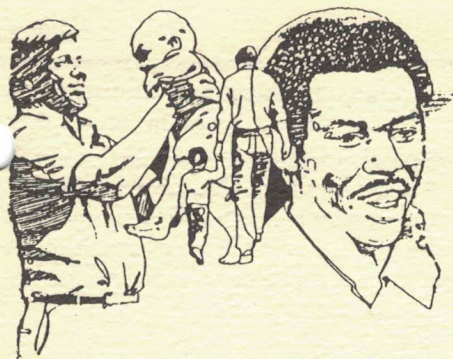


# Today's Dads

June, 1990 \* Volume 3, No. 6

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COURT RECORDS EXPOSE THE PROBLEM

## Child custody is a gender bias issue

For the past six months, Fathers for Equality & Justice, has been conducting a study of Dane County divorce records. The findings were presented on June 1 to Wisconsin's Equal Justice Task Force, which has been seeking evidence of gender bias in state courts. They represent solid evidence of *de facto* discrimination against dads, the same kind of discrimination that prompted the establishment of affirmative action programs for others.

We discovered that for the 252 cases examined, 99% were settled out of court by agreements between the parents, including questions of custody, contact with the children, child support and maintenance. Only 9% of the fathers emerged from divorce with a primary role in their children's lives. The rest settled for various forms of sole and joint custody which left them in a subordinate position with regard to the care and custody of their children.

University of Wisconsin researchers, Sara McLanahan and Karen Booth, concluded in their own research that "evidence overwhelmingly suggests that children who grow up with both parents are better off as adults than children who live apart from one parent." The typical, divorced Dane County father, however, is not going to the mat to give his children that important edge in life. We have no reason to believe that fathers in other communities try harder.

Cynics may argue that men simply don't care and are content to let their children go for selfish benefits. We don't believe that for one moment. Our experience counseling thousands of men over the past 2 1/2 years indicates that men surrender without a fight because they feel the system is stacked against them. A majority of these men would be living with and raising their children if they had confidence the courts would give them an equal opportunity.

Evidence of judicial gender discrimination also appeared incidentally during our study. In a 1987 decision which led to an appeal, a circuit court judge said "all other things being equal, children normally go to their mother." Another judge, according to the trial transcript, laid the problem open for men by stating, "we're really unfair to men. We treat women differently. We treat them with kid gloves." The message that men can't win in divorce courts is passed on to already discouraged men by their lawyers, who have an ethical

responsibility to tell it like it is. What sensible father will risk thousands of dollars and the welfare of the children he loves in a hopeless custody battle?

Gender discrimination in family law is the insidious counterpart of gender discrimination in the workplace. Even when legislators write gender neutral laws, they can be twisted and interpreted in the courts according to longstanding, subjective notions of how men and women should behave.

Discrimination lurks in language and customs. For instance, the word nurturing suggests female parenting. Behavior more typical of mothers, such as emotional support, is commonly used as a primary criterion to evaluate fathers contesting custody, thus devaluing the uniqueness of father love and care. The very word "fathering" suggests only the act of creating a child, requiring men to prove that they can "mother" to qualify for custody or significant time with their children.

Most family law professionals will admit that it simply isn't enough to be a good dad; to win a custody battle, the mother must be proven unfit. Since most parents are as fit as anyone can judge, mothers who want custody almost always get it. Why not have laws that prohibit taking away custody except when a parent is proven unfit? Then, the natural state of joint custody would be presumed and good parents would never be deprived of the responsibility and the right to care for their children. Putting the burden of proof upon those who seek to exclude a parent from a child's life would mean far fewer children growing up without two contributing parents.

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**\* Note - No June Meeting \***

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## Fathers bear higher cost for co-parenting

From the FEJ Court Records Study, comes striking support for claims that child support is strictly a man's problem. Based on an evaluation of cases where mothers and fathers fully share custody and care of the children, not a single instance was found where mothers are obligated for child support.

These data are based upon two special circumstances: the parents have either split legal custody of the children or share physical custody on a 50/50 basis. In the former case, each parent is separately responsible for the raising of one or more of their children and the other is a subordinated parent. In the latter case, the parents have agreed to

share the responsibilities and joy of parenting to the maximum degree possible. Out of 252 cases in the study, there were 7 split custody cases and 13 joint custody cases with 50/50 sharing.

In the split custody cases, 71% of the male custodial parents paid child support to the female custodial parents. None of the mothers were obligated to pay, and the remaining 29% was accounted for by zero awards of child support (neither parent ordered to pay).

In the 50/50 joint custody cases, 62% of the fathers paid to the mothers. None of the mothers paid to the fathers, and the remaining 38% was accounted for by zero awards.

None of the obligations upon the fathers were for the full amounts specified under the Wisconsin Child Support Guidelines. In all but one case (a zero award), the father had the higher income between the parents.

These latter observations suggest that, for these relatively unusual equal parenting situations, courts are taking into consideration both parent's incomes and the equitable child raising commitments of the parents. A preliminary analysis of the data, however, suggests that when full equality is not present (for instance, children are with the father 30-49% of the time), courts do not fairly consider dual incomes and substantial time-sharing. The lesson for fathers is clear--fathers will be economically penalized for co-parenting unless they establish full equality with the mother.

## Who initiates divorce?

Mothers initiate divorces three times as often as fathers (61% mothers versus 21% fathers), according to the FEJ Court Records Study. This finding is based on 252 divorces filed in Dane County in 1987, all of which involved minor children. The data also showed that joint filings occurred at nearly the same rate as father filings (18% joint).

Fathers initiated the divorce in 8 (73%) of the 11 cases in which they received sole custody (4% of the total). Of the remaining three father custody cases, mothers filed two and one was filed jointly. The 8 cases resulting in father custody represented 15% of the 52 cases filed by fathers.

Fathers initiated the divorce in 3 of 11 cases in which joint custody was retained with the father the primary parent. Of the remaining 8 of these joint custody cases, mothers filed 4 and 4 were filed jointly.

These data strongly suggest that mothers are much more likely than fathers to see advantages in divorce, the feminism of poverty notwithstanding. Fathers receive custody of the children 4 times more often than the average when they are the one deciding to divorce. Only 1 of the father custody cases went to trial, showing general acquiescence by these few mothers in their loss of custody. Men who gain sole custody of their children through divorce appear to do so only when the mother defaults, although no fault divorce laws prevent confirmation of that hypothesis from public records.

If fathers had an equal opportunity to emerge from divorce in charge of the children, perhaps they might be as willing to initiate divorce as women. That, however, would not serve the best interests of the children any more than mother-initiated divorce.

Our data, however, shows one outcome where the incentive to divorce appears balanced between fathers and mothers. This occurs for a joint custody outcome where the father becomes the primary parent (see the results above). Perhaps just enough power is transferred in that arrangement from mothers to fathers to discourage mothers from divorcing without excessively encouraging fathers. Is this the in-between ground we seek that minimizes divorce and enhances the prospects that children mature with both parents?

### TODAY'S DADS

A moderate voice for children whose parents are not married.  
 \* Seeking fairness, equality and justice in divorce and paternity actions. \* Advocating diminished use of sole custody and preservation of family ties. \* Promoting shared parenting and a child's right to equal access to both parents. \* Reminding courts that both parents have a responsibility to provide child support.  
 \* Opposing false allegations of battering or abuse to gain the upper hand in custody or visitation disputes.

*Today's Dads*, published monthly, is a source of information on father's issues. It is a forum for writers in the field of family law and practice. Publication preference is given to relevant news items, letters to the editor and original articles. Contributors are asked to emphasize facts, cite sources and aim at constructive solutions to problems. Names of authors printed except under unusual circumstances and upon written request. Views expressed not necessarily those of Fathers for Equality & Justice, its members, officers, or Board of Directors unless specifically stated. Deadline for submissions is the first day of each month.

Advertising and donations encouraged to help support *Today's Dads*. Rates include a half-price member discount. Reprint permission granted provided *Today's Dads* and respective authors are credited. A reprint tearsheet would be appreciated.

Participation in FEJ is by membership available to anyone over 18 years of age. Dues are normally \$40 yearly; for a limited time, dues are \$30 to new members. Renewal is \$35. Members receive *Today's Dads* free and are eligible for leadership positions in FEJ. Subscription to *Today's Dads* without membership is \$20 yearly.

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[608] ALL-DADS

## The WriteConnection pays

In this issue is a brochure supplied by Positive Parenting, Inc. for its program, *The WriteConnection*. We urge you to give this program a try, for you, for your kids and for Fathers for Equality & Justice.

You will read in the brochure a special reduced price of \$29.95 for Starter Kits. This offer is being made to fathers groups nationally. Plus, for each Starter Kit purchased through Today's Dads, Positive Parenting will donate \$5.00 to FEJ. Just write on the order form that you learned about it here.

One good reason to recommend *WriteConnection* is that it was designed specifically to aid divorced fathers and their children. Melanie Rahn, its creator, was inspired by the struggle of a male friend who became depressed and unmotivated after being separated from his child. She joined Arizona Fathers and Children Together and later became a Board Member of the National Congress for Men. She writes that telephone calls she answered for NCM "reinforced [her] belief that fathers were longing to stay emotionally connected to their children after divorce."

If your copy of the *WriteConnection* brochure is missing, call 608/ALL-DADS for another copy. And, please let us know what you think of it.

## A stepmother writes

[Following is a letter copied to FEJ that a stepmother wrote to her state Assembly and Senate representatives.]

Dear Representative \_\_\_\_\_ :

It has recently come to my attention that there is a gross injustice in the Wisconsin law system that needs your attention. As a stepmother who recently went through the court system to gain visitation privileges, I learned how incredibly unfair Wisconsin law is to fathers.

Are you aware that the mother can and always will get support through garnishment of wages but there is no guarantee that the father can see his child? If she decides to go out of town for a weekend during our visitation, we lose out. We would have to take her to court, but we would not be given back our time.

We were forbidden by the mother to see my husband's child for 6 months, during which time we missed her learning to walk and talk. How do you get that back? It's lost to us forever. But she can get child support for that entire time regardless of not allowing the father any visitation for over six months. If you can find one ounce of justice in that, please explain it to me.

I must also ask why it is assumed that the mother has custody of the child? Even though the father may be a better parent--more stable, more loving, better educated--he cannot get custody unless he can prove the mother is unfit. The only way to do that is to prove some sort of abuse. Even if the mother is illiterate and emotionally unstable, unless she strikes the child and leaves a mark, the father has no way to gain custody. I ask you, is that in the best interest of the child?

Finally, why is child support so financially damaging to fathers? I'm not trying to say there shouldn't be any. We want to do our part to support the child. But the mother is remarried and hasn't been working, which means she has no extra child care costs. Yet, we still pay her 17% of gross earnings, plus health insurance, plus half of tuition for school. She pays no tax on the money we give her but can take credit for child care on her taxes. We get none. She has a new house, a pool, camcorder and new furniture. We have a small apartment with holes in the carpet and hand-me-downs from our parents. Can you tell me where the justice is in that?

Not all fathers are willing to take responsibility for their children. The current system is for them. But what about the fathers who really care, those who want custody or simply ample visitation? This system does nothing but

punish them. It simply must be changed. Because a woman carried a child in her body, she is not automatically best suited to take care of that child.

I know there are thousands of others in this state who have endured the same injustices. Will you please help?

Jayne Jenks  
Beloit, Wisconsin

## Dads important for empathy

by Marilyn Elias,  
USA TODAY

Fathers who spend more time with their young children appear to have an important influence on how compassionate they will be as adults. Parental involvement was the single strongest, parent-related factor in adult empathy, a 26-year study suggests. The father's influence "was quite astonishing," says psychologist Richard Koestner, McGill University, Montreal.

Koestner and Harvard University's Carol Franz used personality tests to determine compassion and sympathy. The subjects were 75 of an original 379 children who were 5 when the study began. Among the findings,

- Dads who spent time alone with kids more than twice a week, giving baths, meals and basic care, reared the most compassionate adults.
- Moms who were most accepting of a child's dependency but curbed aggression also helped foster empathy.
- Both parents' involvement was equally important for sons and daughters.

"Children learn to be emotionally responsive when adults are responsive to them," says Koestner. Earlier studies have linked their fathers' involvement to higher self-esteem, better grades and more sociability.

## Child access money bypassing Wisconsin

Those who have been reading *Today's Dads* for the past year know the efforts we have made to encourage Wisconsin to be among the states applying for a Child Access Demonstration grant. Child access, known also as visitation and physical custody, was identified in the Family Support Act of 1988 as a problem worthy of federal inquiry. Funding for demonstration grants was approved in the fall of 1989 and announced in April, 1990.

The news from Wisconsin on this funding opportunity is not good. Our state will not submit an application because it became impossible to respond competently. By the time appropriate resources were lined up to make a real try, it was too late. It now appears that the best Wisconsin will be able to do is to ask for a time extension, hoping to preserve some degree of eligibility.

Perhaps it was unrealistic to think that a state known throughout the world for its ability to collect child support would make the same high-level commitment to emotional ties between parent and child. The two have clearly been separated in the law--failure to pay child support may not be used in retaliation for interference with access and vice versa. Nevertheless, the federal announcement challenged that dissociation by offering to pay states to show that treatments designed to improve compliance with access orders could improve child support. Still, Wisconsin wasn't tempted. It will take more than a \$300,000 lure to get Wisconsin to look into the access problem.

We send thanks to the fifteen legislators in the state Assembly and Senate who either met with us or signed on to a letter of endorsement prepared by Representative Shirley Krug. We also thank those in the Department of Health & Human Services who helped, although the environment was unfavorable and, eventually, the situation hopeless.

Those of you with a child access problem might want to express your disappointment to your legislators, to Secretary Goodrich of DHSS and in a letter to the Editor here. With enough public interest, there is a possibility that a private foundation could be persuaded to fund an initiative on the issue. In that event, we might want to include grandparent access too, which was absent from the Child Access Demonstration program.

## Exceptional dads recognized

Fathers battled it out for Single Parent of the Year awards, given annually by Parents Without Partners. The International winner in 1990 is Richard Bouziane, a divorced father living in Janesville, Wisconsin. Richard will receive his award in Winnepeg, Canada in July.

The Milwaukee chapter of PWP nominated Michael Miller, also a divorced father. A friend, writing to PWP on Miller's behalf, explained "he clearly demonstrates an exceptional ability to care for his daughter and place her needs above those of his." Miller said "I believe [Marissa] is the biggest part of my life. She has my highest priority."

Candidates for Single Parent of the Year are judged on personal development, parent-child relationship, community involvement, career achievements and education. Autobiographical information is also important.

## Parents Without Partners

According to Madison Chapter President, Bob Nuti, Parents Without Partners exists for single parents who like to get together. Bob said, "we share common experiences and have fun at the same time." Men and women are equally welcome and involved.

Those wishing to know more about PWP are encouraged to call 251-3390. The Madison Chapter meets twice monthly, on the 1st Thursday at the Monona Community Center and the 3rd Wednesday at Corby's. Meetings start at 7:30 and generally run until 9:30, with adjournment to dancing a common end to the evening.

## Fundraising approval granted to FEJ

Our application to join the Combined Federal Campaign in 1990-91 was approved in May. This means that Fathers for Equality & Justice will be included in the fundraising drive conducted for federal employees in Dane County.

We invite those of you who work for a federal agency, such as the U.S. Postal Service, to contact us through the ALL-DADS number so that we can work out ways to make FEJ more visible in your workplace. Not only is this likely to enhance contributions that will benefit FEJ, but it will give new meaning to the old expression "charity begins at home" by showing that dads are included too.

## Male housemate wanted

Jim Novak informs us that he will have a vacancy soon in his near-eastside home. A joint custodial father with half-time physical custody, Jim is looking for a divorced or separated father. Best of all, he says, would be a man with a son around the age of his son, Todd, who is 14. Also, a non-smoker without pets is preferred.

If you or someone you know mostly meets these qualifications, give Jim a call at 249-5576. Aside from the pleasure of sharing an unusually well-kept house, the lucky renter may have an opportunity to enjoy a meal prepared by one of the best cooks of Madison, notwithstanding gender or membership in FEJ.

## Divorced fathers don't stick around

by Tamar Lewin  
New York Times

While it has long been common knowledge that many poor children, especially those whose parents never wed, had little contact with their fathers, a research paper found the phenomenon of the disappearing father alarmingly widespread.

The paper, by Frank Furstenberg and Kathleen Mullan Harris, both of the University of Pennsylvania, was based on a study that followed more than 1,000 children in disrupted families nationwide from 1976 to 1987. The families were selected to be a representative sample, mirroring the general population on factors like race, geography, income and education.

Some of the findings:

- More than half the children whose fathers did not live with them had never been in the father's home.
- Forty-two percent had not seen their fathers at all in the previous year.
- Only 20 percent slept at the father's house in a typical month.
- Only 1 in 6 (17%) saw the father once a week or more, on average.

The problem of maintaining contact with an absent father affects millions of children, and the number is growing. More than 21 percent of all American children lived in families headed by women in 1988, almost twice the percentage that did so in 1970.

Children's advocates say it is difficult to find a policy solution that would change the behavior of fathers. "You can't legislate a parent to have a good relationship with a child," said David Liederman, executive director of the Child Welfare League of America in Washington.

*From page one*  
**Custody bias**

If fathers can't or won't do it, then what about society's stake in the psychological health of its children? If, as representatives of society, we accept the premise that two parents are very important, what laws, rules and practices should we favor to promote continued joint custody and care? How can scared, unprepared or overwhelmed fathers be helped to go on trying for the love of their children?

Today, there is nothing of the carrot for fathers--only the stick. The same philosophy that says that women are needed in the workplace should be in place for fathers needed in the home. Both sexes should be actively assisted to cross gender barriers.

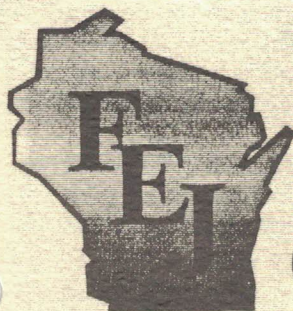
Judith Wallerstein, who recently reported in *Second Chances*, a poor, long-term prognosis for children of divorce, wrote, "to state it plainly, we are allowing our children to bear the psychological, economic and moral brunt of divorce." The divorce system is broken. More mother custody won't fix it. Children need their fathers, and fathers will respond when they are assured of equal justice in the courts.

## Joint custody not on the feminist agenda

Lenore Weitzman, in 1985, attracted nationwide attention with her report in *The Divorce Revolution* that, "on the average, divorced women and their minor children in their households experience a 73 percent decline in their standard of living in the first year after divorce. Their former husbands, in contrast, experience a 42 percent rise in their standard of living."

Jed Abraham, writing in the *American Journal of Family Law*, argues that *The Divorce Revolution* "is not an objective, scientific treatise; it is a feminist tract with a political agenda."

Abraham counters that "If divorcing parents were obligated as much as possible to share their children's needs, emotionally as well as financially, in a joint custody arrangement, Weitzman's economic argument would lose all weight. In one stroke, this approach



**Kids need both Parents**  
**call: 608/ALL-DADS**

would bring the post-divorce income/needs ratios of the parents closer to parity and salvage for the children the advantages of an uninterrupted parental relationship with both parents. Joint custody, of course, will not eliminate the larger, non-marital component of the wage differential between men and women. But this issue cannot--and should not--be addressed within the narrow confines of divorce and custody law." (Emphasis added.)

### Novak seeks Task Force records

Citing provisions of the Wisconsin open records Law, Jim Novak in May, 1990 asked for and received copies of documents from the Equal Justice Task Force. On June 8, he submitted a second request to examine Task Force records. His second request was directed to Honorable Susan Steingass, Chairperson of the Task Force, with copies to the Attorney General's Office and Capital Times.

Novak charged in *Today's Dads* (May, 1990) that "there can be no doubt the Equal Justice Task Force is designed primarily to examine women's issues in the courts." He claims that the Task Force is not living up to its responsibility and its own declared intent to be even-handed in investigating bias against men and women in the courts.

Novak takes issue with Judge Steingass's earlier position that the Task Force may not be legally obligated to submit to an open records request. While her response to his first request was "in the spirit of openness and cooperation," he insists that the Task Force is a Committee of the Wisconsin Supreme Court and must comply. He has asked for her response by June 12.

### Of pickets, picnics and parties

By all accounts, the PICKET at the Dane County City-County building on June 1 was a success. Approximately 20 people participated, some we didn't know at first. Inside, the Equal Justice Task Force was having its last public

hearing on gender bias. Thirteen FEJ members gave testimony.

Gender bias was discussed with reporters on the sidewalk too. The Capital times quoted Bill Fetzner as saying "we want to send a message that dads want to be more involved in the lives of their children, but laws and gender bias are keeping them out."

Another PICKET will be held at noon on Friday, June 15 to explain that Father's Day is not a day for celebration until all fathers have an equal opportunity to raise their children. All supporters, please be there.

The annual FEJ Father's Day PICNIC is scheduled for Vilas Park on Sunday, June 17 at 1:00. We provide the hot coals, condiments and beverages. You bring your main dish, a salad or desert to pass (serving 6-8) and your own eating utensils. Everyone invited!

Finally, activities for June will conclude on Saturday night, June 30, with Bennett Stark's half-century birthday PARTY. Come see what 50 years (and a divorce) can do to a man. RSVP to Bill Fetzner at 256-2007.

## Fathers for Equality & Justice, Inc.

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### Forward & Address Correction

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