



## “Bonding” in the Child Placement Process A Psychological and Legal Perspective



The term “bonding” is frequently used but rarely defined. Nationwide, more than 397,000 children live in foster care.<sup>1</sup> When a court decides where to place a child whose primary residence has been shattered, certain guidelines must be followed. However, the lines between blood and bond are not so clearly drawn when a foster parent files to adopt the child for whom they have provided long-term care, and a previously unknown blood relative emerges to challenge the placement. Whatever guidelines are used, the court must still understand the child’s best interests. How does the court weigh the genetic relationship against the parent-in-place? When properly defined and understood, bonding merits serious consideration. In short, bonding matters. The unnecessary disruption of existing bonds can have devastating consequences.

### What is Bonding?

For the child welfare system to give bonding the attention it rightfully deserves, the concept must be objectively defined and carefully explicated so that courts and departments of human services can implement it. The following definition of bonding is proposed: Bonding is a significant reciprocal attachment that both parties want and expect to continue, and which, if interrupted or terminated, may result in considerable jeopardy to the parties involved.

Four practical means to evaluate the existence of bonding are proposed. Any one of them is sufficient to demonstrate that bonding has occurred.

**1. Time.** Bonding is possible after three months, probable after six, and overwhelmingly likely after 12 months of constant daily contact. This is a

simple restatement of the research-based timelines contained in the Adoption and Safe Families Act.

**2. Behavior.** Research shows that bonding can be assessed by the way a child acts. Based upon this research, many bonding checklists have been developed. Two good examples are Keck’s list of attachment disorders from the Ohio Attachment and Bonding Center<sup>2</sup> and the Randolph Attachment Disorder Questionnaire.<sup>3</sup> Kenny and Kenny<sup>4</sup> have summarized multiple bonding behaviors in their Universal Bonding Checklist.

**3. Reciprocal Attachment.** Measuring the interaction between parent and child is a third way to measure bonding. A two-way street, it can be measured by the strength of the parties’ mutual promises and

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commitment. The bonded parent is the one who wants to raise the child indefinitely, through good times and bad, through joy and heartbreak. A daily journal kept regularly by foster-to-adopt parents can offer compelling documentation of this ongoing interaction and commitment. Such a detailed history of the time parents and child have lived together provides a practical measure of how connected they are. The child's willingness to respond to and accept that promise should also be considered. Depending on the child's age, the commitment may be expressed verbally or implied from the child's behavior. Stokes and Strothman<sup>5</sup> focus on this mutual interplay in presenting their structured dyadic interview to assess the strength of the parent-child relationship. Arredondo and Edwards<sup>6</sup> posit a "reciprocal connectedness," which they describe as a mutual interrelatedness characterized by reciprocity and developmental sensitivity.

**4. Family Identification.** The wisdom of the larger community attests to whether the child is perceived as a family member. The community knows who belongs to whom. To demonstrate bonding using the "family identification" criteria, the evaluator may wish to include statements from the extended family, teachers, friends, and neighbors. As Pollack<sup>7</sup> notes: "When a child is placed in a foster home it is the responsibility of the placing agency to evaluate the prospective home by considering its environmental, physical, emotional, medical, and educational benefits and hazards. Finding a compatible foster home is not just a question of finding the right foster parents. If there are other children in the home they are also crucial to the selection process."

### **Bonding Is Biological**

How the brain develops hinges on a complex interplay between the genes we are born with and the experiences we have. Evidence has emerged suggesting that the ongoing physical structure of the brain is not simply

genetically determined, but depends on activity, experience, attachment, and stimulation. Some synaptic connections, those that are formed early in life and strengthened by day-to-day contact over a period of 3 to 12 months, are relatively permanent. By age three, an infant's brain will have progressed dramatically, producing hundreds of trillions of connections in the synapses between neurons. Eliot<sup>8</sup> comments on the results of multiple experiments in human development in the first five years: "A young child's environment directly and permanently influences the structure and eventual function of his or her brain ..."

Circuitry reflecting these experiences can now be observed. Brain scans of pre-school children have provided physical evidence of a fast-growing network of neuronal connections.<sup>9</sup>

### **Courts Recognize Bonding in Deciding Child Placement**

Seemingly, courts have traditionally favored genetics over emotional and psychological bonds, perhaps due in part to a lack of knowledge about child development and an overly attentive ear to the birth parents. Non-biological parents who have already cared for the child for an extended time period may have trouble being heard in court. As a result of increased knowledge of child psychology and changing policies about who has legal standing in child placement matters, some courts have begun to shift that stance. In addition, some courts have developed a vocabulary of their own in defining bonding. The following are a few key phrases and concepts from appellate court decisions that may be helpful in determining a child's best interests:

■ Compelling state interest in the prevention of emotional harm to a child justifies interference with parent's due process rights. In the Interest of E.L.M.C., P.3d 546 (Colo. App. 2004).

■ "[E]xamples of extraordinary circumstances ... include ... disruption of custody ... attachment of child to the custodian ... biological parent's abdication of parental rights ... and child's poor relationship with the biological parent." Matter of Banks v. Banks, 285 A.D.2d 686, 687 (N.Y. App. Div. 2001).

■ "[A] non-parent who has a significant connection with the child has standing to assert a claim for custody." Buness v. Gillen, 781 P.2d 985, 986 (Alaska 1989).

■ "[A] psychological parent is one who, on a continuing, day-to-day basis, through interaction, companionship, interplay, and mutuality, fulfills the child's psychological needs for a parent ..." In re Clifford K., 217 W. Va. 625, 643 (W. Va. 2005).

■ "the bond between the foster family and the child is a critical factor." In re Interest of J.A., 42 P. 3d 215 (Kansas, 2002).

■ Some other terms that appear repeatedly in appellate court decisions favoring bonding include "continuity of care," "risks of transition," "a father in the terms that matter most," and "significant emotional bond." Kenny and Kenny provide more detail on the language that appellate courts have used to define bonding.

### **Misconceptions About Bonding**

Imprecise use of the word "bonding" has led to several misconceptions.

**Misconception One:** "Good bonders" can learn to bond easily and repeatedly. Some professionals have mistakenly believed that multiple placements teach children how to bond easily. Tragically, this is not true. Learning good manners and how to get along pleasantly and superficially is surely a skill, but it is very different from bonding. Good manners do not indicate bonding. They are superficial, a veneer to get along, a survival skill that some foster children have mastered out of necessity.

**Misconception Two:** Bonding can develop through regular visitation. People may become acquainted in that way but bonding does not occur with intermittent contact. Bonding can occur when people come together, day after day, in elemental ways and meet one another's basic needs for food, shelter, play, friendship, and love.

**Misconception Three:** Bonding therapy can remedy any problems stemming from the loss of a significant attachment. This opinion is overly optimistic. A child's early loss of a bonded caregiver colors future relationships with suspicion. This attitude may be pre-verbal and deeply embedded. Love and the best of therapies are frequently blocked by the hurt child's innate distrust, fear, and disbelief.

**Misconception Four:** Kinship is a blood tie and must come first, no matter when or with whom. The words "relative" and "related" obviously have the same root. Blood is one way people are related, but bonding is another. The critical questions are: Which relationships are most important for this child? To whom is the child most closely related overall? By presuming that genes come before bonding, this misconception negates the child's significant attachment in favor of a relative who may emerge after other vital connections have already been formed.

Sibling connections may be a lifeline, but some research has found that, in certain cases, sibling separation can actually lessen conflict and sibling rivalry.<sup>10</sup> Other situations where sibling "separation should be considered include instances of violent behavior, which may include emotional, physical, or sexual abuse, occurring within the sibling set."<sup>11</sup>

## Conclusion

An objective and evidentiary definition of bonding is critical. Bonding is more than an intense emotional feeling. The term "bonding" is best used to describe the tipping point, that line in a relationship when the attachment has reached a level where its disruption may precipitate significant harm, either immediate or delayed. Extensive research has

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shown a high correlation between interrupted bonds and the possibility that the child will experience problems with mental health, criminal activity, homelessness, poverty, and other serious life issues.

The importance of bonding is defined and supported by socio-psychological research and by many court decisions. In addition, brain scans have recently provided clear evidence that brain structure is not simply genetically determined. As a result of brain research, relationships can no longer be referred to as merely psychological. Bonding designates a significant relationship, more important than mere attachment. Kinship is easy to identify and is frequently given precedence. Bonding needs to be given equal weight and defined objectively in ways that can be presented in child welfare and legal settings. 📄

## Reference Notes

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