

## A Critical Analysis of the First Empirical Research Study on Child Relocation

By  
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Family courts have had to determine whether to allow custodial parents to relocate with their children, against the wishes of the noncustodial parents, to a residence of significant geographical distance from the noncustodial parent. In addition to such a move being against the noncustodial parent's wishes, psychologists have had concern about the effects on the children from no longer having easy access to the parent who is left behind. Would such relocations harm the children and damage their relationships with the noncustodial parents? Would allowing the children to move with the custodial parents be beneficial to the children?

Wallerstein's *Amica Curiae Brief*<sup>1</sup> was an initial landmark document in child relocation and it argued that children's best interests were best served by allowing the custodial parents, mostly mothers, to relocate with children even if it meant being away from the noncustodial parent. The present article will summarize that *Amica Curiae Brief* and the research literature that contradicts Wallerstein's position. Braver, Ellman, and Fabricius<sup>2</sup> provided the first empirical study on the effects of par-

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<sup>1</sup> Judith S. Wallerstein, *Amica Curiae Brief of Dr. Judith S. Wallerstein, PhD.*, filed in Cause No. S046116, *In re Marriage of Burgess*, Supreme Court of the State of California, Dec. 7, 1995 [hereinafter *Burgess Amica Brief*]. See also Judith S. Wallerstein & Tony J. Tanke, *To Move or Not to Move: Psychological and Legal Considerations in the Relocation of Children Following Divorce*, 30 FAM. L.Q. 305 (1996).

<sup>2</sup> Sanford L. Braver, et al., *Relocation of Children After Divorce and Children's Best Interests: New Evidence and Legal Considerations*, 17 J. FAM. PSYCHOL. 206 (2003).

ent relocation of the psychological functioning on the children at a time in their life when they were in college. A summary of these important research findings will be reviewed so that the courts can properly interpret Braver et al.'s data. This article evaluates what the social science literature and research indicates about the effects of parents' and children's relocation away from noncustodial parents to inform the legal system in the hopes of urging adaptations of legal rules to empirical realities.

### **I. Wallerstein's Amica Brief<sup>3</sup>**

A landmark case about relocation was *In re Marriage of Burgess*.<sup>4</sup> In that case, Judith Wallerstein, a famous psychologist who has studied the effects of divorce on children, presented her opinion on child relocation. She had conducted a twenty-five year longitudinal study on 131 post-divorced children from sixty families. Children were three to eighteen years of age when the study began. Wallerstein reinterviewed many of these people over the years up to twenty-five years after their parents divorced. She summarized results of that research on the effects of divorce in three books.<sup>5</sup> Although much information is now understood on the effects of divorce, it should be noted that Wallerstein did not quantify her data, precluding meaningful statistical comparisons between different families, children, ages, and gender. In addition, only six of the families in her study relocated during the course of this investigation. Wallerstein was only able to interview three of these mothers. Thus, Wallerstein had very little information about child relocation and was generalizing from the interview data that she collected about children of divorce.

Nevertheless, in the *Amica Curiae Brief* that she submitted in *In re Marriage of Burgess*, Wallerstein rendered her opinion that it was in the children's best interest to allow custodial par-

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<sup>3</sup> Wallerstein, *supra* note 1.

<sup>4</sup> 913 P.2d 473 (Cal. 1996).

<sup>5</sup> JUDITH S. WALLERSTEIN & SANDRA BLAKESLEE, *SECOND CHANCES: MEN, WOMEN, AND CHILDREN A DECADE AFTER DIVORCE* (1989); JUDITH S. WALLERSTEIN, SANDRA BLAKESLEE, & LEWIS, J., *THE UNEXPECTED LEGACY OF DIVORCE: A 25 YEAR LANDMARK STUDY* (2000); JUDITH S. WALLERSTEIN & JOAN BERLIN KELLY, *SURVIVING THE BREAKUP: HOW CHILDREN AND PARENTS COPE WITH DIVORCE* (1980).

ents, mostly mothers, to relocate with their children away from the noncustodial fathers. Wallerstein emphasized the centrality of the well-functioning custodial parent-child relationship as a protective factor from psychological problems during the post-divorce years. She reasoned that her studies of divorce have pointed out the major significance of the primary parent's relationship with the child in terms of their moral and emotional development. Wallerstein concluded that the effects of frequent and continued contact with the noncustodial parent had not been found to be central to engender the child's subsequent psychological well-being. It should be noted, however, that a review of the social science literature revealed no research studies collecting data directly measuring the psychological effects of parent relocation on the post-divorced child.<sup>6</sup>

Wallerstein's *Amica Curiae Brief* contributed to the California Supreme Court in *Burgess* setting a significant precedent in relocation cases. The *Burgess* Court held that the parent with primary custody has a presumptive right to relocate with his or her children. This could only be overcome if the noncustodial parent could demonstrate that changing custody from the relocating parent to the noncustodial parent was in the best interest of the children because of the harmful effects the children would suffer as a result of the relocation. The *Burgess* decision had far reaching effects. For example, relying on *Burgess*, the New Jersey Supreme Court in *Baures v. Lewis*<sup>7</sup> gives the parent with primary residential custody the presumptive right to relocate.

## II. Warshak's Critical Review of Wallerstein's *Amica Curiae Brief*

Richard Warshak, a clinical and research psychologist, provided an excellent and comprehensive analysis of the issues related to Wallerstein's *Amica Curiae Brief*.<sup>8</sup> Warshak disagreed with Wallerstein's opinion that courts should invoke a presumption favoring the custodial parent in child relocation decisions.

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<sup>6</sup> Marion Gindes, *The Psychological Effects of Relocation for Children of Divorce*, 10 J. AM. ACAD. MATRIM. LAW. 119 (1998).

<sup>7</sup> 770 A.2d 214, 230-31 (N.J. 2001).

<sup>8</sup> Richard A. Warshak, *Social Science and Children's Best Interests in Relocation Cases: Burgess Revisited*, 34 FAM. L.Q. 83 (2000).

Warshak further pointed out that Wallerstein only cited ten references supporting her *Amica Curiae Brief*. One article was authored by Wallerstein's colleague and Wallerstein solely authored one and co-authored five of these references. Warshak reviewed over seventy-five social science studies generally supporting that children of divorce are best served if both divorced parents stay near their children. He provided numerous examples of how Wallerstein ignored and contradicted her own past writings about the importance of the noncustodial parent to the child.<sup>9</sup> Warshak rightfully argued that Wallerstein took a skewed interpretation of a study on post-divorced fathers and their children.<sup>10</sup> This research minimized the importance of the father to a post-divorce child because the study was started in the 1970s when fathers saw little of their children following divorce. Subsequent studies, from the 1970s and into the 1980s, found greater interactions of divorced fathers with their children.<sup>11</sup>

Wallerstein's generalizations from her post-divorce studies to the effect of parent relocation on children's psychological functioning were not updated or accurate. Wallerstein cited Frank Furstenberg's research in support of her opinion on child relocation.<sup>12</sup> However, Wallerstein omitted Furstenberg's opinion that the minimal influence of post-divorced fathers on their children may be attributable to the noncustodial parent having too little contact with the child. The amount that the noncustodial parent is involved with the child would be expected to affect the child's psychological well-being. It should also be noted that Furstenberg's study solely obtained data about the children from the maternal custodial parent, and not from the actual children. Moreover, the parents in this sample divorced in the 1960s

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<sup>9</sup> *Id.* at 95-96.

<sup>10</sup> *Id.* at 86-87. See E. Mavis Hetherington & Margaret S. Hagan, *Divorced Fathers: Stress, Coping, and Adjustment*, in *THE FATHER'S ROLE: APPLIED PERSPECTIVES* 103, 117 (Michael E. Lamb ed., 1986).

<sup>11</sup> See Sanford L. Braver, et al., *A Longitudinal Study of Noncustodial Parent Without Childrens*, 7 *J. FAM. PSYCHOL.* 9 (1993); Joan B. Kelly, *Developing and Implementing Post-Divorce Parenting Plans: Does the Forum Make a Difference?*, in *NONRESIDENTIAL PARENTING: NEW VISTAS IN FAMILY LIVING* 136 (Charlene Depner & James Bray eds., 1993).

<sup>12</sup> See Frank F. Furstenberg, Jr., *Child Care After Divorce and Remarriage in IMPACT OF DIVORCE, SINGLE PARENTING, AND STEPPARENTING ON CHILDREN* 256 (E. Mavis Hetherington & Josephine Arasteh eds., 1988).

when noncustodial parents were less involved with their children's upbringing.

A number of studies that Warshak reviewed demonstrated the importance of the child-noncustodial parent relationship in fostering the psychological well-being. One study found a positive correlation between the frequency of the father's visitation with the child and the child's psychological adjustment.<sup>13</sup> This association is further strengthened when the custodial mother supported the father's continued involvement and also rated the father-child relationship in a favorable manner. Another study found a number of factors that have a positive association between the post-divorced child and the involvement of the noncustodial parent, whether father or mother.<sup>14</sup> These include frequent and longer visits, living in close proximity, participating in a wide range of activities, and spending holidays together. A national survey showed that the involvement of nonresidential fathers in their children's school activities reduced the probability that the child has been suspended or expelled from school or has repeated a grade.<sup>15</sup>

Warshak wrote about research in other fields that is relevant to understanding the effects of parent and child relocation away from the noncustodial parent. Numerous studies have demonstrated that the continuing frequent contact by the noncustodial parent results in a higher incidence of compliance with child support payments and a smaller percentage of the fathers dropping out of their children's lives.<sup>16</sup> Eighteen experts provided their group opinion that quantity, quality, and type of involvement of

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<sup>13</sup> See John Guidubaldi & Joseph D. Perry, *Divorce, Socioeconomic Status, and Children's Cognitive-Social Competence at School Entry*, 54 AM. J. ORTHOPSYCHIATRY 459 (1984).

<sup>14</sup> K. Alison Clarke-Stewart & Craig Hayward, *Advantages of Father Custody and Contact for the Psychological Well-Being of School-Age Children*, 17 J. APPLIED DEV. PSYCHOL. 239 (1996).

<sup>15</sup> Christine Winqvist Nord, et al., *Fathers' Involvement in Their Children's Schools*, U.S. Department of Education, National Center for Education Statistics (NCES #98-091) (1997), <http://nces.ed.gov/pubsearch/pubinfo.asp?pubid=98091> and <http://nces.ed.gov/pubs98/fathers>.

<sup>16</sup> SANFORD L. BRAVER & DIANE O'CONNELL, *DIVORCED DADS: SHATTERING THE MYTHS* 65 (1998); Furstenberg, *supra* note 12; Judith A. Seltzer, *Relationships Between Fathers and Children Who Live Apart: The Father's Role After Separation*, 53 J. MARRIAGE FAM. 79 (1991).

the noncustodial parent with their children were all important to the post-divorced child's well-being.<sup>17</sup>

Warshak also reviewed literature on the general effects of frequent relocation. These studies do not specifically address divorced families where one parent relocates while the other parent remains. However, this research showed that, in general, frequent relocation was correlated with lower academic performance and higher rates of depression, behavioral and interpersonal problems in post-divorced children.<sup>18</sup> A U.S. Census Bureau survey found an increased incidence of school failure and behavioral problems associated with frequent relocation.<sup>19</sup> This supports the relocation studies on divorced families that showed school age and pre-school age children had a higher incidence of psychological symptoms, behavioral problems, and social withdrawal with more frequent family moves.<sup>20</sup>

A study was conducted on college students who came from divorced families. These subjects were asked to rate the best custody of living arrangements once the parents have separated.<sup>21</sup> Seventy percent chose "equal amounts of time with each parent." Furthermore, 93% of those students who grew up spending equal

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<sup>17</sup> Michael E. Lamb, et al., *The Effects of Divorce and Custody Arrangements on Children's Behavior, Development, and Adjustment*, 35 *FAM. & CONCILIATION CTS. REV.* 393 (1997).

<sup>18</sup> G.P. Benson, et al., *Mobility in Sixth Graders as Related to Achievement, Adjustment, and Socioeconomic Status*, 16 *PSYCHOL. IN SCHOOLS* 444 (1979); A.C. Brown & Dennis K. Orthner, *Relocation and Personal Well-Being Among Early Adolescents*, 10 *J. EARLY ADOL.* 366 (1990); Patricia Cohen, et al., *Family Mobility as a Risk for Childhood Psychopathology*, in *EPIDEMIOLOGY AND THE PREVENTION OF MENTAL DISORDERS* (Brian Cooper & Thomas Helgason eds., 1989).

<sup>19</sup> David Wood, et al., *Impact of Family Relocation on Children's Growth, Development, School Function, and Behavior*, 270 *JAMA* 1334 (1993).

<sup>20</sup> William F. Hodges, et al., *The Cumulative Effect of Stress on Preschool Children of Divorced and Intact Families*, 46 *J. MARRIAGE & FAM.* 611 (1984); Jessica Pearson & Nancy Thoennes, *The Denial of Visitation Rights: A Preliminary Look at Its Incidence, Correlates, Antecedents, and Consequences*, 10 *LAW & POL'Y* 363 (1988); Arnold L. Stolberg & James M. Anker, *Cognitive and Behavioral Changes in Children Resulting from Parental Divorce and Consequent Environmental Changes*, 7 *J. DIVORCE* 23 (1983).

<sup>21</sup> Judith S. Wallerstein & Julia Lewis, *The Long-Term Impact of Divorce on Children*, 36 *FAM. & CONCILIATION CTS. REV.* 368 (1998).

amounts of time with both parents endorsed that this was the best living arrangement.

All of these studies were omitted from Wallerstein's *Amica Curiae Brief* and do not support Wallerstein's bias toward supporting child and parent relocation away from the noncustodial parent. Warshak did an excellent review of literature that was pertinent but not directly bearing on child relocation. A need clearly exists for an empirical study that provides information on the psychological effects of post-divorced children when the custodial or noncustodial parents relocate.

### **III. Braver, Ellman, & Fabricius's Study on Relocation**

#### *A. Study Results*

Braver et al. provided the first empirical study collecting data on parents' relocation or move away status after divorce and the associated psychological effects on their offspring.<sup>22</sup> The subjects in the Braver et al. study were 602 introductory psychology students. They completed a comprehensive questionnaire that contained some questions regarding whether their parents had divorced. Twenty-nine percent of all the students reported that their parents divorced, a rate of divorce that is similar to other studies.<sup>23</sup> The fact that this research took place in a state that precludes courts from requiring either parent to pay for college costs allowed researchers to assess parents' voluntary contribution to their children's academic expenses. The authors provided a detailed description of the independent and dependent variables in this study.<sup>24</sup> The independent variable was the move-away status of the parents following divorce. The questionnaire asks "Which of the following best describes whether either of your parents moved an hours drive away from what used to be the family home?" Potential answers covered all four possibilities of either parent being the custodial parent and either parent moving away. Besides the four choices generated, a fifth option

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<sup>22</sup> Sanford L. Braver, et al., *Relocation of Children After Divorce and Children's Best Interests: New Evidence and Legal Considerations*, 17 J. FAM. PSYCHOL. 206 (2003).

<sup>23</sup> *Id.* at 210.

<sup>24</sup> *Id.* at 211-212.

was that neither parent moved away. Self-report outcome variables that the researchers measured included parent's financial contributions to college expenses, the degree to which students worried about college expenses, perceptions of the parents as good supporters and role models, perceptions of the parents as being supportive, and the students' rating of their romantic and platonic relationships. They also collected data on such important psychological variables as the student's personal/emotional adjustment, hostility level, inner turmoil and distress from divorce, substance abuse, and general life satisfaction. The researchers also obtained a measure of the students' general health.

The results of the Braver et al. study are summarized in Table 1. In reference to the parents move-away status, 39% of families had neither parent relocating. Groups classified as the child relocating with the custodial mother and the group where the father moved away while the child and custodial mother remained each represented nearly 25% of the sample. The child remaining with the custodial father when the mother relocated was 8%. Relocating with the custodial father constituted the remaining 4% of the sample.

The results on the students of the five different parent move-away status groups and five sets of statistical comparisons appear in Table 1. The study made an omnibus comparison between all the different parent move-away status groups including when neither parent moved away. It also compared results between the group where neither parent moved away versus all the other parent move-away status groups. Data from students where neither parent moved away was compared to those who had moved with the custodial mother away from their noncustodial father. This comparison is the one most relevant to judges who decide whether to permit a custodial mother to move away with the children against the father's objections while the father remains. Another comparison was made for the students where neither parent moved away versus the students who remained



**Table 1**  
**Means for Outcome Variable, for Each of the Five Move-away Status Groups, and**  
**Significance Test Values**

Variable	Move-away status group					(as) test	(b) (1) vs. (2-5)	(c) (1) vs. (2)	(d) (1) vs. (5)	(e) (1) vs. (5)
	(1) Neither moved	(2) I moved with mom	(3) I remained with dad	(4) I moved with dad	(5) I remained with mom					
N	232	148	46	22	154					
%	39	25	8	4	26					
Total contributio to college (\$)	6,154	4,378	4,987	3,700	5,197	.01	.001	.05	ns	ns
Personal/emotional adjustment	20.57	20.23	19.26	17.31	21.16	ns	.06	ns	ns	ns
Hostility <sup>a</sup>	11.75	11.42	13.59	13.68	12.11	.01	.05	ns	ns	.05
Inner turmoil and distress from divorce	1.66	1.96	2.23	2.19	1.98	.001	.001	.01	.001	ns
Mom good supporter	11.99	12.33	8.65	7.14	12.54	.001	.001	ns	ns	ns
Dad good supporter	9.94	6.66	10.89	9.68	6.03	.001	.001	.001	.001	ns
Two good role models	21.90	19.08	19.77	16.82	18.56	.001	.001	.001	.001	ns
Parents get along	3.97	2.74	6.67	2.90	2.83	.001	.001	.001	.001	ns
Platonic relationship choices	5.50	5.52	5.24	5.05	5.35	ns	ns	ns	ns	ns
Romantic relationship choices	2.91	2.91	3.20	3.05	3.13	ns	ns	ns	ns	ns
Substance abuse	6.22	6.41	5.55	6.09	6.21	ns	ns	ns	ns	ns
Worry about college expenses	4.64	4.18	4.30	3.05	3.88	.05	.01	ns	.01	ns
Global health <sup>b</sup>	2.80	2.62	2.66	2.48	2.76	ns	.05	ns	ns	ns
General life satisfaction	5.80	5.78	5.47	5.05	5.81	ns	.05	ns	ns	ns

<sup>a</sup> Also significantly interacted with gender: Girls were more hostile and boys were less hostile when dad moved than when both parents remained.

<sup>b</sup> Also significantly interacted with gender: Girls were less healthy than boys in (2) than in (1).

\* Sanford Braver, Ira Ellman, William Fabricus, Relocation of Children After Divorce and Children's Best Interests: New Evidence and Legal Consideration, Journal of Family Psychology 17(2) June 2003, 206-219. Copyright © 2003 by American Psychological Association, Reprinted with permission.

with their mother while their father moved away. The last comparison was of the most common relocation situations of when the mother moves and takes her child with her versus when the father moves away and the mother and child remain behind.

Braver et al. made five statistical comparisons for all fourteen outcome variables on the effects on the post-divorced students. Thus, they conducted seventy statistical tests. The acceptable probability level the authors chose in the study was  $p = .05$ . This was an exceedingly high probability level given the numerous comparisons made.<sup>25</sup> Such probability levels made it too likely that false positives would occur, but could not be identified.<sup>26</sup> It is worth noting that the authors even wrote about findings as approaching significance  $p < .07$  as near significant  $p = .06$ .<sup>27</sup>

The authors examined perhaps as many as 140 comparisons. They included in their discussion section the findings of gender effects on some of the fourteen outcome variables for the five groups of comparisons.<sup>28</sup> For example, the authors wrote, “the only exceptions are worry about college expenses (where greater deficits are associated with the father moving), hostility (where greater deficits associated with the father moving for girls), and general global health (where greater deficits are associated with the mother moving for girls).” The reporting of these findings suggests that the authors looked at any gender effects that showed a statistical difference at *their* acceptable probability

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<sup>25</sup> J. RICK TURNER & JULIAN THAYER, INTRODUCTION TO ANALYSIS OF VARIANCE: DESIGN, ANALYSIS AND INTERPRETATION (2001).

<sup>26</sup> Braver et al. indicated that “all contrast  $p$  values are one-tailed, because a direction was predicted.” Braver et al., *supra* note 20, at 213 n.7. However, the opposite one-tailed test would be predicted by Wallerstein for one of the comparisons made by Braver et al. . When comparing children who relocated with their custodial mother away from the noncustodial father verses children where neither parent moved away but the custodial mother wished to relocate, Wallerstein would predict better psychological functioning in the former group. Wallerstein, *supra* note 1, There is, however, no way to know how many of the custodial mothers wished to move away but never did. Thus, this would lead to the application of two-tailed test. The probability level would have to be half. This would lead to a requirement that group differences be significant at the .005 level. For sake of simplicity, this paper did not apply the probability level of .005, but left it at .01.

<sup>27</sup> Braver, et al., *supra* note 22, at 213-214.

<sup>28</sup> *Id.* at 214.

level. Making 140 possible comparisons (14 variables x 5 group comparisons x 2 genders) would require a significance level of .005 or .001.

Surprisingly, the authors do not discuss the comparison that is most relevant to the court system: whether to allow custodial parents to relocate against a noncustodial parents' objection. This would have involved comparing situations where neither parent relocated to those in which the custodial father moved with the child away from the mother. There were twenty-two students who qualified for this latter group. No statistical comparisons were made for this group even though the researchers made what appear to be less relevant comparisons. Even more importantly, there was no discussion about the statistical comparisons the authors made between students whose parents never moved away after divorce versus students who moved with their custodial mother away from the father. This comparison is the most relevant to the courts in relocation cases as mothers are most often the custodial parent in sole custody cases. Braver's own research showed that the most frequent parent move-away status was when the custodial mother moved with the child away from the father (approximately 25% of the sample). Thus, discussion is needed between the statistical comparisons made between the students where neither parent moved away versus when the custodial mother moved with the child away from the father.

Five of the fourteen variables showed a statistical difference between the students whose parents did not move away versus the students who moved away with their custodial mother.<sup>29</sup> They were: total parental contributions to college; inner turmoil and distress from divorce; dad a good supporter; two good role models; parents perceived as getting along. The following variables were not significant at the .01 level when comparing students from these two groups: personal emotional adjustment; hostility; platonic relationship choices; romantic relationship choices; substance abuse; worry about college expenses; global

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<sup>29</sup> Please note that the criteria of a *p* at the .005 level might be appropriate in these comparisons. However, a lesser standard is used by applying the .01 level. This makes it more probable that differences between the groups would be found. Nevertheless, only 5 variables show a statistical difference at the .01 level.

health; global life satisfaction; mom good supporter. Thus, almost twice as many variables were not significantly different when comparing the groups of students where neither parent moved away versus when the child moved away with the custodial parent.

Out of the five variables that showed significant differences, only one reflected the students' current psychological functioning. This variable was "inner turmoil and stress from divorce." Even this variable would only affect current functioning when the student thought about his or her parents' divorce. Three of the four variables concerned perceptions about the parent. The remaining variable, which showed statistical significance, was not about the students' functioning, but assessed the total amount of money that parents contributed for college. Thus, almost all of the five measures that showed differences had nothing to do with the college students' current functioning, except for when they thought about their parents' divorce.

Contrast these five variables with the nine measures that did not show any statistical difference at the .01 level when comparing students where neither parent moved away to where the student had moved away with the custodial mother. The first eight listed above strike at the core of the students' psychological and physical functioning and health. All eight of these measures reflected the students' present functioning. Certainly the three measures "personal and emotional adjustments," "global health," and "global life satisfaction" are crucial measures of the students' current functioning. Difference in levels of substance abuse would also be of concern, but this difference did not exist in the data. College students are usually very concerned about their romantic and platonic relationships. Once again, there was no statistical difference between these particular students. It is interesting to note that even though a statistical difference existed between these different groups in parental college contribution levels, there was no such difference between these students regarding how much they worried about their college cost. The lack of a greater percentage of statistical differences between these two groups would not be expected according to Warshak and Braver et al.'s review of the literature.

Research literature helps to explain the lack of more statistical differences between the post-divorced students whose parents

never moved away compared to those who moved with their custodial mother away from their father. One study on the effects of parental divorce on college students found that students were becoming more accepting of their parents' divorce, but still had painful feelings, beliefs, and memories about it.<sup>30</sup> Interestingly, these students reported having few present psychological symptoms. This is similar to Braver et al.'s findings when comparing post-divorce students whose parents did not move versus the students who relocated with their mother away from their father.<sup>31</sup> This latter group in Braver et al.'s study experienced inner distress and turmoil when thinking about their parents' divorce, but did not experience significant higher degrees of personal/emotional maladjustment, generalized life dissatisfaction, hostility, or substance abuse.

A longitudinal study of 297 parents and their married offspring provides further insight into Braver et al.'s findings of the few statistical differences in the important psychological variables between the students whose parents did not move away compared to students who moved away with their mother.<sup>32</sup> This study found that discord in the marriages of the offspring of divorced parents was related to the marital discord of their parents that the offspring experienced and witnessed as a child. The transmission of marital problems into the offspring's own matrimonial life was mediated more by observing parental discord than if the parents got divorced. The authors reported that parents' jealousy, domineering behavior, getting angry easily, criticalness, moodiness, and absence of conversation all mediated about half of the found association between parents' reports of marital discord and offspring's reports of discord in their present marriage. If these parental behaviors affect offspring's own marital relationship more than a divorce does, it is not surprising that post-divorce parental relocation did not produce a significant effect on their romantic relationships between Braver et al.'s 2003

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<sup>30</sup> Lisa Laumann-Billings & Robert E. Emery, *Distress Among Young Adults from Divorced Families*, 14 J. FAM. PSYCHOL. 671 (2000).

<sup>31</sup> Braver, et al., *supra* note 22, at 212.

<sup>32</sup> Paul R. Amato & Alan Booth, *The Legacy of Parents' Marital Discord: Consequences for Children's Marital Quality*, 81 J. PERSONALITY & SOC. PSYCHOL. 627 (2001).

students where neither parent moved away versus the child moved with their mother away from their father.

In a third study, data was used from the National Institute of Child Health and Human Development Study of Early Child Care to study the effects of parents' divorce on the child who was no older than three years of age.<sup>33</sup> Later measurements of children's cognitive and social abilities, problematic behavior, and attachment security were influenced by the mother's income, education, ethnicity, child-rearing beliefs, depression, and behavior more than was influenced by parental separation. Similarly, these maternal characteristics could be more influential on the same psychological variables in studies by Braver et al. than the relocation status of the parents.

#### B. *Braver et al. on Criticisms of Their Own Study*

Braver et al. pointed out that the differences found in the five parent move-away status groups were not necessarily causing the differences on the outcome variables. They are, "of course, correlational, not causal."<sup>34</sup> Plausible alternative explanations for their findings on the fourteen dependent variables were provided by the authors.

The authors were also aware of the limitations in generalizing any conclusions about the general population of children from divorced parents since the subjects in their study were all college students. It may not be possible to generalize these findings to a population of children whose parents divorced, but were unable to or did not desire to attend college.

## IV. Summary

Braver et al. provided the first empirically based study examining the effects of post-divorce parental relocation on children's psychological functioning. This is in contrast to how Wallerstein presented her opinion about children's reactions to divorce and then generalized to make predictions about the ef-

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<sup>33</sup> K. Alison Clarke-Stewart, et al., *Effects of Parental Separation and Divorce on Very Young Children*, 14 J. FAM. PSYCHOL. 304 (2000).

<sup>34</sup> Braver, et al., *supra* note 22, at 214.

fects of relocation.<sup>35</sup> Wallerstein never provided quantitative data.

Braver et al. provided concrete data so that meaningful statistical comparisons can be conducted. This data provided support for Warshak's opinion that there was little scientific evidence to support a legal presumption presumptively approving the relocation decision of the custodial parent, as argued by Wallerstein's *Amica Curiae Brief*. Braver et al.'s data indicated that there should not be a burden of proof on the noncustodial parent to demonstrate that the relocation would be inimical to the children in order to preclude the child's relocation with the custodial parent. Braver et al.'s 2003 results also did not provide strong enough evidence to support the opinion that a custodial mother's relocation with the child away from the noncustodial father is, in general, detrimental to the child's psychological functioning. Only five of the fourteen variables showed significance. There were no significant differences between the groups on the remaining nine variables, which represented the students' current psychological and physical functioning. It would appear that Braver et al.'s study would suggest a preponderance of evidence criteria be applied to child relocation cases when courts are deciding whether to permit the custodial parent to move with a child away from the noncustodial parent.

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<sup>35</sup> *Burgess Amica Curiae Brief*, *supra* note 1.

