

Le point sur la recherche sur les Conflits Parentaux, l'Exercice Conjoint des Responsabilités Parentales, et les Aménagements de Garde

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Le présent article traite de quatre questions: Premièrement, quel poids doit-il être accordé au conflit parental et à la qualité de la relation de coparentalité à l'heure de déterminer le temps de garde à accorder à chaque parent—and de manière spécifique dans le cas des enfants passant au moins 35% du temps avec chacun des parents dans un contexte de garde partagée? Deuxièmement, quels sont les liens entre un niveau de conflit peu élevé et une attitude coopérative dans l'exercice conjoint des responsabilités parentales d'une part, et une meilleure évolution des enfants d'autre part? Troisièmement, dans quelle mesure l'évolution des enfants est-elle liée au fait que les parents aient eu recours à une décision de justice pour trancher leurs litiges concernant les modalités de garde, ou aient eu des conflits juridiques importants? Quatrièmement, la garde partagée est-elle associée à une évolution plus négative que la garde exclusive dans le cas des enfants dont les parents maintiennent une relation de coparentalité conflictuelle et peu coopérative? Les recherches récentes ne soutiennent pas l'idée selon laquelle la présence de conflits—y compris des conflits juridiques importants—devrait aboutir à l'exclusion de la garde partagée des modalités de garde les mieux adaptées aux intérêts de l'enfant. Les parents exerçant la garde partagée n'ont généralement pas un niveau de conflit moins significatif ou des relations plus coopératives que ceux exerçant la garde exclusive. Les conflits et les insuffisances dans l'exercice des responsabilités parentales ne sont pas liés à une évolution plus négative pour les enfants en garde partagée que pour ceux en garde exclusive. La qualité de la relation parents-enfant est un indicateur de l'évolution des enfants plus fiable que les conflits, à l'exception des formes de conflit les plus extrêmes auxquelles certains enfants sont exposés. Sans négliger les efforts visant à améliorer la qualité des relations entre les parents, nous devons nous investir davantage dans le soutien aux deux parents afin que ces derniers améliorent la qualité de leurs relations avec leurs enfants et renforcent les liens qui les unissent.

Mots-clés: exercice conjoint des responsabilités parentales, conflits liés au divorce, conflits liés à la garde

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Conclusion

Le présent article a fait le point sur la recherche portant sur les conflits, l'exercice conjoint des responsabilités parentales et les modalités de garde en tentant de répondre aux questions suivantes: Dans quelle mesure la présence de conflits et la qualité des relations entre les parents devraient-elles influencer le choix des modalités de garde? Avons-nous accordé trop d'importance à l'impact qu'elles pouvaient avoir, et trop peu à la force de la relation parents-enfant et à la garde partagée? Si tel est le cas, nous avons besoin d'un nouveau cadre permettant d'évaluer les conflits entre les parents et la qualité de leur relation de coparentalité dans une perspective plus équilibrée. Sur le fondement des études dont le présent article fait le point, l'élaboration du nouveau cadre pourrait passer par le biais des questions suivantes: La relation entre l'enfant et ses deux parents repose-t-elle sur des liens d'affection et sur le sentiment d'être soutenu et accompagné – ou le potentiel pour créer une relation étroite existe-t-il sous réserve d'étendre l'exercice du temps parental? Les conflits entre les parents sont-ils largement liés à l'attribution du temps parental, aux différences dans les façons respectives d'exercer la parentalité, à la logistique qui accompagne la prise en charge des enfants en alternance, ou au fait d'être les parents d'un enfant présentant des problèmes chroniques d'ordre comportemental, émotionnel, psychologique ou médical? Pourrait-on imaginer qu'un plan d'action parental établi en parallèle ou un programme d'éducation puissent quelque peu réduire le niveau de conflit ? Si le conflit est parfois devenu physique, ces épisodes étaient-ils limités à des incidents isolés survenus vers la fin de la relation ou au cours du divorce ou encore lors du règlement des modalités de garde? La survenance potentielle d'un préjudice lié à un niveau de conflit élevé et permanent résulte-t-elle du fait que les parents aient eu à comparaître devant un tribunal ou aient engagé des négociations sans fin par le biais de leurs avocats afin de résoudre leurs problèmes? Si la réponse à plusieurs de ces questions est oui, il faut garder à l'esprit que ni les conflits entre parents ni les tensions qui minent l'exercice partagé de l'autorité parentale ne doivent servir d'excuse pour "agiter le chiffon rouge des modalités de garde."

Le résultat des recherches exposées dans le présent article se trouverait détourné de son sens premier si l'on parvenait à des conclusions manifestement simplistes concernant le lien entre les conflits, l'exercice conjoint de l'autorité parentale, les aménagements de garde partagée, et le bien-être des enfants. Ces études n'ont pas abouti à la conclusion que le fait d'être fréquemment exposé à des conflits permanents, angoissants, ou combinés à des agressions physiques, voire d'être l'enjeu de tels conflits, n'a que peu, voire pas d'impact sur les enfants. Ces études n'ont pas non plus abouti à la conclusion qu'une relation parents – enfant solide, des parents exerçant leur parentalité d'une manière à la fois autoritaire et à l'écoute, ou la mise en place d'une garde partagée, soient de nature à éradiquer l'impact négatif qu'ont sur les enfants les conflits exacerbés. Cependant, six observations notables ont pris corps. Tout d'abord, le niveau de conflit et la qualité des relations de coparentalité sont souvent moins corrélés au bien-être des enfants que la qualité de la relation parents-enfant. Deuxièmement, l'impact des conflits sur le bien-être de l'enfant est temporisé par la qualité des relations de l'enfant avec ses parents. Troisièmement, le lien entre le fait que les parents aient eu recours à une décision de justice pour trancher les litiges concernant les modalités de garde, ou aient eu des conflits juridiques importants à cet égard, et une évolution négative des enfants, n'a pas été établi. Quatrièmement, la garde partagée est associée à une meilleure évolution des enfants que la garde exclusive, et ce alors même que les parents ne sont pas initialement en accord avec les aménagements de garde, ou lorsque le niveau de conflit au moment de la séparation et dans les années qui suivent n'est pas considéré comme peu élevé.

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Cinquièmement, il n'est pas notoire que les conflits soient plus rares chez la plupart des parents exerçant la garde partagée, ni le niveau de collaboration parentale plus élevé que chez les parents pratiquant la garde exclusive. Et sixièmement, le fait de limiter le temps que les enfants passent avec l'un de leurs parents par le biais de la garde exclusive n'a pas été corrélé à une meilleure évolution des enfants, même lorsque le niveau de conflit est considérable et que la qualité de la collaboration parentale est piètre. En somme, les meilleures recherches actuellement disponibles suggèrent que la qualité des relations parents-enfant est plus étroitement liée que les conflits parentaux ou que la qualité de la collaboration parentale à l'évolution des enfants, à l'exception des formes de conflit les plus extrêmes auxquelles certains enfants sont exposés. Le niveau de conflit, la coparentalité, et la qualité des relations qu'entretient l'enfant avec chacun de ses parents sont tous des facteurs liés au bien-être de l'enfant. Il n'est pas là question d'une évaluation arbitraire qui ignorera l'influence des conflits parentaux ou de l'exercice de la garde partagée sur le développement des enfants. Ceci étant, les données vont dans le sens de la théorie selon laquelle la qualité des relations parents-enfant est le meilleur indicateur de l'évolution future des enfants. En d'autres termes, l'impact des conflits a trop souvent été exagéré et ne devrait pas être considéré comme le facteur déterminant dans les décisions concernant les modalités de garde ou l'exercice de la garde partagée, à l'exception des situations dans lesquelles les enfants doivent être protégés d'un parent négligent ou exerçant des maltraitances à leur encontre. Sans négliger les objectifs visant à réduire le niveau de conflit entre les parents et à améliorer les relations dans l'exercice conjoint des responsabilités parentales, il serait bon de nous efforcer dans la même mesure – et peut-être même dans une plus grande mesure – d'aider les deux parents à renforcer leurs relations avec leurs enfants et à améliorer leurs compétences parentales. Si nous tenons compte de ces conclusions, nous nous trouverons en mesure d'affiner nos systèmes "d'alerte à la distorsion" afin de ne pas nous laisser induire en erreur par des données ayant été soigneusement sélectionnées, dénaturées, exagérées, ou rapportées de manière partielle afin d'abonder dans le sens d'une pensée unique concernant les conflits, la coparentalité, et les systèmes de garde. Avec un système d'alerte plus précisément réglé, nous serons à même de mieux servir les intérêts des millions d'enfants dont les parents ne vivent plus ensemble.

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Re-examining the Research on Parental Conflict, Coparenting, and Custody Arrangements

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This article addresses 4 questions: First, how much weight should be given to parental conflict and the quality of the coparenting relationship in determining parenting time—specifically with respect to children's living at least 35% time with each parent in joint physical custody? Second, to what extent are low conflict and cooperative coparenting connected to better outcomes for children? Third, to what degree are children's outcomes linked to whether their parents take their custody disputes to court or have high legal conflict? Fourth, is joint physical custody associated with worse outcomes than sole physical custody for children whose parents have a conflicted, uncooperative coparenting relationship? Recent research does not support the idea that conflict—including high legal conflict—should rule out joint physical custody as the arrangement that best serves children's interests. Parents with joint physical custody do not generally have significantly less conflict or more cooperative relationships than parents with sole physical custody. Conflict and poor coparenting are not linked to worse outcomes for children in joint physical custody than in sole physical custody. The quality of the parent–child relationship is a better predictor than conflict of children's outcomes, with the exception of the most extreme forms of conflict to which some children are exposed. While continuing our efforts to improve parents' relationships with one another, we should become more invested in helping both parents maintain and strengthen their relationships with their children.

Keywords: coparenting, divorce conflict, custody conflict

Parental conflict and the quality of the coparenting relationship generally play pivotal roles in child custody evaluations and court decisions, especially with regard to children's living with each parent at least 35% of the time in joint physical custody (JPC). When separated parents have considerable conflict and get along poorly as coparents, it is often assumed that their children cannot benefit from JPC and may, in fact, have worse outcomes than if they lived in sole physical custody (SPC) with one parent. In addressing this issue, this paper focuses on four questions: First, to what extent do low conflict and a cooperative coparenting relationship benefit children? Second, do children whose parents are in high legal conflict or who take their custody disputes to court have worse outcomes than children whose parents reach a custody agreement without high legal conflict? Third, if children live with each parent at least 35% of the time in JPC, are the outcomes significantly better if their parents have little to no conflict and work closely together as a friendly coparenting team? That is, are conflict and poor coparenting more strongly associated with worse outcomes for children in JPC than in SPC families? Fourth, do JPC parents have significantly less conflict and more communicative, cooperative coparenting relationships? If we base our answers to these

questions on outdated, flawed, misrepresented, or incomplete data, then we are allowing the conflict and coparenting “tail” to wag the custody “dog.”

Have You Been Woozled?

Professionals involved in custody issues are too often bamboozled or “woozled” by research in ways that can lead them astray (Cashmore & Parkinson, 2014; Johnston, 2007; Ramsey & Kelly, 2006). Woozling is the process by which faulty, partial, or misinterpreted research is repeated and misrepresented so often that it becomes widely accepted as true. The idea or the belief that becomes widely accepted, even though it is not firmly grounded in the research, is called a woozle. The process of woozling and its influence on child custody decisions have been extensively described elsewhere (Nielsen, 2014a, 2015a). The present paper illustrates four of the ways that the research on conflict and coparenting has been woozled. First, only those studies that support one point of view are repeated and publicized, overlooking or underplaying studies that support the opposite view. Second, findings from particular studies are exaggerated and sensationalized. Data are presented out of context. Serious flaws go unmentioned. Sweeping and unsubstantiated generalizations are offered about the importance of selected findings. Third, a study's findings can be reported incorrectly, sometimes making claims that are the exact opposite of the data or making claims based on data that were not even included in the study. Fourth, a few prestigious or influential people repeatedly promote one point of view, especially in the media, as being representative of the research on the topic.

Some of the data reported in this article were previously reported in Nielsen's articles that have been cited in this paper.

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this possibility is a summary that has the consensual endorsement of a large number of experienced and respected social science researchers. (p. 2)

The first group convened more than two decades ago in 1994 under the sponsorship of the National Institute of Child Health and Human Development (Lamb, Sternberg, & Thompson, 1997). The 18 participants were experts from developmental and clinical psychology, sociology and social welfare who recommended that parenting time be distributed so that it would "ensure the involvement of both parents in important aspects of their children's everyday lives and routines—including bedtime and waking rituals, transition to and from school, extracurricular and recreational activities" (p. 400). As for conflict, these experts agreed that there was too little research to reach any conclusions about which custody arrangements would be more beneficial for high conflict families.

The second group was sponsored by the Association of Family and Conciliatory Courts (AFCC) and its report was published in the organization's journal (Pruett & DiFonzo, 2014). Nineteen of the 32 participants were social scientists or mental health practitioners. The other 12 were judges, lawyers or law school professors. The majority agreed that "There is enough research to conclude that children in families where parents have moderate to low conflict and can make cooperative, developmentally informed decisions about the children would clearly benefit from JPC arrangements" (p. 162). But the majority felt that high conflict parents and parents who did not have a "collaborative" relationship should not have JPC. How many of the participants agreed with these opinions and how many of them were social scientists was not reported.

The two critiques of the AFCC report were both critical of the conclusions and recommendations. Braver deemed the report and its recommendations "disappointing" because it failed to give proper weight to the empirical data (Braver, 2014). Similarly, Lamb criticized the report for exaggerating the impact of conflict and for inflating its importance as a factor working against JPC (Lamb, 2014).

The third group of experts was unique in several ways (Warshak, 2014). This group consisted of 111 international experts all of whom were social scientists or mental health practitioners. None were lawyers, judges, or law school professors. Most members of this group had held prestigious academic positions, had edited journals and had long histories of publishing books and peer reviewed articles on issues germane to child custody. Among this preeminent group of scholars and researchers were 11 people who had held major office in professional associations, 2 former Presidents of the American Psychological Association (APA), 5 university Vice Presidents, Provosts, or Deans, 17 department chairs, 6 full professors, 8 endowed chairs, 2 former presidents of the American Association of Family Therapy, a former president of the American Counseling Association, and a former president of APA's Division for Family Psychology. These 110 experts endorsed the conclusions and recommendations in a paper written by Richard Warshak and published in an APA journal. The group concluded that shared physical custody [JPC]

should be the norm for parenting plans for children of all ages, including very young children. . . . The court should rely on evidence that goes beyond the issue of how much conflict exists—such as the quality of parenting from both parents. (p. 59)

"Denying joint physical custody when the parents are labeled high conflict brings additional drawbacks to children by denying them the protective buffer of two nurturing relationships" (Warshak, 2014, p. 57).

The only critique of Warshak's paper was written by three Australian researchers (McIntosh, Smyth, & Kelaher, 2015) whose own JPC study (McIntosh et al., 2010) was heavily criticized in the consensus paper. Their major complaints were that the 110 scholars who endorsed the paper did not constitute a "consensus group" and that the consensus paper was overly critical of their study—a study that recommended against JPC for young children and for high conflict families (McIntosh et al., 2010).

In sum, the first group of experts reached no conclusions about conflict because there was too little research available at the time. The second placed a great deal of emphasis on conflict and coparenting, and the third placed far more emphasis on the quality of the parent-child relationship than on conflict or coparenting.

Conclusion

This paper has reexamined the research on conflict, coparenting and custody by addressing the questions: To what extent should conflict and the quality of the parents' relationship with one another influence custody arrangements? Have we exaggerated their impact and placed too little emphasis on strong parent-child relationships and joint physical custody? If so, then we need a new framework which puts the parents' conflicts and their coparenting relationship into a more balanced perspective. Based on the studies reviewed in this paper, that new framework might begin with these essential questions: Do the children have a loving, supportive relationship with both parents—or is there the potential to create a close relationship with ample parenting time? Do the parents' conflicts largely revolve around the allocation of parenting time, their different parenting styles, the logistics of exchanging the children, or parenting a child with chronic behavioral, emotional, psychological or medical problems? Could a parallel parenting plan or an educational program possibly reduce some of the conflict? If the conflict was ever physical, was it limited to isolated incidents as the relationship was ending or during the divorce or custody process? Does the concern about the potential damage of ongoing high conflict arise from the fact that the parents had a court hearing or had protracted legal negotiations to resolve their issues? If the answer to a number of these questions is yes, then conflict and troubled coparenting relationships should not be allowed to "wag the custody dog."

It would be woolgathering the research presented in this paper to make exaggerated claims about the links between conflict, coparenting, joint physical custody plans, and children's well-being. These studies did not conclude that frequently being exposed to or dragged into the middle of intense, ongoing, frightening, or physically aggressive conflict will have little to no impact on children. Nor did these studies conclude that strong parent-child relationships, attentive and authoritative parenting, or JPC will eradicate the negative impact that intense conflict will have on children.

Six salient messages, however, do emerge from these studies. First, the level of conflict and the quality of the coparenting relationship are often not as closely correlated with children's well-being as the quality of the parent-child relationship. Second, the connection between conflict and children's well-being is me-

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diated by the quality of the children's relationships with their parents. Third, parents' settling their custody disputes in court or through protracted legal negotiations has not been linked to worse outcomes for children. Fourth, JPC is associated with better outcomes for children than SPC even when their parents do not initially both agree to the parenting plan and even when the conflict at the time of separation or in subsequent years is not low. Fifth, most JPC parents do not have substantially less conflict or more collaborative coparenting relationships than SPC parents. And sixth, limiting the time that children spend with one of their parents through SPC is not correlated with better outcomes for children, even when there is considerable conflict and a poor coparenting relationship.

In sum, the best research currently available suggests that the quality of the parent-child relationship is more closely linked than parental conflict or the quality of the coparenting relationship to children's outcomes, with the exception of the most extreme forms of conflict to which some children are exposed. Conflict, coparenting, and the quality of the children's relationships with each parent are all connected to children's well-being. This is not an "either-or" issue that ignores the role that parental conflict or coparenting play in children's lives. Still, the data strongly support the idea that the quality of the parent-child relationship is the best predictor of future outcomes for the children. In other words, the role of conflict has too often been exaggerated and should not be the determining factor in child custody decisions or in regard to JPC arrangements except in those situations where the children need protection from an abusive or negligent parent. While continuing our efforts to reduce parent conflict and to improve the coparenting relationship, we should be equally—or perhaps even more—invested in helping both parents strengthen their relationships with their children and improve their parenting skills.

Given these findings, we can fine tune our "woozle alert" systems so we are less likely to be misled by data that have been cherry-picked, misrepresented, exaggerated, or only partially reported to support only one position on conflict, coparenting, and custody plans. With a more finely tuned alert system, we can better serve the interests of the millions of children whose parents are no longer living together.

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