

Some whens, hows and whys of shared care

*What separated parents who spend equal time with their children say about shared parenting**

BRUCE SMYTH, CATHERINE CARUANA & ANNA FERRO

Australian Institute of Family Studies



* We are extremely indebted to the focus group members who volunteered much personal information about themselves and their post-separation circumstances. Most participants did so in the hope that this information would make a difference to the lives of others. To protect their anonymity, their names and any identifying information have been changed. The authors would like to thank Professor Patrick Parkinson, Associate Professor Katharine Betts, and Sophie Holloway for their helpful comments: any errors of course are the authors' own.

Abstract

Despite the broad policy push towards encouraging co-parenting after separation – most notably the recently announced parliamentary inquiry into a rebuttable presumption of joint residence – little is known about parents who opt for shared care of their children, how these arrangements are structured, and how well they work.

In this paper, we examine the motives, and reflections of separated parents who share equally in the care of their children, as well as the types of schedules devised. Our data are qualitative and derive from a series of focus groups held earlier this year. Fifty-six separated parents (27 mothers, 29 fathers) were interviewed on a range of issues related to parent–child contact. Groups were structured around five different patterns of father–child contact: (a) 50:50 shared care (eg., ‘week about’), (b) medium-range contact (<110 nights per year), (c) daytime-only contact, (d) holiday-only contact; and (e) little or no contact. Participants were recruited through a range of non-probability sampling strategies.

While these data are primarily being used to inform a larger study investigating contact and child-support issues, they also offer useful insights into shared parenting – particularly in relation to the work/family balance, co-parental conflict, and financial issues.

I. Introduction

With around one million children under 18 living with only one of their natural parents in Australia (ABS 1998), a core concern for public policy continues to be how to foster the ongoing care and support of children following parental separation. Currently a raft of issues related to contact and child support are presenting significant challenges to policy and family law in Australia. Prominent among these challenges are (a) high rates of paternal disengagement, (b) the desire by many fathers and mothers for greater levels of father-child contact – paralleled by a desire by many grandparents for greater contact, (c) the ability of the family law system to deal with violence and abuse (and allegations thereof), relocation disputes, and the enforcement of contact orders, (d) the fairness of the child support formula – particularly in relation to the costs of contact to non-resident fathers and ... the list goes on. (For discussion of these issues see, for example, Behrens 1996; Easteal et al. 2000; Fehlberg & Kelly 2000; Fehlberg & Smyth 2000; Green 2003; Henman & Mitchell 1999; Murphy et al. 2003; Parkinson & Smyth 2003; Rhoades et al. 2000; Woods 1999.)

The Federal government has recently announced a parliamentary inquiry to investigate whether a rebuttable presumption of joint residence should become part of Australian family law – that is, if parents separate and cannot agree on arrangements for their children, the starting point should be that children spend equal time with each parent unless there is evidence that this arrangement would not be in the children's best interests. Equal time would normally mean that children would move between two homes.

Why the interest in 50:50 care? The upcoming parliamentary inquiry "seeks to address community concerns about the operation of contact and child support arrangements for separated families and reflects the Government's commitment to ensuring that, to the greatest extent possible, children have the benefit of the love and care of both their parents when a couple separate" (Williams & Anthony 2003). This view is consistent with arguments, as put by advocates of joint residence, which focus on the benefits for children of maintaining a close relationship with both parents. By contrast, opponents of shared care typically emphasise children's need for stability and the potential harm for children of being exposed to ongoing high levels of parental conflict, parental neglect or psychopathology (Bauserman 2002; Brotsky et al. 1991).

Despite the significant policy push towards encouraging split care after separation, little is known about parents who opt for shared care of their children, how these arrangements are structured, and how well they "work". This is not surprising given that shared care is relatively rare in Australia. Indeed, less than three percent of children with a natural parent living elsewhere had "shared care" arrangements in 1997 (ABS 1998). Moreover, less than 4 percent of parents registered with the Child Support Agency last year were deemed to have equal (or near equal) care of their children (Child Support Agency 2003).¹

¹ In the US, around 7% of parents mutually opt for joint residence; this group is a "highly select sub-sample" (Braver & O'Connell 1998: 223). Recent work in Australia by Parkinson and Smyth (2003), which takes account of sleepovers *as well as* daytime-only contact, suggests

The inherent complexity of shared care is currently being played out in policy by a lack of consistency between different departmental and legislative guidelines as to what constitutes “shared care”. For instance, since 1 July 2000, to reflect “shared care” arrangements, non-resident parents exercising contact with their children for more than 10 per cent of nights may seek to have Family Tax Benefit apportioned to each parent according to their respective levels of care (Family and Community Services 2000a). The Child Support Scheme, on the other hand, requires a minimum level of care of 30 per cent of nights per year before child support liabilities can be reduced. The Scheme defines “shared care” as between 40-60% of nights per year.

Arguably the most obvious recent embodiment of current policy tensions around “shared care” – aside from the recently announced inquiry into 50:50 care – is the defeated Child Support Legislation Amendment Bill (No 2) 2000. That Bill proposed that non-resident parents exercising contact with their children for between 10 and 30 per cent of nights would pay a reduced amount of child support. The rationale for the Bill was to recognise more directly the costs incurred by non-resident parents in having contact with their children (Family and Community Services 2000b). It is noteworthy that Clause (b) in the recently announced parliamentary inquiry’s terms of reference – “whether the existing child support formula works fairly for both parents in relation to their care of, *and contact with*, their children” (emphasis added) – indeed testifies that strengthening the nexus between child support and contact, as proposed by the defeated Bill, still has currency.

From a legal standpoint, there has been a gradual shift in recent years towards a more equitable division between parents of the rights and obligations of the parenting role. The Family Law Reform Act 1995 (the “Reform Act”) saw the introduction of s60B which outlined the principles underpinning the law relating to children. These included that “children have the right to know and be cared for by both their parents ...” and that “parents share duties and responsibilities” in relation to the care of their children. The amendments also sought to remove the proprietorial connotations of the terms “custody” and “access” with the more neutral terms of “residence” and “contact”. In addition, the right to make day-to-day decisions regarding the child was no longer the sole province of the custodial parent. Thus the present situation is that both parents now retain an equal level of parental responsibility following separation except insofar as this is necessarily modified by the effect of residence and contact orders or is the subject of a specific issues order.

It may be that the view that these reforms have effectively imported the US notion of joint legal custody² into Australian family law i.e., joint parental decision making, will be eclipsed by the larger debate concerning rebuttable joint residence. The government’s interest in a “joint residence” model,

that “shared care” (defined at 110+ nights *or* days per year) occurs in about 10% of separated households – and in about 16% of households where no face-to-face contact is excluded.

² In the US context, “joint legal custody” relates only to the sharing of the decision-making role regarding children. “Joint physical custody”, on the other hand, entails the child spending roughly equal time with both parents. Joint legal custody operates in a majority of US state jurisdictions. Throughout this paper we use the term “joint residence” in accordance with the Reform Act and use the term “joint custody” where it relates to the US literature.

following closely on the heels of the Family Law Amendment (Joint Residency) Bill 2002 introduced by *One Nation* Senator Len Harris in June 2002, may be heralding the most extensive reform of the law relating to children since the introduction of the Family Law Act in 1975.

In many ways the patchwork of policy and law reform around shared care is understandable. First, society has changed markedly in recent decades. Movement away from a (maternal) “sole custody” model of parenting towards encouraging co-parenting after separation means that the boundaries around sharing the care of children have become fuzzier. Policy necessarily lags behind social change.

Second, as noted by Gauthier (1996: 4), family policy in most developed countries continues to comprise a loose amalgam of disparate measures rather than being “comprehensive, explicit, and well co-ordinated”. In Australia, the complexity of the way in which the Family Law Act 1975 interacts with the Child Support (Registration & Collection) Act 1988, the Child Support (Assessment) Act 1989, the Social Security Act 1991, and the A New Tax System (Family Assistance) Act 1999, makes the formulation and implementation of family policy on shared care difficult. To what extent a rebuttable presumption of joint residence can bring coherence to this policy mosaic, and address the various significant challenges outlined earlier, is unclear.

More practically, however, what does this patchwork of policy mean for separated parents charged with sharing parental responsibilities under the Reform Act? And what does it mean for the children who must live with the decisions that their parents (or the courts) make? In Australia, little is actually known about the “nuts and bolts” of post-separation parenting – namely, when, what, where, and how it occurs. Even less is known about parents who spend equal (or near equal) time with their children. In this paper, we examine the arrangements, motives, and reflections of such parents. While the primary purpose of the data being drawn on is to inform a larger study investigating contact and child-support issues, they also offer useful insights into who opts for shared care arrangements, how these arrangements are structured, and how well the arrangements work.

The empirical terrain

A voluminous literature exists on joint legal custody (see, for example, Folberg 1984; Benjamin & Irving 1989), the bulk of which has been produced during the 1980s by scholars working in North America. It is a complex literature because of the various methodologies and samples employed across studies (Benjamin & Irving 1989; Bauserman 2002), and the occasional conflation with joint physical custody.³ In this paper, we provide a thumbnail sketch of some of the key empirical studies that relate directly to joint physical custody.

In one of the earliest examinations of joint physical custody, Abaranel (1979) conducted intensive case studies of four families with split care arrangements.

³ We are currently in the process of critically reviewing this literature in a bid to inform the upcoming parliamentary inquiry into a rebuttable presumption of joint residence.

She found that these arrangements could work well under certain conditions: (a) commitment; (b) flexibility; (c) mutual co-parental support; and (d) the ability to reach agreement on implicit rules (Abaranel 1979). To these four relational factors, she also adds geographical proximity (a structural factor) and suggests that other structural factors may also temper the workability of shared care. These factors include the age, number, and age range of children (such that certain configurations may be easier than other configurations), the temperament of children (for a “difficult” child, one home may be more stabilising than two), and the presence of step-parents and step-siblings. Abaranel (1979) urged legal and mental health professionals to keep an open-mind on joint custody arrangements because of her belief that this pattern of care promotes strong parent–child attachments.

Brotzky and her colleagues (1991) examined 48 families with shared care arrangements in order to identify the factors that can help to make joint custody work for parents and children. Their sample comprised recently separated parents who were in the process of developing joint legal and physical custody arrangements. Some parents made their own arrangements, while others were in dispute over their arrangements. Families were provided with: a six-week education program; up to 12 mediations sessions aimed at the development of a parenting plan; a child assessment to help individualise the parenting plan; and 6 and 12 month follow-up sessions.

At 12-month follow-up, families were classified into one of three outcome categories: “successful” ($n=12$); “stressed” ($n=20$); or “failed” ($n=15$). According to Brotzky et al. (1991), parents in the “successful” group felt good about the arrangement, and were able to negotiate and cooperate on parenting issues. Parents in the “stressed” group were able to reach a mutually acceptable agreement in mediation and were keeping to their arrangement “legally and technically” (Brotzky et al. 1991: 169). They could agree and negotiate some of the time but had bouts of conflict which jeopardised their arrangements. Parents in the “failed” group could not reach agreement in mediation (and thus had their parenting arrangement imposed on them by the court), or could not maintain their agreement. Parents in this group were “extremely distressed, dissatisfied with the custody arrangements and each other, and could not share childrearing responsibilities without bitter and overt conflict” (Brotzky et al. 1991: 169).

Not surprisingly, Brotzky and her colleagues (1991) found a strong association between levels of parental conflict and child outcomes. Children of the “successful” parent group were “doing well” whereas children of the “failed” parent group were doing “very poorly”. It is noteworthy that when respondents were subsequently followed up at 18 months after participating in the program, the “successful” and “failed” groups had not changed whereas the “stressed” group had improved to the point where it approximated the profile of the “successful” group. Brotzky et al. (1991) thus pointed to the utility of mediation and professional support for helping some families who may be struggling with co-parenting issues.

More recently, in the US context, Braver and O’Connell (1998) explored the evidence for a rebuttable presumption of joint residence. They point out that:

... the issue of joint residential custody being the rebuttable presumption of most divorce cases is often raised by father's rights groups as a panacea. But is this a viable solution?

Unfortunately...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.

Just because there is no evidence to recommend it, should it be opposed? After all, there was limited scientific evidence to support a great many policies that have turned out, once adopted, to work well, according to the evidence that later became available. While it is recommended that the children have substantial contact with both parents...it is not necessary that this time be split exactly down the middle....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.... Joint *legal* custody and *substantial* contact – though not necessarily exactly equal – with both parents appears to be an ideal solution for most children (Braver & O'Connell 1998: 223-224) (emphasis in original).

And in the most recent comprehensive review of joint residence, Bauserman (2002) conducted a meta-analytic review of 33 studies⁴ comparing child adjustment in joint- versus sole-custody parenting arrangements. He found that children in joint custody (physical and/or legal⁵):

were better adjusted than children in sole-custody settings, but no different from those in intact families... The results are consistent with the hypothesis that joint custody can be advantageous for children in some cases, possibly by facilitating ongoing positive involvement with both parents (Bauserman 2002: 91).

However, Bauserman points out that parental conflict is typically a confounding variable in comparative work across different types of parenting arrangements. Indeed he himself was unable to tease out the role of parental conflict because most of the studies he reviewed did not control for conflict, and parents who opt for shared care are likely to be self-selected for low conflict. This makes it hard to unpack what's doing the work: structure (i.e., the pattern of care) or process (eg., the level of conflict)? The structure–process issue cuts to the heart of much of the debate around shared care. Work by Ricci (1997) gives primacy to process over structure.

⁴ Note that two-thirds of these studies (n=22) were unpublished theses mainly from North America.

⁵ Statistically, Bauserman (2002) found no difference between joint legal and joint physical and so combined both groups. This is partly explained by the fact that two thirds of the studies involving joint legal custody also involved substantial parent–child contact (>25% of time).

The conceptual terrain: Post-separation parenting patterns

According to Ricci (1997), the way that parents relate to each other as parents is crucial to how well children adjust to family transitions and change. She argues that:

if a pattern is destructive, neither equal time nor a traditional every-other-weekend visitation arrangement can protect a child. But when a parenting pattern is constructive, many arrangements can work (p.115).

Ricci (1997) distinguishes two classes of parenting patterns – those that are healthy and those that are not. She suggests that unhealthy parenting patterns can take four forms: (a) “abusive parenting”; (b) “neglectful parenting” (which can include hidden neglect whereby parents feed, clothe and house children but offer little in the way of emotional support because they are pre-occupied with their own issues, work or with other relationships); (c) “exclusive parenting” (which typically involves clear, fixed boundaries between what each parent does, with one parent in the role of chief decision maker; the negative side of this pattern can emerge when the non-resident parent is cut out and/or disengages – leaving the burden of care giving to fall on one parent), and (d) “parallel parenting” (which essentially means that little or no communication occurs between parents; they essentially run their own race as parents) (Ricci 1997).

Healthy parenting patterns, on the other hand, typically take three forms: (a) “positive exclusive” parenting (in which one parent assumes the major responsibility for children but both parents nonetheless work well together, and the children have frequent and ongoing contact with the parent with less responsibility for their care), (b) “shared parenting” (which is a “structured businesslike working relationship” in which parents work together to raise their children; children are kept out of relational issues between parents); and (c) “cooperative parenting” (which goes a step further than shared parenting in that there’s give-and-take in the parental relationship; parents help each other and give clear primacy to children’s wellbeing). Ricci (1997) is quick to point out that these different patterns are not static, and parents can (and often do) move from one pattern to another, especially once the initial acrimony of relationship breakdown passes.

So, for Ricci (1997: 118), the “prize” is not a particular timeshare arrangement (such as 50:50 care) but a healthy pattern of parenting since it is this that gives children the chance to develop normally. Other US scholars, such as Johnston, concur. Johnston (2003) is currently pushing to “reframe the agenda” on joint custody. She argues that the issue is not how blocks of time are divided or apportioned but how well parents can work together. To this end, Johnston believes that policy should aim at the development of primary dispute resolution interventions that provide better ways of handling conflict, rather than at different ways of allocating time.

At the heart of Ricci’s (1997) framework is a core set of ideas about creating a cooperative parenting arrangement. These ideas (Ricci 1997: 7-8) have particular utility in the context of understanding shared care:

1. **“Children love, want, and need both parents”**. Both parents are fundamental to a child’s wellbeing and development.⁶
2. **“Each child is unique” (as is each family’s circumstances)**. What one child can deal with, another cannot. The best interests of children should always be paramount in making decisions about contact, with the appropriateness of different patterns of care contingent on a range of factors, including the quality of care, as well as children’s individual temperament, resilience, stage of development, and experience.
3. **A good legal agreement does not guarantee a good outcome**. For Ricci (1997), “[a] first-class legal agreement is at best a good piece of surgery. It does not guarantee recuperation. The agreement alone is not enough. Parents need to learn how to make agreements work in daily life. [This is especially important given that]..., not all agreements are first-class, nor are they all arrived at justly”.
4. **The way in which parents relate to each other is critical**. According to Ricci, “children do poorly when their parents are engaged in open hostilities and even worse when their parents involve them in the battle. The longer and more intense the war, the more potential long-term damage to their child”.
5. **The “good divorce” is possible, and is worth the effort**. The secret to the “good divorce” is that there are standards of conduct. A good divorce also takes work (as does a good marriage). These standards of conduct can be learned and worked at.

Our working hypothesis is that parents who opt for shared care arrangements are likely to practice “shared” or “co-operative” parenting (as defined by Ricci) and to subscribe to the above five tenets – if not initially, certainly eventually. We explore this idea in Part III.

II. Methodology

This paper draws on qualitative data derived from a series of focus groups. These data were collected as part of the development of a larger study of parent–child contact after separation – *The Caring for Children After Separation Project*.

There were three main reasons for running the focus groups: (a) to develop sharp open-ended questions for the larger quantitative component of the study; (b) to obtain a different methodological vantage point on key aspects of interest – especially in relation to context, diversity, and process; and (c) to check that no important issues had been missed in the quantitative interview schedule being developed.

Research design

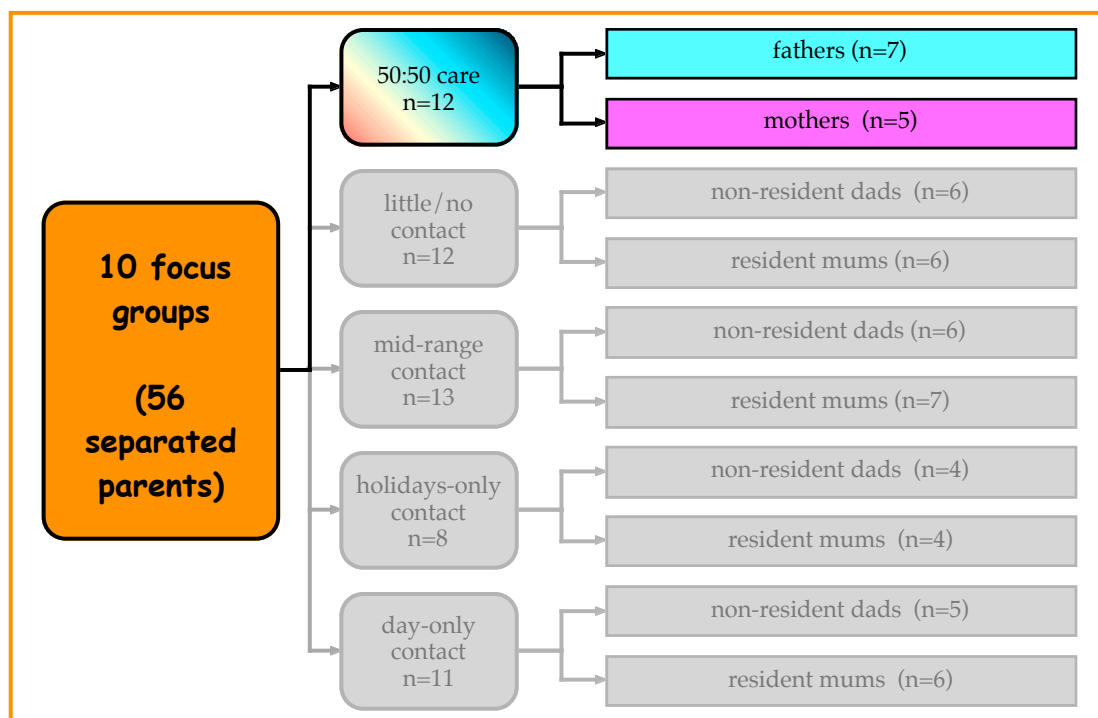
Ten focus groups were conducted (see Figure 1 overleaf). Each group comprised 4-7 respondents, and related to one of five patterns of post-

⁶ An important rider needs to be added to this assertion: that where there are chronic levels of co-parental conflict, or where children have experienced or are likely to be exposed to continuing domestic violence or child abuse, ongoing contact with both parents may be highly inappropriate.

⁷ We use Ahron’s (1994) term here.

separation care: (a) near-equal or shared care (e.g., 'week about'); (b) mid-range contact (ie the non-resident parent had some contact but not more than 110 nights per year; this contact involved overnight stays during the year aside from holidays); (c) daytime-only contact; (d) holiday-only contact; and (e) little or no contact. All groups (except one⁸) comprised same-sex respondents to minimise the risk of conflict or power differentials, and to ensure that members within each group were as similar as possible on certain key attributes. It is this similarity that allows for differences across the groups to be explored.

Figure 1. Recruitment strategy



Recruitment

Participants were recruited through a range of non-probability sampling technique. Specifically, a story appeared in the Melbourne Herald-Sun about the Caring for Children Project. The story mentioned the focus groups and called for volunteers. Snowball sampling was also used. Focus group participants, Institute staff, and the AIFS email alert service was used to invite separated parents who fell into one of the five contact types to participate. A range of organisations was also contacted by letter to recruit participants.

All potential participants were screened using an intake protocol, and the quota of six for each group was filled where possible (see Figure 1).

⁸ The holiday-only group of non-resident fathers included one non-resident mother. This group was extremely difficult to fill, and many of the issues with which the non-resident mother was wrestling were similar to those raised by fathers in the screening interview.

Participants: All focus groups

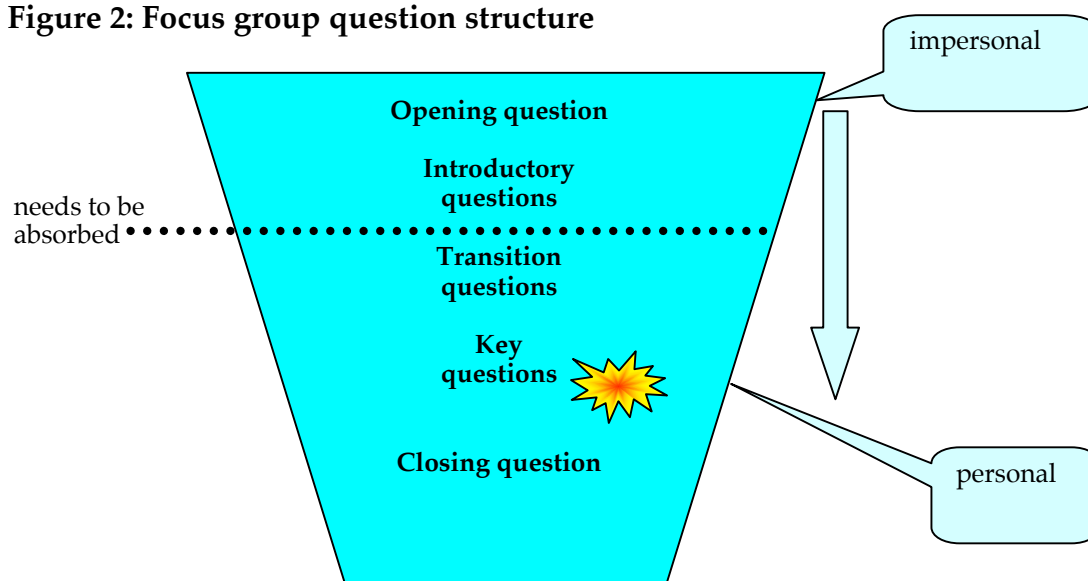
The final sample for the focus group component of the study comprised 56 separated parents (29 mothers; 27 fathers), each of whom had at least one child under 18 at interview. The average age of the youngest biological child of each respondent was 10 years, 3 months (SD=4 years, 3 months). Parents ranged in age from 26-58 years (mean=42 years; SD=7.5 years) and had been separated for around 6 years (median = 5.5 years; M=6.3 years; SD=3.7 years). Just over half (54%) were single. Forty-four per cent of the sample reported getting along pretty well with their former partner; 27% reported not getting along too well; almost one quarter of the sample avoided any contact with their former partner; while the remaining 5% had contact but fought and did not get along.

Almost half (48%) the sample were recruited from the newspaper story, 39 per cent were recruited through snowballing, while 13 per cent were derived from the AIFS email alert service or from the organisations that were approached. There was a relatively even spread of participants from the various sources across all groups.

Questions

A structured interview schedule was used comprising around a dozen questions. Focused group interviews have a particular logic (see Figure 2). Questions are guided by a funnel design. Relatively broad, easy, non-threatening questions are initially asked to promote group cohesion, rapport and trust. Introductory questions are then followed by transition questions (which help participants move their thinking towards the key issues), and finally key questions (which are targeted and more personal in nature) are asked. Usually only the key questions are of real interest; the other questions are used to create the emotional space for participants to focus and feel safe. Note that, as far as practical, the same questions are asked of all of the groups so that points of contact and disparity can be explored both across and within the groups.

Figure 2: Focus group question structure



Examples of the questions are:

- Could you tell me a bit about how your particular arrangement works? [*Introductory question*]
- Why *this* pattern of contact? [*Transition question*]
- What sorts of things have affected your contact arrangements? [*Transition question*]
- How is the overall pattern of contact working for everyone – for you, your former partner, and the children? [*Key question*]
- What advice would you give to other separated parents in making arrangements for children after separation? [*Closing question*]

Logistics

All of the focus groups were conducted at the Australian Institute of Family Studies in Melbourne. The groups comprised 4-7 members. Focus group sessions lasted about 90 minutes, were held across a two-week period in February 2003, and were audio taped and transcribed. Participants were paid a small amount of money to cover any expenses incurred in attending the sessions.

Each group had a moderator, and a moderator's assistant. The project team (two females, one male) filled these roles. Where possible, female groups were moderated by female team members while the male team member and a male colleague (not part of the team) moderated the male groups.

Participants: 50:50 care focus groups

The sample on which this paper is based comprised the 12 separated or divorced parents who were in the two 50:50 shared care groups. These groups can be seen in Figure 1, p8). Only two of the 12 parents were from the same former union.

All of the parents lived close to each other (within 10 k; range: 1-30k). Seven of the 12 parents reported getting along well with their former partner, 3 said that they didn't get along too well, and two had little or no communication. All except three of the participants made their own parenting arrangements without involvement in the legal system. All of the men had reduced or relatively flexible work arrangements; and all of the women were in paid work.

Parents in the 50:50 care focus groups look to be a relatively distinct subgroup of separated parents. Their profiles shed light on some of the necessary conditions required for shared parenting: namely proximity, work flexibility, money and infrastructure, and a co-operative parenting style – which perhaps largely explains why most of these parents did not seek legal interventions. Interestingly, two of the three parents (one male, one female) who did go to court are the same two parents who reported avoiding their former partners in their parenting patterns but nonetheless managed 50:50 care. While this profile is informative in its own right, we now turn to the qualitative data to try to get underneath the family dynamics of shared care.

Three caveats

Three caveats warrant brief mention. First and foremost, the richness and depth of respondents' individual stories cannot be captured by the crude analysis that follows. Second, it is important to note at the outset that the groups of separated men and women are tiny. Moreover, they were not drawn randomly from the general population of separated or divorced parents. No claim is thus made that the data are representative of shared care parents or generalise to that population. Qualitative data are not used to draw inferences about a particular population at large. Rather, they provide in-depth information about context, diversity and process.

A final caveat relates to focus group research design. Most textbooks recommend that between 3-20 groups for each condition of interest should be sampled so that key themes have had a chance to emerge and begin to repeat ("saturation"). For practical reasons, and since the data were collected as a validation technique rather than as primary data in their own right, our research design essentially sampled 10 individual groups. We thus cannot be confident that the issues that emerged are the only issues for the shared care group.

III. Findings (read Musings)

This section is structured in two parts. First, three case studies are offered. Second, key themes that emerged from the data are presented. Given the micro-scale of the design and samples, the following observations are framed as "musings" rather than findings.

Case studies

Little is known in Australia about how parents who opt for shared care split their time with their children.⁹ Data from the focus groups, though somewhat limited, point to great diversity. What follows are three brief case studies that illustrate a range of 50:50 contact schedules, and the family dynamics around these schedules.

Case study #1: Marcus

Marcus is 30, and has been separated for about 4 years. He has repartnered, and has had a "week about" arrangement pretty much from the word "go" with changeovers occurring on Fridays (see Figure 3). Marcus is a walking advertisement for shared care, and for engaged fatherhood:

"I have two daughters: one who's 7 and the other's just turned 9. And they're awesome kids. I love hanging out with them. They never cease to amaze me, and they're always entertaining. We just love hanging out".

Like some of the focus group members in the 50:50 care group, Marcus' dealings with his former partner are not always cordial and cooperative. He

⁹ We are currently in the process of exploring data from Wave 1 of the Household, Income and Labour Dynamics in Australia (HILDA) survey in order to compare the profiles of parents who opt for shared care arrangements with those who do not.

does not define his arrangement as “co-parenting” but rather sees it as two parents each doing their own thing (i.e., what Ricci refers to as “parallel parenting”). Nonetheless he was one of the most enthusiastic advocates of the joys of shared care:

“I was actually rapt when I heard about it [the possibility of shared parenting] because it’s an enormous opportunity for me. It’s been a great experience. When I went to court to get the divorce the Magistrate said to me: “How’s it going? I haven’t seen many people in your situation.” I said, “It’s been going fantastic!” She was amazed, and hadn’t heard much of that.

Marcus continues:

“A lot of guys who have just separated don’t realise that it’s an option. They think “standard care” is all there is out there”.

Case study #2: Sally and Rod

Sally (aged 45) and Rod (aged 49) have been separated for 4 and a half years. They have two boys, and a teenage daughter. Rod has repartnered but Sally has not. They have an extremely cooperative relationship and are happy with their shared parenting arrangement (see Figure 3). The complexity of their arrangement appears to be a function of each family member’s need to have frequent contact with one another.

According to Sally:

“We have a very informal arrangement which we just arrived at ourselves and we’ve stuck with that since.... I think we’ve been separated about four and a half years now. So we have stuck to that for the sake of the children. And we do a little bit like what you were saying...the children are with me Sunday night, Monday night, Tuesday night – with Rod Wednesday night, Thursday night. And on the weekends we swap so whoever’s weekend it is has them on the Friday night and then the other person has them on the Saturday night and the Sunday and then they come back to me on the Sunday night. It sounds mucky – it works for us. None of us wanted to not see them for very long. I don’t know how you do the week without them thing. Neither Rod nor I would agree to that for a minute. We might now that they’re at secondary school but I couldn’t have managed that personally when they were young.”

Sally and Rod’s schedule is very child-focused in that the children’s activities act as anchor points for changeover. For instance, on Saturdays, the boys play basketball. One parent arrives with the children. Both parents watch the game, after which the other parent takes the children. The weekend rotation means that weekend time (often viewed as “quality” leisure time by parents) is shared so that Friday and Saturday night care is alternated, allowing both parents to have a social life.

In passing it is noteworthy that Sally and Rod had discussions this year with their children about changing the pattern of care. They were concerned that their teenage daughter might have wanted something a little different to her

younger brothers. To both parents' surprise, all three children wanted to keep the pattern as it was.

Case study #3: Kathy

Kathy is 40. She and her former husband have shared the care of their 10-year-old son and 6-year-old daughter for five years. Kathy's arrangements (see Figure 3) and perceptions differ markedly in some ways from those of Marcus, and Sally and Rod. This may be because Kathy and her former partner have little contact with each other. Essentially they "parallel" parent. They have been involved in extensive litigation regarding the children.

Kathy says:

"Well mine's [her arrangement] very rigid and we don't deviate or else I end up back in court. The children's changeover is predominately after school so Monday night they go to their dad's, then they get picked up from school. Tuesday they're at their dad's. Wednesday I pick them up from school. Then they're with me Wednesday night and Thursday night. Weekends alternate and on his weekend he brings them back to me on the Sunday night.

The kids adjusted to it. They get annoyed at times and say, "I wish I didn't have to go" or "I wish I didn't have to do this!" Because it's not an amicable situation, then there's lots of games being played of socks not being returned and toys can't be transferred. And things like that. We have issues around their possessions and then they're manipulated as part of a power struggle. So that becomes quite difficult. But in relation to the children, they know the routine. It's been that way basically since ...what, we've been split now 5 years and it was probably six months after the split, this was the arrangement. And so it hasn't been any different. But you know, how they'd like it I don't really know at this stage because they just know that's what the judge said so that's the arrangement."

It is interesting to note that one of the anchor points in both Sally and Kathy's schedules is Sunday night, whereby the children start the school week with their mother. On this point, Kathy is clear:

I agreed to allow him access because he was their father at the end of the day but given that Patrick was about to start school I stipulated that I wanted them on the Sunday night so at least I knew that he would go to bed at a reasonable hour and he would be ready for school. Yeah, so that's basically how we set it up. He said "I want 50/50" and I said "well not quite" because at least at the beginning of the week I know they've gone to bed and as I said they were only really little. And he was entitled to be a father still. But there have been a lot of pitfalls because it hasn't been like yours [like Sally's], as in amicable. There were egos that we had to contend with as well as access. And quite often he forgets that the actions that he's taking are ultimately affecting them - they will affect me but I can get over it because I can see through it whereas they are the ones that have to wear it and live with it and that's where it's really hard.

The surrounding text to the Sunday night anchor point suggests elements of the children being “caught in the middle”. Recall that for Ricci (1997), a good legal agreement does not guarantee a good outcome for children, while Brotsky et al.’s (1991) research suggests that there is an important distinction between arrangements that can function superficially and ones that threaten the wellbeing of children.

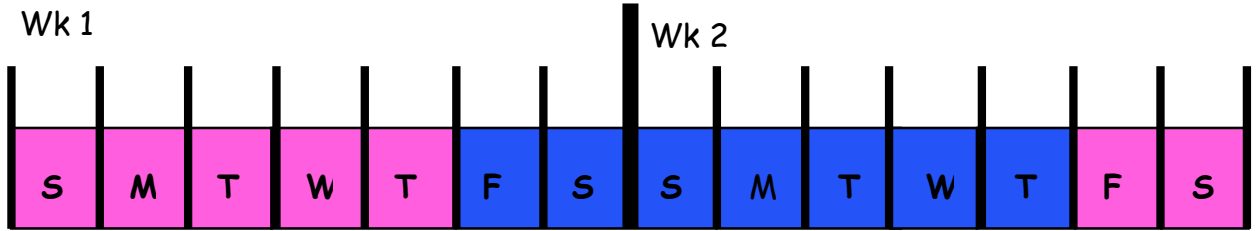
It is important to note that other 50:50 timeshare schedules were operating outside of those described above, with “week about” being the most common arrangement. However, even in this pattern, there were differences in the day on which handover occurred (such as Friday, Saturday or Sunday) (see Figure 3). On this point a common theme among participants was strong desire for guidance by way of information or services to assist in (a) ensuring that a shared care arrangement was suitable for their particular circumstances, and (b) in helping to develop a schedule that would fit those circumstances.

For instance, Kathy was happy to try a 50:50 care arrangement but was keen to have some information about how to set-up a schedule. She pressed a Family Court mediator but to no avail:

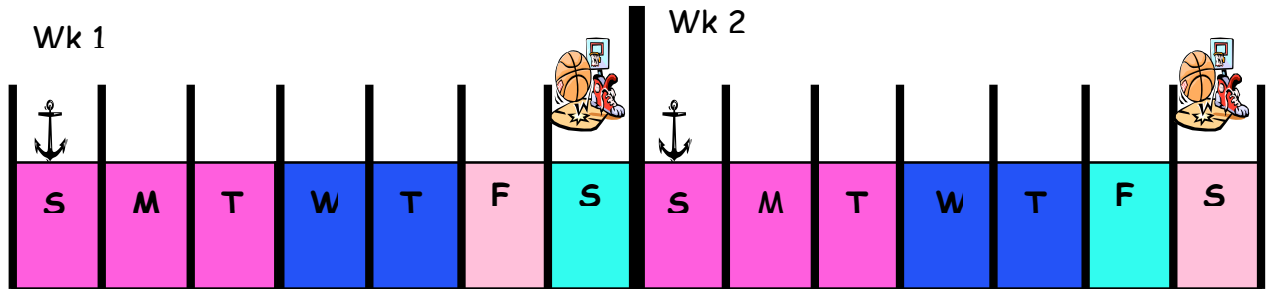
We did mediation through the courts... and because I was quite versed, you know I did all the reading and all that, and had contact with social workers and psychologists. And found that when I put it on the mediator – not so much to give me the answers but to give me and my ex ideas on the variables that you need to consider in this model – they weren’t forthcoming. It was an answer like “*You* have to work it out. You’re an individual group and you need to do it.” Which made it really difficult because then it looked like I was dictating terms to which he [her former spouse] repelled straight away.

Figure 3: Equal time parenting schedules in two focus groups

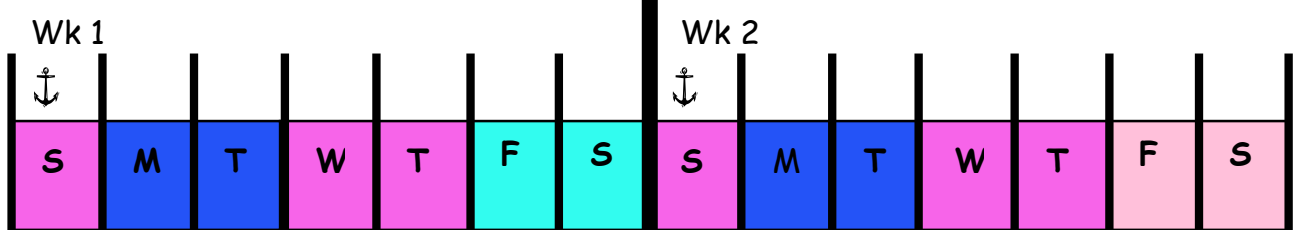
Marcus: "Week about" (Friday changeover)



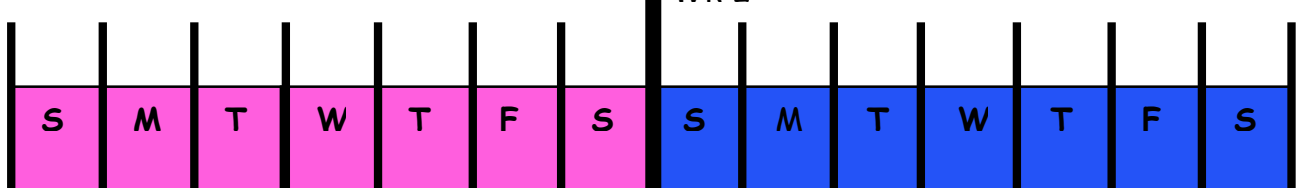
Sally & Rod: "Days about" (3+2+2*)



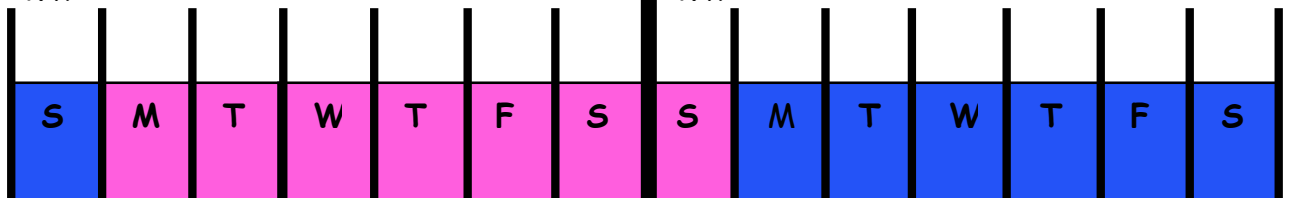
Kathy: "Days about" ([1+2+2]+2)



Wk 1 Sunday changeover



Wk 1 Monday changeover



The preceding case studies suggest our first musing.

Musing #1: Which split?

Observation: There appears to be much diversity in how parents with 50:50 care divide their time with their children. Even in the most common pattern of shared care in the groups, “week about”, parents differed on the day (and way) that the weekly changeovers occurred.

Musing: 50:50 care may be “fair” but not simple, and parents have little to guide them.

Several questions for parents suggest themselves:

Which time split?

What works?

What if we can't agree?

Key themes

We now set out six key themes that emerged from the data: (i) parent's motives; (ii) work and money issues; (iii) quality time versus quantity time; (iv) paternal competence; (v) logistical challenges; and (vi) routine and consistency.¹⁰ These themes are punctuated by interpretive musings.

A question of motives

One of the transition questions that we asked, “Why this pattern of contact?”, sought to identify the thinking behind different patterns of care across the full gamut of focus groups. But when we asked, “Why *shared* care?” to the co-parents in the 50:50 arrangements, clear gender differences emerged.

Fathers' motives

For Conrad, the 50:50 split appeared to be a compromise:

“I was after full custody. The best I got was custody of one, and shared care of the other.” [Conrad, 58; son 17; 2 teenage step-sons; high conflict]

Rod's motives appear to be based on his own parenting rights:

“I was quite adamant that I wanted 50% on that because a male has got as much to give as a female, and the children were only very young. And I've got as much experience at bringing up children as my wife has, because it was her first experience as well.” [Rod, 49; 3 children – two boys and a teenage girl; cooperative parenting]

Andrew appeared to gain a split arrangement by default:

“My ex- wanted to spend time with her new man, and I don't think she felt capable so she gave me the kid half time. Just because it was easier for her.” [Andrew 43; daughter aged 6, co-operative parenting]

¹⁰ There were many other salient themes but these six were the easiest to address within the confines of a twenty-minute conference paper.

Marcus' arrangement seems to have grown out of both default and his own sense of parenting rights:

"My ex- is very busy. And also she left me so she had to go and find a place. So of course I was left with full custody of the kids until she found a new place. And also there was no way I was going to give up any more than fifty per cent and she knew that I'd take that as far as I had to."
[Marcus, 30; 2 daughters: 7 & 9]

Unlike the other fathers, Paul's motives are more child-focused and in that regard are more in line with the mother's views (see below):

"In my case it was that my own level of maternal drive, and also the fact that mum knew I was very involved from Day 1, and would do that anyway. And just the principle that it's fair that the child needs to see the mother and the father." [Paul, 46; daughter: 13]

Mothers' motives

Two dominant motivations emerged for mothers. First, they felt that a high degree of father involvement was in their children's best interests. Second, they believed that fathers were entitled to maintain a key role in their children's lives.

Camille says:

"I thought it was crucial.... the girls adored their dad and despite his failings and my failings as well in our relationship, I wasn't going to let that cloud my judgment with him being a role model for them in the future. It just wasn't an option.... And it's been fabulous for the girls and their relationship with their dad. He takes them fishing, camping. He does more now than he did when we were married. Which is awesome. I just love it. It's great for the kids..."

Kathy recalls:

"Mine was because he was entitled to have them and I felt they were entitled to have their father so I wasn't going to deny them any access to him but that was his agenda.... But there have been a lot of pitfalls because it hasn't been ... amicable.

For Sally:

"There just never seemed to be any option for us. We both wanted them and the kids wanted to be with both of us so we just came to the best arrangement that we could. And there was no reason for them to be with me more than with him. There was just no question ever and there hasn't been ever since. And the kids run out the door when he arrives - I could never imagine it being any other way really for us".

Rachel's motivation for a 50:50 arrangement appears to have derived from a strong moral position on the equal rights of parents -- strong enough it seems to have overcome some serious concerns she initially had about her former partner (a Family Court counsellor advised Rachel not to leave the children in their father's care):

“You can’t choose someone to father your children and then decide that it’s not right to have anything other than equal access to your children. So it was a philosophical point of view. In practice for many years I was worried I’d made a terrible mistake and I think I’m nearly at the point where I think it’s worked out well. But I believe I took a very big risk”.

Musing #2: Motives – His and hers?

A range of motives for 50:50 care is evident:

- For many of the fathers, their own rights as parents appear to have been a key motivating factor for 50:50 care.
- By contrast, mothers appeared to be more child-focussed and were also motivated by the rights of the both the child and the father to continue their relationship.
- This is not to say that fathers do not become child-focused as they become embedded in their children’s lives.

Work and money

One of the most conspicuous features of the mothers and fathers in the 50:50 care groups was that all were in paid employment. In the case of fathers, all had some degree of flexibility in their work hours – indeed several had chosen to work a four-day week or less; several had also changed jobs (or stayed in jobs) to give them this flexibility. All of the fathers appeared to have framed their work patterns to care for their children.

Andrew says:

“I run a small business... I just always put [my daughter] first and the business second... If I show up on occasions with a kid in tow [clients] don’t mind. It works really well”.

Stephen says:

“I work in the community sector and I work 4 days a week and they’re very flexible about it. The week that I haven’t got the kids I work extra hours and when I do [have them], I finish at school time.

Mothers, on the other hand, found that paid employment gave them the ability to make choices for themselves and their children.

According to Rachel, money is a critical factor. She says:

“I could imagine that money would be an extremely constraining factor in many arrangements like this [50:50 shared care]. I’m grateful that that’s not been a big issue for us but I’m certain it must be very difficult if you’ve not got good choices available to you.”

Rachel’s comment alludes to the economic pressures that are likely to face *either* parent in opting for shared care.

Musing #3: The work-family balance

Fathers who spend equal time with their children need access to family-friendly work patterns. Both mothers and fathers who opt for shared care generally appear to be in a position financially to make choices about their work-family balance.

Quality time vs Quantity time

A defining feature of the fathers with shared care was the way in which they viewed contact. In asking them about the sorts of things that they did with their children, and if any dimensions of contact (eg., quantity, quality, predictability, flexibility) were more important than others, fathers spoke of how time gave them a chance to do simple things with children – quality things.

Andrew reflects:

“For me ... basically its quantity of time. Spending a lot of time together, just wandering around ... with her on my shoulders when she was little enough to stay up there without killing me. Eating together ..., watching TV together – the day-to-day, boring stuff”.

Nigel expressed many of the fathers’ thoughts on this issue:

“What do I do with the kids? I’d say: I’m *around* them”.

Musing #4: It’s about time

50:50 care affords quantity time, from which quality time can flow; time allows fathers to envelop and embed in their children’s lives.

Paternal competence

Many of the fathers had found shared care to be an extremely rewarding experience. This did not mean, of course, that they found it easy learning how to be a primary carer.

Andrew provided a sharp image of his own growth in this regard at three different points in the focussed group interview:

“I felt *terribly* alone after the separation. Me and a 15-month-old baby and a broken heart, and a pile of nappies. Bloody traumatic. Just you and the kid. There’s no mother, sisters, health care nurses. Nothin’.

But something that I found really interesting was that apparently nature’s built all sorts of nurturing instincts in men that nuclear families have kind of forgotten about. It’s all just there waiting to be discovered. And it’s terrific to find it in yourself, to go for it ... It’s wonderful!

I found one of the hardest things was getting in touch with my gut instinct, and then just having confidence in it”. [Andrew, 43; daughter 6 yrs; co-operative parenting]

Musing # 5: The road less travelled ...

The earlier that fathers become involved in caring for children, the more competent they may feel as fathers should they separate. Nonetheless, some fathers may benefit from support – especially in managing role transitions.

Logistical challenges

Shared parenting involving a 50:50 split is probably the most logistically complex parenting arrangement possible. It can place huge demands on children and parents (Benjamin & Irving 1995). The complexity of shared care became abundantly clear during one interchange between two fathers, Rod and Nigel:

Rod: “We see each other all the time. Clothes? ... I’m forever driving here and dropping off school clothes there...”

Nigel: “We have three sets of everything – one in each household and one set lost somewhere in-between. And it’s kind of true that stuff gravitates one way and you’ve got to say: “Hey! I’m out of this” or “Where are all my towels?””

Rod: “Or you do a big wash and say “I’ve got everything!””

Nigel: “That really depends in my case on reasonable relations with my ex-wife. Reasonable relations make so much possible.”

Musing #6: Reasonable relations ...

Shared care involves many logistical challenges. Parental co-operation can help to overcome these challenges.

Rod’s final comment that “reasonable relations make so much possible” hits the family dynamics nail on the head – underpinning a key insight that Ricci (1997) and others (eg., Funder 1993) have known for some time: the way that parents relate to each other after separation is crucial. This, of course, is one of the key challenges for all parents who separate: being able to disentangle their prior intimate relationship from their parenting. It seems reasonable to assume that in Rod’s case, “reasonable relations” is his way of describing a structured business-like working relationship with his former partner for the sake of their children. The child-focused flavour of this working relationship was indeed a common thread that ran through many of the comments of mothers and fathers in the 50:50 care focus groups.

Putting kids first

Prominent among the responses of parents who shared in the care of their children was a clear child-focused mindset.

Kathy reflects:

“Yeah it’s amicable. We just take our egos out of the equation and do what’s best for the kids basically, all the time”.

Nigel is adamant on this point:

“We never use the kids as pawns ... or as ammunition, or say: “Who do you want to live with?””

And Andrew appears to be very committed to a co-operative parenting pattern:

“We keep a good working relationship.... there’s a lot of generosity towards each other, and we both remember that it’s about the kids, and that’s important”.

Musing #5: For the sake of the kids

Parents who opt for 50:50 care typically get along with each other, and work hard to put their children’s needs above their own issues.

Routine and consistency

It is noteworthy that not all of the 12 parents in the shared care focus groups had conflict-free relationships with their former partners. There were at least two clear instances of “parallel parenting”, and another that could be interpreted as such. Parallel parenting is a common marker of high conflict (Seddon 2003).

Marcus touches on the need for consistency:

“I’ve had a lot of trouble with my ex-wife. She constantly wants to change things and so that’s why the consistency of the routine has been good for me because things don’t get changed on a whim without both parents agreeing to it. It’s actually been really good for me coz there been a lot of anger coming - “let’s do it this way””.

A number of other parents echoed Marcus’ sentiments, though consistency and routine are not qualities that are the sole province of 50:50 care. The many demands on family members to make this arrangement work, however, make the regularity of a routine a key ingredient. While this complexity could be fertile ground for conflict to be amplified through “day about” schedules (such as those adopted by Sally & Rod, or Kathy), the ability for “week about” schedules to be a buffer against minor skirmishes is worth noting.

Camille takes a more upbeat approach to the issue of routine:

“I wouldn’t change a thing. It’s fantastic. Routine is crucial for the kids. You know, their parent’s splitting; their whole world falls apart. So they get that security from the routine. So we don’t change that”.

Musing #7: The benefits of routine

Regardless of the type of parenting arrangement in place, consistency and routine can be beneficial for everyone.

IV. Conclusions

This paper has examined the arrangements, motives, and reflections of separated parents who share equally in the care of their children. It is important to note that no claim is made that the data are representative of shared care parents or generalise to that population. These qualitative data nonetheless provide unique insights into a range of contextual issues about sharing the care of children following parental separation.

Three clear findings in relation to joint residence suggest themselves.

1. Little is known about parents who opt for 50:50 care of their children, how these arrangements are structured, and how well they work. Our data suggest that their arrangements are often logistically complex, and that those who opt for shared care appear to be a relatively distinct subgroup of separated parents.
2. A number of conditions – relational and structural – appear necessary to make shared care a viable option for separated parents. These conditions include:
 - geographical proximity;
 - the ability of parents to get along in terms of a business-like working relationship as parents;
 - child-focused arrangements (with children kept “out of the middle”, and with children’s activities forming an integral part of the way in which the parenting schedule is developed);
 - a commitment by everyone to make shared care work;
 - family-friendly work practices – especially for fathers;
 - a degree of financial independence – especially for mothers; and
 - a degree of paternal competence.

This is not to say that all of these conditions must be met. Indeed parents in some (3/12) of the families did not get along and were not able to keep children “out of the middle” during parental conflict. To what extent these arrangements, although “functioning” in legal and technical terms, were nonetheless exacting a toll on the children is unclear. Destructive patterns of family dynamics, however, were not the norm. Virtually all of the parents adopted a shared care arrangement from the outset and set-up this arrangement without any involvement with the legal system.

3. It should be borne in mind that the qualitative data presented in this paper are parents’ views of 50:50 care. This constitutes a major shortcoming of the data. Little is known about children’s views on shared care arrangements. Moreover scant data are available on the long-term outcomes for children and parents with such arrangements. The collection of such data represents a crucial plank of knowledge required to fully answer the question: How well does 50:50 care work? (Smart, Neale & Wade 2001).

This paper is work in progress. We intend to do further work using all of the focus group qualitative data to compare the shared care groups with other

forms of parenting arrangements (holiday only contact, daytime-only contact, mid-range contact, and no contact).

The last words go to Andrew, who ended the father's focus group with the following insights:

"I notice that the one thing about the group as a whole is that all of us are here because we're putting the kids' welfare first, and most of us are getting on well with the ex's because the kids are more important than the ex- or whatever....

There are so many things where you just have to throw away the remote control and worry about the things that you *can* do."

References

- Abaranel, A. (1979). Shared parenting after separation and divorce: A study of joint custody. *American Journal of Orthopsychiatry*, 49(2), 320-329.
- Ahrons, C. R. (1994). *The good divorce*. New York, Harper Perennial.
- Australian Bureau of Statistics (ABS) (1998). *Family Characteristics Survey 1997*. Cat No. 4442.0 AGPS, Canberra.
- Bauserman, R. (2002). Child adjustment in joint-custody versus sole-custody arrangements: A meta-analytic review. *Journal of Family Psychology*, 16, 91-102.
- Benjamin, M., & Irving, H. H. (1989). Shared parenting: Critical review of the research literature. *Family and Conciliation Courts Review*, 27(2), 21-35.
- Behrens, J. (1996). Shared parenting possibilities and realities. *Alternative Law Journal*, 21(5).
- Behrens, J. (1996). Ending the silence, but... family violence under the Family Law Reform Act 1995. *Australian Journal of Family Law*, 10(1), 35-47.
- Braver, S., & O'Connell, D. (1998). *Divorced Dads: Shattering the myths*. New York, Tarcher/Putnam.
- Brotzky, M., Steinmen, S., & Zimmelman, S. (1991). Joint custody through mediation: A longitudinal assessment of the children. In: Folberg, J., Ed. *Joint Custody and Shared Parenting*. New York, Guilford Press, 167-176.
- Child Support Agency (2003). *Child Support Scheme Facts and Figures, 2002-03*. Canberra, Child Support Agency.
- Easteal, P., Behrens, J., & Young, L. (November 2000). Relocation decisions in Canberra and Perth: a blurry snapshot. *Australian Journal of Family Law*, 14(3), 234-258.
- Family and Community services (FaCS) (2000a). *Family Tax Benefit*, 1 July 2000.
- Family and community Services (FaCS) (2000b). *The Portfolio Budget Statements 2000-01*.
- Fehlberg, B., & Kelly, F. (2000). Jurisdictional overlaps between the Family Division of the Children's Court of Victoria and the Family Court of Australia. *Australian Journal of Family Law*, 14(3), 211-233.
- Fehlberg, B., & Smyth, B. (2000). Child support and parent-child contact. *Family Matters*, 57, Spring/Summer, 20-25.

- Folberg, J. (1984). *Joint custody and shared parenting*. The Bureau of National Affairs Inc., Association of Family and Conciliation Courts Review, USA, BNA Books.
- Funder, K. (1993), Exploring the access-maintenance nexus, in K. Funder, M. Harrison, and R. Weston (eds), *Settling Down: Pathways of Parents After Divorce*, Melbourne, AIFS.
- Gauthier, A. H. (1996). *The state and the family: A comparative analysis of family policies in industrialized countries*. Oxford, Clarendon Press.
- Green, M. (2003). *U v U – You v Me – Us v Them*. Paper presented at 8th Australian Institute of Family Studies Conference, Melbourne, 12-14 February.
- Henman, P., & Mitchell, K. (2001), Estimating the cost of contact for non-resident parents: a budget standards approach, *Journal of Social Policy*, 30, 495-520.
- Johnston, J. R. (2003). *Developmental threats for children in high conflict separated families: What mediators, mental health and legal professionals need to know*. Presented at the Family Mediation Centre winter school, Melbourne, 13 June.
- Murphy, P., Kerin, P., & Pike, L. (2003). The Columbus Pilot Family Court of WA. *Family Matters*, 64, Autumn, 82-86.
- Parkinson, P., & Smyth, B. (2003). *When the difference is night and day: some empirical insights into patterns of parent-child contact after separation*. Paper presented at 8th Australian Institute of Family Studies Conference, Melbourne, 12-14 February.
- Rhoades, H., Graycar, R., & Harrison, M. (2000). *The Family Law Reform Act 1995 - The first three years, Final Report*, University of Sydney and the Family Court of Australia.
- Ricci, I. (1997). *Mom's House, Dad's House: Making Shared Custody Work (2nd edn)*, Macmillan, New York.
- Seddon, E. (2003). *Creative parenting after separation: A happier way forward*, Allen & Unwin, Sydney.
- Smart, C., Neale, B., & Wade, A. (2001). *The changing experience of childhood: Families and Divorce*. USA, Blackwell Publishers Inc.
- Williams, D., (Attorney-General) & Anthony, L. (Minister for Children and Youth Affairs) (2003). *Government moves ahead on child custody*, media release, Parliament House, Canberra, 24 June.
- Woods, M. (1999). *The behaviour and expenditures of non-resident parents during contact visits*. Australian Government Printing Service, Canberra.