

Child Custody, Child Support Arrangements and Child Support Payment Patterns

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The Problem

According to the best estimates currently available, about \$3.8 billion of child support went unpaid in 1981. Of the 4 million women due child support that year, less than half, 47 percent, received the full amount.¹ Further, the chances are very good those women receiving partial support were not paid on any predictable basis; more likely support payments were entirely absent some months and partially paid other months. Thus, while the average annual child support award in 1981 was for \$2,110 (a 16 percent decline in real value since 1979 caused by inflation), the average received was only \$1,510. For women below the poverty level, the average was still lower—\$1,440. Fully 40 percent of the 2.6 million women with children living below the poverty level were owed child support.²

Not surprisingly, researchers have puzzled over the causes of non-payment. Some of the more obvious explanatory factors they have considered are: the father's financial resources and his ability to pay;³ the visibility, aggressiveness and severity of enforcement actions;⁴ the consistency and fairness of child support awards and court orders;⁵ and the socioeconomic and demographic characteristics of fathers including race, occupation, age at time of divorce, geographic mobility, the

duration of the marriage, number of children and remarriage following the divorce.⁶ Still another approach to the study of non-payment stresses psychological and emotional factors. For example, William Goode's early writings on women and divorce speculated payment patterns were probably due to a husband's relationship with his former spouse and his attitude toward the support award as well as his ability to pay.⁷

Although the empirical evidence is sparse, some researchers suggest the nature of the relationship between a divorced father and his children also may help to explain child support payment patterns. For example, in analyzing one of his Michigan County samples, Chambers⁸ notes that fathers who had little or no contact with their children after the divorce paid only about 34 percent of their child support, while fathers in regular contact paid 85 percent. Wallerstein and Huntington⁹ assess the child support payment patterns of 60 families following separation and conclude there is a relationship between the frequency, regularity and flexibility of visitation and the payment of child support which emerges at 18 months after separation and holds over the five-year period of their study. And in a national survey, Furstenberg and Zill¹⁰ find a positive relationship between the provision of child

support and the frequency of contact with the child.

There are several reasons why father-child relationships prior to and following divorce should logically affect child-support payment patterns. For example, fathers who are strongly committed to parenting prior to the divorce may be determined to maintain emotional and financial ties following the divorce, whereas less committed fathers may view divorce as the end to all parenting responsibilities. Alternatively, fathers who feel deprived of their children or who feel that visitation is awkward and unsatisfying may eventually see their children less and may try to forget "the past," including children and their ongoing economic needs. It is also possible fathers who are outraged at the custody/visitation arrangement set by the court may turn their backs on the affair and simultaneously reduce the amount of support to reflect their grievances.

If custody and visitation arrangements that foster the participation of fathers enhance voluntary support payments, public policy may be best served by the more routine award of joint custody or liberal visitation rights. On the other hand, if joint custody works for only a small group of families and more generally promotes increased contact and conflict, policy-makers should deal with it cautiously. And if joint custody further erodes the fragile economic situation of women and children following divorce, it should perhaps be avoided altogether.

The Sample

The following is a preliminary analysis of the relationship between child custody and child support payment patterns using samples of divorced persons generated in two longitudinal research projects we have conducted dealing with divorcing families and their children. These are the Denver Custody Mediation Project (CMP) and the Divorce Mediation Research Project (DMRP).¹¹

The Denver Custody Mediation Project (CMP) began in 1979. Project staff worked with court setting clerks, referees, judges, investigators and lawyers in Denver and Jefferson Counties to identify cases of contested

child custody. Once identified, cases were randomly assigned to the mediation and control group. Control group members were contacted and asked to participate in our research by completing three interviews, one before and two following the promulgation of final orders. The experimental group was offered free mediation services to resolve their custody/visitation problems. Interviews were conducted prior to and at two points following the mediation. Mediations were conducted by teams of lawyers and mental health professionals trained in mediation techniques. About half of those couples offered free mediation turned down the offer. In an attempt to see how these individuals differed from those willing to try mediation, we also interviewed at three time points at least one member from about 40 percent of those couples who refused to mediate.

The Divorce Mediation Research Project (DMRP) began in 1981. Among activities included in the Project was a survey of individuals who were entering the court-based custody/visitation mediation programs of the Los Angeles Conciliation Court, Family Relations Division of the Connecticut Superior Court and Domestic Relations Division of the Hennepin County Family Court. These individuals were interviewed immediately prior to the start of mediation and at two points—three and 15 months—following mediation. Data was collected on two comparison groups in Colorado. One group contested custody/visitation but was not exposed to mediation; the second group divorced but never formally contested custody/visitation. These individuals were interviewed as soon as they came to the attention of the Project, and three and 15 months later.

Although originally collected and analyzed for a different purpose, these samples offer a reliable opportunity to assess the child support implications of various custodial arrangements. First, to date, they are the largest and most heterogeneous samples in the literature dealing with custodial dispositions following divorce and contain families with sole maternal, sole paternal, joint legal and joint residential arrangements. Second, all respondents in our two projects were interviewed at three different points of time over, respec-

tively, a one-year and three-year period, thus permitting us to study the determinants as well as the short- and long-term implications of different custody arrangements for parents and children in a systematic fashion. Finally, most couples in our samples were divorced in 1981 and have had an opportunity to establish a child support payment record. Since we have maintained up-to-date contact information about these individuals, we also enjoy the rare opportunity of being able to re-contact them after a three-year hiatus.

Naturally, there are several disadvantages to utilizing these respondents for a new data collection effort dealing with child support. For example, nearly all respondents were legally married and divorced and, as a result, our data does not reflect the experiences of the never-married. Similarly, most respondents were contesting the issues of custody and/or visitation and in this respect they may be systematically different from those who do not. Third, most of those who contested custody or visitation in our samples were exposed to court-based mediation programs. Although mediation is being used by an increasingly large number of courts for divorce disputes and the development of joint custody plans, mediation is not a typical feature of the divorce experience.

The Method

In the present project, we have reinterviewed those individuals in our previously collected samples who are most likely to be receiving rather than paying support. Unless we had other information, we assumed that mothers rather than fathers would be most likely to receive child support given 1) maternal custody, 2) joint legal, 3) joint legal/joint residential and 4) split (one or more children in sole maternal custody, one or more in sole paternal custody). Fathers were interviewed if the custody type was sole paternal or if we knew that the joint custody arrangement called for primary residence with the father.

Two new data collection instruments were used in the current research project. The first instrument is an interview schedule which was administered over the telephone with Project respondents. The second instrument

is a form used to extract information on project respondents from court files in order to gain objective information regarding relitigation and the status of custody, visitation, child support and spousal maintenance arrangements in effect.

The present analyses focus on 350 cases from the Denver Custody Mediation Project and the Divorce Mediation Research Project in which an interview with a child support recipient was conducted. Specifically, we compare the responses of 207 mothers who have sole custody of their children with 102 mothers who currently have some form of joint custody arrangements. We also briefly consider the experiences of 41 fathers with sole custody arrangements. The comparison of mothers with sole versus joint custody seems most salient given the current debate over the relative merits and dangers of joint versus sole mother custody.

The Analysis

The issues we explore here include: 1) the presence or absence of a child support award; 2) the level of the award; 3) the quality of the payment performance. In addition to establishing what if any relationship exists between custody type and child support awards, we will also begin to consider: 1) the reasons underlying these relationships; 2) the conditions under which the relationships hold and; 3) the practical implications of these relationships.

Child Custody and the Presence of a Child Support Award

There is a clear relationship between the type of custody awarded and the presence or absence of a child support award. Virtually all (93 percent) women with sole custody were also awarded child support. Among those whose custody agreements call for joint legal custody but maternal residential custody, the incidence of a child support award was nearly as high (86 percent) and in another eight percent of these cases, mothers were to receive support except during the portion of the year when the children were residing with their fathers. In instances of joint residential custody, however, the percentage receiving sup-

port stands at only 38 percent with another 9 percent of cases calling for support for a portion of the year.

We use a series of T-tests in order to ascertain what, if any factors differentiated those joint legal and joint residential cases which call for support from those which do not. The determining factors appear to be related to the financial conditions of both parents and the number of affected children. Thus, where support is awarded, our respondents reported themselves to be earning about \$12,000 annually at the time of the separation, while the ex-spouse was reportedly earning \$38,000. In cases with no support, respondents reported their annual earnings at the time of the separation to be \$17,000 and their ex-spouse was reported to have earned \$24,000 annually. Although there are no significant differences in the current household incomes of the respondents who are to receive support and those who are not, differences in earning levels for ex-spouses persist. Respondents who reported their ex-spouse is supposed to pay support estimated his current annual income at \$49,000. Those who reported their ex-spouse is not ordered to pay child support estimated the ex-spouse's yearly earnings at \$29,000.

As to number of children, we find that joint residential cases without a support order have significantly fewer children. Fully 80 percent of the joint residential cases without support have only one child and none of these families have more than two children. By contrast, only 54 percent of those cases with child support have only one child, 32 percent have two children and the remaining 14 percent have three or four children.

Does the absence of a child support order in joint residential custody cases produce dissatisfaction among mothers? Apparently not. Parents who were not awarded support were asked whether they were satisfied with this arrangement. Their responses revealed regardless of the type of custody, approximately 70 percent of these parents are in fact satisfied. The most dissatisfied respondents are sole custody fathers who were not awarded support. More than half of these fathers felt this was not a satisfactory arrangement. Reports of satisfaction do not mean mothers with

joint residential custody are entirely pleased with their support arrangement. Compared to parents who are awarded child support, those who do not have a child support order in effect are more likely to endorse the idea the ex-spouse spends money directly on the children in order to control the custodial parent's financial situation.

Child Custody and the Level of Child Support Awarded

The level of support awarded varies somewhat by custody category but these differences are not statistically significant. Modal, per child monthly support obligations in our sample stand at \$100 in sole paternal custody cases, \$150 in joint/maternal and joint residential custody cases and \$200 in sole maternal custody cases. When child support is calculated as a percentage of the payor's gross income, we find those with sole maternal custody receive the highest child support awards but once again, these patterns are not statistically significant. On the average, fathers whose ex-wives are awarded sole maternal custody are ordered to pay 20 percent of their gross monthly income at the time of separation in child support. In a few cases calling for child support payments from mothers, they are ordered to pay 16 percent of their gross monthly income in support. Those with joint legal/maternal residential custody are ordered to pay 17 percent of their gross. Finally, fathers with joint legal and joint residential custody who are ordered to pay child support pay 14 percent of their gross income.

Child Custody and Child Support Payment Performance

When child support is ordered, do joint custody fathers do a better job of meeting their obligations? The answer appears to be "yes." Indeed, in instances in which child support is awarded, we find the best payment pattern among the joint residential cases. Fully 75 percent of these parents say they received the full support payment 12 months last year although only 50 percent said all payments were made on time. Well over half (64 percent) of the joint/legal maternal residential cases received the full amount of support 12 months last year although these pay-

ments were frequently late and 49 percent reported they were late. Among sole custody respondents, fewer than half (about 46 percent) report they received 12 months of support. Only 27 percent report all 12 payments arrived on time. Given the infrequency of joint legal/paternal residential cases calling for support, it is difficult to assess the payment performance in this group. However, of the six cases with this type of custody arrangement, only two paid the full amount of support.

Sole maternal custody arrangements appear to produce the most punitive legal activity although the incidence is relatively low for all custody groups. Based upon interview accounts, only about 20 percent of the sole custody mothers, 10 percent of the sole custody fathers and 10 percent of the joint legal/maternal residential mothers report obtaining contempt citations for non-payment.

In addition to asking custodial parents about their ex-spouse's performance in meeting his/her support obligations, we also asked about the ex-spouse's direct contributions to a variety of child care costs. Custodians were asked whether the ex-spouse "regularly," "occasionally," "rarely" or "never" contributed to 21 items related to potential child care expenses. A factor analysis of these 21 items produced five distinct factors. The first, which we refer to as "luxuries," included seven items: taking the children to dinner, buying them presents, taking the children to movies and special events (concerts, sports events, plays), taking them on vacations, paying for their recreational expenses and paying for their long-distance telephone calls to a parent or grandparent. The second factor related to "household expenses" and included paying or helping with household expenses such as repair costs, helping with car payments, performing household or car repairs and contributing to the rent or house payments. The "medical expense" factor included payments for orthodonture, routine dental expense, medical insurance on children and uninsured medical expenses. The "extras" factor included those extra expenses of camp, lessons (in music, dance, etc.) and allowances. The final factor included contributions to basic "caretaking" such as helping with day care

expenses, buying clothes and caring for the children when the custodial parent is away from home.

An analysis of direct contributions to child-rearing costs measured by these five factors reveals that joint residential parents make more substantial contributions on three of the five factors when they are compared with their counterparts in sole and joint legal custody arrangements. Specifically, joint residential custodians spend more on luxuries, extras and caretaking. Contributions to the household are rare for all custody categories and contributions to the medical category are made by about 60 percent of both the joint residential and joint legal parents but only 40 percent of fathers whose ex-wives have sole maternal custody awards and 20 percent of mothers whose ex-husbands have sole paternal custody arrangements.

Do parents who make direct contributions to child rearing costs make such contributions in lieu of paying their child support obligation? Apparently not. Analysis reveals moderate (r^{++} .10 to .40) and statistically significant correlations between the five child-rearing indices. Thus, parents who contribute to childrearing costs in one way tend to contribute in other ways as well. In addition, there are moderate and significant correlations between complete child support payments and contributions to each of these five indices as well. In other words, parents who contribute to luxuries, extras, household, medical and caretaking costs also pay support. The former contributions do not replace the latter.

An Analysis of Factors Contributing to Child Support Payment Performance

In this respect of our analysis, we considered the mix of child custody, economic and relationship factors that help explain child support payment patterns. To do so, we used multiple regression techniques to weight the relative importance of a variety of independent variables in explaining payment performance and regularity. Specifically, we entered 14 variables that might be expected to influence support performance and removed them one at a time until the optional set of predictive variables remained. The variables

retained were: the presence of recent job problems for the obligor; the degree to which visitation was used as an opportunity for the non-custodian to denigrate the custodian to the children as measured around the time of the divorce filing; the reported level of cooperation between the parents following final custody and/or divorce orders; the obligor's current occupation; whether the obligor had additional children from either prior or subsequent relationships; and the degree to which the decision to divorce was mutual, measured at the time of the divorce filing.

These variables were able to explain 20 percent of the variance (adjusted r^2) in the amount of the support order which was actually paid. The pattern was for greater compliance in cases where no recent job problems were reported, where initial anger levels were not great enough to lead fathers to criticize mothers in front of the children, where cooperation following final orders was greater, among higher occupational status fathers, fathers with no additional children to support and in cases where the decision to divorce was a mutual one or desired by fathers.

To assess the explanatory power of visitation, we repeated this analysis after adding to the regression equation the number of weekday, weekend and overnight visits per year, and a composite indicator of the degree to which fathers were involved with children in activities like aiding children with homework, attending daytime and evening school events, driving children to friends and activities, arranging such activities and staying home to care for sick children. After adding the variables, the explained variance rose only from 20 to 22 percent.

In the final analysis we added to all the variables above the type of custody in effect (joint legal/maternal, joint residential or sole maternal). The adjusted r^2 was .23 and the following variables were predictive (from greater to lesser import): presence of employment problems, number of weekend visits, level of cooperation between ex-spouses, denigrating of mothers by fathers during visitation, type of custody, father's occupation, mutuality of the divorce decision, number of weekday visits and presence of additional children for the father to support.

This analysis reveals that while the type of custody in effect and the amount of visitation help predict child support payment performance, other sets of variables prove equally important and alone can explain 20 percent of the variance in payment. These additional factors deal with financial status and resources and parental cooperation or animosity.

Given the importance of these factors, it is relevant to note that joint residential respondents (including those without support orders) are significantly less likely than sole custody mothers to report recent job problems for the ex-spouses and they are significantly more likely to be in white collar, including professional, occupations. Similarly, although the differences are not statistically significant, sole custody mothers are most likely to report that their ex-spouse has additional children to support.

Discussion

In comparing the child support implications of joint and sole custody arrangements, several patterns emerge. Where joint agreements designate the mother as the primary residential parent, the child support orders are similar to those found in cases of sole maternal custody. Similarly, joint legal/paternal residential cases have awards that are comparable to those found in sole paternal custody cases. Joint custody leads to fewer child support awards, and lower levels of support only in instances of joint residential custody.

Second, the factors which best differentiate between joint residential cases calling for support and those without support awards are the relative earning power of the spouses at the time of the separation, and the number of affected children. In joint residential cases without support awards, the parents had higher absolute salary levels as well as more comparable salaries at the time of the separation and a fewer number of children.

Third, fathers with joint custody, especially joint residential fathers with support obligations, do a better job of paying their support than do those without joint custody. However, custody and visitation factors are not

the only relevant explanatory variables. Thus, in explaining full and punctual payment we need to also consider whether the payor has had employment problems recently, his occupation, the presence of other children to support and relationship with the ex-spouse. Indeed, these economic and relationship factors appear more compelling in predicting payment than custody or visitation factors per se.

Fourth, joint custody fathers are rated by their ex-spouses as doing a better job in sharing the tasks of childrearing and as a result joint custody mothers report feeling less overwhelmed by the time and energy requirements of single parenting that do sole custody mothers. This finding suggests that while joint custody has only a modest impact on child support, it may have beneficial effects of a social and psychological nature.

Fifth, our analyses confirm that joint residential custody remains a relatively rare phenomenon. Researchers in Massachusetts courts and at the University of Michigan, find that the incidence of joint residential custody in 1983 and 1984 to be approximately two percent of divorce filings with minor-aged children, and even in California where joint custody is statutorily embraced, mediation researchers note only a tiny percentage of divorcing couples opt for joint residential custody. Our interviews with joint custody respondents reveal that more than 40 percent report the arrangement was a compromise measure they had been "talked into" rather than something they initially desired. Their counterparts with other custody arrangements are much less apt to report this.

Despite the fact that joint residential custody may be a compromise measure for many parents, there is evidence that parents selecting this type of custody are more apt to report an ability to cooperate following the separation and prior to the custody award than are their sole custody counterparts. Needless to say, this pre-disposition to cooperating and coparenting may help to explain why these parents successfully cope with both shared child care and a satisfactory child support arrangement.

The research results appear to support the dissemination of information about the joint

custody option, even for those who are initial uninterested in the idea. However, because we lack research information about the experiences of couples who may have been ordered to accept joint custody over the opposition of one party, these research results do not support the routine imposition of joint residential custody on parents not predisposed to cooperation and coparenting.

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Notes

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