

Bringing Back the Dads



The Importance of Paternal and Paternal Kin Engagement, and Practical Suggestions

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Non-Resident Fathers QIC:



- American Humane Association
- **ABA Center on Children and the Law**
- National Fatherhood Initiative

Under Cooperative Agreement with:
Children's Bureau
Administration on Children, Youth and Families
Administration of Children and Families
U.S. Department of Health and Human Services

Project Period:
2006-2011

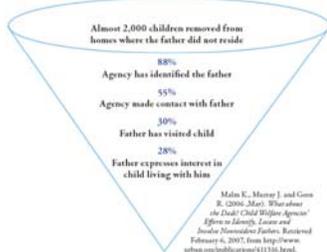
**QIC-NRF
Research Question**



“How is overall child well-being impacted as a result of **increased father and paternal relative involvement** in the public child welfare system?”

The Need for a QIC-NRF

2006 Report: *What about the Dads:*
*Child Welfare Agencies' Efforts to Identify,
Locate, and Involve Nonresident Fathers*



[Data based on telephone interviews with 1,222 caseworkers in four states]

Melan K. Hunter J. and Coe
B. (2006). *What about the Dads?*
Child Welfare Agencies' Efforts to Identify, Locate, and Involve Nonresident Fathers. Retrieved
February 4, 2007, from <http://www.wabw.org/publications/11111111.html>

2008 Report: *More About the Dads:* *Exploring Associations between Nonresident Father Involvement and Child Welfare Case Outcomes*

- Involvement by nonresident fathers associated with more reunifications and fewer adoptions
- No aggregate association between child welfare agency contact with nonresident father and subsequent allegations of maltreatment.

[Based on case file data for children discussed in the original study]

More About the Dads:

- Higher levels of nonresident father involvement associated with substantially lower likelihood of later maltreatment allegations
- Highly involved nonresident fathers' children exited foster care more quickly

[Based on case file data for children discussed in the original study]

Facts About Father Involvement



- Studies have found that:
 - 63% of black children, 35% of Hispanic children and 28% of white children do not live with their biological father.
 - In 1997, 65% of poor children did not live with their biological fathers, compared to 25% of children who were not poor.
 - 20% of all non-resident fathers are believed to earn less than \$6,000 a year.

From: Father Facts, National Fatherhood Initiative (2007)

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Consequences of Father Absence



- According to a 1996 HHS report, children in single parent homes had:
 - a 77% greater risk of being physically abused;
 - an 87% greater risk of experiencing physical neglect;
 - a 165% greater risk of notable physical neglect;
 - a 74% greater risk of emotional neglect;
 - an 80% greater risk of serious injury from abuse;
 - overall, a 120% greater risk of some type of abuse.

From: Father Facts, National Fatherhood Initiative (2007)

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Consequences of Father Absence



- Youth from father-absent homes are more likely to experience:
 - Poverty
 - Emotional and behavioral problems
 - Substance abuse issues
 - Incarceration
 - Problems at school (e.g., repeating a grade, dropping out, poor performance)

From: Father Facts, National Fatherhood Initiative (2007)

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Benefits of Father's Presence



- A review of nearly 100 studies on parent-child relationships found that the child's relationship with his/her father was equal or more important than the relationship with his/her mother for:
 - A child's happiness, well-being and social and academic success
 - Predicting a child's emotional instability, lack of self-esteem depression, social withdrawal and level of aggression (based on parental withdrawal)
 - Outcomes including delinquency and conduct problems, substance abuse and overall mental health and well-being

From: Father Facts, National Fatherhood Initiative (2007)

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QIC Phase I : Areas of Focus



- Non Resident Father**
- Identification**
- Location**
- Contact**
- Engagement**



Inter-Agency Collaboration

QIC Phase I: Focus Group Results



- Focus groups underscored the importance of involving fathers from the beginning (i.e., at birth)
- The largest obstacles to father involvement are meaningful engagement of fathers and lack of systemic collaboration
- Mothers are "gatekeepers" – Maternal resistance to involve due to conflict with father
- Fathers fear the CW system



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**QIC Phase I:
Key Informant Interview Results**



Most interviewees said engagement was the most difficult area

CW Agency Staff/Researchers:

-Finding and contacting NRFs is difficult, but can be facilitated by locator services, child support enforcement, and caseworker tenacity.

-Engaging NRFs from the beginning and over the long-term is most difficult due to child welfare biases and mothers as "Gatekeeper."

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Key Informant Interview Results



Fatherhood Programs:

-Collaborating with other organizations is complicated, but there is a growing number of advocates for fathers with which to partner.

-Involving NRFs is difficult because of unemployment and poverty, conflicting priorities of funders, and inequitable treatment of NRFs by the child welfare system.

Legal/Judicial Professionals:

-Finding NRFs can be hard, but most are found eventually.

-Getting NRFs involved in the court and case planning process is most difficult because of system, court, agency and father driven barriers.

QIC Phase I: Barriers identified by legal professionals



- Mothers' inability or unwillingness to identify or help locate the non-resident father
- Child welfare agency or court biases against involving non-resident fathers in the child welfare case, particularly if the father was not involved in the child's life before case inception
- Lack of child welfare agency resources to conduct an adequate and ongoing diligent search for NRFs and paternal relatives
- Lack of services geared specifically towards fathers

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QIC Phase I: Literature Review



- Social Science Literature
- Legal Literature
- Programs and Practices Literature
- Research Methodology
- Summary, Gaps and Conclusions



Available at:

<http://www.abanet.org/child/fathers/QICNRFLiteratureReview.pdf>

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QIC Phase II: 4 Sub-Grantee Projects



**Division of Children and Family Service
in King County, Washington**

[Divine Alternatives for Dads](#)

**Indiana Department of Child Services in
Indianapolis**

[Indiana Fathers and Families Center](#)

**El Paso County Department of Human Services in
Colorado Springs, CO** [Center for Fathering](#)

**Texas Department of Family and Protective
Services in Tarrant County**

[New Day Services for Children and Families](#)

QIC Phase II: Peer-Led Support Group Curriculum



Developed by AH with input from ABA and NFI:

- **Introduction Session**
- **Dad as Part of the Solution:** Overview of the Child Welfare System
- **Dad as Planner:** Service Planning in the Child Welfare System
- **Dad as Part of the Juvenile Court Process:** Legal Advocacy and Court Etiquette
- **Dad as Provider:** Supporting Your Children

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- **Dad as Part of Children’s Placement:** Visiting With Your Children
- **Dad as Team Player:** Shared Parenting
- **Dad as Worker:** Workforce Readiness
- **Dad as Community Member:** Identifying and Accessing Resources
- **Dad as Cultural Guide:** The Role of Culture in Parenting
- **Dad as Healthy Parent:** Taking Care of You

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QIC Phase II: Father-Friendly Check-up



Developed by NFI with input from AH and ABA
Assesses degree to which child welfare agency encourages father involvement and identifies areas for improvement:

- Leadership and organizational philosophy
- Program management policies and procedures
- Parent-involvement program
- Program physical environment
- Staff training and professional development
- Collaboration and organizational networking
- Community outreach

Parent Representation: Current Status



In a survey of 25 states:

- 14 report that public defenders (PDs) never represent parents in A-N/ TPR cases. Instead, they either contract with private attorneys or use a variety of panels from which to appoint.
- 4 report that PDs always represent parents in nearly every A-N/TPR case.
- 7 report that PDs sometimes represent parents in A-N/TPR cases, usually on a county-by-county basis.

Source: "Other States' Use of Public Defenders to Represent Parents and Children in CHIPS and TPR Cases," Judith Nord, Minnesota Supreme Court, Court Services Division 13

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Parent Representation: Current Status



- Even in jurisdictions that regularly appoint attorneys for parents, non-custodial parents may receive attorneys less frequently
- Counsel often appointed late in the case
- Parents' attorneys often have high case loads and receive minimal pay
- Very little training exists specific to representing parents, particularly non-custodial parents

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Why Non-Custodial Fathers Need Legal Representation



- Research Support
- Limited Constitutional Rights
- State Statutory Presumptions
- System Barriers and Biases
 - Father Friendly Check Up

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Limited Constitutional Rights



- Parents have a constitutionally protected interest in raising their children:
 - Direct child's religious rearing (*Wisconsin v. Yoder*)
 - Make medical decisions (*Pahram v. J.R.*)
 - Choosing with whom child can associate (*Troxel v. Granville*)
 - Direct child's education (*Meyer v. Nebraska, Pierce v. Society of Sisters*)

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U.S. Supreme Court Case Law, however, establishes but limits a NCF right to rear his children:



“When an unwed father demonstrates a full commitment to the responsibilities of parenthood by coming forward to participate in the rearing of his child, his interest in personal contact with his child acquires substantial protection under the Due Process Clause. At that point it may be said that he acts as a father toward his children. But *the mere existence of a biological link does not merit equivalent constitutional protection.*” **Lehr v. Robertson, 463 U.S. 248, 261 (1983).**

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- NCFs must perfect their legal interest in child to be entitled to notice and an opportunity to be heard by:
 - Establishing;
 - Or attempting to establish, a relationship with his child

How this is done depends on state law and practice:

- Putative father registry
- Name on birth certificate
- File an affidavit of paternity or begin paternity proceedings
- Married to mother at time of conception or birth (*Michael H. v. Gerald D.*)

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- Perfecting NRF legal interest takes:
 - Time
 - Money
 - Knowledge of the system
- However, even assuming the NCF has ‘perfected’ his legal right to his child, he still might not be afforded the full compliment of constitutional protections custodial parents receive.

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Some states will compel both parents to engage in services, even when a fit, non-offending NCF requests custody.

Different State Court Approaches to NRFs:

- Assuming jurisdiction based on conduct of one parent; can compel NCF to comply with services (e.g. Michigan, Ohio)
- Must award physical custody to NCF absent a finding of unfitness; can still compel NCF to comply with services (e.g. California, Florida)
- Court cannot assume jurisdiction if there is one fit parent, regardless of the conduct of the other; before dismissal, can award custody to NCF and enter findings against custodial parent. (e.g. Maryland, Pennsylvania)

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Agency Barriers and Biases



- Lack of father engagement training
- Unfriendly 'father' environment
- Lack of interagency collaboration to locate NCFs (e.g. child support agency connections)
- Lack of policy/procedure to help identify, locate, contact NCFs
- Worker reluctance to contact NCF
- Feeling that it makes case management more difficult

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- Mother as 'gatekeeper'
 - At NCF's request she is keeping information hidden
 - She is protecting an informal (under the table) support arrangement
 - DV issues represent the "elephant in the room"
 - She does not know his identity

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How to Better Engage NRFs: A Legal/Judicial Perspective



- #1: Know NRFs' Basic Legal Rights
- #2 Identify/Locate NRFs Early
- #3 Address & Understand NRFs' Right to Visit
- #4 Engage NRF in Case Planning
- #5 Be Aware of NRFs' Other Legal Issues

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#1: Know NRFs' basic legal rights

Constitutional Rights

- Notice of proceedings*
- Visitation
- Request Custody
- Hearing before TPR
- Clear & Convincing Standard

*in order for the non-resident father to be entitled to notice, he must: (1) have established a relationship with his child, or (2) have seized the opportunity to establish such a relationship.

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#2 Identify/Locate NRFs Early

Why? Failure to properly notify the NRF may violate his constitutional rights that may:

- Delay court proceedings
- Result in a reversal of judicial findings regarding the father at hearings to which he was not properly notified
- Deprive the child of important paternal resources (including paternal relatives) before a permanency decision is made
- Delay permanency

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Nebraska Law 43.3101

- A noncustodial parent shall be notified whenever there is a court proceeding “taken by, against, or **on behalf of** his or her child or by, **against**, or on behalf of the custodial parent if such court proceeding affects the child.

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How? In addition to procedures outlined by your child welfare agency’s policy or practice, contemplate:

- Asking your counsel to examine the mother and family under oath to get identifying information about the NRF
- Request that the mother and her counsel file an affidavit concerning paternity
- Request that the judge inquire at each hearing about the NRFs whereabouts until he is found
- See if the NRF has other legal cases that will help you locate him (e.g. domestic relations, child support, criminal)

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#3 Address & Understand NRFs’ Rights to Visit

Why? To ensure the child maintains or establishes important family connections or is not harmed by improper contact with the NRF

- Biological parents have a legal right to visit their children. This right may be limited if it may or will harm the child or is not in their best interest (depending on state law).

If the NRF is not the perpetrator and there are no safety concerns, the NRF has the right to request liberal unsupervised visitation with his child. (although this is not always allowed by courts wary of previously uninvolved NRFs)

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#4 Engage NRFs in Case Planning

Why?

- To provide appropriate supportive services to maintain or establish relationship with his child
- To avoid 'no reasonable efforts' findings
- To expedite permanency either with NRF or another placement option

How?

- Solicit NRF's and counsel's input on elements of a successful case plan
- Identify supportive services that are gender-responsive
- Avoid service overload
- Coordinate services that are accessible and can be completed within a reasonable timeframe ³⁷

#5 Be Aware of NRFs' Other Legal Issues

Why? To better assess his service needs and capacity to engage in the child welfare process

- Child Support
- Criminal
- Domestic Relations
- Immigration

How?

- Search publicly available court and criminal records
- Contact child support agency (depending on confidentiality rules)
- Ask NRF or his counsel in the course of case planning ³⁸

Key Strategies -- Representing NCFs

- Challenge allegations of "failure to protect" or abandonment that may be barriers to a non-offending, non-custodial parent assuming custody
- Contest "reasonable efforts" findings re: preventing removal and reunifying the family
- Ensure court approved case plan includes NRF and his relatives with attainable, appropriate goals
- Tell his story; what obstacles he has overcome and what *positive* efforts has he made to protect and care for his child
- Act as an advocate and counselor ³⁹

- Be aware of how other court cases impact his dependency case and connect client to other legal help (e.g. criminal, domestic relations, child support, immigration)
- Be cognizant of service overload, but also knowledgeable of gender-appropriate services and those that help him meet case plan goals
- If NRF is not interested in assuming custody of the child, request information about HIS family
- Help him understand importance of court ordered services & help him keep track of appointments
- Ask client what he thinks he needs to be more involved in his child's life
- Ensure incarcerated NCFs can get needed services

Non-Custodial Fathers May Seek Custody or Visitation at Any Point

- After emergency removal from mother's home
- During non-adversarial case resolutions (family group conferences/mediation)
- Adjudicatory phase of case
- Review Hearings
- Permanency Hearings (both first, and annually required hearings)
- At mother's TPR hearings

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**QIC Phase II:
Practice Improvement Articles**



- Advocating for and Protecting NRFs' Constitutional Rights
- Key Practice Tips for Attorneys representing NRFs
- Working with Males/Male Help Seeking Behavior and How to Better Represent an NRF Client
- How Judges Can Better Involve NRFs in Child Welfare Proceedings
- Ethical Considerations for Attorneys Representing Non-Resident Fathers
- How to Better Engage Incarcerated NRFs in Child Welfare Proceedings
- What NRF Counsel in Child Welfare Proceedings Need to Know about Child Support

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QIC Phase II: Attorney Training Curriculum



Developed by ABA with input from AHA and NFI:

- Introduction and background on benefits of father involvement
- Constitutional rights and responsibilities of NRFs
- Strategies for effective advocacy inside the courtroom
- Strategies for effective advocacy outside the courtroom
- Special ethical considerations involved with representing NRFs

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Attorney Curriculum: Constitutional Rights Section



- Federal precedent relating to definition of father
- Categories and types of "fathers" within the jx
- Attorney/agency responsibilities to identify, locate, contact, and engage non-resident fathers
- Asserting the state and federal rights of non-resident fathers
 - Equal Protection and Due Process Rights (notice/participation)

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Attorney Curriculum: In-Court Advocacy Section



- Strategies/tips for responding to neglect petition
- Responding to request for reasonable efforts findings re: attempts to prevent removal and reunify family
- Telling the father's story in court and presenting him in a fair and positive light
- Strategies to secure specific court and case plan goals from the court on behalf of NRF's (e.g. visits, services)
- Advocating for the involvement of NRFs, and their extended family, in the case planning processes

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Attorney Curriculum: Out-of-Court Advocacy Section



- Attorney's dual role as advocate and counselor
- Situations that affect a non-resident fathers capacity to be involved in their children's lives
- Building an effective attorney/client relationship
- Impact of other court proceedings
- NRF involvement in family group conferences or similar mechanisms if available

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Attorney Curriculum: Ethics Section



- Common barriers to establishing an effective attorney/client relationship
- An introduction to ABA (and state-specific) Standards for Parent Representation (and how to meet the standards)
- Balancing the protection of a NRFs due process rights and confidentiality and participating in case planning with the agency
- Strategies to apply when confronted with conflicts of interest (i.e., representing both parents or multiple fathers)

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Resources from the QIC NRF

- Comprehensive literature review (2006) available at: www.fatherhoodqic.org
- Peer led support group (currently being tested by QIC research staff)
- Attorney training curriculum and article series (coming soon to: www.fatherhoodqic.org)
- Social worker training curriculum (coming soon to: www.fatherhoodqic.org)
- Father friendly check up

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QIC NRF



For more information:

<http://www.fatherhoodqic.org>

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What's New on the FATHERHOODQIC.ORG Website?

- Spring 2009 QIC-NRF newsletter, *QIC News*
- Tool for reducing barriers to finding fathers through mothers
- Article on fostering father involvement in *The Source*
- *Rise* magazine's issue on fathers
- Presentation materials about the QIC from the 17th National Conference on Child Abuse and Neglect
- Article on non-custodial fathers in *Cornerstone*
- Link to Administration for Children and Families, Office of Child Support Enforcement funding opportunities for child support demonstration projects⁵⁰
