Developmentally sensitive parental contact for infants when families are separated

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There are critical periods during which bonding experiences must be present for the brain systems responsible for attachment to develop normally. These critical periods appear to be in the first year of life, and are related to the capacity of the infant and caregiver to develop a positive interactive relationship. (Perry, 2008, para. 12)

Background

The recognition that the most critical time in infant development occurs in the first year of life is not new. The entwining of attachment processes to neurological development and the refinement of this knowledge is more recent, although researchers and infant specialists would argue that more than twenty years of work now informs this area (Siegel, 2001). The influence that this knowledge has had on decision-making and practice that affects infants has been slower.

The body of knowledge about infant development explores not only “the norm” and the way in which healthy infant development is supported, but also the impact of dysfunctional attachment relationships and trauma on the development of infants (Ainsworth, Blehar, Waters, & Wall, 1978; Perry, 1997) and their destructive long-term effects (Larrieu, 2002).

This paper is based upon an initial research study which explored the issues associated with infants where the Children’s Court had ordered high-frequency contact (4–7 days per week) between infants and their parents while the baby was living with carers (foster or kinship). (By definition, infants come into care because there are significant issues in relation to child abuse and neglect.) The study focused on issues for infants who were involved in travel arrangements that took them away from the foster carer for significant periods of time, not arrangements (largely kinship care) that did not involve travelling and such disruption.

There are major differences in outcomes for infants whose parents have separated compared to when infants are taken into out-of-home care, and family law proceedings need to consider such dilemmas in relation to child contact. If an infant’s development and attachment needs are to be central to decision-making, how much time is it reasonable to allow for an infant to spend with each parent? Approximately eight per cent of shared care arrangements involve infants under three years old and hence it is a significant policy issue (Kaspiew et al., 2009).

It is difficult to assess the extent of violence and abuse in the population of separated parents (Kaspiew et al., 2009); however, for parents where there is litigation...
and unresolved disputes about children, there is a very significant group where violence and abuse are major issues in relation to child contact (Brown & Alexander, 2007; Moloney et al., 2009). This paper will focus on infants in the Children’s Court and issues of family contact, but reflect on whether there are some principles that also apply to the Family Court arena.

Terminology

Within the out-of-home care system, the terminology used in relation to infants spending time with their parents is “contact” and sometimes “access”. In previous work, we have preferred to call this “family contact” (Humphreys & Kiraly, 2009). In the family law arena, the new legislation refers to “time spent” by the child with either parent. While recognising the preferred family law terminology, this paper continues to use the term “contact” to reflect the fact that the paper draws primarily from the public law context.

Considerations in infant development

The neurobiology and attachment literature draws attention to the first year of life as being critical. Massive brain development occurs, which is directly related to the infant’s attachment experience (Perry, 2008). While brain development begins in utero, it is only 25% of its adult size at birth; yet by three years it is 90% of adult size. Within that time, the density of the brain also increases, with the development of complex interconnections between different parts of the brain (Royal Australian College of Physicians, 2006, cited in Jordan & Sketchley, 2009). The nature of this critical development is dependent upon the infant’s attachment relationships, and is thus a biological development mediated by social relationships. In other words, the child’s cognitive, behavioural and emotional development is dependent upon the way in which the different parts of the brain develop, which in turn occurs in the context of their attachment relationships (functional and dysfunctional) with other people (Steele, 2002). Particular significance lies in the need for secure attachment, and thus for a primary caregiver who is attuned to the infant’s needs. Without a parental figure who has the capacity to create a safe, predictable and secure psychological and physical space, the infant’s capacity to grow and explore the world is limited.

This is a controversial area. Attachment is a concept developed by J. Bowlby (1969), although it has been subject to significant critical debate both by Bowlby himself at a later stage in his work (Bowlby, J., 1982) and by many other scholars (see Hazan & Shaver, 1994). At issue is the extent to which multiple attachments are possible and whether they are dependent upon the initial availability of a primary attachment figure. It is a particular issue when parenting is shared not only with another parent, but with extended family, at day care and within other community relationships (National Institute of Child Health and Human Development [NICHD], 1997). There has been some agreement that there is a hierarchy of attachment relationships, with empirical evidence consistently showing that even when a range of safe, caring figures are available, infants show clear discrimination and consistent preferences (Jordan & Sketchley, 2009). Multiple relationships are clearly possible, though not limitless,
and the quality and consistency of these relationships is important if the infant’s development is to be supported rather than undermined by distress (Beek & Schofield, 2006).

More recent work on the brain development of infants has provided clear support for the earlier work on attachment (Newman, 2008; Schore, 2000). At its most extreme, the institutionalisation of babies—where there is no consistent attachment figure and no responsiveness to the children’s emotional needs—has led to infants and children with limited neurological development, particularly of the cortical area, where thinking and emotional regulation occurs (Beckett et al., 2006). While less extreme, clear chemical differences have now been established between the brains of infants and children growing up with “good enough parenting”—including at least one secure attachment figure in a safe environment—and those growing up where a secure attachment figure is not available and where abuse and fear may be rife (Shonkoff & Meisels, 2000). From Neurons to Neighbourhoods (Shonkoff & Phillips, 2000) is the classic text that draws the strands of neurobiology together, pointing to the profound individual, social and economic costs of failing to nurture early infant attachment relationships.

Further work on attachment, neurobiology and the impact of trauma points to dysfunctional attachment patterns that can develop when infants have no consistent caregiving figure who is attuned to their needs. For infants—whose needs are visceral and revolve around responsiveness to their rhythms of sleeping and feeding—the person with 24-hour care is usually the primary caregiver. Dysfunctional attachment patterns are recognisable and fall into categories of avoidant, ambivalent and, most worryingly, disorganised attachments (Ainsworth et al., 1978). Disorganised attachment is evident in about 50% of high-risk, abused infants and children and 10% of non-clinical samples (Hesse & Main, 2000). It results when infants live with a caregiver who is unpredictable and/or frightening, or where an infant experiences multiple caregivers and no consistent figure with whom to create attachment security and safety. Such infants may, among other symptoms, dissociate (go limp), “freeze” or become hypervigilant in the presence of their mother or father. They are frequently unsettled in their sleeping and feeding patterns. The impact on the infant’s brain development is profound, with important connections between different parts of the brain underdeveloped, resulting in a lack of ability to regulate emotions, a lack of cognitive development and an inability to empathise with others. With early intervention and establishment of a responsive and attuned carer, recovery is possible, though significant therapeutic intervention may be needed (Dozier, Higley, Albus, & Nutter, 2002).

The pivotal research of Solomon and George (1999) explored the effects of overnight contact for infants when parents were separated. The clearest finding was that where there was a poor environment, little psychological support for the infant and high levels of conflict between the parents, attachment to both parents became insecure and disorganised. Poor post-separation relationships characterised by high conflict, if not violence and abuse, provide an adverse environment for family contact. The parent’s views (thoughts and feelings) about the other parent and the child strongly mediated the impact on the infant. These findings are not dissimilar to those drawn from a clinical sample of high-conflict separating parents in Australia. This study found that high levels of parental contact (shared care) were detrimental to children where parental relationships were highly conflicted, particularly where one parent held safety concerns for their child (McIntosh & Chisholm, 2008).

Family contact issues for infants in care

For infants entering out-of-home care, the picture is complicated and contested. The maintenance of the infant’s relationship with their mother and/or father is critical. At the same time, the infant needs to settle into a predictable environment with a carer who is highly attuned to their needs in order to ameliorate the destructive effects of disrupted relationships in this earliest period of life (Dozier et al., 2002). The first year of life encompasses a wide developmental range. While infants between six months and three years may show the strongest indications of separation anxiety and stranger anxiety (American Academy of Pediatrics, 2000; Bowlby, J., 1982), the work of Dozier et al. (2002), measuring levels of cortisol (the “stress” hormone), showed that younger infants were stressed by separation from their carer even when external signs of distress were not necessarily apparent.

In a recent retrospective study of 26 families where high-frequency contact (up to 5 days per week) occurred with parents while infants were in foster care (Kenrick, 2009), significant levels of distress in infants were reported. The research found disruption for infants associated with: leaving their foster carer at significant points in their development; the extent of commuting; and the level of disruption to routines. Long after children were established in permanent care, effects continued to be evident in areas such as settling into playgroups and starting school. Particular areas of concern lay with infants moving rapidly into the high-frequency contact regime before they had time to settle and get to know their carer. This was a particular issue for infants coming to the carer direct from hospital and for infants at the age of 5–8 months, when there appeared to be much greater sensitivity and anxiety about separation.

The Kenrick (2009) study is one of the few to explore the impact of high-frequency contact on infants who are travelling to visit parents. There is little research evidence
The distress associated with infants being unsettled and having disrupted routines was a dominant theme for those working with them.

on the effects of different patterns and intensities of family contact for very young children in out-of-home care (Haight et al., 2003; Monck, Reynolds, & Wigfall, 2005). However, Haight et al. (2003) suggested that:

Our clinical judgement is that visits with infants and toddlers should occur more than once a week, for several hours, and encompass caregiving activities.

In general, the question of frequency of family contact for infants who are being transported away from their secure base, often by a changing group of workers, has not been directly addressed.

Decision-making that recognises the infant’s development needs can be fraught territory. A secure, primary attachment figure needs to be established and recognised; multiple attachments are possible but not limitless, need change over time, and in particular periods of an infant’s life are more sensitive to separation anxiety than others. At times there may be a conflict between the infant’s legal status (e.g., still on Interim Accommodation Orders where no final decision has been made about their future) and their emotional needs, which require that the carer, in the short term at least, is established as the primary attachment figure (Beek & Schofield, 2006). The parental contact arrangement is also essential to maintain or develop the relationship between the infant and their mother and father, to keep alive the possibility of reunification, and to support the older infant grieving over the loss of the mother and/or father as they move into foster care. While mothers and fathers have human rights that need to be recognised in maintaining family relationships (United Nations General Assembly, 1989), recognising the right of the infant to secure care and that his/her best interests are paramount, may sometimes need to be prioritised over parental rights.

Finding a balance between the infant’s need to develop a stable attachment relationship with a carer, while keeping alive the possibility of reunification through the maintenance of the relationship with their mother and/or father, is difficult territory. The strongly adversarial proceedings in the Children’s Court system in Victoria, pitting parents against Child Protection, is often not conducive to this (Campbell, Jackson, Cameron, Goodman, & Smith, 2003). The nuances of the developmental needs of infants cannot necessarily be held at the forefront of thinking in a court battle between lawyers.

Several US initiatives have explored less adversarial approaches to address the challenges of improving court decisions for infants. A court-sponsored program in New York State, which provides coordinated, therapeutic support to parents of infants and assists magistrates with better information, reported high levels of family reunification and no further acts of abuse or neglect over
The methods for this initial study included: family contact. Members; less than this was described as lower frequency was defined as 4–7 visits per week with family the focus of this research study. High-frequency family on 1 August 2007 (a total of 119 cases) were selected as All infants under the age of 12 months who were in care different levels of frequency was being ordered for infants brain development and family reunification. A multi-method approach was undertaken for this study in infants in out-of-home care and their contact arrangements that warrant further exploration in relation to the impact infants' wellbeing, the development of attachments, for visiting, including observation and assessment. Skilled professional support is needed for very young children and their mothers and fathers during visits. Without this, such visits may do little to facilitate better relationships and family reunification (Brown, 2008; Browne and Moloney, 2002; Rella, 2006–07) and further trauma may not be prevented (Haigh et al., 2005; McIntosh, 2006). A number of programs provide therapeutic family support for visiting (Cleaver, 2000; Miller et al., 2000; Pine et al., 1993), including some that use attachment theory explicitly as the basis for supporting parents to build relationships with their children (Deacon, 2006; McAsey & Mullis, 2004). Other programs have been designed to maximise family reunification, while simultaneously promoting attachment to carers who would become permanent if family reunification did not occur (“concurrent planning”) (Monck et al., 2005). The literature thus points up a set of complexities for infants in out-of-home care and their contact arrangements that warrant further exploration in relation to the impact on infants’ wellbeing, the development of attachments, brain development and family reunification.

Methodology

A multi-method approach was undertaken for this study in order to explore the issues arising where family contact at different levels of frequency was being ordered for infants in protective care.

Key questions included:

- What are the current arrangements for infants’ contact with their family members in Victoria?
- What are the issues that affect the infant’s experience of contact with their family members?
- What are the directions for good practice in this area?

All infants under the age of 12 months who were in care on 1 August 2007 (a total of 119 cases) were selected as the focus of this research study. High-frequency family contact was defined as 4–7 visits per week with family members; less than this was described as lower frequency family contact.

The methods for this initial study included:

- data mining of 119 electronic child protection files (Epstein, 2001) to explore the patterns of court-ordered family contact, the extent of high-frequency family contact orders, related demographic data, and some details about the implementation of these arrangements;
- focus groups, interviews and brief case studies to provide a rich understanding of the patterns found and the impact of these arrangements on infants, their parents and caregivers (Patton, 2002). Eleven focus groups involving 118 participants and five interviews with stakeholders were undertaken. The focus groups and interviews were audio-recorded and the records transcribed and coded using NVivo (QSR International, 2007); and
- thirty brief case studies, collected opportunistically using a semi-structured approach in response to requests from foster carers and case managers to discuss cases of concern.

A set of themes emerged from the coded data, and analysis continued until no new themes emerged. Themes were generally strong and consistent, albeit with intense disagreement between many legal advocates for parents and human services staff involved directly with infants.

A limitation of the methodology was that the project was unable to directly capture the perspectives of family members, including infants, mothers and fathers. High-frequency family contact is a relatively new phenomenon and at the time of the study, most parents were still involved in the court process. Advice from senior child protection workers and the ethics committee suggested that it was inappropriate to ask parents to engage in research activities at this sensitive time.

Ethics clearance occurred through the Department of Human Services (DHS) and registration of the clearance with University of Melbourne. Privacy laws are strict in ensuring confidentiality of child protection information, and thus meticulous justification to the relevant human ethics committee was required. Only the researcher—who although seconded to the University remained employed by the Victorian Department of Human Services—was able to access the files. Confidentiality was ensured by coding identifying data.

Key findings

Quantitative data

A summary of key findings is given here, but greater detail is available through the study’s research report (Humphreys & Kiraly, 2009). From the data mining of the electronic files a number of important issues came to light.

One-third of all cases (40 out of 119) had had a high-frequency family contact condition at some stage during the period that was the subject of the study. In this group, substance abuse was evident in the majority of cases—usually involving both parents (29 mothers and 23 fathers out of 40 cases)—and domestic violence and mental health problems were also significant issues. In very many cases, contact between infants and their parents occurred only infrequently in spite of the high-frequency contact order. Reasons evident from the files included parental illness; financial and other difficulties with transport; being in jail; and, overwhelmingly, other reasons not articulated, presumably related to parents’ social issues and circumstances. Rarely, contact did not occur due to an infant’s illness, and even more rarely because DHS had been unable to provide worker time.
Clinic) were against family contact for infants in out-of-home care. In fact the contrary was true. However, there were major differences in views about the frequency of family contact that was appropriate for infants, particularly when this involved travelling from the home in which they were trying to settle. Those who were directly involved with infants were strongly of the view that high-frequency contact (4–7 days a week) was unmanageable for the infants involved. However, many lawyers for the parents were equally strong in their views that parents had a right to see their baby as frequently as possible and argued for up to 7 days a week of contact visits. Both sides felt that this was in the best interest of infants.

The focus groups were generally sharply divided between those who represented parents (the lawyers for the parents) and those who worked with infants (foster carers, child protection workers, foster care managers, high-risk-infant specialists), though there were a few points of commonality. The clinicians from the Children’s Court Clinic straddled both groups in relation to their views about the frequency of infant contact.

**Issues of attachment**

Significantly, both groups saw the infant’s attachment issues as important. The lawyers for the parents saw this in relation to the infant’s connection to their parent, while those working with infants saw it as being important for infants to become settled and stabilised with their carer for their wellbeing and also to promote relationship development.

The important thing for a baby and their future emotional health is how well they’re responded to and looked after by a constant carer … because we all know that children, if they get that really good, solid response and care in those first six months whilst their parents do whatever work they need to be able to care for them safely, they will be able to form an attachment with their parents if we do return them home. (Case support worker)
I had a parent ask me … does the child know I’m the mother? … Sometimes we spend two hours with a child and the parent during access, and then we take the child home. How is that really that much different than [the child] spending it with a parent? An infant doesn’t understand the concept of “This is my mum”. (Case support worker)

Many lawyers for parents were less concerned about these arrangements and saw the issues largely as a resourcing problem for DHS. Some lawyers expressed nostalgia for the days when children were in institutions and therefore allegedly more accessible for parents to visit. These advocates saw current difficulties in arranging visits as seriously interfering with parents’ rights for contact with their children.

Distress and disrupted routines
The distress associated with infants being unsettled and having disrupted routines was a dominant theme for those working with them. Indicators of stress following visits with parents were frequently mentioned, including unduly wakeful nights, sobbing to sleep, being tired and grizzly and being clingy.

In situations where there had been abuse, older infants at times were reported to show anxiety or fear directly—crying or pulling away from parents. Infants were also reported as sometimes becoming passive or “floppy” on visits. These behavioural manifestations are symptomatic of trauma in infants (Jordan & Sketchley, 2009).

Disrupted routines were also much discussed. Concern centred on disrupted feeding and sleeping associated with unsettled behaviour, and undue crying day and night:

Of course, going to an access involves possibly waking them up; they go in the car, they fall asleep again, they get woken up again, they’re in the access. They go back in the car, they fall asleep again, and they

The relationship between the infant’s attachment relationship and brain development was a theme among many infant workers, as many had had training input about this issue. By contrast, a number of lawyers for the parents were less convinced about the role of neurological development. It was an attitude/belief that was not challenged by others in the focus group with lawyers for the parents and therefore it is difficult to establish whether this was a view held only by a vocal minority in the focus group.

Attachment and multiple strangers
A problem identified by those looking after infants were the multiple strangers involved in their handling and care. Few carers are involved in providing parental contact in their own homes or driving infants to visits in Victoria. Infants are therefore often involved with an “army” of departmental support workers transporting them to visits with their parents. The more frequent the visits, the more difficulty there is in keeping any regularity in the support worker, particularly when the court orders contact on weekends when there are no workers on duty and no departmental offices open for visits.

Those working with infants felt this was distressing for infants, and they sometimes saw infants dissociating or “freezing” (Bowlby, R., 2007), or experiencing highly emotional reactions:

Now, the older babies get, the harder it gets for them to leave us to go and see their birth parents. And we literally have to pass over screaming babies to the worker that might not be the same worker as yesterday. (Foster carer)

Some expressed concern about infants not knowing who their parent or primary caregiver is. Some case support workers spoke of an infant developing a preference for them over the parent, making it harder for the parent to build a relationship with their child during visits:
get woken up again … It is quite traumatic. Then, of course, if they are cranky and unsettled it is harder on us as well. (Foster carer)

Carers and foster carer managers spoke of the difference they experienced in the infant’s behaviour when high-frequency family contact shifted to lower frequency visits of longer duration (see Case study 1).

Case study 1

James came to us at five weeks with his two-year-old brother Tom. There were two siblings in care elsewhere. At first, the access visit was four days per week for one hour, at the departmental office. They would go at 1 pm and return about 6 pm. The worker would pick up the other children after these two, as we were the furthest away. Returning was in peak-hour traffic. James was really unsettled; his routine was out. But they were both much more settled when access changed to twice a week, and for longer; the new travel time was only twenty minutes each way. At that stage, they went to their paternal grandfather’s home, and he supervised access. Circumstances caused the change—the father died of a drug problem. So after that, less supervision was needed for the mother. I think that if ever it is possible to have access in a more natural environment, for longer and less often, it is better. In a six-hour access, they can have a bath and a nap. I thought it was brilliant. (Foster carer)

Transportation

Transport is connected with the issue of care by multiple strangers, as seen above. Numerous concerns were expressed about the amount of time infants spent travelling in cars. Both frequency and lengths of trips were seen as problems. In rural areas, distances were often described as being excessive; in the city, traffic congestion was noted as adding time to trips and making it more difficult to attend to care needs during travel. Exposure to undue temperatures was raised by some participants, especially frequent exposure to excessive heat in summer.

I just think, even for your own children you would not expect to give your own infants that experience really, of that level of transport and that number of people. (Rural case support worker)

Environments for visits

A point of agreement in all focus group was the unsuitability of DHS offices for visits. Rooms were often described as being too small and lacking needed equipment. The environment was described as being threatening to parents, representing the authority that had removed the child—with the presence of a security guard as a visible reminder of this.

Clients tell us about their experiences all the time. They hate supervised access at departmental offices. (Lawyer representing parents)

I had a client whose access was facilitated by their foster care service and, at that stage, things improved dramatically. Until then, there’d actually been a cessation of access, which is very unusual. But that was a reflection of the fact that the client found the experience of access in the department’s premises just unsupportable. (Lawyer representing parents)

Alternative venues that were also seen as unsuitable included shopping centres and fast food outlets.

Many participants offered ideas about better environments for family visiting. Critical factors were a friendly, informal atmosphere, and sufficient space and facilities for feeding, sleeping and playing, including space for siblings to play. It was understood that security arrangements needed to be in place for particular families, and that this might entail some compromise with an ideal environment, but it was also recognised that many families did not need this level of security.

Support and communication between foster carers and parents

While not a common feature of current practice in Victoria, a number of participants commented on the value to both parents and infant of a supportive relationship between foster carers and parents:

I think we could, with the magic wand approach … just let the carers work with the parents and, through education, break down that fear that’s been drummed up over the last twenty years … Like when the extended family look after kids who go and visit auntie. (Case support manager)

The children have gone home … We will build our relationship with the mother and be some sort of support, sort of like a grandparent. I’ve seen a few carers build relationships with mothers and help them—it’s good for them. In the past it was not encouraged, but I think that’s changing a little. (Foster carer)

Case study 2 describes in the words of a foster carer, the development of a relationship between the carer and the mother which had a tangible positive result for a baby girl and her brother. The foster carer was with The Circle Program, a specialised foster care program.

Case study 2

Rose was seven weeks when she came to us with her four-year-old brother Will. She was unwell, bordering on having failure to thrive. When she returned from access visits, she was often quite limp; she seemed to be “shutting down”. The nights that followed visits, she would scream a lot; her sleep would be very disturbed. After a few weeks, I started transporting the children for their visits with their mother in the family home. I developed a relationship with the mother. I encouraged her to put the children in the car after the visits, to explain what was happening to them and say goodbye well, so that they felt OK about going back with us. Rose’s crying at nights stopped straight away. Will had been crying a lot on leaving his mother—this also stopped. The mother also said that the children were better off as a result. The children are home with her now, and I provide some support. To see the change this has made has encouraged me to keep fostering. (Foster carer)

This case study highlights the way in which a good relationship between foster carer and mother can provide a much better experience for the infant. However, while some foster carers were interested in such arrangements, others expressed reservations about such practices, mainly citing safety concerns for themselves and their families.

The adversarial court system

The adversarial system prevails. [Counsel], like I, are prisoners of the grossly wasteful processes of the adversarial system with their concomitant negative impact on the efficient, timely and economical disposition of proceedings in the Family Division of this Court. (DOHS v Ms B & Mr G, Children’s Court of Victoria, 2008)

There was much concern expressed in the focus groups by those involved with infants about the overly adversarial nature of the court system. Legal advocates for parents
were seen as arguing for very high parental contact, not necessarily because it was seen as desirable in its own right, but to maximise the chance of family reunification (a relationship with reunification not borne out by the case file data in this study). Some participants suggested that such arguments may take place even when parents themselves do not want high-frequency contact. The clash of cultures between the traditions of legal practice and social welfare is seen keenly in the adversarial approach:

It commonly happens that we’ll have a client [DHS Child Protection worker] saying, “What do you mean the mother is not agreeing to reducing from five times weekly to three times weekly access? She was the one who asked for it, and now the lawyer is telling her that she’s not agreeing to it. What’s going on?” We’re in a litigation field. Often a client’s [parent’s] mind will be changed once they’ve had discussion with their lawyer, which might go something like: "Ms Brown, I’m not going to advise you to agree to reducing your frequency of access, because that might compromise your chances of having the child reunified with you” … Then we have to take it off to a contest if we want to get that reduction. (DHS lawyer)

We’re social workers, we’re not lawyers. We’re working in a jurisdiction that we don’t fit into, for most of it. We don’t think like lawyers. We’re not senior sergeants in the police force either, but we are expected to perform as such. (High-risk-infant manager)

On the other hand, many lawyers for parents saw the adversarial process as a protection for their clients and were distrustful of child protection workers actively working with parents and supporting reunification:

So I don’t think there can be a Best Interests Plan until a court has made a decision about whether the parent is going to be able to be with the child. And I think that’s part of the problem; that the department [workers] don’t like having courts, they don’t like other people interfering with their decision-making process. (Lawyer representing parents)

Discussion and conclusion

The file data combined with the focus groups raised a number of pertinent issues, some of which have implications for infants generally, and some of which are specific to infants in care.

We return to the opening quote by Perry (2008). The research as outlined suggests the “capacity of the infant and caregiver to develop a positive interactive relationship” that will ensure appropriate brain development is dependent upon whether a context is established that acknowledges and recognises that this relationship is central to infant development. Babies are not objects that can simply be passed about to meet the needs of adults, and comply with legal orders and the demands of complex organisational arrangements. Holding the baby’s needs at the heart of arrangements for parental contact means that all parties (mothers, fathers, caregivers, lawyers, child protection workers and magistrates) need to have some awareness of infant development and its intimate connection to secure attachment relationships.

Our findings suggest that quality of contact may be more important than frequency of contact, and that parents may need much greater therapeutic and basic parenting support during their visits with their children. Many mothers and fathers may also have been “set up to fail” by having contact regimes that were impossible for them to maintain when they were struggling with substance use, mental health and domestic violence problems.
When infants are in care, it means that they need to have time to settle, attune to their caregiver and establish a predictable and safe routine. This is difficult territory for all concerned, as it often means conceptualising the primary attachment as being to the person with 24-hour care. The separation process involves grief for the mother and father, and also for the baby if they have not gone directly into care from hospital. Without support for this shift, and without time to settle each day, the baby will be in an attachment vacuum, with no one being fully attuned to their needs for much of the time. It is dangerous territory in both the short and long term.

Mothers and fathers also clearly need support. To date there has been little recognition and poor service development in this area. We would argue that continuing family contact is important, but not with arrangements that undermine the infant’s ability to settle with their caregiver.

There are certainly warning signs for the Children’s Courts and Child Protection workers. There are major psychological costs to infants being separated from their mother and/or father, as the attachment transitions between foster carer and parents will always be complex. Every resource therefore needs to be expended to ensure that separation is a last resort and not an early response in a risk-averse environment. Intensive family support should occur prior to removal, wherever possible and safe.

Nevertheless, experiencing violence and abuse is also dangerous territory for infants. Babies who are “incubated in terror” (Perry, 1997) show attachment disruption and poor neurological development, as the chemicals released in a pervasive environment of fear are inimical to healthy brain development. Protection from violence and abuse is pivotal to the infant’s healthy development and safety, particularly given their physical fragility (Jordan & Sketchley, 2009). This issue cuts across all jurisdictions and is not the exclusive territory of the Children’s Court. Recent reports from the Australian Institute for Family Studies (Kaspiew et al., 2009) and the Family Law Council (Family Law Council, 2009) suggest that there are still many children who are not protected from violence and abuse in the family law jurisdiction.

Adversarial processes may not be optimal to finding the way through to the best interests of babies, particularly when some flexibility may be needed. This is true of both the Children’s Court and family law jurisdictions. However, by definition, violence and abuse tramples on the rights of the most vulnerable (in this case, infants) and they may in the end need the protection of the court in order to safeguard their interests. It is the hope of the authors that the courts are able to prioritise the infant’s need for safety and security. A just society should do no less.

Our findings suggest that quality of contact may be more important than frequency of contact, and that parents may need much greater therapeutic and basic parenting support during their visits with their children.
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