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A STUDY OF NON-CUSTODIAL FATHERS:
AN ANALYSIS OF EFFECTS OF PARENT-CHILD ALIENATION

by

© Pamela A. Patterson

A Thesis

Submitted to the

Faculty of Graduate Studies and Research

through the Department of

Sociology and Anthropology in Partial Fulfillment

of the requirements for the Degree

of Master of Arts at

the University of Windsor

Windsor, Ontario, Canada

1988

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DEDICATION

To the memory of my mother,
Nell Harrison and my father,
Les Harrison, both of whom
believed from the beginning that
I could walk on water.

ABSTRACT

A STUDY OF NON-CUSTODIAL FATHERS: AN ANALYSIS OF EFFECTS OF PARENT-CHILD ALIENATION

by
Pamela Anne Patterson

This study was conducted on 90 non-custodial fathers who had been separated/divorced over the past three years. It examined levels of alienation and role distance that men experienced as a result of being separated from their children, and the subsequent impact and behaviours resulting from this alienation. The primary areas covered were: custody, access and visitation, child support payments, alienation and emotional factors, ongoing relationship with the child(ren), stereotypes and the judicial system. The four major hypotheses of the study were: 1) Non-custodial fathers experience alienation when separated from their children, 2) Alienation negatively effects the frequency and quality of visitation, 3) Alienation leads to a breakdown in the ongoing relationship with the child(ren) causing strain and estrangement and 4) A non-custodial father who feels powerless will tend to use maintenance payments as a control measure.

Mailed questionnaires were used for data collection, followed by in-depth interviews of 13 randomly chosen respondents from the wider sample. A Provincial Court judge was also interviewed to provide a judicial perspective.

The results supported the first hypothesis; non-custodial fathers do experience alienation when separated from their children. The second hypothesis was not supported because despite feelings of alienation, fathers continued to visit their children on a regular basis. The third hypothesis was supported; respondents did have on-going problems with their children and experienced significant estrangement and physical and emotional strain. The final hypothesis suggested no evidence regarding men withholding child support payment due to dissatisfaction over access. Role distance did not complicate the respondents' sense of alienation because they reported that fathering was just as important or more important to them as when they were resident fathers.

While the majority of men did not apply for custody, the biggest barrier from their perspective was the judicial system. This was also compounded by stereotypical gender roles that society at large attributed to fathers. Perceptions of the judicial system were highly unfavourable with respondents preferring that marital breakup and custody issues be handled by a mediator/counsellor, and not be determined by the Courts.

The most prevalent concern of the fathers who were sampled was the loss of their children.

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My appreciation is expressed to the Chairperson of my Committee, Dr. Robert Whitehurst for his patient and humorous guidance throughout this study. His ability to keep me focused on my goals when I was surrounded with a tempting array of information made the task possible. I would also like to express appreciation to the other members of my Committee, Dr. Barry D. Adam and Dr. Giora Ron Frisch, for their support and confidence in my work.

A special note of thanks to Mr. Tom Groulx and Mrs. Debbie Little who assisted with the statistical data, saving me valuable hours of time. The ongoing support and encouragement of the secretaries and faculty members of the Department of Sociology and Anthropology made my work environment a pleasure.

This study would not have been possible without the support of the Ministry of Community and Social Services who granted me a leave of absence in order to complete my Master's Degree.

I would also like to express gratitude to all of the non-custodial fathers who came forward to provide me with the necessary information to write this thesis.

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Pamela A. Patterson

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INTRODUCTION

It is not important whether or not the interpretation is correct - if men define situations as real, they are real in their consequences.

- W.I. Thomas

The impetus for this thesis began some eleven years ago when I was working as an Assistant Court Administrator and Justice of the Peace for the Provincial Court (Family Division) in Windsor. From my contact with divorced and separated men I experienced an increasing uneasiness that the difficulties men experienced when they became non-custodial parents were being overlooked, or worse, ignored. Tradition and existing legislation at the time viewed the father as the provider or breadwinner and the mother as the nurturer of children. Most men did not apply for custody of their children for a number of reasons, but predominantly because traditionally it has been supposed that children are better off with their mother. This view incorporates the biological argument that by virtue of child-bearing capabilities, a mother has closer bonds with her child(ren) than the father. This societal conditioning has played a large part in men's traditional fathering roles and has subsequently led to a compounded problem of alienation that non-custodial fathers experience.

Men also were discouraged by the legal profession from applying for custody, except in the most extreme of circumstances where it could be determined that a mother was

totally unfit to care for her child(ren). In actuality, it was extremely difficult for a father to obtain custody. Consequently, the largest proportion of separated and divorced men were non-custodial fathers and through dealing with so many of these men an appreciation grew of their largely ignored dilemma.

In one of my functions as a Conciliation Officer with the Court I negotiated, with consenting couples, maintenance payments, visitation and access issues. When an agreement was reached with the consent of both parties, follow up studies showed that the success ratio for husbands making regular payments was double that of orders which were dispensed by the Judges. The use of lawyers in the process invariably engaged couples in an adversarial process which was not conducive to feelings of control by either party.

This work experience, past study and observations to the reactions of male friends and acquaintances who have experienced the painful trauma of divorce or separation, gradually led to a developing hypothesis about impacts on the non-custodial father. Most literature acknowledges that when men are separated or divorced, and are not the custodial parent, there is a sense of alienation from their children. It is the contention of this study that alienation likely produces perceived negative impacts and behaviours.

Although the research deals exclusively with the problems men encounter, it should not be construed as anti-feminist, or

as ignoring the problems of non-custodial mothers. However the difficulties a mother faces in no way minimize the difficulties that fathers face. As Rubin and Atkin (1976) have stated, although it is of a different order from hers, a man's problems are no less great. In some ways, regarding his relationship with his children, they may be greater. The focus is on non-custodial fathers because there is little published material in the area of divorce or separation in terms of fathers who change status from full-time father of their children to that of non-resident visitor. Albrecht (1980) noted a striking absence in the literature about the non-custodial father's separation from the family. The experiences of Rypma and Kolarik (1981:247) outline the problem clearly.

Furthermore the difficulty of recruiting for research purposes fathers who are locked into a social system that they have unwarily evolved from is extreme. It is a system that elicits the very behaviors that support their demise. Therefore research in this area has been very difficult.

There has consequently been little research on the tangible impact of subsequent behaviours fathers engage in when they feel alienated from their children.

Although different custodial arrangements are emerging, the dominant shape, according to Wallerstein and Kelly (1980), is that over 80 percent of custodial rights still go to women. This was also borne out in a study by Grief in 1979. The feelings men experience associated with divorce are

displacement, loneliness, abandonment, failure, inferiority, rejection and guilt. Emotionally, divorced fathers experience the most stress and Kahan (1978) states that research has shown women fare better emotionally in separation and being single than men do. Koch and Lowery (1984) further state that when fathers who feel alienated withdraw from their families physically, emotionally and financially, to most of them it is at considerable emotional cost.

The reality is there is now considerable change in the family structure, with greater increases in divorce and remarriage leading to increased separation between marital and spousal roles. The two critical issues in any separation/divorce involving children are visiting rights and money.

C. Wright Mills (1959) indicated that most social issues involve a tangled web of factual errors, unclear conceptions and evaluative biases. A prime task of social scientists is to sort out relevant factors in these issues, particularly where issues involve a conflict of values. Hopefully this research will aid in a better understanding of both processes and consequences in such father-removed cases.

I am proposing to focus on the role of non-custodial fathers with the following guiding hypothesis: Non-custodial fathers will experience alienation from their children that in some cases will be complicated by level of role distance as related to the continuation of the father role. Goffman's

concept of role distance will be used as an indicator of role centrality and seriousness in role (Goffman, 1961). Alienation may also manifest itself in more than one area or dimension. While there is a multiplicity of meanings attached to this concept, Seeman (1959) has suggested that there are five major meanings: powerlessness, meaninglessness, normlessness, isolation, and self-estrangement. While most studies have dealt with only one of these variants of alienation, or at most two or three, I believe that all five meanings apply to non-custodial fathers. Because of this alienation, the frequency and quality of visitation with the children) is adversely affected. This leads to a breakdown in the ongoing relationship with his child(ren) causing strain and estrangement. Also a non-custodial father who feels powerless will tend to use maintenance payments as a control measure and when he experiences difficulty he will likely be less regular with, or cease maintenance payments (temporarily or permanently).

The focus will be primarily on the impact on fathers vis-a-vis their child(ren). Fathers' definitions and perceptions will be of concern rather than any objective reality as imposed by the researcher.

CHAPTER TWO

LITERATURE REVIEW

People are always ready to admit a man's ability after he gets there.

- Robert C. Edwards

It's the awareness, the full experience... of how you are stuck, that makes you recover....

- Frederick S. Perls

The introductory chapter briefly touched upon the difficulties associated with lack of research on non-custodial fathers and the reluctance of most males in this category to voluntarily share their pain and frustration. Consequently the literature review is not as comprehensive as in other more researched areas. It has been estimated that 50 percent of new marriages in the U.S. will end in divorce (U.S. Bureau of the Census, 1984) and that an estimated 30 percent of all children born in the 1980's will experience parental divorce before they are 18 years of age (Stewart et al. 1986). Given this changing picture and the increasing number of militant and activist "male-rights" groups in both the U.S. and Canada, it is conceivable that this area will receive a great deal more attention in the near future.

To assist in reviewing the literature pertinent to this study, the chapter has been divided into categories that are explored in the research, i.e. gender stereotyping, custody,

access and visitation, child support payments, alienation and emotional factors.

GENDER STEREOTYPING AND PARENTING

A. Masculinity.

Men are beginning to question whether the masculine role they learned is necessary or desirable. Basically the masculine role says males are supposed to seek achievement and suppress emotion. "Spontaneous emotions - positive or negative - were suppressed or restricted to certain settings. We learned to mute our joy, repress our tenderness, control our anger, hide our fear. The eventual result of our not expressing emotion is not to experience it." (Pleck and Sawyer, 1974:4). More demands are made on boys than girls at an earlier age to conform to sex stereotypes and these demands are often harshly enforced. Fathers usually are not at home as much as mothers and thus generally do not spend as much time serving as models. "Fathers in general seem to be perceived as punishing or controlling agents." (Hartley, 1974:8).

The biggest source of difficulty for the growing boy is a conflict in role demands that society imposes. He is taught to despise "womanly" things, which include nurturing behaviours, but rather than escaping he is then forced to spend most of his day with them, obey them and learn from them. Conceivably in a later role as non-custodial parent he experiences confusion about his fathering role; he cannot

reach out as nurturer because his experience tells him that this is neither manly nor the father's role.

For some men, being with children and being part of their emotional life may be a way of reclaiming spontaneous emotional awareness that masculine training has suppressed. For years we questioned whether maternal employment was harmful to children, but never if paternal employment was. In developing this theme, Pleck sees two reasons for the increasing number of men who choose to spend more time in caring contact with children.

1. The number of women in the work force (18 percent in 1948 to over 39 percent in 1973). This means increasing demands in child care at a time when supplies have been reduced. Women cannot afford to waste half of the potential suppliers of child care by saying they are unfit to care for kids; letting them avoid responsibility; or locking them into "breadwinner" roles.

2. The women's movement of the 1960's and 1970's has pushed men to re-evaluate the nature of masculinity.

The disciplines of psychology and psychiatry, with their obsession with and reification of mother-child relationships and their virtual neglect of father-child (let alone man-child) relationships in the past 50 years, have contributed to the social atmosphere that has excluded many men from close relationships with children and has forced men to become "exceptions" when they express and dare to act on needs and desires for emotional involvement with the young children in their lives. (Fein, 1974:57).

Society provides little support (emotional or financial) for men who want to spend regular time with young children. Economic pressures and the push for a successful career often force a man to choose between work life and family life.

Sociological literature shows consistent bias in assumptions of appropriate parenting behaviour. Masculine and feminine qualities are seen as mutually exclusive and "assumes that the behaviours beneficial to the development of children are those which belong under the label 'feminine' and thus not to be found in male parents" (Rosenthal and Kesket, 1981:3). Because nurturance has been defined as a female quality, men may suppress this quality for fear their behaviour will be seen as unmasculine. The actual behaviour of being a good father is most likely a consequence of their own family experience and not from current ideology and child-rearing literature. This could also be attributable to the fact that most men still get their primary rewards from the workplace and not from parenting. Sometimes women feel threatened by men's participation in the daily lives of the family because parenting and household have been their main arenas of control. Thus even within a stable family setting there is no clear definition of the fathering role.

B. Tradition and Stereotyped Father's Roles

Sexist stereotypes are still with us, showing impressive toughness and resilience. Social process has its own power to constrain, its own resistance to dissolution. And yet is entirely human. (Connell, 1987:x).

Traditionally, to father a child means to impregnate; to mother a child means to nurture and succour. Life without a mother means maternal deprivation, whereas life without a father means father "absence".

When traditionalists talk about the family they generally mean an employed father, a mother at home and two school aged children, but this profile only fits about 5 percent of American households.

Men do not want to have to take care of children. Rule them yes. Play with them, yes. Take credit for their achievements, certainly. But not care for their bottles, diapers, mess, spills, tears, tantrums, laundry, lunches, nightmares, and the million daily details of childhood. (Pogrebin, 1983:12).

Men tend to defer to their wives in early child care and look to women for nurturant activities so important to bonding. Thus, it becomes important for men to spend time alone with their children to create emotional bonds that will give power and credence to later interaction with their maturing child.

The role of the father is part of the traditional male image, but the notion of parenting, or actually caring for the child is not. Studies have shown that many American males have had little or no contact with infants during their own childhood and early manhood. Many men help wives with some

responsibilities of child care, but do not assume equal responsibility for the whole process. The majority of males are not perceived by their children as warm or nurturant and few fathers are able to risk being vulnerable by sharing a wide range of emotions, fantasies and playing with their children (Lewis, 1981:24).

Fathers find themselves in a child-rearing bind which is a no-win situation. If they try to involve themselves heavily in child rearing they may be resented for having a divisive influence (because the wife is seen as the principle authority in child-rearing). If they try to stay out of the picture they may be resented for being passive, uninvolved fathers. (Goldberg, 1976:99-100).

In a study conducted by Bonnie Carlson (1984) it was found that fathers in families that share caretaking chores will take more responsibility for household tasks as well as child care, compared to fathers in more traditional families. Another finding was that paternal participation in child care and household tasks is related to the stereotypes young boys hold about the father role. The more housework the father performs, the fewer stereotypes children have about roles.

In the 1950's, fathers were not in research studies on parenting because they were considered "providers" and "instrumental" rather than "nurturing" and "expressive" parents. In the 1960's, the focus turned to fathers as models of masculine behaviour for children. In the 1970's,

gender roles were viewed more as a continuum than as separate entities. Androgyny expanded the range of behaviours and made individuals more adaptable. "The fathering research that appeared during the late 70's and the early 80's has shown that fathers are not social accidents." (Robinson and Barret, 1986:51). They are in fact an integral part of a child's life in the same way that a mother is.

C. Father as an Equal Nurturer.

Mothering is not an exclusively female skill (Risman, 1986). In her study on whether men can mother, Risman found that, at least in their own perceptions, custodial fathers are competent as primary parents. Men who fought for custody believed they had developed a more intimate relationship with their children than had other single fathers. This ability of men to provide primary care for pre-teen children challenges popular individualistic theories which suggest that the personality traits needed to mother are internalized as psychic predispositions, so that by adulthood males have neither the inclination or skill to care for young children. However, despite male sex role training, fathers in this study responded to the non-traditional role of single-parent with strategies stereotypically thought of as "feminine."

It has also been documented in a study on father-infant interactions by Shirley Ricks (1985) that fathers provide an extra source of stimulation and unique experiences for infants. The fathers can and do serve as objects of

attachment for infants seven to eight months of age and older. Although more fathers are becoming highly involved in traditional caregiving, a complete role reversal as yet is rare. However, more similarities than differences exist in father-infant interactions relative to mother-infant interactions.

Aside from infants, a further study by Frankel and Rollins (1983) showed that fathers were not only similar to mothers in performance as teachers and playmates to school age children, but they employed behaviours that were statistically the same. Based on literature of the 1970's it was expected that parents' behaviours would vary as a function of their own sex. Frankel and Rollins' study did not support this view. They found the most critical variable that influenced the interaction was the child's sex; parents were performance and task-oriented with their sons and more cooperative and supplying feedback with their daughters. Ultimately both parents were very effective in teaching sons and daughters.

Finally a study on the comparison of self-esteem between boys living with single-parent mothers and single-parent fathers, revealed no significant difference in self esteem between boys living with either single parent, mothers or fathers. Both male and female parents seeking custody can provide an environment equally conducive to good adjustment or high self-esteem for boys aged nine to fourteen years. It is the desire to raise a child that affects the quality of

parenting in a home, and not the sex of the parent (Lowenstein and Koopman, 1978). This gives some indication that males can hold their own in the nurturing domain traditionally associated with females.

CUSTODY

While some men would not make competent single fathers, just as some women would not make competent single mothers, it is becoming increasingly important that fathers and mothers be judged on their merits and not on the notions of sex role bias. (Robinson and Barret, 1986:97).

The traditional assumptions that children belong with their mothers after divorce needs to be reexamined, and thus Risman suggests the implications for social policy are clear. Judges when deciding what is in a child's best interests, should not generally assume that mothers are better caretakers than fathers. In the arena of custody, men stand to gain and women lose, by the removal of gender based societal and judicial inequity. In the majority of divorce cases the mother is given legal custody resulting in the children seldom maintaining a close and loving relationship with the father. "As it is commonly known, if two good parents are involved, both of whom want to raise their children, the court usually gives them to the mother." (Dworkin 1981:32). In these situations, children can often suffer irreparable harm, due to the loss of the father. In effect, claims Dworkin, they are losing a primary person in

their lives, and even if there are male replacements, the genetic father has been lost and the effects are lasting and major.

In looking at the issue of joint custody, one study by Bowman and Ahrons (1985) found that joint custody fathers were significantly more involved than non-custodial fathers in parenting their children following divorce. However, joint custody is surrounded by controversy and opposition to it is widespread. Wallerstein and Kelly (1980) found that five years after their parent's breakup, the children who adjusted best were those who had full and continuous relationships with both father and mother.

In their important study, Stewart, Schwebel and Fine (1986) had statistically significant findings indicating that divorced fathers with custody of their children exhibited less depression, anxiety and power problems in general adjustment, than those without custody. This study was done during the initial two year transition period.

Overall the road to settling custody disputes is difficult and some believe that the court system may exacerbate this problem further because of its favour to the mother. (Robinson and Barret, 1986:96).

ACCESS AND VISITATION

"Children come to associate men with the world of work, offices, uniforms, money, cars - and only incidentally with

the home - and they associate women (employed or not) with family roles, child care, feedings, housework and cooking" (Pogrebin, 1983:196).

In a study on prediction of postdivorce paternal involvement by Ahrons (1983), two major findings emerged.

1. Fathers perceived themselves to be significantly more involved with their children than mothers perceived them to be. An unfortunate result of these differential perceptions may be that children will suffer. If a mother places little value on the father's relationship with his children, she will inevitably effect their perceptions of him.

2. The relationship between the two parents had a significant effect on fathers' postdivorce involvement. For both mothers and fathers, the mother's attitude toward the father as a parent was second in importance to co-parental interaction. In mother-custody families then, mothers have the opportunity to control a fathers involvement with the children. The parental relationship was also seen by Koch and Lowery (1984) as a deciding factor in predicting the divorced father's continued involvement with his children. The clear message in their study on visitation and non-custodial fathers is that children profit by continued exposure to both parents and that few men can afford the legal system as recourse to every infringement of the visitation agreement.

Palmer (1969) in a Canadian study said one of the greatest problems of non-custodial fathers was maintaining a close relationship with the children. Frequency of visits begins to decrease as different interests arise for both parent and children. Some fathers do not visit because of being upset about the separation or upset by the children crying when they left. Other men do not want to be placed in a position of having to discuss with the children, face-to-face, why they had left the marriage; some did not want to face their ex-spouse when picking up the children. In other cases the ex-spouse's negative attitude discouraged fathers' visitation. Consequently fathers found it easier to break ties with the past (including children) than face circumstances which upset them.

In a much later study than Palmer's, Koch and Lowery found that although visitation decreased over time for 43 percent of the fathers sampled, the majority continued regular visitation; although over a period of time visitation did become less frequent.

The continued relationship with a non-custodial parent is important to the adjustment of a child. Much goes on in a small child's life every day. Even after an absence of a week or two small children can change. Whereas an adult or teenager can bring you up to date on their inner and outer state when visited at intervals, a small child cannot

(Rosenthal and Kesket, 1981). Young children in fact are the easiest to abandon because the family has a short history.

When Lowestein and Koopman (1978) looked at the connection between frequent visitation of non-custodial parents and self-esteem in nine to fourteen year old boys, they concluded that it could be 1) the child still feels loved and wanted, 2) the non-custodial parent may serve as a support system for the custodial parent, and 3) the non-custodial parent who visits frequently is more likely to be a source of financial support. The self-esteem of boys who saw the non-custodial parent once a month or more was significantly higher than the self-esteem of boys who saw their non-custodial parent less than once a month.

Yet divorce need not mean an inevitable distancing of a father from his children. Rosenthal and Kesket learned that men can be part-time fathers and yet feel closer to their children and be more knowledgeable about them than when they lived with them as married men.

CHILD SUPPORT PAYMENTS

This is an area that over time has been examined in some detail, primarily because of the impact defaulting fathers have on the social assistance programs for mother-led families. In 1981, the Institute of Law Research and Reform in Edmonton, Alberta developed a Report which examined in-

depth issues around matrimonial support failure. Here is a brief summary of their more pertinent findings:

- * low income appeared to be associated with irregular payment of maintenance orders, but not with non-payment.
- * there was better payment on marriages of a long duration, rather than for marriages of a short duration.
- * larger maintenance orders were better paid than the smaller ones.
- * there was no statistical evidence that dissatisfaction with access arrangements was associated with irregular payments or non-payments. However some male respondents did give this as their main reason.
- * the majority of both men and women surveyed gave as the main reason for regular payments, a continued sense of responsibility for the children.
- * fear of enforcement proceedings was not a major reason for payment among men.
- * the inability to afford payments was a major reason given by men for non-payment - however, this depended on the priority accorded by men to maintenance obligations relative to their other financial obligations.
- * there was widespread dissatisfaction with the legal proceedings connected with granting of

awards and enforcement by both men and women.

Another study conducted by Wright and Price (1986) found that divorced men who had a level of attachment with their ex-spouse and viewed their current relationship with their ex-spouse as of good quality, had a stronger desire to fulfill their financial responsibility toward the children, even though he did not have custody of them. The other side of the coin is

following divorce there is a progressive rate of default. Ten years after divorce 79% of fathers of minor children have defaulted on child support payments. We can assume that a father who is not keeping up with such payments is not coming around much. These are men whose hopes of family life have turned into an embarrassment or a regret. (Rosenthal and Kesket, 1981:x)

While there is major controversy and concern over whether fathers should pay increased support for their non-custodial children (because of the attempt to alleviate the poverty of solo-mother families), what is often ignored is the impact of child support reform on the economic status of absent fathers and any new dependents they may acquire. Nichols-Casebolt (1986) felt it was unclear to what extent absent fathers could alleviate the poverty of their children without themselves slipping into poverty. At the time Nichols-Casebolt conducted her research on the economic impact of child support reform, there had been no research findings on the economic consequences of an improved child support system on the absent father.

The current system does leave many custodial families well below the poverty line and a major goal of reforms to the child support system is to improve the economic wellbeing of families eligible for child support (and concomitantly to reduce welfare costs). Non-custodial families on the whole are better off than custodial families after a separation. But as Nichols-Casebolt argues, this still begs the question of whether a non-custodial parent should be required to share some of his income regardless of the impact on his economic state. Questions are posed: Do the needs of the child take precedence over the needs of the parent and the parent's subsequent children? What is an equitable child support obligation?

ALIENATION AND EMOTIONAL IMPACTS

Despite the fact that according to Robinson and Barrett there was a flood of fathering research in the late 1970's and early 1980's, they point out there is not much on the issue of the impact on a father when he is separated from his children. "Men's own attitudes toward the fathering role have for the most part never been reported." (Rosenthal et al., 1981:18).

There are some who feel the fathering bond is more social than biological and it depends more upon the values and expectations of the given culture than on emotional bonding between child and parent. Connell sees a danger in this view. "Arguments about gender are plagued by an assumption

that what is biological or 'natural' is somehow more real than what is social " (Connell, 1987:x).

We do know however, that divorced fathers who leave undergo changes in self-concept.

Fathers complained of not knowing who they were, of being "rootless", and having no structure in their lives. This brought about feelings of loss, dependency needs of which they were previously unaware, guilt, anxiety, and depression. (Dominic and Schlesinger, 1980:241).

These feelings were found to be greater in fathers who were older and had been married the longest. But the most prevalent concern was the sense of loss of their children. Rubin and Atkin (1976) found men no longer feel like fathers; that their children do not need them and that children belonged to their mothers. One of the reasons for these feelings is that the father is bound by "visitation rights" set by the Court. Some men feel that their authority as fathers has been taken away from them.

Children need fathers and men need their children. This was demonstrated by Stewart, Schwebel and Fine (1986) who found that the results of their study highlighted the importance of the children's presence as a facilitative, stabilizing factor in post-divorce adjustment for men. In addition to the loss of material possessions, of an identity as a married person and of status within the family, the most traumatic and ubiquitous loss of non-custodial parents is that of their children. These findings suggest, according to the

authors, that the absence of children tends to increase the emotional distress of non-custodial divorced men.

This problem can become so serious for some men that "as if refusing to underwrite mother-power, they force their ex-wives to go on welfare at the expense of their children. Having lost the day to day control over their children and the caregiving services of their wives, the men cut off their caretaking" (Pogrebin, 1983:198). Fathers who have spent a great deal of time with their children, cannot let go of them any easier than mothers can.

SUMMARY

In sum, from the limited literature, a picture begins to emerge of the difficulties that face non-custodial fathers. Although occasionally there are some contradictory findings, on the whole it is shown that traditional patterns and sex role stereotypes of men generally and fathers specifically, have made it difficult for men to be taken seriously as viable, nurturing parents. It is slowly being recognized that mothering is not an exclusively female skill and men are increasingly wanting more involvement in their children's lives.

Traditionally the assumption has been that in custody issues children belong with the mother. However recent studies are indicating that custody should be determined on factors other than sex role bias. The whole issue of joint

custody is very current and problematic and surrounded by controversy.

Since men have been viewed as peripheral to the family they tend to be associated with the world of work rather than the home. It appears that the relationship between the non-custodial father and his ex-spouse has the most significant impact on his post-divorce involvement with the children. Most authors note that visitation decreases over time, but all acknowledge that children need exposure to both parents.

A good relationship with the ex-spouse seems to be a predictor of regular support payments as well as a sense of responsibility for the children. The issue of what impact it has on a man to make child support payments (especially if he has other new dependents) has not been studied.

That non-custodial fathers feel alienated and rootless seems solid in the face of little data to the contrary. The biggest trauma for them appears to be the loss of their children. Fathers seem to need their children just as mothers do, and the absence of them often produces emotional distress which in some cases, if severe enough, will lead fathers to withdraw or retaliate.

CHAPTER THREE

THEORETICAL FRAMEWORK

To conduct research without theoretical interpretation or to theorize without research means to ignore the essential functions of theory as a tool for achieving economy of thought. Jahoda et al.

GENERAL THEORY

Since there are almost always practical applications to any social theory, it is well to make assumptions clear in any use of theory. This argument is based on observations that most social behaviour is motivated by some kind of theory people hold about how they ought to, or do, behave. As most people mature they feel that they already know (whether this is a correct perception or not) about the society in which they live.

An advocate for the use of theory in family research, Yoav Lavee (1986) feels that a knowledge base of the family will be more efficient if the interaction between research and theory is made explicit and if we continue to build upon the foundations of contemporary theories about the family. She does acknowledge, however, that there are different goals of empirical research and not all types of research assume that input from theory is necessary.

Lavee has indicated it is basically agreed that the function of theory is to explain and predict social phenomena. Acknowledging the importance of theory in family research and

with consideration for the specifics of this study, role theory concepts were most applicable to provide a suitable framework for the material. Given the issues that are central to this research i.e. male as "father" and "non-custodial parent", and the subsequent societal and self expectations that arise from these designated roles, role theory is important because of the way in which it focuses on role behaviour in daily life.

ROLE THEORY

"Broadly role theory is the approach to social structure which locates its basic constraints in stereotyped interpersonal expectations." (Connell, 1983:48.) Within role theory, a role is never defined by itself. It is defined in relation to other possible roles, e.g. mother and father in relation to daughter and son (Connell, 1983).

There is a definite body of social theory organized around the concept of 'role', and while the formulations of the concept differ in detail there are five points which form the logical core of role theory.

1. An analytic distinction between the person and the social position they occupy;
2. A set of actions or role behaviours which are assigned to the position;
3. Role expectations or norms define which actions are appropriate to a given position;
4. They are held by people occupying counter-positions (role senders, reference groups);

5. Who enforce them by means of sanctions - rewards, punishments, positive and negative reinforcements.

The importance of these central concepts will become evident and elaborated in the findings of this research. While sociologists have predominantly concerned themselves with the structural aspects of roles, social psychologists have primarily concerned themselves with the relevance of roles to a functional analysis of interactional behaviour. The language of role has no theoretical boundaries and role theory is largely classificatory and descriptive, rather than predictive in nature (Shaw and Costanzo, 1970.)

There is some confusion around role theory because the earliest proponents applied the basic theatrical metaphor loosely and differed in the ways they used 'role.' According to Biddle (1986) role theory concerns one of the most important features of social life - characteristic behaviour patterns or roles. He says that at least 10 percent of all articles published in sociological journals use the term 'role' in a technical sense. As with symbolic interaction, role theory is not a monolithic ideal scientific concept; it consists mainly of a set of constructs. Role theory's antecedents lie in sociology and psychology and involve an articulation between the two. While it has been enriched from diverse sources, this very diversity has lead to a lack of conceptual consistency. Deutsch and Krauss (1965) outline some basic concepts of role theory which will be utilized in this research.

Status and status sets. Every person occupies a position (e.g. "father") within a number of 'status systems' (e.g. "family") and all societies have a large number of status systems. There are ascribed statuses (what a person is, e.g. sex, age, religion), and achieved statuses (what a person can do). In this study we are looking at the position of a non-custodial father in relation to the status system of the family.

Role and role sets. Within a culture, every position has a set of norms or expectations which specify behaviours. The concept of role is related to expectations. The term "role" has three different conceptualizations - 1) prescribed role (external); 2) subjective role (internal); and 3) enacted role (behaviour). To Deutsch and Krauss, role means 'the enactment of the prescribed role'. It is useful to think of role as prescribing a broadly defined range of behaviours. In looking at the situation of a non-custodial father, what will be kept in mind is his prescribed role, his internalized role (which may now produce conflict or confusion), and how he acts out this new role.

Role conflict. This is defined as incompatible role requirements and the research will look at the issues of possible conflict caused by seemingly incompatible roles of "breadwinner" and "nurturer" and the complications associated with past family roles and newly acquired family roles.

There is a basic agreement among role theorists that the major concerns are role social position and expectations. The more serious disagreements revolve around the modality of expectations presumably responsible for roles, e.g. expectations are norms (prescriptive), beliefs (subjective probability) and preferences (attitudes). Most role theory presumes expectations are the major generator of roles. These expectations are learned through experience (and the perceived sanctions related to experience) and persons are aware of the expectations they hold - in essence a thoughtful, socially aware human actor.

Nye (1976) in his analysis of the family used the concept of role as "a set of expectations for the behaviour of occupants of all social positions - expectations based on a history of behaviours of innumerable occupants of these positions, not just the habits of a present position occupant." He felt these expectations formed the content of norms of the society and that sanctions for enforcing role behaviour were part of the culture. He also felt that role concepts led appropriately to the assessment of rewards and costs which individuals provide one another.

Within sociology there are two concepts of role: structural tradition and interactionist tradition. The structuralists regard role as an element of culture (normative) associated with a given social status or position and this view is the most appropriate for the study of roles

in formal organizations. The interactionist tradition lays emphasis on the emergent quality of roles - a pattern which is the consistent behaviour of a single actor, and this view better applies to the analysis of more informal unstructured groups. Nye felt the family contained strong elements of both, as the family is characterized as having a high degree of structure with duties and privileges prescribed. In the Conclusions section of this research there will be some discussion regarding norms, expectations and roles governing the interactions between non-custodial fathers and their children and other members of the past and perhaps present families. This is an area in which there appears to be a vacuum or at least an area in which there are emergent role parameteres.

Rock (1979) in his analysis of the family, used the theoretical framework of role theory and summed up the dimensions of role analysis in this fashion: it contains the normative dimension (what should be done, or who should do it); the behavioural dimension (what is done, who does it and how is it done); the role committment (the degree of committment to the role); the role competence (the evaluation of role performance); the position of role strain (the extent to which individuals worry about their performance); role conflict (the amount of conflict that occurs over these roles) and finally, role power (the outcome of role conflict).

Sex Role Theory.

The basic idea behind the role concepts of gender is that being a man or woman means enacting a general role definitive of one's sex - the 'sex role.' There are always two sex roles in a given context, the male or 'man's role' and the female or 'woman's role.' This way of looking at gender shifts the focus from a biological base and emphasises that men and women's behaviours are different because they respond to different social expectations (Connell, 1987:48). However a social theory of sex role theory is pointless if the basic determinants are biological. Role theory is often seen by psychologists as a form of social determinism, trapping individuals into stereotypes - but sanctions can't be explained by role expectations. "It quickly comes down to a question of individual will and agency, revolving around choices to apply sanctions. The social dimension of role theory thus ironically dissolves into voluntarism, into a general assumption that people choose to maintain existing customs" (Connell, 1987:50). This illustrates the mainstream hypothesis that people generally stay within mainstream expectations because of perceived sanctions. It leads to a problem for fathers who fall back on traditional views of fatherhood and thus suppress any emergent needs they have in their fathering role.

CONCEPTS USED IN THIS THESIS

a) Role Distance. According to Goffman (1961), typically a person becomes deeply committed to a role he regularly performs and it is only the foolhardy who become committed to a role they do not perform regularly. A performer may be overattached to his role, or alienated from it and the separateness between an individual and his putative role is called 'role distance.' Individuals do not actually deny the role, but rather their virtual self that is implied in the role, (e.g. there is some measure of disaffection from, or resistance to, the role.)

Some individuals achieve role distance by defining or undertaking their role as a lark, or a situation of mockery. Role distance can also have a 'defensive function' in that it can give the individual some room to maneuver. In some cases role distance expresses a measure of disidentification relative to the identification available to anyone in the given situated position. This could also be symbolic of distance from something different than the current position (displaced anger).

b) Alienation. Seeman (1959) discusses five dimensions of the concept of alienation.

1. Powerlessness. This component of alienation is seen as 'the expectancy or probability held by the individual that his own behaviour cannot determine the occurrence of the outcomes, or reinforcements he seeks.' (p.784). This version

of alienation is to be distinguished from (a) the objective situation of powerlessness as some observer sees it; (b) the observer's judgement of that situation against some ethical standard and (c) the individual's sense of a discrepancy between his expectations for control and his desire for control.

2. Meaninglessness. In this sense alienation is seen when 'the individual is unclear as to what he ought to believe - when the individual's minimal standards for clarity in decision-making are not met.' (p.786). The individual cannot predict with confidence the consequences of acting on a given belief. It is characterized by 'low expectancy that satisfactory predictions about future outcomes of behaviour can be made.' (p.786)

3. Normlessness. Following Merton's interpretation, the anomic situation from the individual's perspective may be defined as 'a high expectancy that socially unapproved behaviours are required to achieve given goals.'

4. Isolation. This does not refer to isolation as a lack of social adjustment, but rather is defined in terms of reward values: 'The alienated in the isolation sense are those who, like the intellectual, assign low reward values to goals or beliefs that are typically highly valued in the given society.' (p.788/89). The adjustment pattern of 'rebellion' closely approximates 'isolation.'

5. Self-Estrangement. Alienation here is seen as an experience in which the individual experiences himself as an alien - he becomes estranged from himself. When this meaning doesn't overlap with the other four, it becomes difficult to specify what the alienation stems from. Self-estrangement refers to the inability of an individual to find self-rewarding activities that engage him.

Middleton (1963:973) says that most studies deal with only a couple of Seeman's concepts of alienation. He believes that different types of alienation are highly correlated with one another and that each type of alienation is directly related to "disabling social conditions that block the attainment of culturally valued objectives."

In the Methods Chapter of this thesis I have identified the types of alienation and developed attitude statements associated with them based on Middleton's work (e.g. powerlessness, meaninglessness, normlessness, cultural estrangement, social estrangement and estrangement from work.)

The focus of this research will be on particular concepts that can be marginally operationalized and applied theoretically toward the research project at hand. These concepts are alienation (Middleton, 1963, Seeman, 1959) and role distance (Goffman, 1961). The project is thus cast within the general area of role theory, but with particular emphasis on ways in which alienation effects are related to

separation and post-divorce changes in fatherhood role orientations.

The guiding hypothesis for this thesis involves the notion that alienation will be experienced by non-custodial fathers whose behaviour will also be affected by the amount of role distance they experience in their parent-child relations. Role distance will be defined in terms of a measure of centrality of the father role in relation to his children prior to and after separation/divorce. A Likert-type measure will also be used in the questionnaire to elicit a measure of role centrality with respect to their children. These two measures together will be taken as an indicator of role distance or centrality of fatherhood as a meaningful role.

The four major hypotheses of this study are 1) non-custodial fathers experience alienation when separated from their children; 2) this alienation negatively effects the frequency and quality of visitation; 3) alienation leads to a change in the ongoing relationship with the child(ren) causing strain and estrangement and 4) a non-custodial father who feels powerless will tend to use maintenance payments as a control measure).

The flow of variables may be conceptualized as follows: Since all fathers will have experienced divorce or separation, the fathering role prior to separation will be used as the primary independent variable with alienation and role distance seen as intervening. The dependent variables will be 1) the

degree of emotional problems experienced by the father (post-separation,) relating to his sense of alienation and subsequent behaviours; 2) attitudes and behaviours regarding child support; 3) access behaviour and 4) ongoing relationship with the child(ren). The goal of this study is to explore the relationship between alienation, role-distance and maintenance/access behaviour. The exploration of these relationships will constitute the core of data analysis. Depending on the consequences of alienation for the subjects, role distance may or may not have any significant impact.

SUMMARY

Role theory was chosen as the theoretical framework for this study because it is most suitable for the creative use of the collected data. Role theory's emphasis on stereotyped interpersonal expectations with social structure; focus on persons and the social positions they occupy, and role expectations with their subsequent actions make it a suitable vehicle to examine difficulties experienced by non-custodial fathers.

The concept of alienation was explored because one of the central hypotheses of this thesis is that when fathers are separated from their children they become alienated. This then leads to subsequent negative behaviours with respect to visitation, child support and the ongoing relationship with his child(ren).

Role distance was also felt to be an important concept because it looks at the separation between an individual and his putative role. The study seeks to investigate whether the amount of role distance a father experienced prior to separation/divorce had any impact on his feelings or behaviours towards the children after the separation/divorce.

CHAPTER FOUR

METHODOLOGY

We thus begin, everyone for himself and in himself with the decision to disregard all our present knowledge. - Husserl

For the quantitative component of this study a questionnaire was developed to collect the primary data. For the qualitative component, a focused interview was designed to collect data that would enlarge on and support both theory and meaning of the more quantitative data in the larger sample.

A questionnaire format has some disadvantages, e.g. it relies on a fairly literate population; there is a low response rate; complicated or open-ended questions cannot be answered well; the response rate is often effected by sponsorship or the length of the questionnaire; it is not useful for complex issues that require further probing; the answers on the questionnaire alone cannot be validated or challenged; and it is difficult to probe the sentiments that underlie the answers. There was an endeavour to compensate for this by the follow up in-depth interviews. The questionnaire has open and closed questions in the format, but for the sake of comparability of answers, the closed questions on the questionnaire are used most frequently. To eliminate boredom the format was varied.

Because of the nature of the thesis, and due to the fact that there has been so little research in this area, I chose to do primarily quantitative research, but also to incorporate

qualitative research by way of thirteen in-depth interviews. In addition to the large sample data and that gained from the focused interviews, a Family Court judge was interviewed in-depth to add a comparative judiciary perspective.

SAMPLE

A questionnaire was developed (see Appendix A) which was subjected to a pre-test for validity by approximately eight male respondents who represented non-custodial fathers from a cross section of socio-economic backgrounds and ages. Useful comments and suggestions for clarity and completeness of the questions were then incorporated into the final questionnaire. The 76 question survey instrument involves face-sheet data to include general background information and family history, (e.g. age, religion, employment, separation date, number and ages of children). Items 22 to 52 deal with custody and access information (e.g. terms of access, whether they applied for custody, how often visitation took place), and items 53 to 66 deal with maintenance and child support payment information (e.g. how much do they pay, reasonableness of payment, and defaults in payment). Items 67 to 72 measure alienation in relationship to parenting and these attitude statements were developed and modified from a model used by Middleton (1963) in his study on "Alienation, Race and Education." The questions were developed to measure five dimensions of alienation: powerlessness, meaninglessness,

normlessness, cultural and social isolation and self estrangement. The last section, items 73 to 76, was designed on a Likert-type measure to measure role distance vis-a-vis fathering. Measures of alienation and role distance are examined in the thesis in relation to indicators of maintenance and access behaviour, and linkages between these behaviours are explored with the goal of better prediction of those factors that relate to negative outcomes for non-custodial fathers.

SAMPLE CONSTRUCTION

The first step was to obtain through the Provincial Family Court the names of all males who were non-custodial parents and had been separated or divorced in the past three years. All the names and addresses were obtained with relative ease because the male respondents were paying through the Court and the ledger cards contained, for the most part, current addresses. The total number of respondents from Family Court numbered 128. It was a much more difficult task to obtain addresses from County Court because the whole file had to be examined. Often the only address for the male was in care of a lawyer and for those who had addresses, it was the address given at the time of initiation of divorce proceedings and the respondent may have moved several times since then. However 60 names were obtained, but only 38 of these had addresses (the other 22 were in care of a lawyer and were not

contacted.) Data from both Court systems were used to provide a better cross-section of the socio-economic groups for the sample.

Before acquiring any more addresses the questionnaires were mailed to the 128 male respondents from Family Court to ascertain what sort of return rate could be expected. If there was a high return rate additional names would have been collected from the County Court. If the return rate was low another strategy was to be employed. The questionnaires were mailed out with a covering explanatory letter and included a stamped self-addressed envelope for return of the completed questionnaire. The turnaround time for response was two weeks. On the day the questionnaires were mailed all respondents who lived in the City of Windsor were also contacted by telephone to explain the nature of the questionnaire and to urge them to complete it and return as soon as possible. Of the 128 respondents only 54 had a listed telephone number and of these only 43 respondents lived in the City of Windsor. Results of the phone calls were as follows:

14 respondents were directly contacted and were responsive and supportive

13 there was no answer

1 had an unlisted phone number

2 the phones were not in service

12 someone other than the respondent answered the phone (mother, girlfriend, relative) and said the respondent was not in but they would pass on the message and make sure he got the questionnaire.

Of note was that a number of formerly married men were either living back at home with their parents or had been living there and just recently moved out.

A second follow-up telephone call was made to those respondents who lived in the County of Essex, and the respondents in Windsor who had not been reached the first time by telephone. These phone calls did not elicit a successful response.

Questionnaires were then mailed to the 38 respondents from County Court. Of the 38 only 10 had listed telephone numbers, and of these 10 men only one was contacted directly. The results were as follows:

- 1 good response
- 4 no answer
- 1 phone not in service
- 1 wrong number given
- 2 only had work numbers which were not called
- 1 said he would call back and did not

From the total of mailed questionnaires the return rate was as follows: Family Court - 17 out of 128; County Court - 17 out of 38.

Since this response rate was too low for meaningful quantitative analysis, additional ways to contact non-custodial fathers were employed. CBE Radio was contacted and an interview was arranged which aired twice on June 6, 1988. The interview dealt with the nature of the thesis and an

appeal for non-custodial fathers, separated over the past three years to contact the writer if they would undertake to complete a questionnaire. Two advertisements were placed in the personal column of the Windsor Star on June 1 and 4, 1988. CBC T.V. was contacted and the writer was interviewed by Channel 9 News Anchor, David Compton. This interview explained the nature of my research and appealed for respondents to complete a questionnaire. The interview was shown on the 6:00 p.m. and 11:00 p.m. news on June 7, 1988. Finally an article was submitted to Betty Wamsley's Column "About Town" in the Windsor Star and appeared on June 13, 1988. The response rate from the media was as follows:

Windsor Star - 66 males requested questionnaires

T.V. - 8 males requested questionnaires

Miscellaneous - 5 males requested questionnaires

In total 90 questionnaires were returned completed from all sources and of these 90 respondents, 73 indicated they would consent to a follow-up interview.

TABLE ONE

QUESTIONNAIRE DISTRIBUTION AND RETURN RATE

COHORT	QUEST. MAILED	QUEST. RECEIVED	FOLLOW-UP	
			YES	NO
Prov. Family Court	128	17	8	9
County Court	38	17	14	3
Windsor Star	66	48	43	5
T.V.	8	4	4	-
Miscellaneous	5	4	4	
Totals	245	90	73	17

TABLE TWO

RETURN RATE OF QUESTIONNAIRES

Family Court	13%
County Court	45%
Windsor Star	73%
T.V.	50%
Miscellaneous	80%

TABLE THREE

PERCENTAGE WHO AGREED TO FOLLOW UP INTERVIEW

Family Court	47%
County Court	82%
Windsor Star	90%
T.V.	100%
Miscellaneous	100%

A separate appendix is attached to describe in more detail the difficulties associated with obtaining a sample of non-custodial fathers (see Appendix B).

Initially it was intended to use a large sample of 300 respondents from County and Family Courts. However, because of the poor return rates from both Courts, the writer had to rely on the media to obtain responses. Consequently the sample cannot be construed to be a true random sample. The majority of male respondents came forward on their own initiative and are obviously men experiencing difficulties in their role as non-custodial fathers. As has been noted earlier, it is very difficult to conduct research on this particular group of men.

INTERVIEWS

The questionnaire that was used for the in-depth interviews was designed as a focused interview. This was done to help standardize to some degree the responses. It was also used for comparison of responses. If there was the desire to analyze the change of a population over time, this method would facilitate such analysis. Also inherent in this interview style there is room to accommodate some non-directive questions.

Structured interviews, using questionnaires, aim to elicit what a respondent thinks about a question or issue. Researchers aren't interested in attitudes per se but believe

that attitudes are indicative of future group behaviour. While there is always the possibility of discrepancy between what people say and what they mean, it is minimized with informal interviews because feedback can be used.

Blumstein and Schwartz (1983) in American Couples had as their objectives a large and diverse sampling; detailed data that would allow statistical analysis; and long and detailed questionnaires, for face-to-face interviews so they could predict factors of future action. On a much smaller scale I have hoped to achieve similar objectives to those of Blumstein and Schwartz.

The interviews conducted asked more general questions aimed at exploring the feelings and attitudes of fathers in an attempt to get some sense of their alienation. From the sample of 90 returned questionnaires, 13 males were chosen at random for an in-depth follow-up interview. A separate questionnaire was developed for these focused interviews (see Appendix B). Care was taken to have a representation of various age categories, socio-economic backgrounds, education and whether or not they had applied for custody. Approximately 30 men were contacted to get 18 respondents scheduled for interviews. These 18 males were contacted by telephone to ensure they were still agreeable to an interview; the interview date was set verbally and then a follow up letter was sent stating the time, date and place of interview, enclosing a map of the area. Of the 18 respondents, five did

not show (without any contact or explanation), therefore only 13 respondents were interviewed. There did not appear to be any pattern among the five "no-shows", (e.g. education, income etc.). The interviews were scheduled throughout the month of August and arranged to fit the schedule of the respondent (day, evening or weekend). All interviews were conducted at the University of Windsor, Sociology Department. A final interview was scheduled with a Family Court judge on September 9, 1988. Again a separate questionnaire was developed for this interview (see Appendix B).

It was necessary to develop a separate questionnaire for the focused interview because it was a follow up to and elaboration of issues identified in the original mailed questionnaire. Also since the questions developed for the Family Court judge focused primarily on the perspective of the judicial system, a new questionnaire was developed applicable for this purpose.

SUMMARY

A sample of 245 non-custodial fathers, separated or divorced over the past three years was taken by way of a mailed questionnaire. This sample was representative of the Provincial Family Court, County Court and the general public (see Table #1). Of the 245 surveyed, 90 respondents completed and returned the questionnaires. From this group of 90 males, 18 were randomly selected for an in-depth focused

interview, with 13 men actually interviewed. An additional final interview was conducted with a local Provincial Family Court judge.

The 90 questionnaires were analyzed through an initial frequency distribution table followed by bi-variate analysis to measure the possible relationship between different variables. The results of this analysis will be discussed in later chapters. The follow-up interviews were conducted to explore in more depth the feelings and attitudes of fathers and to provide a more cohesive framework for the statistical analysis.

While the writer is mindful that this study represents a sample of men from a specific geographic area, namely Windsor and Essex County, it would be useful follow up research to see if the results bear extrapolation beyond the confines of Essex County.

CHAPTER FIVE

DATA ANALYSIS

This chapter will amalgamate the quantitative data (questionnaires) and the qualitative data (interviews) to provide a more cohesive presentation of the findings. The first section will outline the Respondent Profile and subsequent sections will deal with the areas of Custody, Access and Visitation, Child Support Payments, Alienation and Emotional Factors, Ongoing Relationship with the Child(ren), Stereotypes and the Judicial System.

From the frequency distribution, key variables were cross tabulated to explore the possibility of associations. There was a total of 80 tables that were tabulated using bi-variate analysis and the Chi Square statistic. Although 11 of these 80 tables showed an association at the .05 significance level, they could not be considered reliable because of the low cell counts in most of them, caused by the number of categories in each table. These 11 tables were then broken down into two by two tables, again using bi-variate analysis with the Chi Square statistic. Of these, ten were central to the thesis and are presented herein. The statistical significance of key variables at the .05 level

using the Chi Square statistic will be shown where appropriate.

1. RESPONDENT PROFILE.

A frequency distribution table was done on the 90 completed questionnaires and the following was constructed as a profile of the respondent non-custodial fathers (n=90).

More than one half (53.3 percent) of the respondents were between the ages of 31-40 years with the next highest group (28.9 percent) over 41 years. The majority were either Protestant (48.9 percent) or Roman Catholic (41.4 percent) who attended church infrequently (52.2 percent) or not at all (28.9 percent). Despite their lack of formal church attendance, however, 67.7 percent indicated a strong religious commitment. There was a mix of educational backgrounds with the majority having either high school or college. A small number had only grade school education (6.7 percent) and a minority had postgraduate or professional degrees (8.9 percent). Over one half of the respondents (56.7 percent) earned between \$25,000 and \$44,999. A significant number (17.8 percent) earned below \$15,000, and 16.7 percent earned over \$45,000.

Most of the males (78.9 percent) had not had a previous union other than the one that had currently broken down. For 66.7 percent of them, their separation was a formal one, with a Separation Agreement. Only 28.9 percent had been separated for under two years, with the largest proportion being

separated over four years (41.1 percent). In the majority of cases (54.4 percent) their partners initiated the separation and their predominant feelings about the separation were evenly distributed between angry and sad. Only 2.2 percent reported being happy with the separation and 24.4 percent reported they were relieved.

Approximately three quarters of the respondents' ex-partners were employed (64.4 percent of them on a full time basis). Only 17.8 percent of the respondents had remarried, but 53.4 percent were either cohabiting or dating. There was a significant number of men who indicated they were single and not dating (27.8 percent). The pattern was almost identical for the ex-partners' current relationship status in that 17.8 percent were remarried, with a slightly higher percentage (57.8 percent) cohabiting or dating. Only 10 percent were not dating; and in 12 percent of cases the respondent did not know his ex-partner's relationship status.

Most of the respondents did not have divorced parents (78.9 percent) and 72.2 percent indicated a fair-to-excellent relationship with their own fathers. The majority of men did not apply for custody of their child(ren) (73.3 percent), and the same percentage of men indicated they had some input into access, most of which was specified (64.4 percent) as opposed to a flexible open-ended visitation arrangement. The majority of fathers exercised their visitation regularly (76.7 percent) with 8.9 percent indicating they never saw their

children. When asked how often they saw their children, 58.9 percent of fathers said they saw them daily or weekly and another 15.6 percent monthly or bi-monthly. Children did stay overnight with their fathers (73.3 percent) on visits. However, more than half the fathers (54.4 percent) felt that access was not reasonable due to factors such as needing more time with their children or the lack of flexibility around visitation. More than half (53.3 percent) of the respondents were in regular phone contact with their children and almost 80 percent of them lived within 49 kilometers of their children. In fact 42.2 percent lived within 10 kilometers. Slightly more than half (52.2 percent) of the men did not have anyone accompany them on visits with the children and visits in more than half of the cases took place in the respondent's home.

It was not surprising to find that 81.1 percent of the men spent less time with their children than when they were married, nevertheless 57.7 percent indicated the relationship with their child(ren) was the same, or better, than it had been prior to the separation. The respondents were almost equally divided in terms of whether they had ongoing problems with the children, with 46.7 percent indicating no ongoing problems and 43.3 percent saying they had problems. Of those with ongoing problems the predominant causal reason given was the attitude of the ex-partner. When asked about their ex-partner's attitude toward the time they spent with their

children, 54.4 percent of respondents indicated it was supportive or tolerant, with 32.2 percent saying it was antagonistic and another 7.8 percent intolerant. In the majority of cases (53.3 percent) this attitude had not changed since prior to the separation. When confronted with difficulties over access, most men experienced feelings of anger, withdrawal or retaliation, with anger the most common response. Only 15.6 percent could or would discuss the issues with their ex-partner. Not surprisingly most men (41.1 percent) indicated this had a negative effect on the visitation with their children, although 34.4 percent felt it had no effect. Most of the respondents felt free to discuss their ex-partner with their children (60 percent) and when asked about their feelings now towards their ex-partner, the majority indicated "indifference". Only 28.9 percent had positive or supportive feelings, while 21.1 percent were antagonistic. Most of the children appeared to be aware of their father's feelings towards their mother and only 11.1 percent were not aware, according to the respondents.

The majority of men (78.9 percent) did not pay maintenance support to their ex-partner, but only 5.6 percent did not pay child support. More than half the respondents paid in excess of \$200 per month in child support yet 51.1 percent of men indicated they had no input into the amount they paid for child support. An interesting finding was that 56.7 percent of men felt their ex-partner did not use the child support

money appropriately for the children. The majority of men (77.8 percent) reported paying on a regular basis and most (73.3 percent) had not been before the Court system for enforcement of payments or for late payments. Again most had never withheld child support payments because of difficulties over access with only 6.7 percent indicating they did so on a regular basis.

More than one half of the respondents (55.6 percent) felt that the amount of child support they had to pay was reasonable and 60 percent felt they could afford to pay the amount ordered. The method of payment was split between paying the ex-partner directly or paying through the Court system. Only 5.6 percent of men indicated they did not make any additional contributions toward the children, e.g. clothing, educational needs, medical needs, with a large number (63.3 percent) indicated they contributed in various ways.

When dealing with the questions designed to probe any sense of alienation the respondents experienced, the following findings emerged.

Powerlessness. The question designed to identify the degree of powerlessness men experienced had a significant percentage of men (77.8 percent) who fell into the category of feeling their own behaviour could not determine the occurrence of the outcomes or the reinforcements they sought, and they consequently were experiencing alienation.

Meaninglessness. This question was designed to evaluate a level at which the respondents felt satisfactory predictions of future outcomes of behaviour could not be made. In this area alienation was not as strong and half of the respondents (49.9 percent) did not experience alienation.

Normlessness. Again in response to this question which was designed to measure the expectancy that socially unapproved behaviours are required to achieve given goals, more than half of the men (56.6 percent) did not fall into this category of alienation.

Isolation. This question was designed to measure the extent to which the individual respondent assigned low reward values to goals or beliefs that are typically highly valued. More than half of the men (60 percent) did not appear to experience alienation in this category. It should be noted that this question was framed within the area of work, and it would appear that most men still relate to work as a major and significant part of their lives.

Self-Estrangement. In these two questions, an attempt was made to measure the degree to which respondents lost the capacity to find self-rewarding activities to engage themselves. With respect to the question that asked them about being less interested in doing things, 52.3 percent reported no significant feelings of alienation. However, on the question which related to feelings of loneliness without

the children around, a large number of men (77.7 percent) reported feelings of alienation.

In sum, when looking at factors of alienation, there did not appear to be a uniform or high degree of alienation in all categories. The respondents appeared to have other mechanisms to deal with meaninglessness, normlessness and isolation. The highest ranked areas of alienation were in the categories of powerlessness and self-estrangement. However, it is worthy of note that in all other categories approximately half of the respondents interviewed showed alienation.

The next section of the frequency data had three questions designed to measure the level of role distance that fathers may be experiencing. The questions were scored with the level and role of fathering ranging from "more important since separation", to "just as important", and finally, "less important since separation". Each question was obviously answered in isolation, which explains why the percentages across all three categories does not total 100 percent. The results can be presented as follows:

<u>More Important</u>	<u>Just as Important</u>	<u>Less Important</u>
64.5 percent	81.1 percent	53.4 percent

This would seem to indicate that men did not view these categories as distinct or separate. There was no significant degree of role distancing, and non-custodial fathers still

regard fathering to be just as important, or more important, as when they had resident status with their children.

Summary.

The respondent profile showed the respondents to be evenly divided between Protestant and Roman Catholic with approximately 80 percent over the age of 30. The majority had a minimum of high school education and more than one half earned between \$25,000 and \$44,999. Most had not been previously divorced.

The majority had a formal separation, their ex-partner had initiated the separation, and they had been separated over four years. Less than 20 percent of the respondents had remarried, but over one half were either cohabiting or dating. Most men visited their children regularly, but over one half felt access was unreasonable. The majority of respondents did not apply for custody. Over 80 percent of the men spent less time with their children now, with more than one half feeling that their relationship with the children was the same or better than before separation. One half of the respondents had ongoing problems with their children and the predominant reason given was the attitude of the ex-partner.

The majority of men did not pay alimony, but approximately 95 percent did pay child support. More than one half of the respondents paid over \$200 per month, but half of the fathers indicated they had no input into the amount they paid and felt their ex-partner did not use the child support appropriately.

Most men paid child support on a regular basis and did not withhold payments because of access difficulties. They were evenly divided between paying through the Court or directly to their ex-partner.

On the alienation scale men showed the highest degree of alienation in the areas of powerlessness and self estrangement, but did not experience any significant degree of role distancing.

Open-ended Questions.

Several questions on the mailed questionnaire were open-ended and consequently, were not subjected to statistical analysis. However, since these questions and answers are important for an understanding of the study, they are presented as follows.

Q. Describe problems you had (if any) in your relationship with your father.

While not all of the respondents experienced problems with their fathers, some patterns emerged for men who do (or did) experience problems with their fathers. The two most significant and often cited problems were lack of communication and alcoholism. Men indicated either they had difficulty communicating with their father, or there was a total lack of communication, and some men identified their fathers as "alcoholics." The next most significant problem was that their fathers did not have enough time to spend with them and that the father's job(s) took him away from the home too much. A few men indicated there was no affection from

their father; a small number cited physical abuse and others said there were no common interests; their fathers were very strict; and two respondents said there was no relationship at all. There were several other problems identified, but common only to the individual respondent.

In sum, this sample of respondents identified three major problems: in order of frequency they are lack of communication, alcoholism and the father not having enough time to spend with the respondent.

Q. If you did not apply for custody, please explain the factors related to your decision not to.

Of those sampled, 73.3 percent did not apply for custody and the reasons for not doing so are summarized as follows. The most common reason respondents gave for not applying for custody was because their lawyer advised against it. Lawyers indicated it would be too costly, but more importantly, the man did not have a chance of winning custody. This also related to the responses of some men who felt the courts would never give them custody because custody was generally awarded to the mother. A further few men felt that a court battle would have been too hurtful for everybody, especially the children.

A significant number of respondents felt it was better for the child to be with the mother and some men responded that the ex-partner was a good mother and they had frequent access to the children. A minority of men did not have the financial capability to look after the children and a few cited housing

difficulties (e.g. living in a small bachelor apartment). Some indicated that either their shift work or their status as full time students did not allow them the time to be custodial parents. In only three instances did the respondent indicate that the child(ren) wanted to stay with the mother and a couple of respondents said the children were better left in a familiar environment. Very few respondents said they and their ex-partner agreed that the child would stay with the mother, and in some cases the respondent indicated that he was too emotionally drained to think about, or pursue, custody. In only two cases had the ex-partner left the area with the children and one respondent said he did not apply for custody because it would be too hard on the mother.

In sum it would appear that the most formidable barrier to men applying for custody revolves around the judicial system and the respondents' experience of it, either directly (through lawyers) or indirectly by way of their perceptions (e.g. by assuming courts always grant custody to the mother). The feeling that court battles would be detrimental to all is incorporated into perceptions of the legal system. This alone accounted for approximately 42.5 percent of the responses. The second major category of responses (approximately 27 percent) seemed to revolve around children being better off with their mother; that the mother was a good parent and access was reasonable, or that the children were better in a familiar environment. A third area involved the

respondents' circumstances as a reason for not applying for custody, e.g. finance, housing and work. This represented approximately 23 percent.

Q. Since your separation/divorce, do you have ongoing problems in your relationship with your children?

Less than half (43.3 percent) of the sample indicated they had ongoing problems with their children and described the problems as follows:

The most significant problem appeared to focus on the ex-partner's attitude and how she was perceived to influence the children against the father (e.g. "badmouthing"). Also some ex-partners were identified as interrogating the children and making them feel guilty after they had visited their father. The ex-partner's attitude accounted for approximately 38 percent of the responses. Another significant factor was the child's own attitude. Fathers said that problems would arise around the child's moodiness and insecurity and just normal growth behaviour which would often lead to a discipline problem. In the last major group of responses, difficulties seemed to arise over lack of access to the children, ranging from infrequent visits to arbitrary visits. This produced difficulties in communication with children and resulted in the father having to "rebond" with them on each visiting occasion.

Other isolated problems were identified which seemed interchangeable and in some cases even predictable, given the circumstances of the non-custodial father. For example,

problems were seen in areas where the child had to juggle between the biological father and a step-father; problems with school work; jealousy of stepchildren; avoidance by children of the father to please the mother; when the ex-partner had problems she created problems for the respondent; lack of communication with children; alcohol and drug use by some children and in one case the Children's Aid Society involvement was cited as the major problem.

In sum, ongoing problems fathers had with their children were primarily attributed to the ex-partners' attitude, and to a lesser degree the childrens' attitude.

Q. Changes in the fathering role: in your view what factors are responsible for these changes, if any?

Not all of the respondents answered this question. Of the sixty who did, the answers fell into three main categories. Primarily respondents thought their fathering roles had changed because they did not live with their children on a permanent basis (daily presence). This was closely followed by respondents saying that their access to the children was too limiting, or that distance was a problem. Some respondents gave their ex-partner's attitude as a negative factor for their changing role as fathers. A few respondents identified the court system and lawyers as producing the change and two respondents cited, their children's attitude as being responsible for the change. There were few answers that indicated respondents saw the change in their fathering role as positive.

The next sections of this chapter will deal with specific problem areas for non-custodial fathers. Where results given are from interviews with respondents, $n=13$; in all other cases $n=90$.

2. CUSTODY

The following variables did not seem to have any impact on whether or not a man, when separated, applied for custody: educational background; religious commitment; a formal or informal separation; who initiated the separation; how the respondent felt about the separation, or the respondent's own relationship with his father.

Overall, 73.3 percent of the respondents did not apply for custody of their children regardless of their age. Most of these men earned between \$25,000 and \$35,000. In cases where the ex-partner initiated the separation, most men (57.6 percent) did not apply for custody. When they were asked why they did not apply, the following reasons were given.

In several cases there was a generalized feeling¹ of not knowing, but this was always followed up by specific reasons such as: "getting into a custody fight would hurt all three of them." One respondent indicated that when they separated his wife just said she didn't love him anymore and they went to counselling. Initially he thought things would work out, so he didn't think of applying for custody and then as time passed he still didn't apply "because the kids had all the benefits at home." In another interview the respondent

declared that the reason he didn't apply for custody was because "the children are always closer to the mother who carried them for nine months." He also didn't want problems around a custody battle, "problems with adults means problems for kids."

On many occasions the judicial system featured in the decision not to apply for custody. "At the very beginning I didn't think of applying, I had been raised to believe that mothers are the best parents. But in retrospect I wish I had because I would have been a better parent. My lawyer told me I had no chance - women always get custody." Another respondent didn't think about custody at the time he left because he was not in emotional shape to do so. After he left he felt "the cards were stacked against me in the court system." A similar response was from a father who said when he first left, his self esteem was low and his kids were very young and he did not think he could care for them. At the time of the divorce he did not think he could get custody (advice from his lawyer was not to hold out for joint custody) so he did not apply. Another respondent said that he wanted to apply for custody and when he asked his lawyer about applying, his lawyer indicated he would not have a chance - "it's a woman's world and they still have the power."

Respondents were asked whether they would have applied for custody if they thought they had a good chance of getting it.

Some men indicated that even if they thought they had a

good chance they would not apply because they did not want a court fight. One man said "not if it means a battle, my wife would fight it." Many respondents indicated they would definitely apply for custody if they felt they had a chance, but were skeptical about their chances of success.

Of the minority of men who did apply for custody the largest number (53.3 percent) were aged 31-40 years and twice as many requested sole custody compared to joint custody. Annual income did not appear to be a factor in the decision to apply for custody. There was only a slight indication that the men who experienced "relief" at the separation were more likely to apply for sole custody (42 percent) and 50 percent of those who were "sad" applied for joint custody.

Since none of the men who applied for custody obtained it, those interviewed were asked why they were not successful. Some men did apply through their lawyer for custody, but as one respondent said "I didn't apply for custody right after separation... at one point I didn't want my daughter to go home, so I kept her." His lawyer did not encourage him to seek custody and told him it would be expensive. One father applied for custody when he first separated, but he did not get to appear in court - his ex-wife got interim custody. The ex-wife obtaining interim custody occurred in several cases. One man applied for custody through "legal channels" but his lawyer advised him not to even try to get custody - he didn't have a chance because it would be his word against hers

(ex-wife). In one complicated case, when a respondent first separated there was an agreement and a court order for joint custody. This only lasted six months until the matrimonial home was sold and "my 'ex' started refusing any input from me about the kids and problems started." His lawyer suggested that because communication had broken down he apply for sole custody, which he did. At the court hearing his ex-wife was granted custody and the respondent's lawyer told him that the judge said because the custody battle had been going on for three years, he had made an arbitrary decision in favour of the wife. According to the respondent, even his lawyer was surprised at the decision and it cost the respondent \$15,000 in legal fees. One respondent said that his application for custody had not gone to court yet, but his lawyer has told him he thinks it is a waste of time.

Whether they applied for custody or not, respondents were asked how they would take care of the practical issues of child care if they did obtain custody of their children. Only one respondent showed any hesitation about this question. He was remarried and owned his own home, but felt his present wife "would not be fully happy about the kids moving in because they are screwed up." He said they would engage in family counselling if they had the children permanently, but he is terrified that if he got the children it might end his second marriage. He would rather settle on "medical custody" than on full custody.

All of the other respondents were unanimous about being able to handle the responsibilities of being a custodial parent. Most of them indicated that they had done the cooking and housekeeping when they were married, although they did not specify what this entailed. Responses included: "I'm good at cooking, cleaning and taking care of the kids"; "I did all those things when I was married. I'm a good manager of time"; "I had my own business, so was home more and did it all when I was married"; "I took care of the kids from when they were born".

A number of respondents also had support systems in the form of family, e.g. sisters or mother; some had remarried or had live-in partners. Others respondents mentioned utilizing "sitters" and day care when they were not around.

When respondents were asked how they felt custody should be determined, they all acknowledged this to be a difficult question. Some felt that custody should be discussed by the parents first, but acknowledged that this relied on the maturity of both parties. If this process broke down there should be an independent third party brought in to revolve it. Custody, they felt, should not be negotiated by a judge and only as a last resort should a court make the decision. Many men believed that they should see the child(ren) at least 50 percent of the time and have input into decision-making that affects their childrens' lives (which was a case given by some for joint custody). One father said "at the time of

separation, parents are generally too emotional to think things through clearly. However society needs a benchmark. Interim joint custody is not a bad idea; it's a cooling off period to make long term decisions." Some men felt the age of the child was important, and custody should be determined by it. A child over 10 should have input over who they want to live with, although there was acknowledgement it is difficult to gauge the maturity of a child. Another respondent replied "from 11 years old up children should be involved in making the decision... children shouldn't be forced. If the children are young, the girl should go with her mother and the boy with his father." This respondent did believe however, that all children need two parents.

Joint custody was briefly discussed in the context of whether it would work if the child(ren) still resided with the mother. The overriding impression from the respondents was that while this might be nice as an ideal, there were many qualifiers and considerable hesitation about its success. One respondent felt there was no advantage to joint custody in the manner outlined above if things were already worked out reasonably around access. Many felt it "could" work, but would require an "adult" understanding between the parents i.e. it would rely heavily on trust and good communication, and if this was not in place then everything would break down and the mother would revert to "acting as if she owns the

child." As one respondent put it "I don't want to be a baby-sitter; I want input into decisions."

3. ACCESS AND VISITATION

On the question of whether the respondents thought access to their child(ren) was reasonable, 55 percent answered "no". The biggest difficulty they expressed was the need for more time, and longer periods of time with their children. This appeared to be more problematic with those fathers over the age of 30 years. The men who experienced problems over reasonableness of access had only high school education. Among the fathers who saw access as reasonable, the highest categories were high school and some college education. The subjects experiencing the highest degree of dissatisfaction over the reasonableness of access in areas of more time and more flexibility, were men who had been separated over four years. The next highest category was those separated under two years.

When satisfaction with access was viewed in relation to who initiated the separation, the highest percentage of men wanting more time and flexibility were men whose ex-partner had initiated the separation. When the respondent initiated the separation, in more than one half of the cases (51.6 percent) he was satisfied with access. There was also a higher level of satisfaction with access when both parties agreed on the separation (66.7 percent).

In relation to their predominant feelings towards their ex-partners, reasonableness of access was seen in the following way. If the respondent was "angry", access was viewed as unreasonable (66.7 percent); if "sad" 51.7 percent saw access as unreasonable; and if "relieved" 52.4 percent saw access as reasonable.

Finally, reasonableness of access was viewed against the ex-partner's attitude toward the time the respondent spent with his child(ren). Where the ex-partner's attitude was viewed as supportive, 80 percent of the respondents were satisfied with access, and where her attitude was perceived as tolerant, 52.6 percent of the respondents were satisfied with access. However, when the ex-partner's attitude was seen as intolerant, 83.4 percent of the respondents viewed access as unreasonable with an identified need for more time with the children. When the ex-partner's attitude was seen as antagonistic, 89.6 percent of the respondents said access was unreasonable with 79.3 percent needing more time with the children. (See Table 4 and Table 5).

TABLE 4

EX-SPOUSE'S ATTITUDE BY REASONABLENESS OF ACCESS

EX-WIFE'S ATTITUDE TO TIME	ACCESS TO CHILDREN REASONABLE			(n) Row (%) Total
	YES	NO MORE TIME LONGER TIME	NO MORE FLEXIBILITY	
Supportive	24	2	4	30 -33.7
Tolerant	10	9	-	19 -21.3
Intolerant	1	4	1	6 - 6.7
Antagonistic	3	23	3	29 -32.6
Don't know	2	2	1	5 - 5.6
Column (n)	40	40	9	89
Total (%)	44.9	44.9	10.1	100.0

Number of missing observations = 1

TABLE 5

EX-SPOUSE'S ATTITUDE BY REASONABLENESS OF ACCESS

EX-WIFE'S ATTITUDE TO TIME	ACCESS TO CHILDREN REASONABLE		(n) Row (%) Total
	YES	NO	
Supportive	34	15	49 -55.1
Other	6	23	40 -44.9
Column (n)	40	49	89
Total (%)	44.9	55.1	100.0

Number of missing observations = 1

p = < .00

Respondents were asked how often they saw their children.

While overall 62.4 percent of respondents saw their children on a daily or weekly basis, 93.3 percent of those under 30 years of age saw their children on a daily or weekly basis. The percentages dropped with the age of the respondent, so that the older the respondent, the less frequent the visits. Only six percent of the fathers did not see their children at all. (See Table 6 and Table 7).

TABLE 6

AGE BY FREQUENCY OF VISITATION

AGE	HOW OFTEN DO YOU SEE YOUR CHILDREN				(n) (%)	Row Total
	WEEKLY DAILY	MONTHLY BIMONTHLY	OTHER	NEVER		
0-30	14			1	15	-17.6
31-40	29	10	6	1	46	-54.1
41+	10	4	7	3	24	-28.2
Column (n)	53	14	14	5	85	
Total (%)	62.4	16.5	15.3	5.9	100.0	

Number of missing observations = 5

TABLE 7

AGE BY FREQUENCY OF VISITATION

AGE	HOW OFTEN DO YOU SEE YOUR CHILDREN		(n) Row
	WEEKLY/DAILY	OTHER	(%) Total
0 to 30	14	1	15 -17.6
31+	39	31	70 -82.4
Column (n)	53	32	85
Total (%)	62.4	37.6	100.0

Number of missing observations = 5

$p = < .01$

Some variables that seemed to have no bearing on frequency of visitation were: religious commitment, formal or informal separation and who initiated the separation. Men with high school and some college education saw their children more regularly with visits dropping proportionately as educational levels increased. When visitation was related to annual income it was most frequent in the income brackets of \$25,000 to \$35,000 (69.2 percent) and \$35,000 to \$45,000 (73.9 percent), indicating a middle income population.

Length of separation appears to have a bearing in that 87.5 percent of men separated under two years saw their children on a daily/weekly basis, whereas for those separated over two years it was only approximately 53 percent. Respondents who were remarried scored lowest for daily/weekly visitation (46.7 percent). The respondents who indicated an

excellent relationship with their own father visited most frequently (73.7 percent), whereas only 52.4 percent who had a poor relationship with their own father visited their children frequently.

The closer the respondents lived to the children, the more often they saw them, with a descending scale of visitation the further away they lived. Respondents who lived within 10 kilometers of their children saw them most often (74.3 percent). (See Table 8).

TABLE 8

DISTANCE FROM CHILDREN BY HOW OFTEN DO YOU SEE CHILDREN

DISTANCE FROM CHILDREN	HOW OFTEN DO YOU SEE CHILDREN		(n) (%)	Row Total
	WEEKLY/DAILY	OTHER		
Under 20 kils.	40	16	56	65.9
Over 20 kils.	13	16	29	34.1
	Column (n) 53	32	85	
	Total (%) 62.4	37.6	100.0	

Number of missing observations = 8

$p = < .03$

If the ex-partner's attitude toward the respondent's time with the children was seen as supportive or tolerant, there was more frequent visitation than if she was perceived as intolerant or antagonistic. An ex-partner seen as supportive seemed to influence visitation most highly. When respondents

were "angry" or "sad" over the separation their visitation with the children was much higher than if "indifferent" or "happy" about the separation. (See Table 9).

TABLE 9

• FEELINGS TOWARDS 'EX' BY HOW OFTEN DO YOU SEE CHILDREN

FEELINGS TOWARDS EX-PARTNER	HOW OFTEN DO YOU SEE CHILDREN		(n) (%)	Row Total
	WEEKLY/DAILY	OTHER		
Angry/Sad	41	16	57	-69.5
Other	10	15	25	-30.5
	Column (n)	31	82	
	Total (%)	62.2	37.8	100.0

Number of missing observations = 8.

$p = < .01$

In the category of visitation with children, the writer included whether or not the respondent had regular phone contact with his children. Forty percent of the fathers who were sampled had no regular phone contact with their children. The most representative of this group were those who earned less than \$15,000 per annum with 73.3 percent having no phone contact. Approximately one-third of all respondents regularly contacted their children by telephone. Those respondents who phoned the most regularly (i.e. daily or several times a week), were in the higher income brackets; over \$35,000 and over \$45,000. (See Table 10).

TABLE 10

ANNUAL INCOME BY PHONE CONTACT WITH CHILDREN

ANNUAL INCOME	PHONE CONTACT		(n) Row (%) Total
	YES	NO	
Below \$24,999	14	8	22 -26.2
\$25,000+	20	42	62 -73.8
Column (n)	34	50	84
Total (%)	40.5	59.5	100.0

Number of missing observations = 6

$p = < .02$

The respondents were asked in the questionnaire how they responded to difficulties they encountered over access and visitation. The response of "anger" was found most often in the total sample (59.7 percent), however in the under 30 year old group it was the most common response (72.7 percent). The only group whose major response was not "anger", was postgraduates or professionals who instead tended to "withdraw" as the primary reaction (42.9 percent). When the respondents were asked how they felt, their reactions to difficulties affected visitation with their children, the majority of those who had responded to difficulties with "anger" or "withdrawal" said it had a negative effect on the children.

During the interviews, those respondents who did not see their children regularly were asked to explain why. One

father said there was always an excuse for why his son was not available and claimed his ex-wife would "ship" the son out of town for long periods. In the beginning his son was intimidated by his mother, but still used to contact the respondent asking to come home to him. The respondent said he tried talking to his ex-wife, but she claimed she had full control and he couldn't interfere. There were other similar responses involving the ex-partner. One respondent claimed that the boys were getting messages from their mother to say they do not want to stay weekends and he feels this really affects the eldest boy. Another father indicated he continually runs into problems with "game playing" and said he would like his access more defined, to try and eliminate this. One man who worked shifts as well as every other weekend said his work schedule conflicted with the Court order. On the weekends he worked, he arranged to get a sitter for the children. He had suggested to his ex-partner that a better arrangement for him would be to have the children when he had his days off instead of the weekend he worked, but she would not agree to this. The respondent said there had been more flexibility with the children on school vacation, but in September when the children return to school he fears it will be back to the same rigid timetable. The judicial system affected another respondent, who said originally he saw his boy on a weekly basis, but now with the formal separation papers he only sees him bi-weekly. He said he had no input

into this and didn't know what it was about. When he questioned his lawyer, his lawyer told him he was lucky to get even that.

Two of the men who were interviewed did not see their children at all for the following reasons. The first father said that since he separated in 1986 he has not seen his son or had any contact with him. When first separated from his wife, he telephoned every Saturday evening for about the first five months, then "one evening out of the blue my son said it would be better if I didn't call any more and hung up on me. Although the respondent said he had no idea why this happened, he suspects it is because of his ex-wife. He stated he has not tried to pursue his son because "I don't want to be hauled before the Court for her interpretation of harassment." He said he still sends his son occasional postcards but gets no response. The other respondent explained that for the first year of the separation he made support payments in the form of mortgage and car payments (over \$1100 per month). In the initial stage he was still seeing the children. After one year, he missed a couple of payments (no reason given) so his ex-wife retaliated by keeping the children away from him. When this happened he withheld payments and his wife retaliated again by saying "no payments - no kids". This has been the case now for two years. The respondent has only had three visits of a one-hour duration in that time and said they were very

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uncomfortable visits because somebody else had to be present. All of this makes him feel "pretty bad" because he said the youngest child hardly knows him and his relationship with his boy has deteriorated. At this point in time he doesn't see the situation resolving itself and feels the only solution is to leave the country. He believes this won't be resolved legally and acknowledges that his attitude in part is responsible because he won't make any payments until he can see his children.

4. CHILD SUPPORT PAYMENTS.

Approximately 62 percent of the respondents thought the amount of child support they paid was reasonable, and those most satisfied were over the age of 41 years. The respondents who were satisfied were generally from the postgraduate or professional cohort (87.5 percent); were remarried (71.4 percent) and viewed their ex-partner as supportive or tolerant of the time they spent with their children. The percentage decreased significantly (from approximately 67 percent to 52 percent) when the ex-partner's attitude was antagonistic.

Of those men who indicated they had some input into the amount of child support they had to pay, 79.5 percent felt the amount was reasonable. When they had no input only 43.9 percent felt support was reasonable. When the respondents were asked whether they could afford to pay their child support, the majority (67.5 percent) indicated "yes" with

strongest percentages coming from the groups that earned below \$15,000 and over \$45,000. The cohort with the greatest comfort over affordability of payments (73.5 percent) were those who had been separated over four years.

The men who found child support unreasonable were generally between 31 and 40 years of age and experienced most difficulty when they had grade school education (66.7 percent). In conjunction with salary earned, the groups who experienced most difficulty were the middle income groups (\$25,000 to \$35,000 and \$35,000 to \$45,000). A high proportion of men (41.9 percent) were angry with their ex-partner and a large number (67.7 percent) had ex-partners who worked full time.

Those men experiencing difficulty with reasonableness of child support were either cohabiting, or single and not dating and the largest proportion (38.7 percent) felt their ex-partner was antagonistic to the time they spent with their children. A significant number of men who felt child support was unreasonable (74.2 percent) said they had no input into how much they paid. (See Table 11).

TABLE 11

INPUT INTO CHILD SUPPORT BY REASONABLENESS OF CHILD SUPPORT

INPUT INTO CHILD	IS CHILD SUPPORT REASONABLE		(n) (%)	Row Total
	YES	NO		
Yes	31	8	39	-48.8
No	18	23	41	-51.3
Column (n)	49	31	80	
Total (%)	61.3	38.8	100.0	

Number of missing observations = 10

$p = < .00$

The way respondents felt about their ex-partner did not appear to influence their perceptions of the reasonableness of child support. Of the total group of respondents who said they could not afford the payments, those with the most difficulty were the middle income groups \$25,000 to \$35,000 and \$35,000 to \$45,000.

Approximately one half of the respondents make their child support payments through the Court although the higher a man's income, the less likely he pays directly through the Court. For example 61.5 percent of men earning less than \$15,000 pay directly through the court, compared to 9.8 percent who earn over \$45,000. Of those respondents earning over \$45,000, 71.4 percent make payments directly to their ex-partner, while only 15.4 percent of those earning less than \$15,000 do so.

When the respondents were asked how consistent their child support payments were, 82.4 percent responded they always paid on a regular basis. This was so, regardless of whether they had any input into the amount they paid. When asked what motivated them to pay on a regular basis the responses fell fairly evenly into two major categories. The first rationale for regular payments revolved around a sense of moral obligation to the child, but focused more on the issue of "duty", something a father/man had to do, e.g. "if you owe money, you pay it." One man said it was his upbringing- "the father is the provider." The other cluster of answers revolved around fear of retaliation if payments were not made regularly. The fear was of being brought before the court or having wages garnisheed, but also fear that the ex-wife would prevent the respondent from seeing his children.

Only three of the respondents who were interviewed did not pay child support at all. The first respondent said his wife just left without any warning and disappeared. He did not have any contact with his children for over five weeks and then he was served with divorce papers. However, when it went to Court, the judge made no order for payments - the money was not there. Both lawyers agreed to \$300 per month but payments did not have to begin until the sale of the house and pension issues had been resolved. The second respondent refused to pay because his ex-partner will not let him see the children. Payments have been withheld for two years now. The

last respondent went before the Court and said that the judge felt he shouldn't pay because he was on a disability pension.

Respondents were asked whether they made any additional contributions towards the upkeep of their children to supplement regular child support payments; overall only six percent of the sample did not. The majority of men indicated they made contributions in various areas which range from clothing, medical, schooling to other.

An additional point to be covered under this section of child support payments is the question asked of all the respondents: "do you think your ex-partner uses the child support money appropriately for the children?" Approximately 61 percent of the respondents answered "no." The majority of men who felt this way were under 40 years of age. Of the total group who answered "no", the largest response (58.8 percent) was from the 31 to 40 year olds. Those with grade school, high school or some college were much more inclined to say the money was not used appropriately. Annual income seemed to have a strong influence on the response of men to this question: the higher the respondent's income the less he felt child support payments were used appropriately for the child(ren). From the total of respondents who said the money was used inappropriately, the largest group (40.8 percent) had been separated over four years and 64.7 percent had ex-partners who were employed full time. Another significant finding was that 70.5 percent of the men who had no input into

the amount they paid felt the money was not used appropriately, compared to 51.3 percent who did have input into the amount paid. (See Table 12).

TABLE 12

INPUT INTO CHILD SUPPORT BY APPROPRIATE USE OF CHILD SUPPORT

INPUT INTO CHILD SUPPORT	DOES 'EX' USE MONEY APPROPRIATELY			(n) Row (%) Total
	YES	NO	DON'T KNOW	
Yes	17	20	2	39- 47.0
No	10	31	3	44- 53.0
Column (n)	27	51	5	83
Total (%)	32.5	61.4	6.0	100.0

Number of missing observations = 7

When the respondents who were interviewed were asked to explain why they thought the child support was not used appropriately, the answers were quite diverse. One respondent said his ex-wife was a "party person"; he had wanted to set up a trust fund for the children, but his lawyer said it would not work. Although the respondent acknowledged his ex-wife is a good mother and bought clothes and food for the children, he felt she was primarily using the money on the house and not on the children. He found it "tough to lose control on how the money is spent." Another man said that when they separated, his ex-wife sold the home after one year and bought a new home with her fiance. The respondent attempted to open up a trust account for his

children out of the money he paid, but his "ex" would not agree to it. The respondent felt she would not agree because she was paying a lot in lawyers fees over the access battle.

Another response to the question was that the ex-wife's attitude towards money was not good: "she doesn't manage money well." This man gave as an example the fact that his "ex" was concerned about post-secondary education, but won't put money aside now. He feels a lot of his child support money goes to housekeepers and baby-sitters and that the money is being used to support her lifestyle as well as for the children. One father said that his ex-wife spends the money on herself (clothes, makeup and drinking). (He claimed the mother was never with the daughter, who was not dressed appropriately for the seasons. One respondent claimed that his ex-partner had "a lot of bad, expensive habits to support on her income now." (e.g. drugs, drinking). The income she has will not support this and she needs additional money. He said the children complain about needing new clothing, but feels he has no say whatever in how the money is managed. The last respondent to answer the question was very specific. He identified a "clothing issue" in which his boy still did not have a uniform for school and he attended a Catholic school where a uniform was required. When the children visit the respondent's house he said they are in rags. He buys them clothes which they take home and then come back ruined. To him "child support has become thinly veiled alimony."

5. ALIENATION AND EMOTIONAL FACTORS

Respondents were asked what they missed most about not living with their children on a full-time basis and their primary response was coded into three categories: 1) Everything, which typically included answers such as "it would take a book to tell you"; "I don't even know where to begin, I miss everything"; 2) Guidance, which included answers that revolved around directing and guiding the child's life, e.g. "I miss having input into bringing him/her up"; "I miss helping him/her with their homework"; "I miss being able to guide and direct them"; 3) Nurturance, which included statements such as "I miss kissing them goodnight and seeing them in their pyjamas"; "I miss laughing with them and hugging them"; "I miss eating meals with them and hearing about what they did during the day"; "I miss bathing them and getting them ready for bed". Approximately 65 percent of all respondents missed the nurturing aspects of parenting, and the group that was highest in this regard was the under 30 year olds (76.9 percent), although in all age groups this was the predominant response. Of all the men who indicated they missed the guidance/direction aspects the most, the largest percentage (56.5 percent) were 31 to 40 year olds. When looking at the factor of education, it appeared that the highest percentage of men who missed nurturing the most were college graduates and postgraduate or professionals. As for the respondent's current relationship status, single dating

men missed nurturance of their children the most (76.2 percent), while remarried men were evenly divided between guidance and nurturance (46.7 percent for each category.)

From the answers given in the questionnaires and those expressed in the interviews, the qualities men missed most about not living with their children included:

- "Full contact - school; meals, kisses and hugs, 'goodnight', 'hello', etc."

- "Waking up with them and letting them tell you about their dreams...listening to them come home from school and telling you about it... helping them with their school work and sharing your day with them."

- "The constant telling him to clean up his room (I don't mean that in a put-down way), helping him with his homework, bicycle rides - just going for a ride. Discussions on and about Corey Hart, Bryan Adams, Michael Jackson...generally having him around."

- "I miss having him with me; being able to kiss him goodnight; sharing his school work... just even the fact of not being here with me hurts."

- "I also miss the developmental stages and not having as much control in the raising."

- "The family life has just gone...I miss Christmas, holidays, birthdays, and the first day of school. Also daily conversation, questions they ask, good night kisses, just bathed kids in their P.J.'s...the looks on their faces when they discover new things."

- One respondent indicated his own family was great, and now its like stepping back in time. When he sees his kids he thinks of his own childhood (father, sisters, brothers). The respondent became very emotional at this time and cried freely. His own father died in 1970. He said he now lives in a static environment (an apartment). "When the kids are there the apartment comes alive and so do I." He said he does not have a lot of joy without his children - he has pleasant times on his own, but not joyous times.

- Another father missed having his daughter in his sight at all times - "you miss a lot of that". He said he even missed "watching her spit out the food she doesn't like."

- This man said when he first left home "it hurt a real lot". He misses raising his daughter and knowing everything that is going on in her life. He said he never knows what is going to happen and never enjoys taking his daughter back home after a visit.

- "I spent a lot of time with them (children) one-on-one between ages two to nine or ten. I miss that the most." He said he took his children everywhere with him - "they were my life."

- "I miss everything, the love, being needed by them, molding them for their future journey through life.... Kissing them goodnight, helping them with their homework. Next to my new wife, my kids are very important."

- One respondent did not feel that he now led a normal life. "God's present to me was the kids." He says he now feels totally destroyed.

In the interviews, men were asked how not seeing their children affected them emotionally and the responses were disturbing and specific. The commonality was that they were all affected very badly. One respondent said he feels very lonely and this is compounded by the fact that when he left his wife had the telephone unlisted and he couldn't even talk to his children. He said he did not see the children at all for eight months (he was forbidden to go to the school grounds). He told his children not to upset mum because she would only punish them - so now he doesn't contact them unless his ex-partner approves.

Another said that when he was first separated, he missed seeing them all the time; "missed listening to what they did with their day; their homework and social activities." He said that the spontaneity is missing when you only see them once a week - that they forget the small things that happen.

daily. When he finally lost custody, he felt his kids had been "taken away". He felt he had lost all rights - all input, and this made him pull back from the children. Now he only has the right to "visit" as stipulated in the court order. He feels very "lost" and it is made more difficult because he was always the nurturer and feels he is now being "punished". One father said that each day of "no contact" with the children in his eyes is a lost day. Other concerns of respondents can be summarized as follows:

- worry over how his son will be disciplined by his ex-spouse's new partner, and how the other children brought into that union will affect his son.

- dreading having to take the child back home after having been with him for a prolonged visit (e.g. two weeks) and knowing he would now have to wait for a period of time before he would see him again. One man cried when he had to take his children back after 10 days of camping.

- one father thinks about his children all the time. "There isn't a day go by that I don't think about them".

- emptiness because he doesn't know where his children are or what they are doing.

- for the first couple of years he was emotionally upset "and shed a few tears here and there".

- he takes things a lot harder now; he had his own business, but had to file for bankruptcy. He still experiences a whole range of hurt emotions and lets things get to him that he could have walked away from before.

- he was a very involved father and after the separation he was so hurt it "got to the point where I couldn't face the next day". He feels "very empty and helpless."

- not seeing the children makes him cry. He knows his kids need his help and "it hurts my stomach and my nerves."

When the respondents were asked how they coped, there were a number of different styles and techniques, some more

beneficial than others. One man said he ended up near a nervous breakdown and started missing work. He used to get harassing phone calls day and night and became very, very depressed. For the first year he said he went through hell and his doctor finally advised him to take early retirement. He was hospitalized twice for what he thought was a heart attack (it turned out to be stress). He then started going to the Legion Hall five days a week, not to drink but for company. Some men became resigned, i.e. "there's nothing I can do about it" and tried to smother any emotion looking at child support coldly in the same manner as if they were making a car payment. Others tried to fill the void by working more, either on their own job (some taking on double shifts), or by doing additional work outside of their job. One respondent worked with young boys in a "Cub Pack" to try and compensate for his loss. Family members were often used as a coping mechanism, e.g. talking to their sisters or mothers, and often a new spouse or girlfriend was a key support. Some men withdrew from everybody, including their friends, while others took to drink. "I got into the booze quite a bit". One man took to drinking and drugs "to make him forget.... But you get up the next day and nothing has changed. The problems are still there."

The stress of not being with their children caused many non-custodial fathers to experience physical problems such as changes in sleeping patterns. Some took sleeping pills, but

that made them more depressed and they quit, while others were afraid to take pills for fear of becoming addicted. Others had changes in their eating habits. One respondent went for two to three weeks and hardly ate at all. He said he wandered around in a daze, wondering how he would see his child. Others who were on shift work and used to cook for their children before separation, now don't cook just for themselves. A few had dramatic weight losses of 20 to 40 pounds. One respondent went through Brentwood for treatment of alcoholism three years ago and then after the separation had to go back again. Another father said he was puzzled by his own excessive drinking, because it was not a conscious effort "to go out and get looped". Other symptoms were expressed, such as excessive "partying", the onset of headaches, use of drugs and wild mood swings.

The interviewed respondents were asked how long it took them to adjust to not living with their children and with only three exceptions, all of the respondents indicated that they had never adjusted to living apart from their children. A couple of men added qualifiers, that although they had not (and would not) adjust to the situation, after a year or two they had been able to get on with their lives coping as part-time fathers. One respondent said they separated around June and it took him until Christmas to realize they weren't around. Prior to the custody order he thought they (children) would be with him. "The final giving up came

after three years." Another respondent explained his situation in these terms, "I will never entirely adjust, but now in the third year, I am starting to get on with my life. The first year was most crucial in having to always be there for the kids. When I realized they were secure about me and our time, then I could relax." A very different response was "I still haven't made the adjustment and I won't be satisfied until they are with me." This respondent said he won't forgive his wife for keeping the children from him and says he wants revenge. His own attitude he said surprises him, because he regards his "ex" as a good mother.

6. ONGOING RELATIONSHIP WITH CHILDREN

Respondents were asked whether they felt there were any ongoing problems in their relationship with their children. Overall 49.4 percent of men indicated they did not have problems. The age cohort which seemed to experience the least amount of ongoing problems (57.4 percent) was the 31 to 40 year old fathers. Generally, the higher the educational background the less men perceived ongoing problems due to their ex-partner.

Those men who had ongoing problems were asked to identify what they felt were the major contributors to the problems and approximately 36.5 percent of this group indicated it was because of their ex-partner's attitude. The group experiencing most problems (66.7 percent) were the over 41 year olds. When ongoing problems were tabulated with

separation interval, those men separated under two years experienced more ongoing problems. Which partner initiated the separation did not appear to be a factor for men who experienced no ongoing problems. For those fathers experiencing problems attributed to the attitude of the ex-partner, problems were strongest when the ex-partner initiated the separation. The respondents' relationship status seemed to show that remarried and cohabiting fathers had the most problems. The same pattern showed for their perceptions as to the cause of the problems. The frequency of the ex-partner viewed as the problem was much greater for remarried and cohabiting men than for single men.

Ongoing problems were also viewed in the context of the ex-partner's attitude to the time a father spent with his children. When the ex-partner was seen as "supportive", 76.7 percent of men indicated no problems, and when the ex-partner was "tolerant", 61.1 percent had no problems. However, when the ex-partner was seen as "intolerant" only 50 percent of respondents had no problems. This dropped to 13.8 percent when the ex-partner was "antagonistic." Of those men who saw ongoing problems with the children being caused by the ex-partner, 71 percent viewed the ex-partner as antagonistic to the time they spent with their children. (See Table 13).

TABLE 13

EX-PARTNERS' ATTITUDE BY PROBLEMS WITH CHILDREN

EX-PARTNERS' ATTITUDE TO TIME WITH CHILDREN	PROBLEMS WITH CHILDREN		(n) (%)	Row Total
	NO	YES		
Supportive	34	14	48	-56.6
Other	8	29	37	-43.5
Column (n)	42	43	85	
Total (%)	49.4	50.6	100.0	

Number of missing observations = 5.

$p < .00$

When the respondents were asked if their relationship with their children was now different from when they were living with them, 48.1 percent indicated it was the same, 16 percent thought it was better and 35.8 percent saw it as worse.

Those respondents who were interviewed were asked to discuss aspects of their ongoing relationship with their child(ren). When describing how their relationship had changed, some respondents spoke of more strain now: of trying to re-establish or rebuild the relationship. Others were more pessimistic and spoke of giving up and trying to fill the void in their life in other ways, even though they still loved their children. Some fathers addressed the issues of time being too short and making it difficult to discipline the children, for fear of bad feelings. There were some respondents who saw the relationship as pretty much the same

and were more excited now when they saw their children. However, several men felt that difficulties with the children were directly attributable to the negative attitude of their ex-spouse, who influenced their children against them or created obstacles to visitation.

When the respondents were asked if the age of the child at separation made a difference most fathers said that it was easier on the children if they were younger. "If the children are really, really small it may not have much impact. But around school age it is pretty tough on kids." One respondent said it was more important to look at the emotional level of the child rather than the age. With respect to how the age of the child at separation impacted on fathers, the majority of respondents also felt it was easier on them when the child(ren) were younger "because the older they get the more involved you get in their lives." One father put it another way "it is easier for a father to separate from an infant in arms, than from a clone of him." Many men, however, said that the age made no difference - it was extremely painful at any time. "I was devastated the day I walked out. The kids were screaming and crying and holding onto me - it was the hardest thing I've ever had to do in my life."

When the respondents were asked if they ever took out bad feelings or anger with their ex-partner on their children, only one man indicated he sometimes did when the children

accepted their mother's view of things. All of the other fathers indicated that they tried to separate the two issues and keep the children out of conflicts.

The difference of feelings towards the children over a period of time was discussed. After a period of some 12 months most respondents had become resigned to the situation at some level which caused considerable sadness, but nevertheless found it very difficult around special occasions (e.g. Christmas, birthdays). One man said he is still close to his children, but he has learned to live away from them. He finds that he tends to buy their affection; he is more extravagant because he doesn't see as much of them now and is inclined to spend a lot of money on them when they visit. Another respondent replied "When they are with you, you don't think to do things with them. Now he isn't here, I think of what I should have done." This respondent said he doesn't even have a picture of his son - his wife took it.

Very few of the fathers interviewed had a current relationship that could have potentially effected their time with the children. Of the few who did, sometimes the new relationship was seen as a benefit and in some cases it created a disturbance.

8. STEREOTYPES

Questions were asked to test the interviewed respondent's perceptions about gender stereotypes and to see what (if any) changes have taken place socially.

Q.1 Are men equally good parents as women - why?

When asked this question, all of the respondents answered in the affirmative. One respondent said "my mother never discriminated between male and female. They all shared duties. It was all 'housework' not 'women's work' and my mother told me I should know how to help women." He said for this reason his ex-wife found him to be a threat. Most respondents indicated in some form that they could perform all functions around the home as well as women and that household tasks should be shared by both. Some respondents felt that gender stereotyping had been rejected and that things have changed a lot over the last 20 years. Other respondents expressed the opinion that although men had the potential to be equally good parents, not all were. As one man said "I feel I have more in common now with single female parents than male."

Q.2 Can a man do as much for children as women?

All but two of the respondents answered with an emphatic "yes" to this question. The only qualifiers by some respondents were: that a child really needed two parents, not just one; that the responsibility for children should be shared equally and one respondent felt that a mother's bonding with a child could not be replaced by the father. Only one respondent felt work was still a potential obstacle because all men have to work, but most women still have a choice.

Q.3 Is it more natural for a woman to have custody? Why?

As with the previous question, all but two of the respondents felt that it was not more natural for a woman to have custody and made the following observations. For most men biology was the great leveller, rather than a determinant for women. Perceptions were: "it takes two to create one - my paternal instinct is just as strong as the maternal instinct"; "custody is not more natural for a woman just because she bears the child"; "it is only by law she gets custody. Bonding is what's the most important - not biology. Man helps make a child too"; "it takes two people to create a young one"; "from the moment I knew she was having a baby, I felt just as much part of it. The fact that a man doesn't actually have the baby doesn't diminish this. Women shouldn't possess children because they bear them"; "biology has no bearing; it's who can give the child a better life who should have custody"; "no, not in today's world - too many women today are interested in other things besides being mothers."

Q.4/5 What is a father's role in marriage? What is a mother's role in marriage?

These questions were posed to the respondents as two separate questions, however 11 of the 13 men did not distinguish between them because they felt there should be no difference in the roles. As one man said "at one time there used to be a distinction, but not now. There is no black and white, only grey." All 11 respondents felt that the roles

and responsibilities of parents should be shared equally. "There is no difference, both love and the physical functions can be performed by both." One respondent said that sometimes same gender tended to do more together (e.g. mother and daughter/father and son). Another respondent said that parents should be equally and mutually supportive of each other, although this particular man did see the father taking a more active role with discipline. As one man said "it's (role) really whatever two people decide. The ideal situation is, it is active and equally shared. Role conflict is what marriage breakup is all about. The contemporary male is confused....literature is venomous of males." A few of these respondents did acknowledge that some men would probably take a more traditional approach.

Q.6 Should this be changed?

This question was only answered by three respondents because the others saw no distinction in the roles. One respondent said he would opt to keep separate roles; one respondent wanted to see traditional roles remain, but he thinks there will be a change, and the last respondent felt "everyone should pitch in and help."

9. THE JUDICIAL SYSTEM

Because the judicial system plays such a significant role in the area of marital breakup, custody, visitation and child support, respondents were asked the following question:

Q. Did the judicial system (e.g. lawyers, court system, judges) assist the process? Was it fair, impartial? Could it be improved - how?

As this question elicited very definite responses, the individual responses will be shown.

Respondent #1. This (respondent said the judicial system was not a fair one. He and his "ex" agreed on a two year separation with no discussion of divorce and no lawyers involved. She then reneged on her agreement, got a lawyer and served him with papers. The respondent had to get a lawyer "and it became war." He claimed that his ex-wife's lawyer advised her to lie to make her case look better. This man thought there should be a "cooling out period" which would include a mediation process and counselling. He said he was left with nothing financially, and eventually stopped fighting the system because he couldn't afford to pay any more. He said he had to finish up representing himself in Court.

Respondent #2. The respondent's first remark to the question of fairness of the system was "no - no - no". He said all circumstances are different but we need to abolish the idea of the "almighty mother." The system could be improved "by getting rid of the stigma of only mothers getting sole custody. Judges shouldn't rubber stamp." He also said courts should look at the father's financial needs. "Don't take all of the money in payments because you still spend money on your children and have to entertain them." He felt the courts don't care about this. He added that lawyers

create problems by pitting one person against the other, which means higher fees for them.

Respondent #3. This man found it was not a helpful process. Even though he said it has been improved through the Family Law Act, he feels it is still judges and lawyers who interpret and make decisions. The only way, in his mind, that the judicial system could be useful is as an absolute last resort when all else has failed.

Respondent #4. According to this respondent, the judicial system is not fair, and joint custody should be worked out between parents. He felt the whole process should be negotiated through social services and then when finalized, presented to the Courts. He did acknowledge that he thought his lawyer's advice was appropriate. The respondent felt a better way to handle the situation would be for a system to be set up while separation is taking place. If two parents came together through a mediator and worked out issues relating to the child, it would be better than leaving it to a Judge to decide. Someone should talk with the child alone and not with the parents, then later with the whole family. "It's a desperate feeling - a man has no power."

Respondent #5. The positive response from this respondent was that the system hasn't been too bad so far; he feels his lawyer has worked on his behalf.

Respondent #6. As far as the issue of divorce is concerned, this man said "lawyers mess it up real bad." His

court proceeding has been going on for over a year now, and he sees no need for this. "Since you have no voice in court, you have to rely on having a good lawyer to represent you." He feels there should be a neutral party to discuss things with. "There is a lot more to the issue of men who don't pay support. All your rights are denied and then you have to pay on top of it."

Respondent #7. This respondent said the system was not fair. He said the court system is too cumbersome with time delays which cause stress. He also spoke of biases because he felt both lawyers and judges are predisposed. He gave as an example that he had been paying support (voluntarily) for two years. When he wanted to get a court order to establish the payments (that he was already making), it took him nine months and cost him \$2,100. His lawyer then wanted him to go back for costs. He said the idea of having divorce done simply is much better because "an adversarial system where lawyers work and earn their money is destructive to families."

Respondent #8. This man said that theoretically the court system isn't fair to either party. "It doesn't help people, you just have to do it this way, it's the law." He went on to say people would be better off without lawyers and trying to work it out on their own. Despite these statements he said the system was fair, he had not had any problems. "There was no fighting; the lawyer went to court once."

Respondent #9. This respondent said the system for him was unfair from the beginning when a worker through the Official Guardian interviewed him to see who was the most fit parent. His lawyer, he said, was "pretty fair" but could have been better if the respondent had the money to pay for it. He could not think of any way to improve the court system.

Respondent #10. This father said we should do away with courts, judges and lawyers for divorce. The system was "very petty, very useless and disinterested in me." He felt the answer was an impartial social worker to do conciliation/mediation. It would also be a lot less expensive from his point of view. He said his lawyer keeps telling him payments and visitation are two separate things (this is a respondent who is withholding support payments because of difficulties over access). The respondent feels the rights of men (even without children) don't get recognized. "Even lawyers fight against them."

Respondent #11. This man said the court system is a one-way system for the woman. He had never used lawyers in his life and then "got thrust into a world of money grubbers leading me down the garden path." This made him very bitter about the court system because he feels there is no justice in it. He said that every time his ex-wife gets a whim to take him back to court, it happens within weeks. When he tries, it takes months. He has had four lawyers. "the first one

shafted me and made deals without my consent." He said that for any improvement in the system to take place it would require a mediator to judge each case on its merits because "not all guys are bad." This man "wishes - the system could come up with lawyers not out for themselves - but who are committed to their clients." He said had it not been for his current wife he would have quit his job because they took more than half of his salary.

Respondent #12. The reaction of this respondent was that all the Judge did in his case was rubber stamp what the lawyers had done. Now he finds roadblocks when he wants custody. "She can deny access on a whim, but if I miss one payment, I go back to Court." He feels that to improve the system, it would have to be less formal so that you can get to the testimonial stage a lot quicker and lay out the options.

Respondent #13. Rather succinctly, this respondent replied "the law is a rat." He is very upset with Family Court and feels that the administration and Judge have violated his human rights, and his lawyers (the first one is deceased) have not helped him. He feels that to improve the system, the law has to be enforced; his orders are not enforced. (This respondent has not seen his children for three years.)

Finally an interview was conducted with a Provincial Court Judge (Family Division) in an attempt to understand the judicial perspective of the problems outlined in this study.

A questionnaire was developed as a guideline to use during the interview, but in the write-up of the interview the questions were not strictly adhered to. This was to allow for the presentation of ideas that sometimes came from the questions and went beyond them.

1. The Court System.

With respect to the law as it stands now, the Children's Law Reform Act makes the only provision for custody (Sect. 24-guidelines for custody). When the writer asked whether more men were now applying for and getting custody the Judge replied that he really didn't know if more men were applying. There has been no compilation of statistics in this regard at the Family Court. He did indicate that in pre-trial, men sometimes appear resigned to not getting custody, but he is not sure why. The attitude of the Court is that the child should remain in a stable, nurturant, positive environment, and that a child should not be removed from such an environment unless there are extenuating circumstances. In cases where the mother who has the child applies for custody, she naturally includes in her application the positive factors from her point of view. If the father does not oppose the application, or if he consents to the mother's application, then the Court may never become aware of any negative circumstances surrounding the mother's care of the child(ren).

Another important issue is one of timing. For example, when a couple separate and the father does decide to apply for

custody, if this procedure takes months or years to be decided upon in court and the children in the meantime have been residing with the mother in a stable, positive environment, judges are reluctant to move the child from that familiar environment without a very good reason. In this respect time is not on the side of the father unless he starts out with interim custody, or unless the children are voluntarily living with him at the time of application.

The judge was asked whether he thought mediation was more advantageous than the judicial adversarial system in issues of marriage breakdown and he agreed that it was. He pointed to Bill 124 (replacing Bill 60) which had its first reading in May of 1987, is scheduled for its second reading by the end of November, 1988 and its third reading by the end of December, 1988. Bill 124 makes specific reference to mediation, and also to remedies for access difficulties. He felt that qualified mediators may be as able to determine custody in the context of a mediation (having regard to the criteria set out in Sect.24 of the Children's Law Reform Act), as would a Judge in a trial environment. However, he does fear that the legislation will be enacted too quickly, without first having qualified mediators in place.

2. Child Support.

The question was asked whether there was now onus on a woman to contribute financially to the support of her children as well as the father having to do so. The judge responded

by saying that there is specific onus in law for both the woman and man to support the child. Support is generally decided by ability and need, i.e. the needs of the child(ren) should be contributed to by the parents according to their ability. Even if a wife is not working, but could be, a judge can impute her contribution, or make the husband's support payments time limited. When the writer asked whether in fact this ever happened, the judge replied that he felt it did.

Within the Ministry of the Attorney General there is now a new Support and Custody Enforcement Office and the judge was asked what he thought the advantages and disadvantages of this Office were. He said the system will definitely result in the collection of more arrears than the previous system did. However, when the writer read three decisions on appeals against the Enforcement Office (see Appendix B) the real question seems to be whether the means will justify the ends. What has to be appraised is whether the method in which enforcement is conducted is so harsh that it will be harmful. The methods used by the Office have the potential of being bureaucratic and insensitive which could lead to a lack of flexibility around individual circumstances. For example for non-payment of support, or a missed payment, a man can automatically be garnisheed a maximum of 50 percent of his salary, and this can be adhered to regardless of his debtor's circumstances.

When asked whether men should have more input into the amount of child support they pay, the judge replied that the way the system is presently structured, a man can have full input through a lawyer that he may choose to hire, has the right to fire if he is not satisfied with the service, or he can represent himself in court without a lawyer. It is not uncommon in the Family Court to have litigants representing themselves and they are given as much consideration as if they were represented by a lawyer. He felt that selection of a lawyer was like any other professional - there are degrees of competence and value for service.

3. Custody.

When the writer asked whether lawyers still advise men against applying for custody, the judge responded that he did not know if this was the case. When asked to what extent he believed that the "attitude" of the judge influenced who got custody, he indicated he believed that in some quarters amongst lay persons, there would probably be a perception that there is a "mind set" that sees custody awarded to the woman. There is a time lag between reforms of the law and the attitudes of those administering the law, so that even when laws become more flexible to reflect societal reality, old values still die hard. When asked his views on joint custody, the judge replied that it can only work when there is communication between the two parents and they can make joint decisions about what is good for the child(ren). In his

experience, 90 percent of the cases that go before him where custody is the issue, is because the parents are at war. The writer asked the judge in his opinion what were the criteria for the decision on who gets custody. He replied that the essential criterion was Sect. 24 of the Childrens Law Reform Act. It should be determined solely on what is in the best interest of the child. The judge was then asked how custody should be determined (using those criteria) if all things were equal, i.e. two competent, loving parents who were good providers and who both wanted sole custody. He responded that in the final analysis, in a case such as this, there was a greater likelihood custody would probably be awarded to the parent with whom the child had been residing from the time of the breakup. However, it would have to be demonstrated that the child was in a nurturing, stable and positive environment (Sect.24;2(c)). The stability of a permanent residence was an important factor. Therefore if a child had been residing with the mother in the residential home under the above noted circumstances, for the period prior to the court decision, custody would probably go to her. On the other hand, the judge said the same thing would equally apply if the child had been residing with the father and there was proof of a nurturing, stable, positive environment. In this case, the father would probably be awarded custody.

4. Access.

The Judge indicated that there are still many men coming to Family Court requesting action over access difficulties. He acknowledged it is still a big problem. The writer then asked what recourse a man has when access is denied and he can't afford ongoing legal fees for court action. The judge responded that the man had an alternative. If the access had only general provisions, e.g. "reasonable access", he could apply to the Court to have specific access terms, e.g. "every Saturday from 9:00 a.m. to 7:00 p.m." This would make enforcement of visitation rights much easier. Some of the respondents had indicated to the writer that they were reluctant to stop payments as a method of forcing compliance with access rights for fear of retaliation. Speaking with their ex-partner about the difficulties did not appear to resolve the issue.

5. Stereotypes.

Q.1 Are men equally good parents as women?

A: Yes, there is nothing in the genes of a woman that equips her to be a better parent. The manner in which you act is more a determinant of a good parent.

Q.2 Can a man do as much for children as a woman?

A: Yes, inherently because of the above reasons.

Q.3 Is it more natural for a woman to have custody?

A: The Judge preferred in this instance not to answer the questions because he said he was not an expert in child psychology and his answer would only reflect his own personal opinion.

Q.4/5 What is a father's role in marriage. What is a mother's role in marriage?

A: The general public may well consider the basic needs of the child as more of the mother's responsibility and the father's responsibility is to have other activities with the children.

Q.6 Should this be changed?

A: Yes, roles should as far as possible be shared equally by both.

Q.7 What do you experience as societal views of traditional parental roles? (e.g. husband the breadwinner and wife the nurturer).

A: Many persons may still think in terms of stereotypes. I try not to start with a stereotyped mind-set. I try to see the situation as it unfolds.

SUMMARY

This chapter of Findings has included a Respondent Profile and areas of primary concern in this research, e.g. Custody, Access and Visitation, Child Support Payments, Alienation and Emotional Factors, Ongoing Relationship with the Child(ren), Stereotypes and the Judicial System. The Chapter integrated both the Quantitative data (questionnaires) and Qualitative data (interviews) and where relevant significant association between variables were shown in Table form, giving the statistical significance at the 0.05 level using bi-variate analysis and the Chi Square statistic. The following final chapter will discuss these findings and present conclusions.

CHAPTER SIX

DISCUSSION AND CONCLUSIONS

I look forward to the day when a majority of men, as well as a majority of women, accept the absolute equality of the sexes, accepting sharing of childcare and all other forms of work, accept freedom of sexual behavior, and accept multiplicity of gender forms, as being plain common sense and the ordinary basis of civilized life. - R.W. Connell

The purpose of this final chapter is to amalgamate the information collected from the questionnaires, statistical findings and interviews to establish whether non-custodial fathers do experience alienation when separated from their children. If this is the case, does this sense of alienation produce negative impacts and behaviours, particularly in the areas of child support payments, visitation and the ongoing relationship with the child(ren)? The level of role distance will be examined to see if this has any significant impact on experienced alienation and the continuation of the "father role".

The central concepts of role theory referred to in Chapter Three have been evidenced in the findings and interviews. Of particular significance is Nye's (1976) concept of role seen not as just the behaviour of a present position occupant, but the expectations of a history of many occupants of these positions. The impact of stereotypical roles regarding fathering has led the general public and members of the judicial system (who are also part of that

public). to make it extremely difficult for men who are experiencing the pain and unnaturalness of being separated from their children. It is these gender role expectations that have led to the norms of society and sanctions for enforcing role behaviour. Because of the scarcity of published material in the area of fathers who change status from full time father to non-resident visitor, the focus of the study is centred on fathers vis-a-vis their children and does not attempt to address similar issues that may be faced by non-custodial mothers. Fathers' definitions and perceptions are of concern and not any objective reality as imposed by the researcher. Conclusions drawn from this study are limited because they have been derived within the context of a largely volunteer sample of respondents in a specific geographic area.

Discussions and conclusions will be grouped in the major areas that have been the focus of this study, i.e. custody, access and visitation, child support payments, alienation and emotional factors, ongoing relationship with the children and stereotypes. A final section has been added to deal with the perceptions of the judicial system and how it impacts on this social problem.

CUSTODY

The majority of men in this study did not apply for custody of their children, but did have some input into

~~access~~, most of which was time-specific. The biggest barrier to not applying for custody revolved around the judicial system. Many respondents were told by their lawyers that they did not stand a chance of obtaining custody and that it would be too expensive to try, or the respondents' perceptions were that the court always granted custody to the mother. Rarely did the respondent indicate that the child(ren) wanted to stay with the mother. The second major reason for not applying for custody was that men felt in some ways the children were better off with their mother: she was cited as being a good mother, or the men felt it important that the child(ren) stay in a familiar environment. This attitude could in part be the result of stereotypical gender roles that these men had internalized. Very few respondents gave finance, housing or their job as a reason for not applying for custody. In this sample group, where the ex-partner had initiated the separation, a large proportion of men did not apply for custody. This could engender speculation about whether there was a sense of guilt on the respondents' part regarding circumstances around the separation leading him to conclude he would have no chance of obtaining custody. Even those respondents who would have applied for custody if they thought they had a chance of getting it, indicated they were skeptical about their chances of success. Some men still did not want to go through the bitterness of a court battle.

The majority of those men who applied for custody were between the ages of 31 and 40 years and twice as many applied for sole custody as for joint custody. None of the respondents who applied for custody were successful. The respondent's own relationship with his father did not appear to influence whether he applied for custody of his own child(ren). Their perceptions of why they did not obtain custody focused on the judicial system. In many cases the wife obtained interim custody and this was not reversed; in other cases the lawyers did not encourage pursuit of the application of custody. One respondent had paid \$15,000 in legal fees to be told by his lawyer that the Judge had made an arbitrary decision in favour of the mother because the custody battle had gone on for too long.

All but one of the interviewed respondents had taken into account how he would look after the practical arrangements of caring for a child if he had custody. This signified that the men took the responsibility of custodial parent seriously. Most had attitudes quite contrary to the stereotypical "breadwinner" father and indicated they had done a major share of the housekeeping and cooking when they were married.

The majority of men interviewed believed that the determination of who got custody of the children should be discussed by the parents first, acknowledging that this required maturity, trust and good communication. If this failed, an independent third party should be called in such as

a conciliator or mediator. They felt strongly that the court should only be used as a last alternative to determine custody. The age of the child was also important in their view, and they generally felt that children over the age of 10 or 11 years should have a decision in who they wanted to live with. The concept of joint custody, where the child resided with the mother, sounded reasonable to most of the respondents theoretically, but while they felt it could work, there was hesitation about whether in practice it would work.

The Family Court judge who was interviewed reiterated the respondents' perceptions of custody: that generally there is still a mind set on the part of the general public that custody goes to the mother unless there are extreme extenuating circumstances. In the practice of the judge who was interviewed, nearly all cases involving custody meant war, and joint custody was only valid where there was good communication between both parents who could make joint decisions about the best interests of the children. It is still the case that the partner who obtains interim custody (generally the mother) is in the best position for obtaining permanent custody by virtue of the child residing with her at the time of the separation, providing she has demonstrated that it is a nurturant, positive, environment.

In sum, the traditional assumption that children belong with mothers is still seen to be active in society generally. Based on responses from fathers in this sample, it is not

unreasonable to assume that this view is also reflected in the judicial system. Gender based inequity continues to make it an almost impossible obstacle for those fathers who desire custody. Even worse, it denies the legitimacy of the trauma that is inflicted on non-custodial fathers when they are separated from their children, and experience how unnatural this separation is. While we would be appalled if a mother could only visit with her children on pre-arranged times in a marital breakup, somehow it is deemed the natural course of things to which a father is subjected. It is clear that more fathers are now demanding equitable treatment for their parental role. Still the vast majority of them do not apply for custody, nor challenge the woman's application for custody. From this research it would appear that most men do not perceive this as an option open to them for reasons already suggested. The writer is not suggesting any quick-fix solutions to this enormous social problem. However, the traditional ways in which we have handled custody are beginning to erode and it is clear that we should now be looking at well planned acceptable alternatives.

ACCESS AND VISITATION

Contrary to the hypothesis that for non-custodial fathers who felt alienated visitation would be negatively effected, the majority of fathers exercised their visitation regularly. Despite this, however, more than one half of the fathers did

not feel access was reasonable because they needed more time with their children. Obviously a large proportion of men now spend much less time with their children than they did when they were married. Men were much more likely to view their access as unreasonable if they were angry with their ex-partner or if her attitude towards the time he spent with the children was antagonistic.

Of the total sample it was the under 30 year olds who saw their children most often and the older the respondent the less frequent the visits. This could speculatively be attributable to the fact that the older the child the more likely they are to have their own social commitments, precluding more frequent visitation. The regularity of visits dropped proportionally as educational levels increased which could be due to the fact that men with higher educations have employment that places heavy demands upon their time. Men separated under two years saw their children more frequently, but whether this is due to fear of losing the children in the initial stages is conjecture at this point. Respondents who were remarried saw their children less frequently than those in other relationship statuses. Could this be a product of the obligations and responsibilities of a new life and family that a father now had to juggle in concert with those of his children from the past relationship? The closer fathers lived to their children the more often they visited and an ex-partner seen as supportive of the time a

father spent with his children seemed to be the significant factor in a high visitation rate.

When men encountered difficulties over access and visitation the most common response was anger, particularly in the under 30 year old cohort, and most acknowledged that this had a negative effect on the children. Those interviewed fathers who did not see their children regularly blamed the ex-partner for unreasonableness and "game playing". This confirms findings by Ahrons (1983) and Koch and Lowery (1984) that the relationship between two parents has a significant effect on a post-divorced father's continued involvement with his children. Both of the interviewed respondents who did not see their children at all also attributed this to the obstacles set up by their ex-wife which left them feeling hurt, frustrated and hopeless.

In sum, alienation does not generally effect visitation and after separation most fathers do see their children on a regular, frequent basis, but despite this, more than one half of them still do not feel that access is reasonable because they do not see their children as often or for as long a period of time as they did when they were full time fathers. It would appear that even frequent visitation does not compensate for the loss of the full time father role. This problem is compounded when the ex-partner is antagonistic toward the time a father spends with his child(ren). From this sample of respondents, the indicator is that the older

the respondent and the higher his education, the less often he visits his child(ren). This problem of course applies to other than non-custodial fathers. Fathers who are "supported" by their ex-partner around visitation, tend to visit more frequently, but remarried men (presumably with new responsibilities) do not visit as often. The typical response to difficulties with access and visitation is anger and this has a negative impact on the children. It is easy to see how this becomes a circular problem causing misery for both fathers and their child(ren). Many men still use Family Court to seek recourse over access and visitation difficulties, and it is acknowledged by one Family Court judge that it continues to be a large problem. From the fathers' perceptions in this study, one way to ensure good communication between himself and his ex-partner is by way of mediation and/or counselling.

CHILD SUPPORT PAYMENTS

The majority of men sampled did not find the actual child support payments unreasonable and felt they could afford the payments. Those men who found it unreasonable, predictably had difficulties with their ex-partners' antagonism to their time with the children. The majority of them also had no input into the amount of child support they paid. Some respondents made the case for the importance of a father

having some input into or control over the decision of how much is to be paid for child support.

One half of the respondents made their payments through the Court system, although the higher a man's income the less likely he was to pay through the Court. This is probably attributable to the fact that generally speaking, the Family Court system is accessed by a lower socio-economic group than County Court, and most Family Court orders have payments made through the court. While the newly established Support and Custody Enforcement Office will certainly result in the collection of more arrears than the previous system, it has the potential for inflexibility about individual circumstances, which could lead to even greater problems for fathers (evidenced in Appendix B "Judgements Against the Director of Support and Custody Enforcement"). The large majority of men paid on a regular basis and also made other contributions towards the child(ren)'s support. Men tend not to withhold support payments when they encounter access difficulties. The men who were interviewed gave two main reasons for paying regularly. One was out of a sense of moral obligation or duty: the other reason was fear of retaliation or reprisal in the form of being taken back to court, or being threatened by their ex-partner with not seeing their children.

A majority of men do not think their ex-partner uses the child support payments appropriately for the child and this

was more the case the higher the respondent's income, and the less input he had into the amount to be paid. They believed their ex-spouse used the child support money to maintain her own life style and habits and the house generally, rather than using the money for the child. There is specific onus in law for a mother and father to both contribute financially to the support of the child(ren) according to ability. However, if the stereotype is still to view the mother as the "nurturer" and the father as the "breadwinner", it is difficult to project any significant changes in the present system where generally the onus is still on the male. There is also the under-researched problem, raised by Nichols-Casebolt (1986) as to what extent absent fathers can be expected to alleviate the poverty of their children without themselves slipping into poverty.

In sum, there was no evidence to suggest that dissatisfaction with access was associated with irregular or non-payment of child support, and most men found child support reasonable and affordable. The majority of those men who experienced most dissatisfaction had no input into the amount they had to pay. While most men made regular payments, at least one half did so for fear of reprisal; either of being brought back to Court, or not seeing their children. A majority of men do not think their ex-partner uses child support appropriately, which could signal elements of "control" as an overriding problem. Finally, entrenched

gender stereotyping still appears to put men in the situation of assuming primary financial responsibility for their children regardless of their own circumstances.

ALIENATION AND EMOTIONAL ISSUES

Contrary to the stereotypical gender role of the father as "breadwinner" rather than "nurturer", the majority of men in this sample missed the nurturing elements of parenting more than guidance and control. Given the age of the respondents (82 percent over the age of 30 years and 29 percent over the age of 40 years), it might have been expected that their values would reflect a more traditional role. However, it is this very response that indicates why men are experiencing difficulties over separation from their children. Social awareness of gender roles which was stimulated by the women's movement of the sixties, has apparently educated and permitted men to be more open about their feelings as well as their responsibilities for their children. This is borne out in the sample by the fact that the highest percentage of men who missed nurturing activities the most were college graduates, postgraduate or professionals.

The emotional effect on fathers who are non-custodial parents is significant. The respondents who were interviewed all reported being very lonely; missed their children very much; felt their children had been "taken away"; felt they had forfeited all their rights as fathers, and many men spoke

emotionally of how they cried when they had to take children home after a prolonged visit with them. Most of the respondents, because of their anxiety, also reported physical symptoms and problems, including coming close to a nervous breakdown, depression, sleeplessness, dramatic weight loss, increased alcoholic consumption and other psychosomatic symptoms. Their coping mechanisms included the support of friends and family, increasing their work hours to fill the gaps, or withdrawal. The large majority of men had not adjusted to living without their children but for their own survival, had become resigned to the fact there was nothing they could do about the situation.

On the specific scale that was used to test the degree of alienation men experienced, in the five dimensions tested, the men scored very highly in the areas of powerlessness and self-estrangement, but only marginally in areas of meaninglessness and normlessness. The dimension associated with isolation, in which the question was framed around a man's employment, 60 percent of men did not experience alienation. This could be an indicator that most men still relate to work as a major and significant part of their life.

In sum, the hypothesis that men experience alienation as non-custodial fathers is supported, particularly in the areas of powerlessness and self-estrangement. They also miss the nurturing aspects of fathering more than control and guidance which is contrary to societal gender stereotypes about the

role of the father. Alienation has a negative impact on the emotional well-being of the father which in this study appeared to be severe enough to produce a variety of physical symptoms. Despite this personal emotional strain, alienation did not appear to produce negative outcomes or behaviours vis-a-vis visitation of the child(ren) or child support payments. Possible reasons for this have been outlined in earlier sections of the thesis.

Research cited in the literature review, (Chapter Two) regarding alienation and the emotional impact on men has been supported by this study - non-custodial fathers do undergo changes in self-concept and the most prevalent concern for them is the sense of loss of their children.

ONGOING RELATIONSHIP WITH THE CHILDREN

Approximately one half of the fathers sampled indicated they had ongoing problems with their children since the separation and the primary reason seemed to be the negative attitude of their ex-partner. Men who had remarried, and those who were cohabiting, seemed to experience the most problems. This could be due to the dimension of new players (and roles) in the form of step-parents and children from another union which in many cases complicates an already uneasy situation. Fathers reported experiencing more problems with their children when their ex-partner was "intolerant" or "antagonistic" to the time he spent with the

children. In 36 percent of the cases, the respondent's relationship with his child(ren) was worse than when he had lived with them.

Fathers had varied responses about the difference in their relationship with the children now compared to when they were living with them. A common thread was that there was an element of strain; i.e. it took a little while to re-establish the relationship when he first picked them up, especially after not having seen them for a week or so.

Uniformly men indicated they never took out any bad feelings (due to anger or irritation with their "ex") on their children. Many indicated it was particularly difficult for them being separated from their children around special times, e.g. Christmas, birthdays. The ongoing relationship with the children was made more difficult for men who grew weary of having to petition with their ex-partner to have additional time with the children, or more flexible time. This was particularly the case when men had jobs that entailed shift work. This often brought the situation to the point where, if the mother would not cooperate, it was an alternative between his job or his children. These issues typically are not resolved over time, instead the gulf between father and child often becomes wider.

Fathers found it very hard to leave their children no matter what age they were, although generally the longer they lived with them the harder it was to part. This is best

captured by the remark of one respondent: "I was devastated the day I walked out. The kids were screaming and crying and holding onto me - it was the hardest thing I've ever had to do in my life."

There did not seem to be any significant degree of role distancing with this sample of fathers. They still regarded fathering to be just as important, or more important, as when they had resident status with their children.

In sum, ongoing problems with the children after separation seemed to be primarily attributed to the negative attitudes of the ex-partner. This was experienced to a greater degree by remarried men or cohabiting men. The ongoing relationship with the children was complicated for respondents who had to juggle with an ex-partner around more flexibility of visitation, e.g. those men who worked shift work and in some cases, without cooperation on the part of the mother, it resulted in a man having to choose between his job and his children. Understandably, fathers found it extremely difficult to leave their children at any age, but the older the child the more difficult it became because of the investment of emotion and time. Role distance did not appear to complicate the respondents' sense of alienation because they reported fathering to be just as important, or more important, as when they were resident fathers.

STEREOTYPES

The majority of men believed that their fathering roles had changed primarily because they no longer lived with their children on a permanent basis. This meant they did not see their children as much as they would like, even though most visited their children frequently. The respondents who were interviewed had a belief system contrary to the stereotypical gender set. They believed uniformly that men were equally good parents as women because they could not only perform household tasks as competently, but could also provide the same degree of nurturing as a mother could. There was the acknowledgement that while all men had the capability of being equally good parents, not all were. Men believed they could do as much for children as a mother could for basically the same reasons, but also felt that children needed two parents, not just one. The respondents did not believe it was more natural for a woman to have custody, and the biological argument was used to support the male, i.e. "it takes two to create a baby." To them bonding and caring was more important than the fact that a woman physically gave birth. The majority of men saw no clear distinction between a mother's and a father's role. Instead they felt there should be no distinction; the responsibility of parents should be equally shared. The judge who was interviewed was also of the same opinion on all of these issues, but he believed that society generally still thought in terms of stereotypical

gender roles. Some respondents also mentioned that the male population at large would probably take a more traditional view.

In sum, gender stereotypes continue to flourish, casting the father as emotionally repressed; a control agent; uninvolved with his children; a "breadwinner" rather than "nurturer" and deferring to the mother to care for the children. In the face of these stereotypes within society and the judicial system, the data from the research indicates that for this sample at least, the stereotype is quite false. Although the sample was not a true random sample in that many respondents came forward voluntarily, this does not necessarily mean that it is unrepresentative of fathers generally. To the contrary, this research may indicate that we are looking at the tip of the iceberg.

THE JUDICIAL SYSTEM

The respondents' perspective of the judicial system was overwhelmingly negative. It was not seen as fair, impartial or facilitative. Perhaps this is not unexpected, given that the judicial system is primarily based on the adversarial process. Respondents said that hiring a lawyer immediately meant war and that conciliation was impossible. They felt that a more helpful process would be counselling and mediation to resolve marital separation and issues of custody and access, and that the court should be the last resort. The

fathers in the sample felt that the court system still favoured the woman and the perception of one Family Court judge was that generally the attitude of society held the status quo: i.e. the mother obtains custody of the child.

Men experienced the court system as cumbersome, taking far too long to resolve issues or make decisions. They also found it to be too financially draining to access the judicial system to uphold their rights, either by way of application for custody or enforcing their visitation rights. The system as it stands now makes it very difficult for a man to obtain custody unless the children stay with him at the time of separation or the mother is deemed "unfit". It is still much easier for the court to enforce child support payments than access rights. Wages can be garnisheed to have men comply with child support payments, but enforcement of access and visitation rights is much more difficult. The mind-set of those who interpret and administer the legislation seems to be highly influential in the determination of decisions about custody, visitation and child support. This in part is due to the time lag between law reform and those who administer the law.

In sum, for the fathers in this sample, the judicial system did not acknowledge their rights as fathers, but rather subscribed to the stereotype of a child belonging with the mother. As the Jesuit philosopher Barnard Lonergan once said

about the Church, the law too arrives at the place of action always a bit late and out of breath.

CONCLUSIONS

This study set out with four hypotheses:

1. Non-custodial fathers experience alienation when separated from their children.
2. Alienation negatively affects the frequency and quality of visitation.
3. Alienation leads to a breakdown in the ongoing relationship with the child(ren).
4. Non-custodial fathers who feel powerless will tend to use maintenance payments as a control measure.

Within the context of the above hypotheses, the concept of role distance was used as an indicator of role centrality and seriousness of the fathers' role.

As Thomas Huxley once observed, many a theory survives long after its brains have been knocked out. However, since the function of theory is to explain and predict social phenomena, the use of role theory for this study has provided a useful framework to explain why fathers are experiencing great difficulty as non-custodial parents. It is due in large part to the stereotypical gender roles for parenting still widely accepted by society at large. The enforcement of these roles during a marital separation is also sanctioned by the judicial system. Because the issue of non-custodial

fathers is newly emerging, there is, however, little in the role theory literature about the difficulties that non-custodial fathers now face.

The first hypothesis was generally supported in that this study found non-custodial fathers do experience alienation when separated from their children, particularly in the areas of powerlessness and self-estrangement. This sense of alienation has a significant negative impact on a father's physical and emotional well being.

The second hypothesis was not supported because most men, despite feelings of alienation, continue to visit their children on a regular basis. There was also some evidence to suggest that the quality of visitation in some cases was negatively effected.

The third hypothesis was supported because one half of the respondents did experience ongoing problems in their relationship with their children, attributed primarily to the negative attitude of their ex-partner. Role distance did not appear to complicate the respondents' sense of alienation, nor his concept of role centrality.

Data did not support the final hypothesis, as the majority of respondents made regular child support payments with no evidence to suggest a withholding of payments due to dissatisfaction over access.

There are three other significant areas that inter-relate with one another and impact on this study. One is the issue

of custody. While the majority of men in this sample did not apply for custody, the single biggest barrier to this appeared to be the judicial system, and not whether the man wanted custody. Respondents also felt quite strongly that for determination of custody, mediation and counselling were the preferred alternatives to the court system.

The second major influence on a study such as this, is that of stereotypes. As long as gender role stereotypes continue to flourish, as they apparently do, non-custodial fathers will likely continue to experience significant ongoing problems. The study contradicted the tradition that a father is not a "nurturer", is uninvolved with his children and defers to the mother.

Finally, the perceptions of the respondents regarding the judicial system were highly unfavourable. Individuals who represent the judicial system are part of society at large and subject to the same stereotypical biases regarding a father's role and determining who is the most appropriate custodial parent. Men, largely through ignorance of the system, are often not aware of their options and therefore do not initiate actions that could be to their advantage.

From the results of this study, non-custodial fathers have as their most prevalent concern the loss of their children and frequency of visitation in no way compensates for this loss of their full-time father's role. This is further complicated by the powerful influence an ex-partner can exert

on a man's visitation/access and the ongoing relationship with his children if her attitude is negative or antagonistic.

Some positive steps that could be taken to minimize this social trauma are to reevaluate the stereotypical parental roles; provide men with information regarding their legal rights in custody issues; and the use of mediators and counsellors in marital separation issues as a first step to understanding and communication before engaging in an adversarial process through the judicial system.

"If social research is to have major value for that enterprise, it must do something more than show where we have come from or describe where we are now - useful as those jobs are. It must also concern itself with strategic issues: with where it is possible to go and how it is possible to get there." (R.W. Connell)

APPENDIX A
MAILED QUESTIONNAIRE

PLEASE COMPLETE ALL QUESTIONS WHERE POSSIBLE. AND CIRCLE ANSWER.

1. AGE: Under 20
21 - 25
26 - 30
31 - 35
36 - 40
41 - 45
46 - 55
Over 55

2. RELIGION: Roman Catholic Protestant Jewish None
Other (please specify)

My Church attendance is:
never infrequently frequently most always

My religious commitment is:

strong moderate weak none

3. EDUCATION: Indicate highest grade completed:

grade school
high school
some college
college graduate
post-graduate
professional degree

4. OCCUPATION: _____
In addition to occupation specify job title

5. ANNUAL INCOME: Below \$15,000 \$15,000 - \$24,999
\$25,000 - \$34,999 \$35,000 - \$44,999 Above \$45,000

6. PRIOR TO THIS CURRENT DIVORCE OR SEPARATION, HAVE YOU EVER
BEEN PREVIOUSLY MARRIED OR LIVED WITH ANOTHER PERSON?

Yes No

7. HOW MANY CHILDREN DID YOU HAVE FROM YOUR LAST
MARRIAGE/UNION?

Boys Girls (List present age of each child)

8. IF YOU HAD ANY STEPCHILDREN FROM YOUR LAST MARRIAGE/UNION
PLEASE LIST:

Boys Girls (list present age of each child)

9. DO YOU HAVE CHILDREN OR STEPCHILDREN FROM ANY OTHER
UNION?

Boys Girls (list present age of each child and
specify if your own child or stepchild)

10. WHEN YOU SEPARATED FROM YOUR LAST MARRIAGE/UNION, WAS IT:

- a formal separation with separation agreement
- an informal separation (with no separation agreement) -

11. ON WHAT DATE DID YOU OR YOUR PARTNER LEAVE? (Month/year)

12. WHO INITIATED THE SEPARATION? Me Spouse/partner

13. HOW DID YOU FEEL ABOUT THIS? (please number in importance
those categories that apply to you, with most important
as No. 1)

angry
relieved
sad
happy
indifferent

14. IF YOU ARE DIVORCED, WHAT IS THE DATE OF YOUR DIVORCE?
(month/year)

15. DID YOUR EX-PARTNER/WIFE EVER WORK? Yes No

WHAT IS/WAS HER OCCUPATION?

IS SHE CURRENTLY EMPLOYED? Yes No
IF 'Yes', is it: FULL-TIME PART-TIME

16. HER APPROXIMATE ANNUAL INCOME IF KNOWN \$ _____

17. WHAT IS YOUR CURRENT RELATIONSHIP STATUS?

Remarried Cohabiting Single (dating)

Single (not dating) Other (describe)

18. WHAT IS YOUR SEPARATED PARTNER OR EX-WIFE'S RELATIONSHIP STATUS?

Remarried Cohabiting Single (dating)

Single (not dating) Other Don't know

19. WERE YOUR OWN PARENTS DIVORCED? Yes No

IF "Yes", WHAT AGE WERE YOU AT THE TIME OF SEPARATION? _____

20. OVERALL, HOW WOULD YOU DESCRIBE THE RELATIONSHIP YOU HAD WITH YOUR OWN FATHER WHEN YOU WERE GROWING UP?

Poor Fair Good Excellent

21. DESCRIBE PROBLEMS YOU HAD (IF ANY) IN YOUR RELATIONSHIP WITH YOUR FATHER?

CUSTODY AND ACCESS INFORMATION:

22. DID YOU APPLY FOR CUSTODY OF ANY OF YOUR CHILDREN? Yes
No (Explain which child or children were involved)

23. IF "YES", DID YOU SEEK JOINT CUSTODY OR SOLE CUSTODY?

24. WHAT PROMPTED YOU TO TAKE STEPS TO SECURE CUSTODY?

25. IF YOU DID NOT APPLY FOR CUSTODY, PLEASE EXPLAIN THE FACTORS RELATED TO YOUR DECISION NOT TO.

26. DID YOU HAVE ANY INPUT INTO HOW CUSTODY AND ACCESS WERE ARRANGED? Yes No

IF "Yes", EXPLAIN HOW THIS WAS DONE:

Lawyer Counsellor Mediator Court order

In-laws Ex-spouse

27. WHAT ARE THE TERMS OF CUSTODY AND ACCESS?

Specified Unspecified

If "Specified" please state the terms of the Court Order:

28. HOW DO YOU EXERCISE YOUR VISITATION RIGHTS?

Regularly Frequently Occasionally Never

29. AS A RULE, HOW OFTEN DO YOU SEE YOUR CHILD(REN)?

Daily Weekly Monthly Bi-monthly Other

30. DO YOU HAVE A DIFFERENT VISITATION PATTERN FOR DIFFERENT CHILDREN? Yes No

If "Yes" specify the difference:

31. DO YOU EVER HAVE YOUR CHILDREN STAY OVERNIGHT?

One night weekends longer periods (specify)

32. WHAT KIND OF ACTIVITIES DO YOU ENGAGE IN WHEN YOU VISIT WITH YOUR CHILDREN. Check more than one if applicable.

Sports and recreation Leisure and T.V.

Education, arts and culture Eating out Travel

Other

33. HAS THIS CHANGED IN ANY WAY SINCE YOU LIVED WITH YOUR CHILDREN? Yes No (if "yes" explain)

WHAT THINGS, IF ANY, DO YOU MISS MOST ABOUT NOT LIVING WITH YOUR CHILD(REN) FULL TIME?

34. FROM YOUR PERSPECTIVE, IS YOUR ACCESS TO YOUR CHILD(REN) REASONABLE? Yes No

35. IF "No" INDICATE WHAT WOULD BE BETTER FOR YOU:

More time less time more flexibility with visits
visits of a longer duration

36. DO YOU HAVE REGULAR PHONE CONTACT WITH YOUR CHILD(REN)?

Yes No

If "yes": daily several times a week weekly
monthly other (specify)

37. WHAT DISTANCE DO YOU LIVE FROM YOUR CHILD(REN)?

0-10 km. 10-20 km. 20-50 km. over 50 km.

38. DOES ANYONE NORMALLY ACCOMPANY YOU WHEN YOU VISIT WITH YOUR CHILD(REN)? Yes No

IF "YES", PLEASE INDICATE RELATIONSHIP TO YOU _____

39. WHERE DOES VISITATION NORMALLY TAKE PLACE?

at your residence at home of "ex" other
(If "other" please specify) _____

40. COMPARED TO THE AMOUNT OF TIME YOU SPENT WITH YOUR CHILDREN WHEN YOU WERE MARRIED, HOW MUCH TIME DO YOU SPEND WITH YOUR CHILDREN NOW? Same More Less

41. DOES YOUR ANSWER TO Q.40 APPLY TO ALL OF YOUR CHILDREN?
Yes No

If "No" specify the difference for each child:

42. HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH YOUR CHILDREN? (please describe the relationship for each child)

BOYS:	poor	fair	good	excellent
GIRLS:	poor	fair	good	excellent

43. IS THIS DIFFERENT NOW FROM WHEN YOU WERE MARRIED?

Same Better Worse

If "better" or "worse" please describe what you think are the contributing factors.

44. SINCE YOUR SEPARATION/DIVORCE, DO YOU HAVE ONGOING PROBLEMS IN YOUR RELATIONSHIP WITH YOUR CHILD(REN)?
Yes No

If "yes", briefly describe what kinds of problems.

45. ARE THE ABOVE PROBLEMS DUE TO ANY OF THE FOLLOWING:
(Where appropriate number these in order of importance with No. 1 as most important).

Because of ex-spouse's new partner

Because of my new parter

Because of my ex-wife's attitude

Because of my attitude

Because of my child(ren)'s attitude

Other (specify)

46. WHAT IS YOUR EX-WIFE'S ATTITUDE TOWARDS YOUR TIME SPENT WITH THE CHILD(REN)?

Supportive Tolerant Intolerant Antagonistic

47. HAS THIS CHANGED SINCE YOU FIRST SEPARATED? Yes No

If "Yes" please explain:

48. WHAT ARE YOUR REACTIONS GENERALLY IF YOU ENCOUNTER DIFFICULTIES WHEN EXERCISING ACCESS RIGHTS?

Anger Withdrawal Discussion Retaliation

Other (specify)

49. HOW DOES THIS AFFECT YOUR VISITATION WITH YOUR CHILD(REN)?

Negative effect no effect Positive effect

(please explain)

50. DO YOU EVER DISCUSS YOUR SEPARATED PARTNER OR EX-WIFE WITH YOUR CHILD(REN)? Yes No

If "yes" explain what context, if "no" why not?

51. WHAT ARE YOUR MAIN FEELINGS TOWARDS YOUR SEPARATED PARTNER OR EX-WIFE?

Positive Supportive Indifferent Antagonistic

52. ARE YOUR CHILDREN AWARE OF YOUR FEELINGS? Yes No

To a limited degree I don't know

MAINTENANCE PAYMENT INFORMATION.

53. HOW MUCH SUPPORT DO YOU PAY FOR YOUR SEPARATED PARTNER OR EX-WIFE PER MONTH? \$_____ None

54. DID YOU HAVE ANY INPUT INTO THE AMOUNT YOU PAY? Yes No

55. HOW MUCH CHILD SUPPORT DO YOU PAY PER CHILD PER MONTH?

\$_____ TOTAL SUPPORT PER MONTH: \$_____

56. DID YOU HAVE ANY INPUT INTO THE AMOUNT OF CHILD SUPPORT YOU PAY? Yes No

57. DO YOU THINK YOUR EX-SPOUSE/PARTNER USES THE MONEY APPROPRIATELY FOR THE CHILD(REN)? Yes No

58. BASED ON YOUR COURT ORDER, HOW CONSISTENT ARE YOUR CHILD SUPPORT PAYMENTS?

Always regular Somewhat regular Occasional

Seldom Never

If you are not regular with payments please explain why?

59. HAVE YOU EVER BEEN BEFORE THE COURT FOR LATE OR MISSED PAYMENTS? Yes No

60. IF "Yes" HAVE YOU BEEN BEFORE THE COURT FOR THE SAME REASON ON MORE THAN ONE OCCASION? Yes No

61. HAVE YOU EVER WITHHELD CHILD SUPPORT PAYMENTS BECAUSE OF ACCESS DIFFICULTIES? Yes No

62. IF YOU HAVE WITHHELD PAYMENTS, DESCRIBE HOW OFTEN?

Regularly Occasionally Seldom Never

63. DO YOU THINK THE AMOUNT OF CHILD SUPPORT YOU PAY IS REASONABLE? Yes No

64. CAN YOU AFFORD TO PAY THIS AMOUNT? Yes No

65. DO YOU MAKE PAYMENTS: Directly to ex-spouse

through the Court Other (specify)

66. DO YOU CONTRIBUTE FINANCIALLY TOWARD YOUR CHILDREN OTHER THAN THROUGH COURT ORDERED CHILD SUPPORT?

Clothing Gifts Trips Education

Medical Other (specify)

IN THIS NEXT SECTION, PLEASE COMPLETE ANSWERS THAT BEST REFLECT HOW YOU FEEL ABOUT YOUR RELATIONSHIP WITH YOUR CHILD(REN).

67. THERE IS NOT MUCH THAT I CAN DO ABOUT THE FACT THAT I DON'T HAVE AS MUCH INPUT INTO MY CHILDREN'S LIVES AS WHEN I LIVED WITH THEM.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

68. THINGS HAVE BECOME SO COMPLICATED WITH MY CHILDREN THAT I REALLY DON'T UNDERSTAND JUST WHAT IS GOING ON.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

69. IN ORDER TO SEE MORE OF MY CHILDREN I AM ALMOST FORCED TO DO SOME THINGS WHICH ARE NOT RIGHT.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

70. I AM LESS INTERESTED IN T.V., MOVIES, MAGAZINES OR OTHER POPULAR PASTIMES THAT OTHER PEOPLE SEEM TO ENJOY AS A RESULT OF MY CHILDREN NOT LIVING WITH ME.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

71. AS A RESULT OF MY CHILDREN NOT LIVING WITH ME, I AM OFTEN LONELY.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

72. AS A RESULT OF MY CHILDREN NOT LIVING WITH ME, MY INTEREST IN THE WORK I DO HAS DECREASED.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

IN THE FOLLOWING SECTION, ANSWER EACH ITEM IN TERMS OF CHANGES IN YOUR FATHER ROLE AS A RESULT OF SEPARATION/DIVORCE.

73. FATHERING ACTIVITY HAS BECOME MUCH MORE IMPORTANT TO ME SINCE I HAVE BEEN DIVORCED/SEPARATED.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

74. MY FATHERING ACTIVITIES ARE JUST AS IMPORTANT TO ME NOW
AS AT THE TIME OF MY SEPARATION.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

75. MY FATHERING ACTIVITIES HAVE DECLINED CONSIDERABLY SINCE
MY SEPARATION/DIVORCE.

Strongly Agree Agree Somewhat Agree

Somewhat Disagree Disagree Strongly Disagree

76. IN YOUR VIEW WHAT FACTORS ARE RESPONSIBLE FOR THESE
CHANGES, IF ANY?

THANK YOU FOR YOUR HELP. WOULD YOU CONSENT TO A FOLLOW-UP
INTERVIEW? Yes No

If "Yes", would you please supply your name, address and
telephone where you can be contacted.

APPENDIX B
DOCUMENTS

QUESTIONS FOR IN-DEPTH INTERVIEW

PAYMENTS:

1. (If applicable) Why don't you think your "ex-partner" uses child support money appropriately?
2. If you pay regularly, is it because you have to pay through the Court and have no option; or is it fear of reprisal; or do you feel an obligation to the children?

If you don't pay regularly - why? (e.g. can you afford it, do other responsibilities eat it up; are their difficulties with access; do you feel that the "ex-partner" doesn't need it?

VISITATION AND ACCESS:

1. If you don't see your child(ren) regularly, spell out why, e.g. too much bother; not enough time; another relationship (or children from new union) hard on you, emotionally (or children).
2. If you don't see the child(ren) at all - why? How does this make you feel?

CUSTODY:

1. If you did not apply for custody - reasons why not (eg. did you think about it and decide not to; did you consider it at all; did you think it possible; did you want custody, if not why?
2. If you did apply for custody, what were the reasons given for you not obtaining custody?
3. If you thought you had a good chance of getting custody, would you have applied?
4. How would you take care of practical arrangements if you had custody, e.g. the house, meals, transport, child care, baby-sitting etc.
5. If all things were equal, how should custody be determined?
6. Does joint custody work if the child still lives with the mother?

ALIENATION:

1. How does not seeing your child(ren) effect you emotionally?
2. What coping mechanisms do you use?
3. Are there any changes in your drinking patterns, drug use, use of medications, dietary changes or changes in sleep patterns?
4. How long did it take you to adjust to the child(ren) not living with you - weeks, months, years, or no adjustment.
5. What do you miss most about not living with your children full time?

RELATIONSHIP WITH CHILD:

1. Describe your current relationship with your child(ren) now. How different is this from when you were living with them?
2. What difference (if any) does the age of the child make when you separate from them?
3. If you were/are angry with your ex-partner, does this spill over sometimes into your feelings about the child(ren)? If so what form does this take (e.g. don't visit them, nag the child, withhold affection, etc.) Does this have any effect on the child(ren) that you are aware of?
4. Is there any difference in how you felt about the children when you first separated compared to 6 montys; 12 months or several years latger? (any changes in missing them, feelings towards them; has frequency of contact changed; is relationship better or worse with passing of time)?
5. Does your current relationship (if any) have an effect on how you feel about your child(ren); how often you visit; or your relationship with them?

CHANGES:

1. Are men equally god parents as women - why?
2. Can a man do as much for children as women?
3. Is it more natural for a woman to have custody? Why?

4. What is a father's role in marriage?
5. What is a mother's role in marriage?
6. Should this be changed?
7. Did the judicial system (e.g. lawyers, court system, judges) assist the process. Was it fair, impartial? Could it be improved - how?
8. If you had to do it over again (as relates to your child(ren)) what would you do differently (if anything)?
9. Any additional comments?

QUESTIONNAIRE FOR PROVINCIAL COURT JUDGE

(FAMILY DIVISION)

COURT SYSTEM:

1. Have changes in the Family Law and Divorce Act made a significant difference in the actual practice of men applying for and obtaining custody?
2. Is mediation more advantageous than the judicial adversarial system in issues of marital breakdown?
3. Does the legal system in any way perpetuate problems of custody, access and child support payments?
4. How could the judicial system be improved with respect to Family Law and matters of child support, custody and access?

CHILD SUPPORT:

1. In practice is there now an onus on the woman to contribute financially to the support of her child(ren) as well as an obligation by the father?
2. What are the pros. and cons. of the new Support and Custody Enforcement Office?
3. Should men have input into the amount of money they pay in child support?

CUSTODY:

1. Do lawyers still advise against men applying for custody?
2. To what extent does attitude influence judgement (on the part of Judges/lawyers) with respect to who gets custody?
3. What are your views on "Joint Custody" (pros. and cons.) Does Joint Custody work if the mother is still the primary care giver?
4. Do more men now apply for custody and do more men get custody?
5. What are the criteria for the decision on who should obtain custody?
6. How should custody be determined if all things were equal?

ACCESS:

1. Do many men request action in Family Court over access difficulties?
2. What recourse does a man have when access is denied and he can't afford ongoing legal fees for court action?

OTHER:

1. Are men equally good parents as women?
2. Can a man do as much for children as a woman?
3. Is it more natural for a woman to have custody?
4. What is a father's role in marriage?
5. What is a mother's role in marriage?
6. Should this be changed?
7. Have you seen any changes in a father's role over the past 15-20 years (from a judicial perspective)?
8. What do you experience as societal views of traditional parental roles? (e.g. husband the breadwinner and wife the nurturer).

ONTARIO

PROVINCIAL COURT (FAMILY DIVISION)

IN THE MATTER OF the Support and Custody
Orders Enforcement Act, RSO 1985

B E T W E E N :

DIRECTOR OF SUPPORT AND CUSTODY
ORDERS ENFORCEMENT FOR THE BENEFIT
OF CHARLENE SNOW

Applicant

and

CLIFFORD WOOLCOCK

Respondent

W R I T T E N R E A S O N S F O R C O S T S

BEFORE HIS HONOUR JUDGE R. J. ABBEY,
on September 16, 1988 at WINDSOR,
Ontario.

APPEARANCES:

Mr. Peter Hrastovec

Counsel for the Applicant

Mr. Rodney Godard

Counsel for the Respondent

ABBEY, R.J. (P.C.J.):

5 An issue with respect to costs has arisen in this proceeding consequent upon the Director of Support and Custody Enforcement agreeing to withdraw a garnishment put in place in April of 1988. The matter has reached the point where, following a 10 dispute having been filed by the debtor, a Notice of Garnishment Hearing was issued and the hearing was adjourned eventually to today's date.

15 The obligations of the debtor regarding support are set out in an agreement between the debtor and the creditor dated September 24, 1986 and it is that agreement which is the subject of enforcement by 20 the Director. The agreement contains a provision to the effect that support payments are to be indexed annually upon the anniversary of the agreement's date of execution.

25 A review of the events which took place prior to this date is necessary.

30 On March 3, 1988, the Director's office forwarded to the debtor a document described as a "warning letter" alleging arrears of support pursuant to the

5 agreement in the amount of \$893.24 and demanding
immediate payment. The debtor, following receipt
of that letter immediately attended the office of
the Director. In the discussion which took place,
the Director's representative apparently suggested
that, despite its date, the agreement had actually
10 been executed in February 1986 and that the
indexing should therefore have commenced in
February, 1987. The debtor disagreed and took the
position that there were no arrears under the terms
of the agreement. The Director nevertheless
15 issued a Notice of Garnishment on March 16 alleging
arrears in the amount of \$893.24 and requiring the
maximum fifty per cent deduction from the debtor's
net wage.

20 On March 17, the following day, the debtor wrote to
the Director. That letter contains a detailed
calculation prepared by the debtor setting out all
payments due and paid pursuant to the agreement and
25 resulting, according to the debtor's calculation,
in an overpayment. The debtor reiterated that the
agreement was not executed in February, 1986.
Additionally, with the debtor's letter were
enclosed copies of the debtor's pay stubs and his
30 T-4 for 1986. The letter contained a telephone

number at which the debtor could be reached and requested the Director's office to contact him.

The debtor heard nothing from the Director's office in response to his letter of March 17th and consequently, on April 1, he wrote again to the Director requesting a reply to the content of his earlier letter. Additionally, with the letter of April 1, were enclosed post dated cheques for future support payments.

Despite the receipt of the two letters from the debtor and the information which they contained, the Director did not communicate with the debtor but chose to press on. On April 8, the debtor was advised by his employer that the garnishment was in place and would represent a deduction of fifty per cent of his net salary.

On April 29, the debtor filed a dispute to the garnishment again, alleging an overpayment of support.

The Director's office continued to forge ahead. Following the issuance of a Notice of Garnishment hearing, the matter was returned before the court May 20 and was then adjourned to May 25.

5 On May 25 the debtor's counsel appeared as did
local counsel representing the Director. The
debtor was ready to proceed to a hearing on that
date but an adjournment was requested by counsel
for the Director. The costs of the day were
10 ordered payable by the Director following taxation.

15 In discussions which took place between counsel May
25 the debtor again reiterated his position that
there were no arrears but that he had overpaid.
The debtor's counsel proposed a commencement date
for indexing in September, 1987, a year following
the actual date of the agreement and asked that the
Director agree, in effect, that the garnishment
20 should not have been issued as there were no
arrears. The further particulars of the debtor's
proposal are unnecessary to be repeated here except
to note that had the proposal been accepted the
result would have been less advantageous to the
debtor than the eventual outcome to which the
25 Director has now agreed. The Director did, on May
25, agree to an interim suspension of the
garnishment.
30

On June 6 counsel for the debtor wrote to local

counsel representing the Director confirming the position which he had taken May 25.

Following May 25 the garnishment hearing has been adjourned from time to time until this date. In the meantime, discussions took place with respect to the calculation of arrears and which have engaged counsel for the debtor in attempting to satisfy the Director's office that there are no arrears but rather an overpayment.

Finally on August 31, the day before the return date of the garnishment hearing, a letter was delivered to counsel for the debtor by the regional solicitor representing the Director's office. In that letter the Director acknowledges an overpayment in the amount of \$899.68 and agrees to credit that amount to the debtor as against future support payments. The actual execution date of the agreement has been found to be March, 1987.

From this sequence of events the following conclusions can, I believe, reasonably be drawn:

- (1) The position taken by the debtor immediately following the receipt of the

initial "warning letter" and consistently throughout the events which subsequently unfolded was that there were no arrears pursuant to the support obligations contained in the agreement.

(2) The debtor's position has proven to be correct with the result that there was, for all practical purposes, no basis for the garnishment. I am told, to be precise that at the time the Notice of Garnishment was issued the arrears amounted to \$21.00.

(3) The Director's office, at least until May 25, ignored the information provided by the debtor in his discussions, in his letters and eventually in his dispute all supporting his position that no arrears existed. There is no suggestion from counsel for the Director that the support and custody enforcement office, before that date, made any attempts, whether by further discussion with the creditor or otherwise, to review or question the position that the debtor was in arrears.

5
The Director, instead, initiated the garnishment and continued the proceedings maintaining the position that there were arrears of support until eventually capitulating on August 31 by which date; as a result of the garnishment, a substantial overpayment had been created.

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(4) The proposal which counsel for the debtor made to the Director's counsel on May 25 and which was repeated in the letter June 6 was more generous to the Director's position than the result which was finally achieved but was not then accepted as the Director apparently continued to maintain the position that there were arrears pursuant to the agreement.

25
30
Counsel for the Director has argued, in part, that an error existed in the ledger accounts maintained by the Provincial Court in that one five hundred dollar payment in fact made by the debtor was not shown as a credit and that the office of the Director was consequently unable to make a proper calculation of arrears. I am not persuaded in all

5 of the circumstances that the ledger error was such
that it would have impeded the Director from coming
to a resolution of this matter and in recognizing
10 in any event that the debtor was not in arrears had
the Director's office, before May 25, made an
effort to consider the information being provided
by the debtor and to review the position which it
took.

15 I accept the proposition that the Director of
Support and Custody Enforcement may reasonably
initiate enforcement proceedings based upon
information received from a creditor and which the
Director has no reason to question. In this case,
20 however, surely there was reason to bring the
moving train to a halt once information was
provided by the debtor which brought into question
the existence of arrears, the very basis of the
enforcement proceeding. The Director, despite
25 receipt of that information and despite
correspondence from the debtor virtually pleading
with the Director to give the matter further
consideration, pressed ahead without, as far as I
30 am aware, even pausing to discuss the debtor's
position with the creditor. The Director's
position has been shown to be illfounded to an

5 extent that it is now agreed that not only are
there no arrears but, as a result of the
garnishment, the debtor is out of pocket monies
that he should not have paid.

10 I have no doubt, bearing in mind these
circumstances and the eventual result of the
proceedings that the debtor should be entitled to
costs. Counsel for the debtor has asked that the
costs be fixed in accordance with Rule 30 of the
15 Rules of the Provincial Court (Family Division) in
an amount which exceeds the party and party costs
set out in the tariff.

20 Rule 21 provides that the parties to litigation in
the Provincial Court shall hold such informal
discussions as are reasonable possible for the
purpose of resolving or narrowing the issues in
dispute as soon as reasonably possible after the
25 commencement of proceedings. In this case, no such
discussions took place until May 25 and that
despite the fact that the debtor had, both directly
and through counsel, on a number of occasions prior
to that date, provided to the Director's office
30 facts which I believe provided a reasonable basis
to question the position which the Director was

taking on the creditor's behalf.

5 The conduct of the Director, at least until May 25,
is such a departure from what should reasonably in
my view be expected that it is deserving of an
award of costs over and above the limitations
10 imposed by the tariff.

15 It is agreed that the time dockets provided by
counsel for the debtor and which are not disputed
by counsel for the Director may be used for the
purpose of my determining the quantum of costs.

The dockets extend from May 22nd, to September 1,
the date upon which the matter of costs was argued.

20 The time which is shown appears to me to have been
reasonably incurred in connection with the proper
preparation and presentation of the debtor's case.

25 I believe, in the result, that the debtor should
receive costs for the period up to May 25 in the
amount of eleven hundred dollars. That sum is in
excess of the amount provided by the tariff for the
reasons which I have explained and is based upon
30 the time expended by counsel and an associate
lawyer during that period.

5 In regard to the costs of May 25 and the period
following including preparation, settlement
discussions, correspondence and the eventual
argument concerning costs, I have determined costs
in accordance with the tariff and which I fix in
the amount of three hundred dollars.

10 Costs will therefore be payable by the Director
inclusive of the costs of May 25 and fixed in the
amount of fourteen hundred dollars.

15 *****

20 THIS IS TO CERTIFY that the
foregoing is a true and accurate
transcription from the record
made by sound recording apparatus,
to the best of my skill and
ability.

25 *R. A. LaFrenière*

Richard A. LaFrenière,
Certified Court Reporter.

**DIRECTOR OF SUPPORT AND CUSTODY
ENFORCEMENT (McINTYRE) v. GLOVER**

[Indexed as: Dir. of Support and Custody Enforcement v.
Glover]

Ontario Provincial Court [Family Division],
Abbey Prov. J.

Judgment - October 28, 1987.

Maintenance - Enforcement - Jurisdiction of court - Director of Support and Custody Enforcement refusing to discuss settlement of individual cases and insisting on application of general rules to all cases - Director's conduct improper - Each case depending on own facts - Director subject to costs for unreasonable conduct.

In order to enforce a support order the director garnished the debtor's wages. The debtor wished to have the automatic 50 per cent garnishment reduced because he could not otherwise afford to live. The director refused to reduce the garnishment.

Held - Garnishment reduced.

In deciding on the appropriate amount of garnishment in enforcement proceedings, each case must be determined on its own facts and on the evidence presented. It is improper for the director to insist on the general rule in all cases without examining the reality of the case. If the director refuses to deal with the cases on a case by case basis, the court may redress the issue by awarding costs against the director. In the circumstances, it was appropriate to reduce the amount of the garnishment.

Statutes considered

Wages Act, R.S.O. 1980, c. 526

Rules considered

Ontario Rules of Provincial Court (Family Division), R.R.O. 1980, Reg. 810
R. 21

Canadian Abridgment (2d) Classification

Matrimonial Causes

X. 8. d. i.

Practice

XXI. 2.

APPLICATION by debtor to reduce existing garnishment to enforce support order.

L. Waxman, for Director of Support and Custody Enforcement.
No one for debtor.

(Windsor No. 925/86)

October 28, 1987. ABBEY Prov. J. (orally):— This is a hearing brought about by the debtor, pursuant to the rules of this court in which he seeks an order reducing the existing garnishment and which

now results in a deduction of 50 per cent of his net wage as determined in accordance with the Wages Act.

The application is opposed by the Director of Support and Custody Enforcement.

It is time I think that I address directly the argument which is being put forward in these various cases by the director, either expressly or by implication, which seems to be to the effect that, in each of these cases, because the Wages Act specifies a deduction from the net wage as calculated under the Act of 50 per cent, the garnishment should be maintained in that amount and should almost as a matter of course not be subject to reduction regardless of the particular circumstances of the debtor.

It seems to me that the Wages Act clearly contemplates the possibility of variation from a 50 per cent deduction and that surely is because the circumstances of each particular debtor are different from the circumstances of another. A person who is living alone and has no other dependants to support, other than those dependants who are the subject of the support order, may be able to exist with a deduction by garnishment of 50 per cent from his net wage. On the other hand, an individual who has other legitimate obligations, including other dependants who must be considered, may not be able to survive reasonably with a reduction of 50 per cent from his net wage before he addresses his other proper obligations and his personal expenses.

In my view, therefore, each of these cases must be determined on its own facts and on the evidence presented. It is of absolutely no value to me for counsel for the director to simply indicate in each of these cases in effect that the Act specifies 50 per cent and therefore 50 per cent should be the deduction from the net wage regardless of the evidence in a particular case.

I expect counsel for the director in each of these cases to be able to address the specific facts of the case as those facts have been disclosed by the evidence because each case in its result must, I believe, reflect that evidence. It must reflect the particular expenses and the particular obligations of the particular debtor.

It has been necessary therefore in this and other such cases that I take the time before reaching a decision to review the evidence as it pertains to the particular circumstances of the debtor before me in order to determine whether there should be in effect an increase in his exemption as specified under the Wages Act.

It will be helpful to me if counsel for the director were to address the issues in the same way.

This particular debtor according to Ex. 1 which includes two pay stubs earns a gross income, based on a 40-hour work week, of \$773.43. If one deducts from that gross income the deductions for income tax, unemployment insurance benefits and a credit union loan in the amount of \$200 per week, his net income is \$345.38. At the present time, there is no deduction from the weekly gross income of this debtor for Canada Pension Benefits because those benefits are taken during the first part of each year.

It is not in every case that I would believe it reasonable to permit a debtor in calculating his income available for other expenses to deduct the amount paid on a loan, in this case, a loan for his truck in the amount as I have indicated of \$200 per week. On the evidence in this particular case, however, the debtor has said that the truck was purchased during the time that he lived with the creditor and that, during their cohabitation, both he and the creditor used the vehicle. He is therefore discharging a loan which was incurred during the period of his relationship with the creditor and with respect to an asset which both enjoyed. He has also said in his evidence that \$200 per week is the minimum which can be paid on that loan and that statement is unchallenged in cross-examination.

In those particular circumstances, I believe that the amount which he is paying on the loan should be allowed in calculating his income available for other personal expenses.

From that net income therefore of \$345.38 per week, one must deduct union dues which he shows on his financial statement and that results in a net income after that deduction of approximately \$337 per week.

That, subject to other comments which I will make as to his income, is the income of the debtor which he has available for personal expenses.

His personal expenses are set out in his financial statement which is marked Ex. 2. He has sworn in evidence that those expenses are expenses only for himself and the two children from a previous relationship who live with him and who are, at least to some extent, dependent on him.

At the present time, neither of those children work although they are of an age, 18 and 21. The woman with whom he lives is

employed and he has disclosed in his oral evidence her income but I accept his evidence, and which is not challenged, that the expenses shown on the financial statement Ex. 2 reflect only expenses for himself and the two children who live with him.

The 21-year-old child, according to his evidence, up until approximately two weeks go, earned roughly \$170 per week. When asked why that income ended, his evidence was to the effect that it ended because he could no longer afford to pay insurance premiums on the vehicle which she required to get to and from work which were in the amount of \$584 for a six-month period. If in fact her income was, as he says it was, approximately \$170 per week, that income over a six-month period would amount to approximately \$4,400. It does not seem to me to be a reasonable conclusion to have reached that her employment should be ended because of an obligation for insurance in the amount of \$584 for that same six-month period.

I believe on the evidence as a whole that there therefore is additional income available to the debtor for himself and the two children and I believe that that additional income is in a net amount after the additional insurance expense of at least \$100 per week. That then, when added to the net income that I have previously mentioned of \$337 per week, results in a net income of \$437 per week.

The debtor also in evidence indicated that he works overtime once a month for approximately eight hours and he is paid time and a half based on a regular rate of \$17 per hour for that overtime work. His evidence was that that was included in his financial statement. There was no cross-examination upon that evidence by counsel for the director, but it seems to me apparent from the documents which I have marked as exhibits that such is not the case. The financial statement shows a gross weekly income of \$767. The pay stub, part of Ex. 1, shows a gross weekly income of \$773.43 for a 40-hour week without overtime.

Based upon the rate which he says he earns for overtime it would appear that he would earn monthly approximately \$200 gross or I would calculate a net of at least \$28 per week. When that is added to the net income adjusted which I have previously mentioned of \$437 per week, the net income becomes approximately \$465 per week.

In addition to that, the evidence of the debtor is that his income tax deduction as shown in the financial statement is calculated on a single basis. It would seem to me that, based upon the rate which is

apparent from the examination of his financial statement, the effective obligation of the debtor based upon a \$250 per week support order will be approximately \$185 per week after taking into account the income tax benefit which the debtor is entitled to and which has not been taken into account in his financial statement.

The expenses of the debtor which are shown in his financial statement are approximately \$366 per week. They include an Avco payment of \$25 per week but his evidence is that he is not now making that payment. They additionally include the sum of \$25 per week for alcohol and tobacco which I believe should not be permitted as a personal expense over and above his obligation to support the dependants, the subject of this order.

If one makes those deductions from his expenses as shown on the financial statement, his adjusted expenses are approximately \$316 per week. I had already indicated that I find his effective net income, taking into account the other factors as I have mentioned, to be approximately \$465 per week. The difference between those two is approximately \$150 per week.

I have said that I believe, after tax considerations, his effective obligation on the existing support order at \$250 per week is approximately \$185 per week. That amount exceeds what I calculate to be the difference between his adjusted net income and his adjusted expenses.

The debtor has proposed that the garnishment be reduced to the amount of the support order which is \$250 per week. That, based upon the factors that I have identified and the reasons which I have given, appears to me to be a reasonable conclusion.

For those reasons, the garnishment is reduced to the amount of \$250 per week being the payments required to be made by the terms of the support order.

Counsel for the director has indicated to me in this proceeding and in other proceedings which have come before me that it is the position and policy of the director that its representatives or counsel will not enter into any attempts at settlement of these matters with debtors or with debtor's counsel.

Rule 21 of the Provincial Court (Family Division) Rules provides that the parties to any proceedings "shall hold such informal discussions as are reasonably possible for the purpose of resolving or narrowing the issues in dispute as soon as" possible after the commence-

ment of the proceedings. Apart from the rule, it is only a matter I believe of common sense that parties should attempt to resolve their differences short of a trial.

The director, as a result of instructions to counsel not to enter into any settlement discussions with the debtors or with counsel representing debtors with a view to resolving these matters but to steadfastly take the position in each case regardless of the particular circumstances advanced by a debtor that nothing less than 50 per cent of the net wage of the debtor is acceptable, is in my view unnecessarily prolonging matters which should be dealt with in a summary way and is not making a reasonable attempt as is required by the rules to reach a resolution.

The result of that is that debtors in a day such as today are required sometimes with witnesses to remain waiting for hours to have a hearing. In most if not all of these matters that I have so far heard, had there been reasonable discussions between the director and the debtor, I believe a settlement could have been reached without the necessity of a hearing. In addition to that, matters which might have been reached had there been a more reasonable approach to resolution may not be reached and may have to be adjourned to a further date. In the meantime, garnishments continue.

The position taken by the director is regrettable. I believe that the relief that I can grant in appropriate circumstances in order to at least partially address the problem is to consider assessing costs as against the director in each of these cases if asked to by a debtor or by counsel representing a debtor.

Garnishment reduced.

(v) The applicant shall irrevocably designate Brandon Mark Thorogood as the beneficiary of his life insurance policy with London Life, and shall maintain the payment of premiums on such policy, providing the respondent with proof of such coverage yearly. The applicant shall also designate Martha Thorogood and Patricia Harris as joint trustees of the title to the said policy during the time the said child is a minor.

The applicant should be reassured that it is not the wish of the court to ever preclude this child from staying with him in Barrhead, Alberta. I am reasonably confident that, as the child matures, he will, in all likelihood, develop the strength to integrate such ventures into his life. For the moment, that is not possible. I have tried to create an environment in which Brandon can develop a closeness with the applicant's family as a bridge to a more intimate link with him. It will require more attendance by him in Ontario than he intended. The results, however, will probably be best for Brandon.

The parties may speak to me as to costs at their convenience.

Divorce dismissed; access specified.

DIRECTOR OF SUPPORT AND CUSTODY ENFORCEMENT
v. McINTYRE

[Indexed as: Dir. of Support and Custody Enforcement v. McIntyre]

Ontario Provincial Court [Family Division],
Vogelsang Prov. J.

Judgment - November 26, 1987.

Maintenance - Enforcement - Procedure - Director of Support and Custody Enforcement unreasonably refusing to settle enforcement proceedings - Costs assessed against director.

The debtor offered to settle enforcement proceedings but the policy of the Director of Support and Custody Enforcement's office was to not negotiate. Unnecessary enforcement litigation ensued as a result of the refusal to negotiate. The debtor sought costs against the director for unreasonably refusing to negotiate.

Held - Costs awarded against director.

The director's refusal to negotiate generally is improper. In the circumstances, the refusal to settle was unreasonable and costs should be assessed against the director.

Canadian Abridgment (2d) Classification

Matrimonial Causes

X. 8. d. i.

X. 10A.

Practice

XXI. 2.

XXI. 3. c.

ISSUE as to costs in enforcement proceedings under Support and Custody Orders Enforcement Act.

L. Waxman, for applicant, Director of Support and Custody Enforcement.

M. McSorley, for respondent.

(London No. 701/87)

November 26, 1987. VOGELSANG Prov. J. (orally):— Pursuant to the provisions of R. 86b(2), I am disposed to reduce the amount in the notice of garnishment to be deducted for arrears to \$100.

This has become an issue of costs before me. Briefly, the facts are that the director, appointed under the Support and Custody Orders Enforcement Act, effected a garnishment of moneys due the debtor, and the debtor responded by way of a dispute which has now been resolved. The director appears by counsel today, and it is obvious that the moneys offered by way of settlement of this action on behalf of the debtor very closely approximated the 50 per cent sought by the director. In fact, the difference, as Miss McSorley points out, between the 50 per cent of his exigible salary amounts to \$469.58 (on a weekly basis), and the moneys offered are in the amount of \$450, a difference of \$19.58.

Miss McSorley's position with respect to costs is that, upon preparation of Ex. 1, the comparison of the deductions taken from Mr. McIntyre's salary, the calculation of 50 per cent, the expression of the percentage of his exigible salary that \$450 represents, counsel for the director should have quickly acceded to the offer of \$450. It is Miss McSorley's position that counsel for the director is completely and absolutely bound by a policy of the ministry and, as a result, is not able to negotiate in a sensible and reasonable manner.

Miss Waxman responds that the director is charged with a statutory duty in the Act to enforce payment of support orders and that the enforcement of those orders is an important and vital remedy available to recipients across the province (as is apparent from common knowledge) and, as well, the clearer thrust and words of the statute are to extract payment from and to command respect

among those liable to pay for the instrument which sets out that liability which is, in every case, of course, an order of a court of competent jurisdiction. She says, in effect, that the director should not be penalized or made responsible by way of costs when the director and counsel who are agents of the director are simply enforcing the policy of the ministry, the intent of the legislature and the words of the statute.

In this case, I do not agree. It seems to me that any normal latitude allowed a solicitor would have enabled Miss Waxman, who is both experienced and capable, to have settled this matter immediately on the basis set forth by Miss McSorley. I think, in these circumstances, since the conduct of a party to litigation is always a consideration in a determination of costs, that costs should be assessed against the director. It is fine, I think, to say that the purpose of the statute is to enforce payment; but it seems illogical to me that experienced counsel who appear for the director should not have some flexibility in the usual capacity of a barrister in the prosecution of the director's case. Any rigid adherence to the 50 per cent exemption set out in the Wages Act without any chance for movement or freedom to negotiate in accordance with existing circumstances, I think, is unfair to debtors generally and, collaterally, to counsel appearing for the director.

In case this matter goes further, I should point out that the argument of this proceeding took approximately 40 to 45 minutes.

The director will pay the costs of this attendance, fixed in the amount of \$100, forthwith.

Costs awarded against director.

APPENDIX C
METHODS PROBLEMS

METHODS PROBLEMS

The following summary of the difficulties experienced in obtaining a sample for this study is done with the hope that it may be of assistance to other researchers undertaking similar studies. The obstacles encountered in finding an adequate sample to make this study viable were numerous and are detailed as follows:

- * Permission had to be obtained from both Court systems to access names and addresses of respondents who had separated/divorced over the past three years.

- * Every ledger card in Family Court had to be checked for current addresses, but even so a large number of letters were returned "address unknown". It was even more difficult with County Court records, because there were no ledger cards and every file had to be checked for an address. However, the address listed was the one given by the respondent at the time of application for divorce and he could have moved several times since then. Also many respondents had a lawyer's address listed for them instead of a home address.

- * Of 128 questionnaires mailed to Family Court respondents only 17 replied and of 38 questionnaires mailed to County Court respondents only 17 replied. The respondent rate was low despite telephone contact to ensure that the questionnaires were received and completed.

- * Many of the respondents did not have a listed phone

number and of those who did, a number were living with family who undertook to pass on messages. Only 54 of the 128 Family Court respondents had a listed phone number and 10 of the 38 County Court respondents. Consequently, phone contact was only of marginal assistance, even though many respondents were contacted on two occasions.

* With only 24 replies, it was obvious another method would have to be employed to reach a sample group. Therefore the media was used (T.V., Radio and the Newspaper). This solicited a much higher response rate, with the highest number coming as a result of the newspaper advertisements. Of a total of 79 respondents who indicated they wanted to complete the questionnaire and were sent one for completion, still only 56 men completed and returned the questionnaire.

* 73 of the 90 men sampled indicated they would be prepared for a follow-up interview. Approximately 30 men were contacted to get 18 respondents scheduled for appointments. Careful directions were given verbally over the telephone as well as a follow up letter with a map. The respondents were asked to phone the writer if they could not make the interview and another time would be scheduled. Five of the 13 men did not show, with no contact or explanation given.

It is apparent that for a large sample study, or even a smaller follow up in another geographic area, the most effective way to elicit responses is by way of the media

rather than mailings. Perhaps what made the media more effective was the opportunity to more fully explain to the respondents the importance of the research and the possible benefit to them and others in the same position.

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