

SUBSTANTIVE CHILD CUSTODY ARRANGEMENTS: TRAGEDY OF THE SNIPE HUNT

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WHAT'S A SNIPE HUNT?

- ▶ <http://www.wikihow.com/Snipe-Hunt>

VALUES AFFECTING CHILD WELL-BEING

- (1) Maximizing continuity and stability
- (2) Maximizing contact and relationships with both parents
- (3) Minimizing exposure to violence and conflict

CONTEMPORARY CUSTODY DEBATES AND THE SNIPE HUNT

- (1) Continuity and stability (primary caretaker, de facto maternal preference, “replication”)- mothers
 - (2) Relationships with both (joint or alternating custody)- fathers
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WHEN THESE ARE IN CONFLICT:

- ▶ Attacks by one side or the other
- ▶ Arguments about “trumping” behavior
 - ▶ Unfounded accusations of abuse and/or child abuse
 - ▶ “parental alienation syndrome”
- ▶ (Scott and Emery, 2011)

COURT ATTENTION FOCUSES ON (3)

- ▶ Mediation concerns about power, and use of other forms of ADR
- ▶ Exclusion and protection of domestic violence cases

EMPIRICAL QUESTIONS AND ANSWERS

- ▶ Relatively strong evidence for (1), especially for the very young (but less good than stable two parent families; problems of confounding factors like poverty)
- ▶ What seems to matter on (2) is closeness to father rather than the number of overnights
- ▶ Extremely strong evidence that (3) is a problem, whether before or after separation.

WHICH GROUP'S THE FOCUS?

“default rule” for the vast majority of couples who work things out without court intervention?

or individualize to protect children from conflict, abuse, and other problem parenting (illness, substance abuse), especially where there's poverty

WHERE I COME OUT...

we know the most about (3), so should make every effort to minimize distress for children. This suggests

- ▶ moving as many cases as possible out of the court system, having a predictable rule and a rule that does not advantage litigation
- ▶ Secondly- rule that advances (1) and (3) (and occasionally and increasingly (2)) is better than one that advances (2) alone. My choice is the “replication rule”