. 1993. "The effects of family disruption on social mobility." American Sociological Review 97-109.
- Biblarz, T.J., A.E. Raftery, and A. Bucur. 1997. "Family structure and social mobility." Social Forces 75:1319-1339.
- Bisnaire, L.M.C., P. Firestone, and D. Rynard. 1990. "Factors associated with academic achievement in children following parent separation." American Journal of Orthopsychiatry 60:67-76.
- Block, J., J.H. Block, and P.F. Gjerde. 1986. "The personality of children prior to divorce: A prospective study." Child Development 57:827-40.
- Block, J.H., J. Block, and P.F. Gjerde. 1988. "Parenting functioning and the home environment in families of divorce: Prospective and concurrent analyses." Journal of the American Academy of Child and Adolescent Psychiatry 27:207-213.
- Bowman, M. and C. Ahrons. 1985. "Impact of legal custody status on father's parenting post-divorce." Journal of Marriage and the Family 47:483-488.
- Braver, S., S. Wolchik, I. Sandler, B. Fogas, and D. Zvetina. 1991. "Frequency of visitation by divorced fathers: Differences in reports by fathers and mothers." American Journal of Orthopsychiatry 61:448-451.
- Brotsky, M., S. Steinman, and S. Zimmelman. 1988. "Joint custody through mediation: A longitudinal assessment of children." Conciliation Courts Review 26:53-58.
- Buchanan, C.M., E.E. Maccoby, and S.M. Dornbusch. 1991. "Caught between parents: Adolescents' experience in divorced homes." Child Development 62:1008-1029.
- Burnett, M.C. 1991. "Impact of joint versus sole custody and quality of coparental relationship on adjustment of adolescents in remarried families." Behavioral Sciences and the Law 9:439-449.
- Camera, K., and G. Resnick. 1989. "Styles of conflict resolution and cooperation between divorced parents: Effects on child behavior and adjustment." American Journal of Orthopsychiatry 59:560-574.
- Cancian, M., and D.R. Meyer. 1998. "Who gets custody?" Demography 35:147-157.

- Cherlin, A.J., F.F. Furstenberg, Jr., P. L. Chase-Lansdale, K.E. Kiernan, P.K. Robins, D.R. Morrison, and J.O. Teitler. 1991. "Longitudinal effects of divorce on children in Great Britain and the United States." Science 252:1386-89.
- Cherlin, A.J., K.E. Kiernan, and P. L. Chase-Lansdale. 1995. "Parental divorce in childhood and demographic outcomes in young adulthood." Demography 32:299-318.
- Clark, S.C., R.A. Whitney, and J.C. Beck. 1988. "Discrepancies between custodial awards and custodial practices: *De jure* and *De facto* custody." Journal of Divorce 11:219-228.
- Conger, R.D., G.T. Harold, and L.N. Osborne. 1997. "Mom and Dad are at it again: Adolescent perceptions of marital conflict and adolescent psychological distress." Developmental Psychology 33:333-350.
- Cooksey, E.C., and P.H. Craig. 1988. "Parenting from a distance: The effects of paternal characteristics on contact between nonresidential fathers and their children." Demography 35:187-200.
- Coysh, N., J. Johnston, J. Tschann, J. Wallerstein and M. Kline. 1989. "Parental post-divorce adjustment in joint and sole physical custody families." Journal of Family Issues 10:52-70.
- Crockett, L.J., D.J. Eggebeen, and A.J. Hawkins. 1993. "Fathers' presence and young children's behavioral and cognitive adjustment." Journal of Family Issues 14:355-377.
- Donnelly, D., and D. Finkelhor. 1992. "Does equality in custody arrangements improve the parent-child relationship?" Journal of Marriage and the Family 54:837-845.
- Donnelly, D., and D. Finkelhor. 1993. "Who has joint custody? Class differences in the determination of custody arrangements." Family Relations 39:388-394.
- Downey, D.B. , and B. Powell. 1993. "Do children in single-parent households fare better living with same-sex parents?" Journal of Marriage and the Family 55:55-71.
- Downey, D.B. 1994. "The school performance of children from single-mother and single-father families: Economic or interpersonal deprivation?" Journal of Family Issues 15:129-147.
- Dudley, J. 1991a. "Increasing our understanding of divorced fathers who have infrequent contact with their children." Family Relations 40:279-285.
- Dudley, J. 1991b. "The consequences of divorce proceedings for divorced fathers." Journal of Divorce and Remarriage 16: 171-193.
- Duncan, Greg J., and Saul D. Hoffman. 1985b. "A Reconsideration of the economic consequences of marital dissolution." Demography 22:485-497.
- Eggebeen, D.J., A.R. Snyder, and W.D. Manning. 1996. "Children in single-father families in demographic perspective." Journal of Family Issues 17:441-465.
- Elliot J. and M. Richards. 1991. "Children and divorce: Educational performance and behavior before and after parental separation." International Journal of Law and the Family. 4:258-76.

- Fine, M.A., and L.A. Kurdek. 1992. "The adjustment of adolescents in stepfather and stepmother families." Journal of Marriage and the Family 725-736.
- Folk, K.F., J.W. Graham, and A.H. Beller. 1992. "Child support and remarriage: Implications for the economic well-being of children." Journal of Family Issues 13:142-157.
- Fox, G.L. 1995. "Noncustodial fathers following divorce." Marriage and Family Review 20:257-282.
- Fox, G.L., and R.F. Kelly. 1995. "Determinants of child custody arrangements at divorce." Journal of Marriage and the Family 57:693-708.
- Fustenberg, F.F., Jr. and C. W. Nord. 1985. "Parenting apart: Patterns of childrearing after marital separation." Journal of Marriage and the Family 47:893-904.
- Furstenberg, F.F., Jr., S. P. Morgan, and P.D. Allison. 1987. "Paternal participation and children's well-being after marital dissolution." American Sociological Review 52:695-701.
- Furstenberg, F.F., Jr., and J.O. Teitler. 1994. "Reconsidering the effects of marital disruption: What happens to children of divorce in early adulthood?" Journal of Family Issues 15:173-190.
- Garasky, S. and D.R. Meyer. 1996. "Reconsidering the increase in father-only families." Demography 33:385-393.
- Garfinkel, I. and D. Oellerich. 1989. "Noncustodial fathers' ability to pay child support." Demography 26:219-233.
- Garfinkel, I., D. Oellerich, and P.K. Robins. 1991. "Child support guidelines: Will they make a difference?" Journal of Family Issues 12:404-429.
- Guidabaldi, J. and J.D. Perry. 1985. "Divorce and mental health sequelae for children: A two-year follow-up of a nationwide sample." Journal of the American Academy of Child Psychiatry 24:531-537.
- Hanson, S.M.H. 1985. "Healthy single parent families." Family Relations 35:125-132.
- Hanson, T.L., S. McLanahan, and E. Thomson. 1996. "Double jeopardy: Parental conflict and stepfamily outcomes for children." Journal of Marriage and the Family 58:141-154.
- Harris, K.M., and J. Marmer. 1996. "Poverty, paternal involvement and adolescent well-being." Journal of Family Issues 17:614-40.
- Hawkins, A.J., and D.J. Eggebeen. 1991. "Are fathers fungible? Patterns of coresident adult men in marital disrupted families and young children's well-being." Journal of Marriage and the Family 53:958-72.
- Haurin, R. J. 1992. "Patterns of childhood residence and the relationship to young adult outcomes." Journal of Marriage and the Family 54:846-860.
- Healy, J., Jr., J. Malley, and A. Stewart. 1990. "Children and their fathers after parental separation." American Journal of Orthopsychiatry 60:531-543.
- Hill, M.S. 1992. "The role of economic resources and remarriage in financial assistance for children of divorce." Journal of Family Issues 13:158-178.

- Hoffman, S.D., and G. J. Duncan. 1988. "What are the economic consequences of divorce?" Demography 25:641-645.
- Isaacs, M.B. 1988. "The visitation schedule and child adjustment: A three-year study." Family Process 27:251-256.
- Isaacs, M.B., G.H. Leon, and M. Kline. 1987. "When is a parent out of the picture? Different custody, different perceptions." Family Process 26:101-110.
- Jekielek, S. 1998 "Parental conflict, marital disruption, and children's emotional well-being." Social Forces 76:905.
- Johnston, J., M. Kline, and J.M. Tschann. 1989. "Ongoing post divorce conflict: Effects on children of joint custody and frequent access." American Journal of Orthopsychiatry 59:576-592.
- Kalter, N., A. Kloner, S. Schreier, and K. Okla. 1989. "Predictors of children's post-divorce adjustment." American Journal of Orthopsychiatry, 59: 605-620.
- Keith, V.M., and B. Finlay. 1988. "The impact of parental divorce on children's educational attainment, marital timing, and likelihood of divorce." Journal of Marriage and the Family 50:797-809.
- King, V. 1994a. "Nonresident father involvement and child well-being: Can Dads make a difference." Journal of Family Issues 15:78-96.
- King, V. 1994b. "Variation in the consequences of nonresident father involvement for children's well-being." Journal of Marriage and the Family 56:963-972.
- Kline, M., J.R. Johnston, and J.M. Tschann. 1991. "The long shadow of marital conflict: A model of children's post-divorce adjustment." Journal of Marriage and the Family 53:297-309.
- Kline, M., J.M. Tschann, J.R. Johnson, and J.S. Wallerstein. 1989. "Children's adjustment in joint and sole custody families." Developmental Psychology 25:430-435.
- Koel, A., S.C. Clark, R.B. Straus, R.R. Whitney, B.B. Hauser. 1994. "Patterns of relitigation in the post-divorce family." Journal of Marriage and the Family 56:265-277.
- Koch, M.A.P., and C. Lowery. 1984. "Visitation and the non-custodial father." Journal of Divorce 8:47-65.
- Krein, S.F., and A.H. Beller. 1988. "Educational attainment of children from single parent families: Differences by exposure, gender, and race." Demography 25:221-234.
- Kurdek, L.A. 1988a. "A 1-year follow-up of study of children's adjustment to divorce, custodial mothers divorce adjustment, and post-divorce parenting." Journal of Applied Developmental Psychology 9:315-28.
- Kurdek, L.A. 1988b. "Custodial mothers' perceptions of visitation and payment of child support by noncustodial fathers in families with low and high levels of preseparation interparent conflict." Journal of Applied Developmental Psychology 9.
- Kurdek, L.A. 1991. "The relations between reported well-being and divorce history, availability of a proximate adult, and gender." Journal of Marriage and the Family 53:71-78.

- Lowery, C.R. 1986. "Maternal and joint custody: Differences in the decision process." Law and Human Behavior 10:303-15.
- Lowery, C.R., and S.A. Settle. 1985. "Effects of divorce on children: Differential impact of custody and visitation patterns." Family Relations 34:455-463.
- Luepnitz, D.A. 1986. "A comparison of maternal, paternal, and joint custody: Understanding the varieties of post-divorce family life." Journal of Divorce 9:1-12.
- Lye, D. N., D.H. Klepinger, P.D. Hyle, and A. Nelson. 1995. "Childhood living arrangements and adults children's relations with their parents." Demography 32:261-280.
- Maccoby, E.E., C.E. Depner, and R.H. Mnookin. 1990. "Coparenting in the second year after divorce." Journal of Marriage and the Family 52:141-155.
- MacKinnon, C.E. 1989. "An observational investigation of sibling interactions in married and divorced families." Developmental Psychology 25:36-44.
- Mauldon, J. 1990. "The effect of marital disruption on children's health." Demography 27:431-446.
- McLanahan, S. and Larry Bumpass. 1988. "Intergenerational consequences of family disruption." American Journal of Sociology 94:130-52.
- McKinnon, R., and J. S. Wallerstein. 1986. "Joint custody and the preschool child." Behavioral Sciences and the Law 4:169-183.
- Meyer, D. R. 1993. "Child support and welfare dynamics: Evidence from Wisconsin." Demography 30:45-62.
- Meyer, D. R., and J. Bartfeld. 1996. "Compliance with child support orders in divorce cases." Journal of Marriage and the Family 58:201-212.
- Meyer, D. R., and Steven Garasky. 1993. "Custodial fathers: Myths, realities, and child support policy." Journal of Marriage and the Family 55:73-89.
- Mott, F. L. 1990. "When is a father really gone? Paternal-child contact in father-absent homes." Demography 30:719-735.
- Najman, J.K., B.C. Behrens, M. Andersen, W. Bor, M. O'Callaghan, and G. Williams. 1997. "Impact of family type and family quality on child behavior problems: A longitudinal study." Journal of the American Academy of Child and Adolescent Psychiatry 36:1257-1365.
- Nord, C.W. and N. Zill. 1996. Non-custodial parents' participation in their children's lives: Evidence from the Survey of Income and Program Participation, Vol. 1. Final report prepared for the Office of Human Services Policy, Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of health and Human Services.
- Paasch, K. and J.D. Teachman. 1991. "Gender of children and receipt of assistance from absent fathers." Journal of Family Issues 12:540-466.
- Pearson, J.P. and N. Thoennes. 1988. "Supporting children after divorce: The influence of custody on support levels and payments." Family Law Quarterly 22:319-39.
- Pearson, J.P. and N. Thoennes. 1990. "Custody after divorce: Demographic and attitudinal patterns." American Journal of Orthopsychiatry 60:33-49.

- Pearson, J., N. Thoennes, and P. Tjaden. 1989. "Legislating adequacy: The impact of child support guidelines." Law and Society Review 23:569-590.
- Peters, H. E. 1986. "Marriage and divorce: Informational constraints and private contracting." American Economic Review 76:437-454.
- Peters, H. E., L.M. Argys, E. Maccoby, and R.H. Mnookin. 1993. "Enforcing divorce settlements: Evidence from child support compliance and award modification." Demography 30:719-735.
- Peterson, J.L., and N. Zill. 1986. "Marital disruption, parent-child relationships, and behavior problems in children." Journal of Marriage and the Family 48:295-307.
- Seltzer, J.A. 1990. "Legal and physical custody arrangements in recent divorces." Social Science Quarterly 71:250-266.
- Seltzer, J. A., 1991a. "Relationships between fathers and children who live apart: The father's role after separation." Journal of Marriage and the Family 79-101.
- Seltzer, J. A., 1991b. "Legal custody arrangements and children's economic welfare." American Journal of Sociology 96:895-929.
- Seltzer, J.A. 1988. "Father by law: Effects of joint legal custody on nonresident fathers' involvement with children." Demography 35:135-146.
- Seltzer, J. A., and Yvonne Brandreth. 1994. "What fathers say about involvement with children after separation." Journal of Family Issues 15:49-77.
- Seltzer, J.A., and I. Garfinkle. 1990. "Inequality in divorce settlements: An investigation of property settlements and child support awards." Social Science Research 19:82-111.
- Seltzer, J.A., N.C. Schaeffer, and H. Charng. 1989. "Family ties after divorce: The relationship between visiting and paying child support." Journal of Marriage and the Family 51:1013-1031.
- Sheets, V. L., and S.L. Braver. 1996. "Gender differences in satisfaction with divorce settlements." Family Relations 45:336-342.
- Shiller, V. 1986a. "Joint versus maternal families with latency age boys: Parent characteristics and child adjustment." American Journal of Orthopsychiatry 56:486-489.
- Shiller, V. 1986b. "Loyalty conflicts and family relationships in latency age boys: A comparison of joint and maternal custody." Journal of Divorce 9:17-38.
- Shrier, D.K., S.K. Simring, and E.T. Shapiro. 1991. "Level of satisfaction of fathers and mothers with joint or sole custody arrangements: Results of a questionnaire." Journal of Divorce and Remarriage 16:163-170.
- Simons, R.L., C. Johnson, and R.D. Conger. 1994. "Harsh corporal punishment versus quality of parental involvement as an explanation of adolescent maladjustment." Journal of Marriage and the Family 56:591-607.
- Smith, H.L., and S.P. Morgan. 1994. "Children's closeness to fathers as reported by mothers, sons, and daughters: Evaluating subjective assessments with the Rasch model." Journal of Family Issues 15:3-29.

- Southworth, S., and J.C. Schwarz. 1987. "Post-divorce contact relationship with father and heterosexual trust in female college students." American Journal of Orthopsychiatry 57:371-382.
- Steinman, S.B., S.F. Zimmelman, and T.M. Knoblauch. 1985. "A study of parents who sought joint custody after divorce: Who reaches agreement and sustains joint custody and who returns to court." Journal of the American Academy of Child Psychiatry 24:554-562.
- Stephens, L.S. 1996. "Will Johnny see daddy this week? An empirical test of three theoretical perspectives of post-divorce contact." Journal of Family Issues 17:466-494.
- Teachman, J.D. 1991a. "Who pays? Receipt of child support in the United States." Journal of Marriage and the Family 53:759-772.
- Teachman, J.D. 1991b. "Contributions to children by divorced fathers." Social Problems 38:358-371.
- Teachman, J.D., and K.A. Polonko. 1990. "Negotiating divorce outcomes: Can we identify patterns in divorce settlements?" Journal of Marriage and the Family 52:129-139.
- Thomson, E., T.L. Hanson, and S. McLanahan. 1994. "Family structure and child well-being: Economic resources versus parental behaviors." Social Forces 73:221-242.
- Umberson, D., and C.L. Williams. 1993. "Divorced fathers: Parental role strain and psychological distress." Journal of Family Issues 14:378-400.
- Wallerstein, J.S. and R. McKinnon. 1986. "Joint custody and the preschool child." Behavioral Sciences and the Law 4:169-183.
- Weiss, Yoram, and Robert J. Willis. 1985. "Children as collective goods and divorce settlements." Journal of Labor Economics 3:269-292.
- Wenk, D., C.L. Hardesty, C.S. Morgan, and S.L. Blair. 1994. "The influence of parental involvement on the well-being of sons and daughters." Journal of Marriage and the Family 56:229-234.
- Zaslow, M. 1988. "Sex differences in children's response to parental divorce. Part 1: Research methodology and post-divorce family forms." American Journal of Orthopsychiatry 58:355.
- Zaslow, M. 1989. "Sex differences in children's response to parental divorce. Part 2: Samples, variables, ages and sources." American Journal of Orthopsychiatry 59:118.

b. Books and Monographs

- Acock, A.C., and D.H. Demo. 1994. Family Diversity and Well-being. Thousand Oaks, CA: Sage Publications.
- Arendell, T. 1995. Fathers and Divorce. Thousand Oaks, Ca.: Sage Publications.

- Biller, H.B. 1993. Fathers and Families: Paternal Factors in Child Development. Westport, CT: Auburn House,
- Bozett, F.W., and S.M.H. Hanson. 1991. Fatherhood and Families in Cultural Context. New York, NY: Springer.
- Braver, Sanford L., with Diane O'Connell. 1998. Divorced Dads. New York: Tarcher Putnam.
- Buchanan, C.M., E.E. Maccoby, and S.M. Dornbusch. 1996. Adolescents After Divorce. Cambridge, MA: Harvard University Press.
- Cherlin, A.J. 1992. Marriage, Divorce, Remarriage. Revised and enlarged edition. Cambridge, MA: Harvard University Press.
- Emery, R. 1988. Marriage, Divorce, and Children's Adjustment. Newbury Park, CA: Sage Publications.
- Friedman, D.. 1995. Towards a Structure of Indifference: The Social Origins of Maternal Custody. New York, NY: Aldine de Gruyter.
- Furstenberg, F. F., Jr., and A.J. Cherlin. 1991. Divided Families: What Happens to Children When Parents Part. Cambridge, MA: Harvard University Press.
- Maccoby, E., and R.H. Mnookin. 1994. Dividing the Child: Social and Legal Dilemmas of Custody. Cambridge, MA: Harvard University Press.
- McLanahan, S., and G. Sandefur. 1994. Growing Up With A Single Parent: What Hurts, What Helps. Cambridge, MA: Harvard University Press.
- Wallerstein, J.S., and S. Blakeslee. 1989. Second Chances: Men, Women, and Children a Decade After Divorce. New York, NY: Ticknor and Fields.

c. Review Articles and Discussion Articles

- Allen, K.R. 1993. "The dispassionate discourse of children's adjustment to divorce." Journal of Marriage and the Family 55:46-50.
- Amato, P.R. 1993a. "Children's adjustment to divorce: Theories, hypotheses, and empirical support." Journal of Marriage and the Family 55:23-38.
- Amato, P.R. 1993b. "Family structure, family process, and family ideology." Journal of Marriage and the Family 55:50-54.
- Brown, S. 1984. "Changes in laws governing divorce: An evaluation of joint custody presumptions." Journal of Family Issues 5:200-223.
- Buehler, C., and J.M. Gerard. 1995. "Divorce law in the United States: A focus on child custody." Family Relations 44:439-458.
- Coltrane, S., and N. Hickman. 1992. "The rhetoric of rights and needs: Moral discourse in the reform of child custody and child support laws." Social Problems 39:400-420.
- Demo, D. H. 1993. "The relentless search for effects of divorce: Forging new trails or tumbling down the beaten path." Journal of Marriage and the Family 55:42-45.
- Ferreiro, B.W. 1990. "Presumption of joint custody: A family policy dilemma." Family Relations 39:426-429.

- Furstenberg, F.F., Jr. 1990. "Divorce and the American family." Annual Review of Sociology 16:379-403.
- Ihinger-Tallman, M., K. Pasley, and C. Buehler. 1993. "Developing a middle-range theory of father involvement post-divorce." Journal of Family Issues 14:550-571.
- Johnston, J. R. 1995. "Children's adjustment in sole custody compared to joint custody families and principles for custody decision making." Family and Conciliation Courts Review 33:415-425.
- Kelly, J.B. 1988. "Longer term adjustment in children of divorce: converging findings and implications for practice." Journal of Family Psychology 2:112-140.
- Kelly, J.B. 1993. "Current research on children's post-divorce adjustment: No simple answers." Family and Conciliation Courts Review 31:29-49.
- Kelly, J.B. 1994. "The determination of child custody." The Future of Children 4:121-142.
- Kruk, E. 1992. "Psychological and structural factors contributing to the disengagement of noncustodial fathers after divorce." Family and Conciliation Courts Review 30:81-101.
- Kurdek, L.A. 1993. "Issues in proposing a general model of the effects of divorce on children." Journal of Marriage and the Family 55:39-41.
- Melli, M.S. and P.R. Brown. 1994. The economics of shared custody: Developing an equitable formula for dual residence." Houston Law Review 31:543-84.
- Seltzer, J. A. 1994. "Consequences of marital dissolution for children." Annual Review of Sociology 20:235-66.
- Warshak, R.A. 1986. "Father custody and child development: A review and analysis of psychological research." Behavioral Science and the Law 4:185-202.
- Wolman, R. and K. Taylor. 1991. "Psychological effects of custody disputes on children." Behavioral Sciences and the Law 9:399-417.

d. Articles in Edited Volumes and Edited Volumes

- Camera, K., and G. Resnick. 1989. "Interparental conflict and cooperation: Factors moderating children's post-divorce adjustment." In Impact of Divorce, Single Parenting, and Stepparenting on Children, edited by E.M. Hetherington and J.D. Arasteh. Hillsdale, NJ: Erlbaum.
- Cowan C., and P. Cowan. 1987. "Men's involvement in parenthood: Identifying the antecedents and understanding the barriers." In Men's Transitions to Parenthood: Longitudinal Studies of Early Family Experience, edited by P. Berman and E. Pederson. Hillsdale, N.J.: Erlbaum.
- Duncan, G.J., and S. D. Hoffman. 1985a. "Economic consequences of marital instability." In Horizontal Equity, Uncertainty, and Economic Well-being, edited by M. David and T. Smeeding. Chicago: University of Chicago Press.

- Emery, R.E., E.M. Hetherington, and L.F. Dilalla. 1984. "Divorce, children and social policy." In Child Development Research and Social Policy, Vol. 1, edited by H.W. Stevenson and A.E. Siegel. Chicago: University of Chicago Press.
- Felner, R.D. and L. Terre. 1987. "Child custody dispositions and children's adaptation following divorce." In Psychology and Child Custody Determinations: Knowledge, Roles and Expertise, edited by L.A. Weithorn. Lincoln: University of Nebraska Press.
- Garfinkle, I., S. McLanahan, and P.K. Robbins. (eds.) 1994. Child Support and Child Well-being. Washington D.C.:The Urban Institute Press.
- Guidabaldi, J., J.D. Perry, and B.K. Nastasi. 1987. "Growing up in a divorced family: Initial and long term perspectives on children's adjustment." In Applied Social Psychology Annual, Vol. 7: Family Processes and Problems, edited by S. Oskamp. Newbury Park, CA: Sage.
- Koel, A., S.C. Clark, W.P.C. Phear, and B.B. Hauser. 1988. "A Comparison of Joint and Sole Legal Custody Arrangements." In Impact of Divorce, Single Parenting, and Stepparenting on Children, edited by E.M. Hetherington and J.D. Arasteh. Hillside, NJ: Erlbaum.
- Lamb, M.E. (ed.) 1981. The Role of the Father in Child Development. New York: Wiley.
- Lamb, M.E. (ed.) 1987a. The Father's Role: Cross-Cultural Perspectives. Hillsdale, N.J.: Erlbaum.
- Lamb, M.E. (ed.) 1987b. The Father's Role: Applied Perspectives. New York: John Wiley and Sons.
- D.L. Levy (ed.) 1993. The Best Parent is Both Parents: A Guide to Shared Parenting in the 21st Century. Norfolk Va.:Hampton Roads.
- Marsiglio, W. (ed.) 1995. Fatherhood. Newbury Park, Ca.: Sage Publications.
- Mnookin, R.H., E.E. Maccoby, C.R. Albiston, and C. Depner. 1990. "Private ordering revisited: What custodial arrangements are parents negotiating?" In Divorce Reform at the Crossroads, edited by S.D. Sugarman and H.H. Kay. New Haven: Yale University Press.
- Zill, N. 1988. "Behavior, achievement, and health problems among children in stepfamilies: Findings from a survey of child health." In Impact of Divorce, Single Parenting, and Stepparenting on Children, edited by E.M. Hetherington and J.D. Arasteh. Hillside, NJ: Erlbaum.

DIANE N. LYE, Ph.D.
9235 NE 25th St.
Bellevue, WA 98004
425 454 9616
E-mail: Diane_Lye@msn.com

**DIVORCE, THE PARENTING PLAN, AND SHARED PARENTING IN
WASHINGTON STATE – RESEARCH QUESTIONS**

A. Overview

This study will gather information on the process of divorcing in Washington State, with particular emphasis on divorcing couples' formulation, negotiation, and implementation of parenting plans, especially plans that provide for shared parenting.

Rationale:

The parenting plan is the single most frequently expressed concern about divorce in Washington State. Concerns about the parenting plan span a range of issues from day-to-day practicalities (e.g., Are the forms easy to use?), to major policy dilemmas (e.g., What parenting arrangements best promote children's well-being?), as well as encompassing numerous other issues in between (e.g., Are parenting plans too detailed? Do couples stick to their plans? Are the plans gender-fair?).

A particular concern at the present time is the extent to which parenting plans provide for shared parenting. Do parents seek shared parenting? How often does the final parenting plan specify a shared arrangement? What do divorced parents actually do—do some parents share parenting informally, and do some parents obstruct shared parenting? Related concerns include: What post-divorce parenting arrangements promote children's well-being? How can the courts promote effective post-divorce parenting? and, Should shared parenting be the presumptive post-divorce parenting arrangement?

It is impossible to abstract the parenting plan from the broader process of divorce in Washington State, and any assessment of the strengths and shortcomings of the parenting plan must locate the formulation, negotiation, and implementation of parenting plans within the state's divorce process. Members of the Gender and Justice Commission expressed this view at the January 23, 1998, meeting and indicated a preference to undertake research examining the process of divorce, and the processes that give rise to various post-divorce parenting arrangements, rather than simply documenting the relative frequencies of various post-divorce arrangements.

For these reasons, the research effort should document the process of divorce in Washington State with a specific focus on the parenting plan and shared parenting.

B. Specific Research Questions

The study will address a range of questions related to the formulation, negotiation, and implementation of parenting plans in Washington State. The specific questions may include the following:

1. The Formulation and Negotiation of Parenting Plans

- When do divorcing adults first learn about the parenting plan?
- From what sources do divorcing adults first learn about the parenting plan?
- Do divorcing adults initially receive accurate, adequate, and helpful information about the parenting plan and the process of formulating a parenting plan?
- What sources of information about the parenting plan are most/least helpful?
- Do divorcing parents face a “learning curve” with respect to the process of divorce and the parenting plan?

Rationale:

One concern that has been raised about the parenting plan is that some parents may lack the necessary information to make good choices in the parenting plan. For example, parents may not be aware that shared parenting is an option. Gathering this information will allow the courts to assess the extent to which divorcing parents have adequate information. If necessary, the courts could use this information to develop ways to improve the information provided to divorcing parents about their post-divorce parenting options and responsibilities.

2. Mandatory Forms and the Parenting Plan

- When do divorcing adults complete the mandatory parenting plan forms?
- Where do divorcing adults complete the mandatory parenting plan forms?
- Who (if anyone) provides assistance completing the mandatory parenting plan forms?
- How long does it take to complete the mandatory parenting plan forms?

- What discussions/negotiations (if any) about parenting arrangements take place before the completion of the mandatory forms?
- How long does it take couples to negotiate the content of their parenting plan?
- Who, if anyone, mediates discussions/negotiations about parenting arrangements?
- Where do discussions/negotiations about parenting arrangements take place?
- Do the mandatory forms prompt and structure a discussion/negotiation of post-divorce parenting; or are the forms largely completed once agreement has been reached; or are some issues decided ahead of time and some decided at the time when forms are completed?
- Which post-divorce parenting issues are most difficult and least difficult to resolve? Are these especially difficult and especially straightforward issues included on the parenting plan forms?
- Are there any issues currently covered by the parenting plan forms that could be left off the forms?
- Are there any issues not currently covered by the parenting plan forms that should be added to the forms?
- Overall, are adults satisfied or dissatisfied with the process of negotiating a parenting plan?

Rationale:

Different Commission and Committee members have offered widely differing accounts of how the mandatory forms are used in the formulation and development of parenting plans. Asking these questions will provide information about divorcing parents' use of the forms and how the forms fit into the process.

Commission and Committee members have also expressed the concern that the forms "have a life of their own," and may in some cases increase conflict. These research questions will address these issues.

Although these research questions are framed in terms of the mandatory forms, they also provide for the collection of information about the process by which a set of post-divorce parenting arrangements are negotiated, agreed, and committed to paper. That is, although the study might begin by asking people when, where, and with whom they completed the forms, it would also assess how the choices recorded on the forms were arrived at. Thus, these research questions will provide insight into issues such as conflict and negotiation surrounding the formulation of parenting plans and may provide recommendations about how to improve parenting plans and the process of parenting plan formation.

These research questions will also provide information about the extent to which parents seek shared parenting, and about how often the desire for shared parenting is incorporated onto the mandatory forms of the parenting plan.

3. After the Parents Have Agreed on a Parenting Plan

- Are parents satisfied with their parenting plans? What are the main reasons for, and types of, dissatisfaction?
- Are parents satisfied with the process of formulating a parenting plan? What additional assistance would have been helpful? What parts could have been streamlined?
- What are the main challenges parents face in formulating a parenting plan?
- Under what circumstances do courts modify parenting plans?

Rationale:

Addressing these research questions would provide information on parents' satisfaction with their own parenting plans and on parents' satisfaction with the process of developing their plan. This information will speak to the question of whether a significant number of parents would have liked shared parenting (or some other arrangement) but were not able to agree on it. These research questions will also support an assessment of factors influencing parents' levels of satisfaction with the process of parenting plan formation and their specific parenting plan. These research questions also address the issue of whether parents believe the process aided or hindered them in the formulation of their parenting plan. This research could lead to recommendations about ways to improve the process of parenting plan formation.

4. Parenting Seminars

- What proportion of parents attend parenting seminars?
- What is the content of these seminars?
- Do parents find the seminars helpful?
- Do parents who have attended a parenting seminar subsequently differ from parents who have not?

Rationale:

Several Commission members have expressed an interest in, and enthusiasm for, parenting seminars. Gathering limited information about participation in seminars would allow an assessment of the effectiveness of these seminars. This assessment might begin with the parents' perceptions of the usefulness of the seminars. It could eventually include an assessment of whether parenting seminars help reduce conflict, ease the process of negotiating a parenting plan, improve eventual compliance with parenting plans, and increase the likelihood that families will opt for specific arrangements such as shared parenting. This information will also allow an assessment of whether seminars improve parents' satisfaction with the process and with their own parenting plan. This information could form the basis of recommendations about the continuation, expansion, and content of parenting seminars.

5. Post-Divorce Parenting

- What are the most common court-approved post-divorce parenting arrangements in Washington State?
- Are there any “modal” parenting plans? That is, are there any sets of arrangements that have become widespread or typical; or are all post-divorce arrangements unique?
- How common is shared parenting?
- Do parents who want shared parenting get it?
- What are the obstacles to shared parenting?
- How closely does parents' behavior comply with their parenting plan?
- Do parents obstruct the parenting plan?
- Do parents informally revise the parenting plan?
- How often do parents go back to court? Why do parents go back to court—to resolve conflict, or to regularize informal arrangements?
- How satisfied or dissatisfied are parents with their arrangements?

Rationale:

There appears to be widespread interest in gathering data on both the content of final parenting plans and on parents' subsequent parenting behavior. That is, what do parents agree to, and what do they actually do. Gathering this information will support an assessment of the frequency with which shared parenting is provided for in divorce settlements and the frequency with which couples actually share parenting. These data would also allow an assessment of noncompliance with the parenting plan, as well as formal and informal modifications to the parenting plan. Finally, the data would assess parents' satisfaction or dissatisfaction with their

parenting plans, and would support an assessment of factors related to satisfaction or dissatisfaction.

6. The Impact of Post-Divorce Parenting

- Does shared parenting improve the wellbeing of children post divorce, relative to children raised under other post-divorce parenting arrangements?

Rationale:

Policy makers and practitioners have expressed a strong need for information about the impact of various post-divorce parenting strategies on children. Information developed could provide guidance to practitioners about what post-divorce parenting strategies should be encouraged.

C. Methodological Considerations

The delineation of a full study design is beyond the scope of my current contract. Presumably, researchers' responses to the RFP will include a full description of their research approach. However, Commission and Committee members raised several important issues.

- The research project should make appropriate use of existing research, including national studies and studies based in other jurisdictions. Existing research can provide insights into appropriate research strategies, and provides important contextual information for the research.
- It will not be feasible to conduct original research on the consequences of post-divorce parenting for children's wellbeing. This is because to conduct adequate work in this area would require a large study of children of divorce with repeated, in depth evaluation and observation of the children and their parents. These types of studies are typically very expensive and very time consuming. Several studies that assess the impact of post-divorce parenting strategies on child wellbeing have been conducted under the auspices of the National Institutes of Health and the U.S. Department of Education. Accordingly, there was support for preparing a review of existing research on post-divorce parenting strategies and child wellbeing. This review would translate the results of scholarly studies into a format that would be accessible to practitioners, taking care to weigh the methodological strengths and weaknesses of the available studies.

- The minutes of the January 23, 1998, meeting of the Gender and Justice Commission imply that a research project should gather data from children concerning their perceptions of the parenting plan process. This research strategy would most likely be extremely costly and difficult to implement.
- Data on the parenting plan should be solicited from divorcing and recently divorced persons, as well as from practitioners. It is essential to gather information about the divorce system from users, as well as from providers.
- It is unlikely that a single type of data will be adequate. Rather, a strategy that combines insights from a variety of data collection endeavors will be most likely to yield the pertinent information.
- Given the resources available, it is unlikely that a single survey would yield adequate data. This is because Commission and Committee members expressed a strong interest in gathering information about the process of divorce and parenting plan formation. An accurate depiction of processes on the basis of a survey would require multivariate analyses, which in turn would require a rather large survey.
- Coding data from samples of court records is also likely to be an unsatisfactory approach. While this approach would certainly yield information on the relative frequency of various outcomes, it would provide no insight into the processes giving rise to these outcomes. Further, a very large number of cases would have to be examined to support statistical analyses that could distinguish significant group differences and control important confounding factors.
- Given the interest in gathering process oriented data, strategies such as focus groups and structured interviews may offer the best prospects for data collection.
- Information about events and decisions during the divorce process should be collected as soon as possible after those events occurred. To minimize recall bias and protect the validity of the data, informants should not be asked to recall events that took place a considerable time in the past. For similar reasons, data should not be solicited from people in stress.
- Given the strong interest in reviewing the parenting plan expressed by state legislators, it is important that data collection strategies provide for the timely completion of the project, and offer at least preliminary results in time for the 1999 Legislative Session.

- The research project must conform to all applicable ethical standards, must deal appropriately with non-English speaking respondents, and must deal appropriately with issues of abuse.

D. Issues for Future Research

Commission and Committee members expressed a strong interest in developing additional research projects in the future. Questions of interest include:

- How well are parenting plans related to paternity issues handled in the present system?
- Are there identifiable groups that are especially poorly served?
- A range of economic issues including the expenses associated with divorce and child support issues.

DIANE N. LYE, Ph.D.
9235 NE 25th St.
Bellevue, WA 98004
425 454 9616
E-mail: Diane_Lye@msn.com

EDUCATION

Ph.D. 1989 University of Pennsylvania, Demography
M.A. 1985 University of Pennsylvania, Demography
B.Sc. 1984 London School of Economics

RANGE OF EXPERIENCE

- Over 10 years research and consulting experience in the fields of family and gender studies
- Strong specialization in study design and methodological aspects of conducting research on families and gender equality
- Extensive experience communicating technical research results to non-specialist audiences.

EMPLOYMENT HISTORY

1990-present Diane N. Lye, Ph.D., Research and Consulting
1997-present Visiting Scholar, University of Washington
1988-1997 Assistant Professor, Department of Sociology, University of Washington
1994-1997 Adjunct Assistant Professor, Women Studies Program, University of Washington
1988-1997 Faculty Affiliate, Center for Studies in Demography and Ecology, University of Washington
1994-1997 Faculty Affiliate, European Studies Program, Jackson School of International Studies, University of Washington

RESEARCH EXPERIENCE

Family Change and Public Policy in the United States and Europe

Compares recent patterns of family change in the U.S. and the experiences of several European countries. Policy challenges and policy environments in the different settings are compared. Focuses on establishing policy implications of recent technical research, and on assessing the relevance and limitations of the European experience for U.S. policy makers. Lye is Principal Investigator.

American Fathers in the 21st Century

This project assessed the factors influencing, and the impact of, men's involvement in parenting. The study will be conducted by researchers at Battelle's Center for Public Health Evaluation and Research and will entail large-scale, national data collection, including repeated interviews with up to 5000 fathers over a 5-year period. As co-Principal Investigator Lye has been involved in all aspects of study design and development, and will have extensive involvement in data collection and data analysis throughout the project.

Intergenerational Relations: Old and New Immigrants.

This project will entail collection of new data on grandparent-grandchild relations in established and recent immigrant communities. The study will be conducted by researchers at the University of Washington's Center for Research on Aging and the University of Washington's School of Social Work. As co-Principal Investigator Lye had extensive involvement in the study design and preparation of analysis plans, and will supervise data analyses.

Adult Child – Parent Relationships After Divorce

This project focused on the consequences of parents' divorce and remarriage for long-term relations between parents and their children (into the child's adulthood) and explored the policy implications of the breakdown in adult child – parent relations for care of the elderly. The project was funded by the National Institutes of Health--National Institute on Aging. As co-Principal Investigator Lye was involved in all aspects of study design, analysis plan development, and actual analyses of the data.

Gender Equity and Marital Happiness

This project focused on the consequences of gender equity in marriages and attitudes and beliefs concerning gender equity and family life for marital happiness and stability.

Young Adults' Attitudes Toward Family Life and Gender Relations

This project examined the factors influencing young adults ideas, expectations, and beliefs about various aspects of family life, sexual behavior, and gender relations. As Principal Investigator Lye was responsible for all aspects of study design and analysis.

Gender Differences in Smoking, Alcohol, and Illicit Drug use Among Adults and Teenagers

This project assessed gender differences in various types of substance use and the factors giving rise to those gender differences. As co-Principal Investigator Lye was involved in all aspects of study design, analysis plan development, and actual analyses of the data.

Population Growth and Environmental Change

This project summarized recent technical research concerning the impact of population growth on environmental quality for a non-technical audience, and highlighted the policy implications of this research. Lye was Principal Investigator.

Below Replacement Fertility in Industrialized Countries

This project explored recent patterns of childbearing in various industrial countries, and assessed the factors leading to sustained, unusually low birth rates. A substantial research effort was devoted to developing cross-nationally comparable measures of childbearing. The impact of differing social policy environments for patterns of childbearing were analyzed and reviewed. Lye was Principal Investigator.

Poverty and the Underclass: Building a Research Capacity at the University of Washington

This project explored issues related to poverty in the Pacific Northwest and entailed development of plans for a larger research effort. Lye was centrally involved in study design, specification of research questions, and development of analysis plans.

Family Independence Study

Lye provided assistance to researchers at the Evergreen State Institute for Public Policy as they developed research projects with graduate students at the University of Washington using data collected by the Family Independence Study. Lye assisted students in the specification of research questions, study design, and research plan development, and supervised students as they undertook research. Lye provided colleagues at the Evergreen State Institute for Public Policy with critiques of students' proposed research to assist them in developing high-quality research projects.

Influences on U.S. Couples Risk of Divorce

This project investigated factors influencing the risk of divorce. Lye was centrally involved in all aspects of study design and analysis, and pioneered the application of new methods of analysis that have since become the accepted standard for analyses of time dependent family behaviors.

Trends in Divorce in Industrial Countries

This project investigated trends in divorce in various industrial countries, and the factors responsible for the increase in divorce. The research included the influence of public policy environments (divorce law etc) in bringing about the increase in divorce and in

mitigating the consequences of divorce. The research also included development of cross-nationally comparable indicators of divorce rates. As Principal Investigator Lye was responsible for all aspects of study design and analysis.

Consequences of Teen Childbearing

This research followed a sample of teen mothers through to mature adulthood and assessed the impact of teen childbearing for later family behavior, education and workplace outcomes, and welfare use. Development of policy implications was a central focus on the research. Lye was centrally involved in data analysis.

SELECTED PUBLICATIONS

Books

Family Change and Public Policy in the U.S. and Western Europe.

To appear in the series *Sociology for a New Century*, edited by Charles Ragin, Wendy Griswold and Larry Griffin. Pine Forge Press. Expected date of Publication: January 1998.

Understanding Societies.

(With D. Chirof and J.F. Healey). Pine Forge Press. Expected date of Publication: June 1998.

Selected Research Papers in Peer Reviewed Journals

Morgan, S. Philip, Diane N. Lye and Gretchen A. Condran. 1988. "Sons, Daughters and Marital Disruption." American Journal of Sociology 94(1):110-129.

Waldron, Ingrid, and Diane N. Lye. 1989. "Family Roles and Cigarette Smoking." American Journal of Preventive Medicine 5(3):136-141.

Waldron, Ingrid, and Diane N. Lye. 1989. "Employment, Unemployment, Occupation and Smoking." American Journal of Preventive Medicine 5(3):142-149.

Waldron, Ingrid, and Diane N. Lye. 1989. "Relationships of Teenage Smoking to Educational Aspirations and Parents' Education." Journal of Substance Abuse 2(2):201-215.

Waldron Ingrid, and Diane N. Lye. 1989. "Relationships Between Teenage Smoking and Attitudes Towards Women's Rights, Sex Roles, Marriage and Family." Women and Health 16(3/4):23-46.

Waldron, Ingrid, Diane N. Lye and Anastasia Brandon Gage. 1989. "Gender Differences in Teenage Smoking." Women and Health: 17(2):65-90.

Lye, Diane N. 1991. "Standardization." Pages 2050-2054 in Edgar Borgatta (ed.) Encyclopedia of Sociology. MacMillan: New York..

Lye, Diane N. and Timothy J. Biblarz. 1993. "The Effect of Attitudes Toward Family Life and Gender Roles on Marital Satisfaction." Journal of Family Issues 14(2):157-188.

Lye, Diane, N., Daniel H. Klepinger, Patricia D. Hyle and Anjanette Nelson. 1995. "Childhood Living Arrangements and Adult Children's Relations with Their Parents." Demography: 32: 261-280.

Lye, Diane N. 1996. "Adult Child – Parent Relationships." Annual Review of Sociology 22:79-102.

Lye, Diane N. and Ingrid Waldron. 1997. "Attitudes Toward Cohabitation, Family and Gender Roles: Relationships to Values and Political Ideology." Sociological Perspectives 40:201-228.

Lye, Diane N. and Ingrid Waldron. 1997. "Relationships of Substance Use to Attitudes Toward Gender Roles, Family, and Cohabitation." Journal of Substance Abuse, in press.

Selected Research Papers Presented at Professional Meetings.

Lye, Diane N. "Shifting Family Values and the Rise of Divorce in Developed Countries." Population Association of America, Baltimore, 1989.

Lye, Diane N. "Sons, Daughters, and Marital Disruption." London School of Economics Population Studies Colloquium, 1989. (Invited)

Lye, Diane N. and Timothy J. Biblarz. "Are Egalitarian Relationships Happier? The Impact of Gender Role Attitudes and Gender Roles on Relationship Satisfaction." Population Association of America, Toronto, 1990.

Lye, Diane N. "Where's Daddy? Paternal Participation in Childrearing in Intact Families." Population Association of America, Washington, DC, 1991.

Lye, Diane, N., Daniel H. Klepinger, Patricia D. Hyle and Anjanette Nelson. "The Effects of Parents' Marital Disruption on Support Provided to Parents By Adult Children." Population Association of America, Denver, 1992.

Lye, Diane N., and Anjanette Nelson. "Childhood Living Arrangements and Attitudes Toward Intergenerational Support." Population Association of America, Cincinnati, 1993.

Lye, Diane N., and Daniel H. Klepinger. "Race, Childhood Living Arrangements and Intergenerational Family Relations." Population Association of America, San Francisco, 1995.

Lye, Diane N. "Race Differences in Adult Child – Parent Relations." University of California at Berkeley Population Colloquium, 1995. (Invited)

Lye, Diane N. "Adult Child – Parent Relationships." Western Washington University Sociology and Demography Colloquium, 1995. (Invited)

Klepinger, Daniel H., and Diane N. Lye. "Childhood and Parental Living Arrangements: Implications for Intergenerational Transfers to Parents." Population Association of America, Washington, D.C., 1997.