

For the best interest of the child

Co-parenting after separation

Cathrin van Sintern-Dick

“I wish it would have worked out, but I can’t tolerate any more lies.” “I feel incredibly lonely in this marriage. I would rather be alone and take care of myself than stay in this place.” “I fear for my own well-being and the well-being of my children.” “I am afraid our children will grow up thinking that constant yelling and arguing between parents is normal.” “I already do everything anyway, so what would change?”

There are multitudes of factors contributing to the breakdown of families. When I initially entered the field of family mediation—and with it the field of setting families up for new beginnings, in many cases apart and yet together in co-parenting relationships—I was asked: *Why don’t you spend the time on reconciliation with them? Why do you help “destroy” a marriage? Don’t you believe in marriage anymore?*

Let me say that I still strongly believe in marriage. I believe in love, commitment, and the vows made in marriage. Nevertheless, I am aware that people can deeply hurt each other, emotionally through words and physically through actions. There are unhealthy marriages where various forms of abuse are present: emotional, verbal, physical, and financial. Some marriages create an unsafe environment for children, not just in terms of physical safety but also by subjecting them to constant conflict between their parents.

The best interest of the child

Moving forward as a family requires finding common ground to build on, often centered on *The Best Interest for the Child*. However, this term itself is subject to interpretation. Who decides what is in the best interest of the child? In cases where parents, either on their own or with legal assistance, cannot address matters concerning their children according to family law, who will make those decisions? In most cases, it will be a judge—a third party who is often unknown to the parents and not chosen by them—to determine the future of their ongoing family life. Is that the answer?

It is difficult to imagine a group of people who used to live together, however dysfunctional that living was, leaving the decisions regarding their future in the hands of a stranger. By doing so, they forfeit the opportunity to sit together, prioritize their child and their family, and place their own anger, hurt, pain, and frustration about the past—as well as their hopes, dreams, and wishes for the future—in a secondary position.

In my opinion, there exists a false narrative that a family ceases to exist after a separation. In reality, the family dynamics shift and change. It is now a family residing in two different homes, and for many years to come, depending on the children's ages, these families will continue to interact with each other.

The Vanier Institute of the Family defines *family* as:

Any combination of two or more persons who are bound together over time by ties of mutual consent, birth and/or adoption or placement and who, together, assume responsibilities for variant combinations of some of the following:

- *Physical maintenance and care of group members*
- *Addition of new members through procreation or adoption*
- *Socialization of children*
- *Social control of members*
- *Production, consumption, distribution of goods and services*
- *Affective nurturance – love*

Our definition of family is deliberately broad to ensure that it captures all families and family experiences. It is a functional definition of family that focuses on relationships and roles—what families do, not what they look like.

Our definition is inclusive of diverse family structures including (but not limited to) single parents, same-sex couples, stepfamilies, married or common-law couples (with or without children), skip-generation families and more.

The definition includes at least one relationship between an adult and another person (adult or child)—a relationship over time, which signifies that a commitment has been made.¹

¹ "Definition of Family," Vanier Institute of the Family, <https://vanierinstitute.ca/definition-of-family>.

In approaching this article, I am provisionally adopting the definition provided by the Vanier Institute. The definition focuses on the role family has rather than how the family appears. This insight allows us to shift our attention toward the needs of the children and explore what it takes to prioritize them, to explore what is in the best interest of the child.

Like any broad term, there are various interpretations of what is in the best interest of the child, what should be included or excluded, and

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who decides. In our daily family life, we do not often dwell on the concept of the best interest of the child, at least not to the extent of actively applying it. Instead, we engage in discussions about practical matters such as which summer camp our children should attend, how much screen time is too much, whether our children are ready to work in the summer months or during the school year,

whether we feel safe having them babysit other children, which school will give them more opportunities later on, what their gifts are and which one we should foster (or can afford to foster), and whether we should consult them for their input on such matters.

Parenting looks different in every family, and seeking the best interest of the child is the careful determination of what will be most beneficial for the child's well-being in the context of their family. It is recognizing that children are vulnerable, and we are called to protect them. Whatever decisions parents make, they should prioritize the needs of the children above all else, taking into account their specific family circumstances.

When it comes to family mediation, we approach the best interest of the child by actively involving the parents or guardians. Rather than leaving the decisions in the hands of a judge or arbitrator, parents are empowered to find their own solutions, considering the unique needs of their child and the unique needs and dynamics of their family.

While the romantic relationship between parents may have come to an end, the family continues to exist. It transitions into a new mode where the parents enter into a co-parenting relationship. They now operate in the "business" of co-parenting.

To make sound "business decisions" regarding what is the closest and dearest to their hearts—their children—parents need to establish key con-

siderations as they move forward. Good co-parenting relationships live by good, mutual understanding of what is expected and who is responsible.

Creating a family in two homes is often an emotional journey—in addition to the many legal considerations. The law gives a framework, and conflict resolution provides the ability to set up a path into the future. Hence, the following is not legal advice but a tool for building strong co-parenting dynamics, providing a solid foundation for children to flourish, and allowing parents to navigate their journey forward with positivity and growth.

Building a new family

Communication

Exploring communication styles and expectations around communication helps co-parents navigate future decision-making—for example, handling children over after a long weekend, organizing arrival of children for baseball practice, or setting up dentist appointment. Mediators and other professionals stress that it is not for the children to become the messen-



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gers. They are not to carry the information of when and where they need to be, nor should they carry the responsibility of inadequate communication between parents.

Consider this line of questioning: “What do you mean, your father didn’t bring you to your orthodontist appointment? Didn’t you remind him to do so?”

Such questions lay the responsibility on the child, not on the parents. Moreover, they might make the child feel the need to defend the other parent: “It wasn’t his fault. I totally forgot and didn’t want to go anyone.”

Parents have access to a wide range of communication tools—texting, email, phone calls, shared online calendars—many of which are free for parents to use. The development of co-parenting apps—some of which are free on their most basic levels—not only offer a calendar but also include messaging, file keeping, reminders to renew paperwork, and so on.

Parents of school-aged children are encouraged to be in contact with the child’s school and be on the email list. It is an additional measure to effectively navigate communication and minimize missed information and therefore reduce the possibility of comments like, “Once again you forgot to tell me about the school play. I never get to see her.” The respon-

sibility to inform the other co-parent regarding important school events no longer rests with one parent, and if an event is missed, the communication had been provided directly by the school.

Creating a stable and consistent environment

Under the old *Divorce Act* in Canada, parenting arrangements were referred to as “custody” and “access.” When the changes to the *Divorce Act*

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came into force on March 1, 2021, these terms were replaced with new language that focuses on parents’ responsibilities for their children and the tasks required to care for the children.

“Custody” and “access” are now referred to as “decision-making responsibility” and “parenting time.”² Custody and access are commonly associated with property ownership. These new

terms hopefully encourage parents to focus on the needs of their children instead of thinking that one has ownership of a child.

This shift in language can further the understanding of thinking about the best interest of the child. Decision-making is taking on the responsibility of making significant decisions for a child’s well-being and focuses on the following four areas: (1) health, (2) education, (3) religion and spirituality, and (4) and special activities. Parenting time is the time spent with the child.

Family mediators are trained to mediate parenting time and decision-making and therefore ensuring that a stable environment for the children is created. The more clarity there is regarding the parenting plan—times the children spend with one parent or the other, when and how long the children will stay with family for special holidays and with whom they are staying on Christmas Eve on even or uneven years—the less conflict the children are exposed to. An understanding of parenting time and decision-making responsibility and a dispute resolution mechanism create a path into the future for co-parents and children.

It should be understood that ethnic, cultural, and spiritual values are reflected in a parenting time plan. While a mediator is not familiar with

² These terms are used in most Canadian provinces. The use of legal terms might differ depending on jurisdiction.

every culture, ethnic, or spiritual expression, the mediator will validate these.

The child's needs come first

According to the Canadian government, “A court must give the primary consideration to the child’s physical, emotional and psychological safety, security and well-being. This means that your child’s safety, security and well-being are the most important thing that the court will take into account.”³ Courts must also consider a number of factors, such as the

child’s needs, in consideration of their age and stage of development, the relationship the child has with each parent, and if there are other siblings, grandparents, or important people in their lives.

Care arrangements, which were present before the separation, and any future plans regarding the care of the child, views, and preferences, as well as cultural, linguistic, religious and spiritu-

al upbringing, and heritage—including indigenous upbringing and heritage—have to be considered.

Considerations also include whether there is violence present in the home, whether parents are able and willing to look after the child, and whether they are willing to support a relationship with the other parent.

This list is not a closed list. Any factor that is relevant to the upbringing of a child can be taken into consideration.⁴

Fostering a positive relationship with both parents, family, and friends

We have often heard it said, *It takes a village to raise a child*. Support in child rearing is not only good for the parents; it is also beneficial for the child. Hence, it is relevant for children to continue to see, visit, and have meaningful relationships with those special people in their lives.

Communication between the parents has an impact on how these relationships are experienced for the child. Children needing to defend one

3 “Parenting arrangements after separation or divorce,” Government of Canada, <https://www.justice.gc.ca/eng/fl-df/fact-fiches.html>.

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parent to the other is just as unhelpful as needing to serve as a messenger between them.

Fostering relationship does not end with the parents. Grandparents, aunts, uncles, and cousins can also play a role—as could family friends, friends from the neighbourhood, or the neighbour across the fence who might help with babysitting. Not every one of these relationships needs to be enforced through law. It is about creating strong relationships to give children stability, a sense of belonging, and in a family that is undergoing change, adult awareness and recognition of the changes that are accruing.

Seek professional support

Counseling for children and teens, counseling for parents, and co-parenting education are all valuable tools to help families move forward and adjust to their new normal, a family in two homes. This does not mean that a trained professional will be forever in the child's life. They might be a travel partner for a short while to gain deeper understanding, a confidant outside of the family home, a reassuring presence for the child, and someone who can make sense out of what is going on in the child's life.

A separation is a lot for a child to comprehend. While parents try to be emotionally and physically present in a timely manner, they also have a lot to process themselves: grief, financial concerns, uncertain future, self-worth concerns, and so on. Seeking help and support is thus a sign of strength.

Moving forward

Some of the steps family mediators take separated couples through do not end with the separation and the realization that it is now one family in two homes. Many of these skills could be applied in any relationship.

Ongoing communication

Active listening, speaking respectfully, and being willing to compromise will be priority for years to come in a co-parenting relationship.

Conflict resolution

Creating pathways of nonviolent communication for conflict resolution will be essential in creating a stable home for the children and building a future.⁵ Nonviolent communication is a growing awareness of self and the way we talk and interact with each other.

5 Marshall B. Rosenberg, *Nonviolent Communication: A Language of Life*, 3rd ed. (Encinitas, CA: PuddleDancer, 2015).

Even with the best-laid plans, conflict between the co-parents can arise; returning to mediation provides a safe and neutral space for resolving conflicts within a constructive framework.

Building peace

Dorothy Thompson famously wrote, “Peace is not the absence of conflict but the presence of creative alternatives for responding to conflict—alternatives to passive or aggressive responses, alternatives to violence.” Ultimately, the best interest of the child should always be at the forefront of any family. By working together and putting their child’s needs first, parents can create a co-parenting environment that promotes stability, consistency, and emotional well-being for their child and enables the child to thrive. Doing so builds peace for our children.

About the author

Cathrin van Sintern-Dick is an accredited family mediator and intergenerational mediator with the Ontario Association for Family Mediation since 2023. She is an ordained minister with Mennonite Church Eastern Canada. Cathrin immigrated to Canada from Germany in 2003. She calls Southwestern Ontario her home, admittedly the longest she has ever lived anywhere.