

# Identifying and Locating Noncustodial Fathers in Child Protection Cases

## JUDICIAL BENCH CARD<sup>1</sup>

Identifying and locating fathers early helps children establish or maintain important connections with their fathers and paternal relatives. It also reduces delays in permanency, if the goal is adoption. Establishing paternity quickly after a putative father is located is critical to ensuring the case moves quickly and the father can assert and protect his constitutional rights to the care and custody of his child. Judicial officers can:

### Identify noncustodial fathers early and make ongoing attempts to locate them.

- Explain to the mother and other relatives the importance of identifying and locating the father early.
- Ask the mother and other relatives about the father's identity and location at the first hearing. Obtain information under oath or via an affidavit establishing parentage.
- If possible, ask the child about the father's identity and location and names of paternal kin.
- Ensure the child welfare agency has a policy on identifying and locating absent parents, including fathers and alleged fathers, and that it follows the policy in a timely manner.
- Require the agency to promptly obtain, through their local child support office, Parent Locator information which now can help find not only fathers but also paternal relatives.
- Order the child welfare agency to follow up on information gained from court hearings.
- Request, at every subsequent hearing, information about progress in identifying and locating the father.
- Consider imposing deadlines for searches or for filing affidavits detailing search efforts.
- Ask whether the agency has:
  - Asked the mother, child or other relatives about the father's whereabouts
  - Used federal, state or other parent locator systems
  - Checked with local jails, prison or correctional departments, probation or parole agencies, and immigration authorities
  - Checked public benefits information (e.g., social security or public assistance)
  - Checked with the child support enforcement agency

- Tried to locate the father through his driving and vehicle registration records
- Used family-finding technology or services to locate the father
- Make sure court orders and the record reflects efforts to identify and locate the father.

### Establish paternity quickly.

- If paternity and dependency are being handled as separate cases, arrange for the paternity case to be expedited so the father can be engaged and supported in the dependency actions.
- Question the putative father directly about his:
  - Relationship to the mother
  - Desire to be a father
  - Efforts to have or maintain a relationship with his child, which may include questions about:
    - How often he sees the child
    - How often he speaks with the child
    - Whether he provides formal or informal financial or other support to the child (e.g., pays child support; buys food, clothes, gifts, etc.)
    - If his name is on the birth certificate
    - If he has filed with a putative father registry
    - If he was living with or married to the mother when she was pregnant or when the child was born
    - If he has been prevented from contact with the child
- Tell the putative father that once paternity is established, he will be treated as a parent at all court hearings.



<sup>1</sup> Some information in this bench card is adapted from Edwards, L. (2009). Engaging fathers in the child protection process: The judicial role. In *Advocating for Nonresident Fathers in Child Welfare Cases*. Washington, DC: ABA Center on Children and the Law.

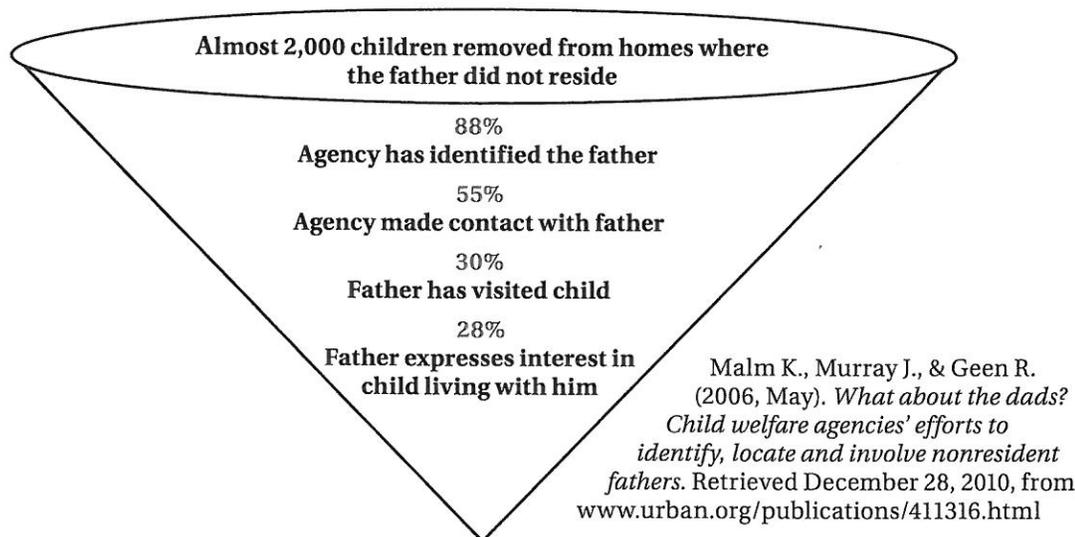
- Require paternity testing if there is a question about who the biological father is and ensure the child welfare agency pays for it.
- Request, at every hearing, information about progress being made to establish paternity.
- Be clear in the court order once paternity and "legal" fatherhood is established.
- Appoint counsel when paternity is established (if not before for the putative father), at government expense based on the father's financial capacity.

## BARRIERS TO FATHER ENGAGEMENT

Studies show that, even when the agency knows who the father is, it infrequently contacts him, even though he often wants contact with his child.

The federal Child and Family Services Reviews have also found many states:

- Do not adequately involve fathers in case planning or provide services for them
- Fail to contact fathers, even when they had been involved in their children's lives
- Do not adequately involve fathers in any aspect of their child's case



## THE IMPORTANCE OF FATHER INVOLVEMENT

Studies of families involved with the child welfare system have found that greater involvement by noncustodial fathers is associated with:

- More reunifications and fewer adoptions
- A substantially lower likelihood of later maltreatment allegations
- Faster exits of children from foster care
- Fewer children entering foster care -- children who had had contact with a noncustodial parent in the last year were 46% less likely to enter foster care.

Bellamy, J. L. (2009). A national study of male involvement among families in contact with the child welfare system. *Child Maltreatment*, 14, 255-262.

Chen, H., Malm, K., & Zielewski, E. (2008). *More about the dads: Exploring associations between nonresident father involvement and child welfare case outcomes*. Washington, DC: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Available at <http://aspe.hhs.gov/hsp/08/moreaboutdads/report.pdf>.

# Engaging Fathers in Child Protection Cases by Understanding Male Help-Seeking and Learning Styles

## JUDICIAL BENCH CARD<sup>1</sup>

Judicial officers can help better engage fathers by understanding how men seek help and learn differently from women. They can also encourage the child welfare agency to work with fathers as often as mothers, offer services geared toward men's learning styles, and work as hard to find and engage fathers as mothers.

### Support positive impressions about fathers.

- Give fathers the benefit of the doubt. If they fail to attend a hearing or attend inconsistently, ask why and if the court can help overcome any barriers.
- Ask the father's counsel or caseworker whether the father has been properly notified of hearings and meetings and/or why he has been unable to attend.
- Address barriers to participation, which may include work schedules, transportation, incarceration or misunderstandings about the court process.
- Be open-minded about the father: his desire to play a role in his child's life can lead to a positive outcome.

### Encourage the child welfare agency to offer the father services that respond to male learning styles.

- Ensure required services are appropriate and meet "reasonable efforts" requirements to reunify (or unify) the child with the father.
- Require the agency to develop a case plan for the father with his input in its development.
- Require the agency to provide the same level of service and outreach for fathers as it gives mothers.
- Request services that encourage cooperative relationships and meaningful communication between mother and father.
- Encourage the agency to engage fathers in services tailored to men's learning styles. They should:
  - Be informational and provide concrete practical guidance.
  - Not dwell on emotional disclosures or how the father is feeling.

- Focus on planning for the future and resolving problems.
- Keep discussions action-oriented.

### Focus on strengths.

- Get a complete and accurate picture of the father's ability to parent and his strengths. Gather information from the caseworker, the father and any of the father's relatives who participate in proceedings.
- Reaffirm the importance of fatherhood to the fathers and mothers who come before the court.
- Use the strengths of "traditional" masculinity but address self-defeating beliefs about getting help (e.g., "With all of the hard work you did at your last job, I'm sure the vocational center will be able to help you find a new job.")
- Tell the father how his absence affects a child's life and the positive impact when he is present and involved.
- Ask the father how he thinks he can benefit his child, and take into account efforts or progress he is making, from large accomplishments to smaller involvement.



<sup>1</sup> Some information in this bench card is adapted from Kiselica, M. (2009). Understanding male help-seeking behaviors. In *Advocating for nonresident fathers in child welfare court cases*. Washington, DC: ABA Center on Children and the Law.

## HOW MEN LEARN AND SEEK HELP

Men and women interact, learn and seek help differently from one another. These differences should not cloud your objective assessment of the father's interests and capacity to parent, or the child's best interests. Remember this when assessing (or considering reports from others about) visits, the father's actions, appropriate services for the father or his compliance with services. Men are often:

- Action-oriented
- Future-focused
- Less likely to seek help
- Unlikely to dwell on emotions
- More likely to engage in physical play with children
- Sensitive to power and respect issues

### **How and when fathers want help: What the research says**

Little research focuses on how and when fathers involved with the child welfare system seek help. However, research shows that adolescent and young adult fathers — a distinct group that overlaps with fathers in the child welfare system — want help and would use it if offered in a male-friendly manner. Young fathers' most frequently requested services include:

- Job referrals
- Vocational education
- Job readiness
- Parenting education
- GED classes
- Legal advice about paternity establishment and child support orders
- Medical treatment
- Mental health counseling
- Relationship counseling
- Child care assistance

Adapted from information by Mark Kiselica, in Pilnik, L., & Kendall, J., *Engaging noncustodial fathers in child welfare cases: A guide for children's attorneys and lawyer guardians ad litem*. Available at [http://www.abanet.org/child/fathers/children\\_atty\\_gal\\_brief\\_final.pdf](http://www.abanet.org/child/fathers/children_atty_gal_brief_final.pdf). Please see original document for citation information.

# Engaging Fathers in Child Protection Court Hearings and Case Planning

## JUDICIAL BENCH CARD<sup>1</sup>

Judicial officers can take several steps to help fathers participate in the child protection court process and case planning.

### Create a culture of inclusion.

- Set expectations for father involvement with the child welfare agency and directly with fathers.
- When a father or putative father attends his first court hearing:
  - Stress the importance of his involvement in the proceedings and in his child's life.
  - Explain the proceedings, timelines and permanency options.
  - Encourage him to take pride in his role in his child's life.
  - Encourage his ongoing involvement by explaining how it can result in better outcomes for his child.

### Involve the father in hearings.

- If the father is not attending proceedings, find out why and try to overcome barriers. Encourage him to speak with his attorney about resolving them or if he doesn't have one to write a letter to the court.
  - If the father is incarcerated, let him participate by telephone or request to have him transported to hearings.
  - If the father lacks transportation to hearings, encourage the social worker to help arrange it.
  - If the father's work does not enable him to attend, schedule hearings at more convenient times, or allow participation by phone.
- Allow a putative or alleged father to participate in hearings before and until paternity is established. Encourage efforts to establish paternity as soon as possible.
- If domestic violence has been alleged, ensure assessments are conducted to determine whether and to what degree danger exists. If founded, require that a safety plan be created with the victim(s).

### Consider the father as a placement option.

- Absent a finding of unfitness, place the child with the father unless a safety threat exists.
- Assess whether there is a need for an ongoing child protection case if there is a fit, able parent willing to care for the child.

### Allow visitation.

- As soon as paternity is established, order visitation between the child and father (unless it would harm the child), including incarcerated fathers.
- If the father is unable to visit, allow other forms of contact, such as letters or phone calls.
- Allow the father and child to have at least as much contact as they had before court involvement, and more if possible.
- Consider allowing other family, mentors, friends to be present during visitation (particularly if the father has limited experience with the child or parenting).
- Consider asking the social worker to report on how visits have gone and the connection between father and child.
- Unless there is a documented reasonable safety concern, move to unsupervised visits as quickly as possible.
- Ensure the timing and frequency of visits meet the developmental needs of the child and support father-child attachment (e.g., younger children should visit more often and for shorter periods).
- If a history of domestic violence is established, consider supervised visitation that can be eased if required services are met, behaviors change, and safety allows.



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## Encourage the father's involvement in case planning.

- Ensure the agency includes the father (and paternal relatives/support persons) in case planning meetings, family group conferences and similar sessions.
- Use the "no reasonable efforts" finding when necessary to ensure the father and, where appropriate, paternal kin are engaged and considered potential placement options.
- Require a service plan that includes both parents. Encourage and insist on equal access/referral to services for father and mother.
- Examine whether services required in the service plan are "father-friendly" and address documented safety concerns.
- Encourage developing community-based services to meet the father's needs, like male-inclusive parenting classes, father mentoring programs, father engagement education groups and other gender-specific programs.
- Ensure each party has separate case plans that protects confidential information and that promotes safe and respectful parenting.

## Address family violence.

- Carefully and thoroughly explore allegations of domestic violence, by reviewing information from multiple sources including, but not solely, the parent (and/or child) alleging abuse.

- Violence exists in different forms and to varying degrees in many relationships, yet often does not result in a report to authorities or a conviction of the perpetrator, even if there is a pattern of coercive control or physical violence. A single act or allegation of domestic violence should not become a barrier to a father safely engaging with his child. Absent proof of domestic violence, fathers should be allowed to safely connect with their children while balancing the reality that an absence of proof does not mean domestic violence is not present.
- In cases where family violence exists, ensure services are targeted to the specific family dynamics, and the agency is not referring all families to the same "one-size-fits-all" services.
- Ensure case planning, alternative dispute resolution and family group decision-making meetings consider family violence issues.

## Involve the father's relatives.

- Identify paternal family members early and encourage the caseworker to assess their willingness/capacity to care for or be involved in the child's life.
- Permit extended family, where appropriate, to participate in court hearings, decision-making and visitation.

## SERVICES FOR FATHERS

Understand what services are available in your community to help you determine whether the agency is offering both parents appropriate services and making reasonable efforts to reunify them with their children. Services should take into account men's learning styles, where the father lives, whether he will be able to access the service by public transportation, and whether services are offered at times that do not conflict with his work schedule or other court-ordered appointments. Examples of services that may benefit a father include:

- Job training
- Housing assistance
- Parenting classes (basic skills and skills specific to the needs of the child)
- Help procuring state and federal benefits for himself and the child, including food stamps

### Other fathers may need:

- Parent-child counseling to establish or strengthen the relationship and overcome barriers to bonding
- Substance abuse counseling, including Alcoholics Anonymous or Narcotics Anonymous
- Mental health services, including counseling, therapy or psychiatric assistance
- Referrals to low-cost or pro bono legal services programs for matters other than the dependency proceeding, such as housing or immigration issues
- Health education (e.g., training from a public health nurse) regarding caring for a child's specific medical conditions
- Help understanding the traumatic impact on a child of being exposed to violence in the home or community
- An interpreter, if he is not fluent in English, or help in reading or filling out forms or documents if he has literacy challenges

Cohen, A. L. (2009). Representing nonresident fathers in dependency cases. In *Advocating for nonresident fathers in child welfare court cases*. Washington, DC: ABA Center on Children and the Law. Available at [www.fatherhoodqic.org/chapter4.pdf](http://www.fatherhoodqic.org/chapter4.pdf)