

# Current Findings on the Impact of Divorce

by [Joseph Shaub](#)

## INTRODUCTION

Over the past twenty-five years, perhaps no two people have had a greater impact on our thinking about post divorce adjustment than Judith Wallerstein and Mavis Hetherington. Each has presided over a massive longitudinal study, spanning this quarter century, the former in California, the latter in Virginia. Their work has culminated in two popular books, published over the past two years.

This chapter is intended, in part, to describe the findings of these two studies and to point out their similarities and differences, both in substance and in tone. However, any discussion of the most influential work on post divorce adjustment of adults and children must also take into account the work of Constance Ahrons, Joan Berlin Kelly (who co-authored Wallerstein's seminal work *Surviving the Breakup*), Janet Johnston Austin Sarat and William Felstiner and Michael Lamb, among others. (References to Wallerstein and Kelly's *Surviving the Breakup* (Basic Books, 1980), will bear the notation W1, followed by the page number, Wallerstein's recent *The Unexpected Legacy of Divorce* (Hyperion, 2000), will be W3, Hetherington's *For Better or Worse* (Norton, 2002) will be H, Kelly and Lamb's *Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children* (38 Family and Conciliation Court Review 297 (2000)) will be K&L, Constance Ahrons and Roy Rodgers' *Divorcing Families* (Norton, 1987) will be A&R, Janet Johnston and Linda Campbell's *Impasses of Divorce* (Free Press, 1988) will be J&C and Wallerstein and Taske's *To Move or Not to Move: Psychological and Legal Considerations in the Relocation of Children Following Divorce* will be W&T and Austin Sarat and William Felstiner's *Divorce Lawyers and Their Clients: Power & Meaning in the Legal Process* (Oxford, 1995) will be S&F).

## II. THE EXPERIENCE OF EX-SPOUSES

For the most part, people who are divorcing are only ordinary people subjected to extraordinary pressures. The success with which an individual can manage after marital separation depends to a large degree on their basic level of psychological functioning. Those who are more vulnerable will have greater difficulty dealing with the stresses of divorce. Perhaps no clearer description of this process exists than Johnston and Campbell's comments in *Impasses of Divorce*.

Possibly the saddest and most painful situations among divorcing couples at impasse are those in which one or both of the spouses remain powerfully emotionally attached to the other. In these cases, couples continually seek to re-engage but find their expectations disappointed and their hopes repeatedly thwarted. Whereas it is fairly normal to reconcile and separate one to three times during the divorce transition, these couples separate numerous times, spanning many years. *J&C, p. 55*

Depression and anxiety disorders occurred in one-fifth of the sample. Given the loss and change consequent upon divorce, these incidences appear low and support our clinical interpretations that the ongoing disputes helped ward off depression and provided meaning and structure so as to alleviate some of the anxiety experienced. *J&C, p. 75*

Johnston and Campbell describe the "narcissistic vulnerability" of individuals undergoing divorce in the following manner,

For many, divorce involves a threat to their self-esteem and to core elements of their self-image as a spouse or parent. Consequently they need to save face. Whereas some experience the rejection inherent in divorce as a blow to their self esteem, others experience it as a total humiliating assault on the self. The degree to which individuals feel assaulted depends on the degree of their narcissistic vulnerability - that is, on the strength, and the adequacy of integration of, their pre-separation self-identity. *J&C, p. 76.*

Johnston and Campbell found 45% of their research/treatment population to be mildly narcissistically disturbed, 37% to be moderately narcissistically disturbed and 9% to be severely disturbed.

Turning to the least compromised portion of their study group,

Whether made vulnerable by a low or an inflated self-esteem, mildly narcissistically disturbed spouses feel dismissed, disrespected, and devalued, and they seek recognition and validation from others...Many such spouses have reparative fantasies that if the spouse would "only do something" (only validate them), "all would be better"; they would "not be so angry."

Indeed, many of these parents stubbornly refuse to cooperate until such time as the spouse will confirm them and "behave in the way he should." They will not budge until they are spoken to politely or "shown some understanding," until, in effect, the blow to their self esteem is redressed. They engage in a series of seemingly petty furries over a few symbolic issues, such as who will get a Chinese teakettle, a rug, or a picture. They resist compromise in the hope of recouping self-worth, often holding out for the "correct" confirming response or action, one that fits with their views of how things should be. Settling their disagreements is often difficult until these underlying narcissistic needs are satisfied or replaced. Nonetheless, unlike those who are moderately or severely disturbed, once these mildly disturbed spouses are acknowledged (once a hello is given or a teakettle offered), they are able to shift into a more flexible stance. If the spouse refuses to respect or openly confirm them, mildly disturbed spouses sometimes turn to the public arena of the court for recognition of their feelings, validation of the rightness of their views and proof that they are not failures as fathers or mothers, men or women, and do not deserve rejection or belittlement. The custody-visitation issue becomes the contest in which they seek acknowledgment. *J&C, pp. 79-80.*

Time may not be the universal healer for divorced spouses. Indeed, Wallerstein observed that 1/3 of the couples in her study were still fighting at the same high pitch ten years after the divorce was final. Yet, as Hetherington noted:

At year six, the ex-spouse relationship, which had played a major role in adjustment in the first two years, had faded dramatically in importance for both sexes. *H, p. 95-97*

Further, citing earlier work by Wallerstein and Hetherington, Johnston and Campbell have noted:

It has been suggested that there is an eighteen-to-twenty-four month period of post-separation adjustment involving personal and interpersonal turmoil for the divorcing couple (citing Hetherington and Wallerstein) *J&C, p. 9*

Therefore, there is good reason to believe that after the enormous emotional upheaval of the first two years-post separation, most divorced people find a modicum of stability and satisfaction. However, as will be discussed, *infra*, there are a number of variables which will deeply impact this "recovery process."

*Impasses of Divorce* offers an intense, clinician's-eye-view of the personal disruption occasioned by divorce. Johnston and Campbell provide a particularly poignant description of the formerly married who find that the rupture of their unions impose a greater burden on their psyches than they can manage. Among their insights:

Depression and anxiety disorders occurred in one-fifth of the sample. Given the loss and change consequent upon divorce, these incidences appear low and support our clinical interpretations that the ongoing disputes helped ward off depression and provided meaning and structure so as to alleviate some of the anxiety experienced. *J&C, p. 75*

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In fact, many of the parents we saw had a fairly primitive conception of justice and the role of law. In entering court, they were seeking ultimate judgment of right and wrong, public vindication of the charges leveled at them, and retribution for the moral crimes perpetrated against them. They also had unrealistic hopes that the court could control their ex-spouses' errant behavior and force them to be more responsible and trustworthy in areas in which the court has no jurisdiction. *J&C, p. 41*

Wallerstein and Kelly's *Surviving the Breakup* has been a primary resource for all professionals involved in the divorce process. It is extremely well written and moves fluidly between general observations of the adult and juvenile participants in their study and descriptions of the responses of specific individuals, provided for the purpose of personalizing the broad, population-wide comments.

Wallerstein and Kelly describe an environment with which family lawyers are all-too-familiar, in which anger is bitter and pervasive.

The greatest disruptions in the children's lives were those that stemmed from pervasive changes in parental mood, attitude and behavior. Bitter and explosive interaction between parents were, for most of the youngsters, the hallmark of the divorce experience...Four-fifths of all the men and an even higher proportion of the women expressed anger and bitterness toward their spouses. Thus in almost every family there was at least one, if not two, angry parents...The majority of angry men and women confined themselves to verbal assaults on the integrity and behavior of their divorcing spouses. As mentioned previously, money became a focus of intense hostility, not just regarding the division of community property, but over necessary expenditures that had not been spelled out and agreed upon explicitly in the separation agreement. *WI, p. 26-27*

At the uppermost end of the spectrum of hostility was a group of men and women whose hatred was so intense, and their wish for righteous vindication so desperate, that nothing seemed to stop them from pursuing their goals. This group of parents, close to one-fifth of the women and slightly fewer men, shared an extreme and bitter opposition to the divorce. *WI, p. 28*

Mediators and family lawyers commonly struggle to find "leverage points" which can move angry spouses into a more conciliatory posture, in service of settlement. As Wallerstein and Kelly note, the co-parenting role is often just such a key.

Adults who disagreed strongly with each other on a great many issues were able to cooperate in the care of the children. Child-rearing issues were not a source of disagreement for over one-third of the parents. One-half of the children experienced relatively consistent handling by both parents. We were sometimes surprised to find as a repeated occurrence that two parents who related extremely poorly to each other were still able to share the parenting and caring function and to maintain the other partner at his or her best as a parent. *WI p, 15*

Yet, it is important to realize that each spouse's view of their children's adjustment will be through a lens colored by one's status as the "leaver" or the "left."

The parent who opted for the divorce, we found, tended to see the children as relatively well and adjusting to the crisis without difficulty. The parent who disapproved of the divorce however was more likely to perceive the children as suffering or in crisis...The nature and circumstances of the decision to divorce, in turn become factors in the child's capacity to cope, immediately or eventually, with the family rupture. To set the general framework, there appears to be an important link between the child's success in coping and his or her capacity to understand and make good sense of the sequence of the disruptive events within the family. The child's efforts at mastery are strengthened when he understands the divorce as a serious and carefully considered remedy for an important problem, when the divorce appears purposeful and rationally undertaken, and indeed succeeds in bringing relief and a happier outcome for one or both parents. *WI, p. 17*

For her part, Mavis Hetherington devotes the greater part of her recent *For Better or Worse* describing the post dissolution path taken by the former spouses. While Wallerstein's heart is obviously, and rather dramatically, captured by the pain experienced by the *children of divorce*, Hetherington has written her book for the adults who experience the dissolution of their marriage. To that end, she identifies many paths out of marriage and the protective buffers that can support the journey. In a lengthy section in which she debunks the notion that the journey out of a marriage is fairly uniform, she notes:

*Myth One: Divorce Only Has Two Outcomes: Win or Lose*

Divorce is too complex to produce just winners and losers.

(Hetherington goes on to describe 6 common outcomes)

**Enhanced** consisting of about 20% of her sample. Predominantly, these were women. The Enhanced flourished because of the things that had happened to them during and after divorce, not despite them. Competencies that would have remained latent if they had stayed in a marriage were fostered by the urgent need to overcome the challenges of divorce and single parenthood.

**Competent Loners** consisting of about 10% of the sample. A Competent Loner did not need - or, in many cases, want - a partner; he or she was fully capable of building a meaningful and happy life without a marriage or longtime companion.

**Good Enoughs** consisted of about 40% of her study. For people in this category, divorce was like a speed bump in the road. It caused a lot of tumult while the person was going over it, but failed to leave a lasting impression. Twenty years later they generally had new relationships and the same problems. People in this group attended night classes, made new friends, created active social lives, and sought out higher-paying jobs; but Good Enoughs were less proactive, less able to plan systematically, and above all, less persistent than Enhancers. At a certain point, Good Enoughs would run out of steam; they would quit school or begin putting on weight or stop trying to meet a different kind of man.

**Seekers** were distinguished by their desire to remarry quickly. At one year post-divorce, 40% of men and 38% of women had been classified as Seekers...Seeker men don't know how to take care of themselves and usually have little desire to learn. The men in this group also require a great deal of affirmation...Seekers often go from one Pursuer-Distancer marriage to another...Predicting a Seeker's postdivorce style of parenting was difficult. But often it was associated with the former wife's gatekeeping behavior. Seekers who were encouraged to visit usually continued to see their children, but constantly changing pickup times and contentiousness could drive a man away. Upon remarriage, most Seekers neglected their children from the first marriage.

**Libertines** wanted freedom. This is a predominantly male group. However, by the end of the first year after divorce many Libertines felt that their life was empty and pointless, a dead end, and they began to seek more stable, committed relationships.

**The Defeated** succumbed to depression, to substance abuse, to a sense of purposelessness. Many managed to rebuild a halfway functional new life, but it was joyless. The Defeated often remained embittered over the life they lost. *H. pp. 5-7.*

The overriding theme of Hetherington's work is that divorce, although wrenching, is a storm that the adults can successfully endure. As with any challenge, or "psycho-social stressor," the extent to which our clients can successfully negotiate this life transition will depend upon what protective buffers are in place and which specific vulnerabilities exist for each individual.

Traditionally, the story of divorce has been the story of risk. Most family scholars have argued - and some continue to argue - that in order to predict where people will be five, ten, fifteen years after a divorce, you need to look at the risks in their lives...Why did the challenges and stresses associated with divorce lead to remarkable attainments in some of our divorced men and women and to unhappiness and failure in others?

The answer lies in certain risk and protective factors, and how they operate...While risk and protective factors are ever present, the familiar routines of everyday life mute their effect. People do not have to draw on their innermost emotional, intellectual and psychological reserves to get up in the morning or drive down to the store for a carton of milk. So, until a crisis like divorce suddenly makes just getting through the day a tremendous challenge, most men and women don't know how deep their emotional and intellectual reserves go or what talents and skills lie hidden in them.

Protective Factors include:

*Social Maturity* which consists of (1) the ability to plan for the future; (2) self control or self regulation; (3) Adaptability and (4) Social Responsibility

*Autonomy*: Nothing completely protects against the stresses of the early years but autonomous people who are comfortable being alone and making decisions by themselves, find the intense "singleness" of postdivorce life easier to adjust to.

*Internal Locus of Control*: This provides a sense of self-sufficiency and the ability to be proactive and take care of what is needed while people with an external locus of control tend to feel helpless and just endure.

*Religiosity*: This can act as a buffer because, among other reasons, it provides an unusually strong support network.

*Work*: Many respondents said that work, particularly for men, was one of the few safe harbors available to them.

*Social Support*

*A New Intimate Relationship*: However only 15 percent of the study participants who were romantically involved with another person married that person after the divorce. Also, of significance is that the greatest risk factor for women appeared to be casual sexual relationships. Of the 7 suicide attempts in the study population all were by women just after a casual sexual encounter.

High Risk Factors included:

Antisocial Personality

Impulsivity

Neuroticism/Depression

Attachment to Former Spouse

Promiscuity

*Socioeconomic Status*: The better educated adults in our study tended to be less depressed, more satisfied with their lives and better parents both before and after divorce. This was not just because they were less likely to be poor than less educated men and women, but also because they were more likely to be working and working in gratifying jobs. On average divorced women in the study moved four times in the first six years, but poor women moved seven times. *H. pp. 72-85.*

We are all quite aware of the fact that a marriage without minor children has a far different dynamic upon rupture than that involving parenting issues. Not only will the former spouses deal with each other differently (it is in fact possible to never speak with an ex-spouse if there were no children

involved), the relationship between parents and children creates a complex and highly intense layer of concern for the divorcing spouse.

### **III. PARENTS AND CHILDREN**

It is almost axiomatic that divorce places significant stresses on the parent/child relationship. As noted by Wallerstein:

The first thing we need to acknowledge is the close link between the marital bond and the parent-child relationship. Every parent and child knows this is true. When the marriage is working and the couple is content, the parent-child relationship is nourished and rewarded by the parents' love and appreciation for each other and supported by their cooperation. But when the tie is severed, the break sends messages throughout the system that quickly reach the children. The first message is that parenting is diminished. The adults are now each on their own and occupied with building separate lives. How will I manage and where am I going and how can I put my life together. *W3, p. 10*

This is an observation which was originally made over 20 years ago in *Surviving the Breakup*. Other statements made there are also reiterated in the most recent book. Chief among them are the tendency of wounded, divorcing adults to have great difficulty keeping their role as parent separate from that of divorcing spouse. This results in the extraordinarily common occurrence of parents over-relying emotionally on their kids and using them as confidants. As Wallerstein observes,

After divorce a surprising number of otherwise well-functioning adults reach out to children for help with their grown-up problems...in many families, the reversal of parent and child roles is more or less temporary, albeit shocking. One father told me that he revealed all his business and personal plans in Castro-like lectures to his seven-year old son who "understands everything." In our playroom, this child's play consisted of running a Mack truck over a little car. *W3, p. 11*

There is no way for a sensitive child to see her mother cry or her father fall into depression without worrying that she's the cause of it... *W3, p. 8*

Given how emotionally dependant on their children many parents become, it's not surprising to see bitter custody or visitation fights over who has priority in the child's life....Men and women tell me that when the child is with the other parent they become seriously depressed and wander restlessly from room to room unable to bear their loneliness. *W3, p. 11-12*

Clearly parenting is compromised after divorce:

Ten years after the breakup only one-half of the mothers and one-quarter of the fathers in our study were able to provide the kind of nurturant care that had distinguished their parenting before the divorce. *W3, p. 26*

### **IV. PREFERRED RESIDENTIAL ARRANGEMENTS**

Counsel may be familiar with the Wallerstein and Taske article found in the Summer 1996 edition of the Family Law Quarterly, upon which the Washington Supreme Court relied, in part, in arriving at its *Marriage of Littlefield* decision. The opinions set forth by Wallerstein and Kelly come up against the views of Michael Lamb, who is probably the most prolific and vocal advocate of "paternal rights" in the therapeutic community. In a recent article, written with Joan Berlin Kelly (Wallerstein's co-author in *Surviving the Breakup*), Lamb canvasses the literature on infant attachment and concludes that paternal involvement is critical to a child's well-being.

Lamb and Kelly's initial observations are as follows:

In the attachment phase, which occurs between 7 and 24 months of age, the child, by actively seeking to remain near to preferred caregivers, gives increasingly clear evidence that attachments have been formed. Behaviors demonstrating attachment include differential following and clinging to parents, especially when tired or sick, and preferences for specific caretakers as secure bases for exploration of the environment. Somewhere around the 1<sup>st</sup> year of life, infants begin to cry or protest when separated from their attachment figures...Infants clearly cope better with separation from one attachment figure when they are with another attachment figure...

Considerable evidence now exists that documents that most infants form meaningful attachments to both of their parents at roughly the same age (6 or 7 months). This is true even though many fathers in our culture spend less time with their infants than mothers do....The preference for the primary caretaker appears to diminish with age, and by 18 months, this preference often has disappeared....Empirical literature also shows that infants and toddlers need regular interaction with both of their parents to foster and maintain their attachments....In addition, it is necessary for the interactions with both parents to occur in a variety of contexts (feeding, playing, diapering, soothing, putting to bed, etc.) to ensure that the relationships are consolidated and strengthened. In the absence of such opportunities for regular interaction across a broad range of contexts, infant-parent relationships fail to develop and may instead weaken...

(It is common for children between 15 and 24 months of age to resist transitions from their mothers' house to their fathers' after marital separation, even when children have good attachment relationships with both parents....By 24 months, the majority of children no longer experience severe anxiety although children with very insecure attachments and those whose primary attachment figures have their own separation difficulties may continue to express anxiety....children's primitive sense of time continues to make it difficult for 2-year olds to comprehend much beyond today or tomorrow, and this has implications for the tolerable duration of separation from important attachment figures....K&L

...there is substantial evidence that children are more likely to attain their psychological potential when they are able to develop and maintain meaningful relationships with both of their parents, whether the two parents live together or not. K&L

To be responsive to the infant's psychological needs, the parenting schedules adopted for children younger than 2 or 3 must involve more transitions, rather than fewer, to ensure the continuity of both relationships and the child's security and comfort during a time of great change. The ideal situation is one in which infants and toddlers have opportunities to interact with both parents every day or every other day in a variety of functional contexts....As children reach age 2, their ability to tolerate longer separations increases, so most toddlers can manage 2 consecutive overnights with each parent without stress. .K&L

With the historic focus on preserving the mother-infant attachment while establishing an exclusive home, overnights or extended visits with the other parent (mostly the father) were long forbidden or strongly discouraged by judges, custody evaluators, therapists, mental health professionals, family law attorneys, and not surprisingly, many mothers...Hodges (1991) for example, stated that for infants younger than 6 months, "overnight visits are not likely to be in the child's best interests, because infants' eating and sleeping arrangements should be as stable as possible"...For infants 6 to 18 months or age, overnight visits "should be considered less than desirable"...Although Hodges noted the importance of several visits per week for older infants who were attached to fathers, he recommends that these be limited to several hours. Hodges stated that children might be able to spend overnights "without harm" only after reaching 3 years of age...Such unnecessarily restrictive and prescriptive guidelines were not based on child development research and, thus, reflected an outdated view of parent-child relationships. K&L

Yet, these observations are rejected by Wallerstein and Taske in an article which was cited with approval by the *Littlefield* Court. Excerpts from this piece include:

In order to protect children, courts need to understand a child's perspective on divorce and separation and to acknowledge the importance of that perspective in developing policy. With respect to relocation, the requisite judicial understanding includes the potential impact on the child of one parent's request to establish a new life elsewhere and the further potential impact on the child if this wish is realized or relinquished....From a well-established body of knowledge in child development, we have learned that children at a very early age have powerful feelings that do not necessarily reflect the feelings of the adults in their lives...*W&T*

Our research at the Center for the Family in Transition has revealed several factors associated with good outcomes for children in post-divorce families. These include: (1) a close, sensitive relationship with a psychologically intact, conscientious custodial parent; (2) the diminution of conflict and reasonable cooperation between the parents; and (3) whether or not the child comes to the divorce with pre-existing psychological difficulties. *W&T*

All of our work shows the centrality of the well-functioning custodial parent-child relationship as the protective factor during the post-divorce years. *W&T*

In their attempts to justify changes in custody in relocation cases, judges have sometimes applied a seemingly irrefutable presumption that frequent and continuing access to both parents lies at the core of the child's best interests. Therefore, it is important to state very clearly that the cumulative body of social science research on custody does not support this presumption. *W&T*

Wallerstein reiterates this view in her recent book:

Another difficult issue that I mentioned earlier bears elaboration. The central model of public policy as implemented by the courts and mediation has been that the child's relationships with both parents should be continued and if possible strengthened. Courts distribute booklets to parents with the slogan "Parents Are Forever," by which they mean that parent-child relationships in the predivorce family are expected to endure. The moral dilemma is that many people divorce because they have come to abhor the lifestyle and values of their partner. They leave because they don't want their children to be subjected to the toxic influence of the other. Men and women alike leave marriages because of their partner's dishonesty, manipulative relationships, violent behavior, drinking, infidelity, or overall irresponsibility. They divorce for serious reasons to escape a delinquent or demeaning life only to find themselves in a system that reinstates and even strengthens the values and lifestyle they fled from. *W3, p. 209*

Comparing children in joint physical custody with those raised in sole custody homes shows that the amounts of time a child spends with each parent is unrelated to how well that child copes with life in the family, at school, or on any other measure of social and psychological adjustment. *W3, p. 215*

Joint custody can work very well or poorly for the child. The same is true of sole custody with visiting. What matters is the mental health of the parents, the quality of the parent-child relationships, the degree of open anger versus cooperation between the parents, plus the age, temperament and flexibility of the child. What also matters is the extent to which the parents are able and willing to have the same routines for their child in each house....Joint custody depends on parents giving priority to the child's changing capacity and need for uniform routines. With older children, it also depends on asking their opinion and taking it seriously. *W3, p. 216*

Furthermore, as observed by Hetherington,

On average, youngsters do equally well in mother, father, and joint custody families, provided the parent responsible for the child's care is loving, supportive and firm about discipline. *H. p. 122.*



For the father's rights advocates, one can do no better than to cite the work of Michael Lamb. However, he does seem to operate from something of a set agenda, which results in his rejection of many widely held views on children's well-being after divorce – including, most strikingly, his dismissal of the otherwise universally held discouragement of frequent transitions between high conflict parents.

At least for now, with the judicial adoption of the Wallerstein and Taske view, coupled with the rejection of the "Friendly Parent Doctrine" the public policy of Washington is not as sympathetic to Lamb's views as fathers' rights advocates would like.

## **V. THE EXPERIENCE OF CHILDREN**

Perhaps no discussion of children's responses to their parents' divorce can proceed without paying some homage to the articulate and insightful work of Wallerstein and Kelly. In *Surviving the Breakup*, they provide perhaps the finest and most comprehensive discussion of the impact on divorce upon children, keyed to age and developmental level. Some of these observations follow:

### The Child's Experience During the Divorcing Period

Less than 10% of the children were relieved by their parents' decision to divorce despite the high incidence of exposure to physical violence during the marriage....at the time of the parental separation the child's attention is riveted entirely on the disruption of his or her own family and he is intensely worried about what is going to happen to him. *WI, p. 35*

### HOW THE CHILDREN RESPONDED

#### The Preschool and Kindergarten Children

##### (Three-to-Five-Year Olds)

The youngest children who came to see us were...frightened, bewildered and very sad...The routine separations of daily life were suddenly filled with dread. Some clung to the remaining parent, whimpering or crying when the parent left on a routine errand or departed for work at the usual time, or went out for the evening. Parents who returned from work or retrieved their children after school were greeted with angry tears, crankiness, and sometimes tantrums by children sufficiently relieved by the parent's return to express the anguish and frustration which they had suffered...

Regression was a common response among the youngest children...Lapses in toilet training and increased masturbatory activity were noted. The difficulty in separating from the custodial parent also reflects regression to earlier modes of relationship, characteristic of the toddler who needs to keep the caregiver in full view or readily accessible. *WI, p. 57*

Children elaborated macabre fantasies to explain the father's departure and the marital disruption. These fantasies were shaped by their own limited capacity to understand the confusing events and their frightened perception of the parents' quarrels...indeed, the most frightened and regressed children were those who had not received any explanation of the events in the family and were at the mercy of their own conclusions. *WI, p. 58.*

As the children made heroic efforts to encompass the disturbing events of the separation they reached explanations that caused them great anguish. One unhappy conclusion which the four-to-five-year-olds arrived at was that the departed parent had rejected them and left to replace them with another family elsewhere. It was almost impossible for these children to conceptualize the one parent's departure as being directed at the other parent and not at them. *WI, p. 60*

Fantasy was employed extensively, especially by the little girls, to help them cope with their painful sense of rejection and loss. Some of the little girls denied their father's absence with a thousand wish-fulfilling fantasies. "When he grows up he'll come back; he promised." "He'll divorce her [his new wife] and marry me," or "I go see my daddy whenever I want to" [not true]...These fantasies gradually came to occupy increasing amounts of the time and psychic energy of these children. *WI, p.60*

One play theme we noted that began to appear around this time and was to reappear many times later both in play and behavior, was the theme of children who solicitously take care of children while adult dolls only take care of each other. *WI, p. 61.*

## THE YOUNG SCHOOL-AGE CHILDREN

(Six-to-Eight Year Olds)

Drawings of the children in the first and second grade differ considerably from those of younger children and reflect the extraordinary maturation that has occurred within a very compressed time span. The new intellectual and emotional advances increase the capacity of children at this age to understand the meaning of the divorce, as well as some of its specific implications for them...the most striking response among the six-to-eight-year-old children was their pervasive sadness...Unlike the preschool children who made extensive use of fantasy to deny the separation and loss and who held fast to the idea that someday their family would be reunited, these children more intensely conscious of their sorrow than any other group in the study, had great difficulty in obtaining relief..Fantasies of being deprived of food, of toys, of some other important aspect of their lives pervaded the thinking of many children. *WI, pp. 66-67*

Particularly striking in this age group was the yearning for the father. More than half of these children missed their father acutely. Many felt abandoned and rejected by him and expressed their longing in ways reminiscent of grief for a dead parent....While it is not surprising that most children missed their fathers, the intensity of the response in this age group, especially among the boys, was notable and again, it had no relation to the degree of closeness between the father and child during marriage. *WI, p. 68*

Unlike the preschool children, these boys and girls were of sufficient age to be enlisted actively, by one or both parents, in their waging of hostile confrontation. In most of the divorces in this age group there was a considerable amount of turmoil, bitterness, and accusations from which a considerable amount of turmoil, bitterness and accusations from which the children were not shielded. One quarter of these children were under heavy pressure from their mothers to reject their fathers. *WI, p. 70.*

## THE OLDER SCHOOL-AGE CHILDREN

(Nine-to-Twelve-Year-Olds)

Many of the children in the nine-to-twelve group had presence, poise and courage when they came to their initial interviews. They perceived the realities of their family's disruption and the parent's turbulence with a soberness and clarity we first found startling, particularly when compared with the younger children who so frequently appeared disorganized and immobilized by their worry and grief....The single feeling that most clearly distinguished this group from all the younger children was a fully conscious, intense anger. *WI, pp. 71-74*

A very important aspect of the response of the youngsters in this age group was the dramatic change in the relationship between parents and children. These young people were particularly vulnerable to being swept up into the anger of one parent against the other. They were faithful and valuable battle allies in efforts to hurt the other parent. Not infrequently, they turned on the parent they had loved and been very close to prior to the marital separation. *WI, p. 77*

The most useful allies in the divorce-related fighting were the nine-to-twelve year old boys and girls. We found that the child at this age has the capacity to be an unswervingly loyal friend or team member, and exceeds in his reliability his sometimes more capricious more self-preoccupied adolescent brother or sister. He or she is, therefore, a valuable ally in the battle. Within this age group, mothers did better at courting their sons as allies, and fathers succeeded better with their daughters. *WI, p. 78*

## THE ADOLESCENTS

(Thirteen-to-Eighteen-Year-Olds)

...what we found to be a common thread in the adolescent response to divorce (was) that these young people experienced the divorcing parents as leaving them in lieu of their own adolescent leave-taking of their parents and of the parental home...Within the intact family, a change in the direction of psychological disengagement from the parents takes place gradually over several years. In the more usual course of events, the youngster advances several steps toward maturity and as soon as this is welcomed by parents and teachers, he or she is likely to fall back into more childish behavior, only to advance again in a continued back and forth over the several years of adolescence...The alternation between the poles of dependence and independence, between the perception of parents as powerful or weak are the leitmotifs of the normal adolescent process...An important purpose of the family during these adolescent years is to provide the youngster with the opportunity to return to base, to replenish emotional supplies that have been depleted to restore battered self-esteem, to regress briefly, to retreat temporarily, and finally to gather courage for the next venture into independence. The toppling of the family structure at this time burdens these normal developmental processes and threatens to derail them. *WI, pp. 81-82*

Throughout the twenty-five plus years of her study, Judith Wallerstein made a point of personally interviewing the children as they grew into adolescents and young adults. Hetherington, by contrast, employed research assistants to interview those subjects she, herself, could not speak to. In addition, she relied to a greater degree on participants' journals and psychological measurement. Thus, Hetherington's comments tend to be less particularized and less poignant than Wallerstein's and include:

For adults, divorce brings *a* world to an end; for young children, whose lives are focused in the family, it seems to bring *the* world to an end. Yet the adjustment patterns of adults and children are remarkably similar: a decline in function in the first year and a notable improvement in the second year. Still, at two years, many youngsters remained anxious and whiny, and clingy and oppositional, while others had school and social problems. *H, p. 111.*

For all young children, divorce led to changes in their life that were difficult to cope with, and how well they coped to a large extent depended on the behavior of the custodial parent. *H. 112.*

Preoccupied by guilt, some custodial mothers put few limits on their children and allow them to run rampant; others, because of depression or self-involvement, may neglect their children's needs and withdraw from them. But in the most common pattern, parental affection, positive involvement, and time spent with the child diminish, while parental irritability, punitiveness and unpredictable, erratic discipline increase. *H, p. 115.*

Young sons, especially, pose a problem for divorce-depleted mothers...Inconsistent cranky maternal commands and threats are a common feature of the divorced mother-son relationship and only serve to escalate hostile exchanges. *H. p. 115.*

Girls show many of the same problems as boys in the first year after a divorce, but parents are more supportive with girls, and mothers and daughters learn to get along quickly. By the end of the second year, the mother-daughter relationship was similar to that in non-divorced families, although it was to become more fractious in adolescence. *H. p. 117.*

When non-custodial fathers talked about parenting, they often ended up talking about how frustrated, confused, and uncertain they felt, and how painful and difficult visitation days and intermittent parenting were.... What little time they have with their children they want to be pleasant...Their role is companionate rather than parental. For most men, not being a daily presence in a child's life is a difficult hurdle to overcome...This is why overnight stays become so important. Overnight stays help youngsters think of their father's place as a second home and foster more relaxed relationships and routines that can draw fathers and children closer together. When regular overnights happen, fathers are more likely to remain involved with their children and less likely to drift away as so many non-custodial fathers do. *H. pp. 118-119.*

...by the six year follow-up, a dramatic change had occurred. The cloud of anxiety and depression that hung over children in the first year usually had diminished or evaporated. Some boys and girls remained deeply troubled, but three quarters of the children from divorced families were now functioning well within the normal range. *H. p. 125.*

Parenting is not only the most important but often the sole protective social factor in a very young child's life...The good news about parenting six years after divorce is that most divorced women had recovered from the initial dramatic collapse in their parenting skills and had developed reasonably close, constructive relationships with their children. The bad news is that even this long after divorce, because of the man stresses in their lives, divorced women were on average less competent parents than women in non-divorced families. This is in part because authoritative parenting, which requires a great deal of energy and focus, is harder to do when there is no assistance and cooperation available from another partner. *H. p. 126-127.*

Although diminished authoritative parenting can have dire consequences for children, two other hazards await children in the postnuclear family. The first is "parentification," when the caretaking roles of parent and child seem to be reversed....the second is continued conflict between the divorced parents. When divorced parents fight, it increases the child's distress by making the child feel caught in the middle of divided loyalties for each parent. *H., pp. 134-135.*

Conflictual co-parenting distresses children and undermines their well-being, and it makes parents unhappy, too. They feel guilty about fighting in front of the children, but their preoccupation with their anger and lingering resentment makes it difficult for them to begin focusing on a new, more fulfilling life and on the pain they are causing their children. *H. p. 138.*

Seventy-five miles seems to be the point at which paternal inconvenience overcomes paternal guilt. Men who live within a seventy-five-mile radius of their children are more likely to visit regularly than men who don't. *H., p. 134.*

## **VI. SHARED OBSERVATIONS OF WALLERSTEIN AND HETHERINGTON**

On one level, Judith Wallerstein and Mavis Hetherington appear to be at odds concerning the long term effect of divorce. While their emphases clearly diverge - Wallerstein focuses on the enormity of the wounds inflicted by divorce, particularly in the children, and Hetherington concentrates on the process and the recovery - they are in accord in many significant respects.

They agree, for example, that about 80% of the children of divorce are reasonably well adjusted after the initial traumatic period. They agree on a number of other salient points as well:

- Parenting deteriorates in the 2-years post separation then tends to stabilize.
- Boys tend to fair more poorly than girls after their parents divorce.

- The greatest single protective factor for children is a secure relationship with a psychologically intact parent.
- It is not uncommon for a parent to enlist a child as a caretaker and confidante, which seriously compromises the child's adjustment during divorce.
- Continued parental conflict is the single most destructive environmental condition for children.
- Visitation is a wrenching psychological experience for the visiting parent who was fairly well bonded with the children and liable to result in a counter-intuitive withdrawal by that parent.
- Parents who can coordinate, to the greatest extent possible, the routines and rules for the children have a much better chance of protecting their kids from the negative consequences of divorce.

## VII WHAT DOES ALL THIS MEAN FOR LAWYERS

So what are we to do with these wounded, angry people who enter our offices seeking vindication? Attorneys who are educated and trained in the adversarial system and comfortably think (and communicate) in terms of their clients' legal entitlements. One must wonder if this is the preferred avenue for addressing the divorce client's travails.

Austin Sarat and William Felstiner conducted an extraordinarily detailed, intensive, study of divorce lawyers and their clients (based upon extensive observations in law offices in Massachusetts and California). The result is their captivating (for domestic relations lawyers), *Divorce Lawyers and Their Clients: Power & Meaning in the Legal Process*. What they found was a clash of cultures in which lawyers' efforts were directed to limiting the subjects under discussion and the clients' to expanding them. As Sarat and Felstiner noted:

Clients are suspicious about the depth of commitment their lawyers bring to their cases and about their own ability to control the content and timing of their lawyers' actions. They worry about lawyers who seem too busy to attend fully to the idiosyncracies of their cases, and about divided loyalties, limited competence, erratic judgment and personality conflicts. *S&F, p. 5*

Lawyers attempt to draw rigid boundaries demarcating the legal as the domain of reason and instrumental logic and the social as the domain of emotion and intuition...Lawyers describe the legal process itself, a process in which personal idiosyncrasy is as important as rules and reason, in which confusion and disorder are as prevalent as clarity and order, in which the search for advantage overcomes the impulse toward fairness, the factors claimed by the ideology of separate spheres to be outside the law seem quite vividly alive on the inside. *S&F, pp. 6-7*

Clients focus much of their interpretive energy in efforts to construct an explanation of the past and of their marriage's failure...Lawyers avoid responding to these interpretations because they do not consider that who did what to whom in the marriage is relevant to the legal task of dissolving it. In this domain clients seem to talk past their lawyers. *S&F, p.20*

Divorce lawyers...develop versions of events that often do not jibe with the stories told by their clients, but their responses to those stories are usually silence and evasion rather than joining and communication. As a result, while clients speak a language of guilt, blame, and responsibility that to their lawyers, is at best irrelevant and at worst inaccurate, their mischaracterizations are rarely directly challenged. *S&F, p. 33*

Clients often seek to expand the conversational agenda to encompass a broader picture of their lives, experiences, and needs. In so doing, they contest the ideology of separate spheres that lawyers seek to maintain. Lawyers, on the other hand, passively resist such expansion. They close down the aperture; they are interested only in those portions of the client's life that have tactical significance for the prospective terms of the divorce settlement or the conduct of the case. *S&F, p. 144*

The client's life at work, and with friends or parents, is largely ignored. Unless they are trying to explain or predict spousal behavior that is directly relevant to the divorce process, lawyers rarely even

inquire about the client's social world. Lawyers are, however, continually confronted by clients who want to discuss the causes of marriage failure and the content of relations with their spouse during the divorce, as well as matters occurring at work or with friends. Lawyers do not ask, but they are told anyway. They appear in these dramas as sounding boards. *S&F*, p. 145

These observations are made by professors of law and jurisprudence. Their viewpoints are informed by a knowledge of and sympathy for the lawyer's task. When we turn to comments made by Wallerstein and Hetherington, their views of the impact of the legal forum on the personal struggle of parents and children are drawn more harshly.

The American Legal system is under the impression that its activities and decisions are geared toward safeguarding children after divorce. But I have rarely met a child who felt protected by this system. On the contrary, most children would be very surprised to hear that any judge, attorney, mediator, or anyone else had their interests at heart when setting up court-ordered visiting. Many do not feel protected by their own parents in the planning of visiting or custody. Instead, they feel silenced. *W3*, p. 181.

The real children in this study did not remain silent about the system's unfairness. They complained that they were being bullied by the courts or by a parent backed by the court. They cajoled, conspired, and cried - but no one listened. They begged to be consulted about visiting because they, and not their parents, knew what visiting was like. *W3*, p. 182.

Lawyers often protect and defend and advise. But their training in the adversarial process can stir up latent anger and resentment, turning a "friendly" or even a relatively neutral divorce into an ugly, destructive one. *H.*, p. 55.

## **CONCLUSION**

How can we use this information to better assist our clients?

First, we can appreciate in this lengthy process, which lasts years, often in its most acute stage, we will only be on the scene for a brief while. Our education and training in the adversarial ethos, which views the other parties' weaknesses, foolishness and missteps as means to tactical advantage - within an environment in which our clients' entitlements prevail - create a stage in which a traumatizing life experience is more deeply damaging.

This may be the greatest struggle for the practitioner - the conflict between the value of lowering the temperature of the discourse (in the interests of clients' long-term well being and certainly that of their children) and the financial incentives to intensify conflict coupled with a sense of ethical duty to promote a rigid and focused set of interests at the exclusion of others.

The work of Wallerstein, Hetherington and the others cited here serve to normalize the behavior of both adults and children experiencing the divorce transition. What may be misconstrued as "sick" or "evil" is actually predictable and will often pass if the heat isn't turned up too high. Perhaps the greatest challenge - and opportunity - is to exercise client control precisely at the time the client is complaining the loudest about the soon-to-be-ex-spouse.