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PROJECT TO DETERMINE THE
LEGAL AND SOCIAL BENEFITS, RIGHTS
AND REMEDIES ACCRUING TO ILLEGITIMATE
CHILDREN UPON THE ESTABLISHMENT OF PATERNITY

FINAL REPORT

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CHAPTER I BACKGROUND

Illegitimacy

The vast majority of statutory and case law in Western society has traditionally limited the legal rights to which a child born to parents not married to each other is entitled, particularly in regard to the parent-child relationship. The term regularly used in reference to this situation, "illegitimacy," entails one who stands outside the law. In recent years, the issue of whether or not to maintain such restrictions has been raised at a variety of levels. Questions concerning the constitutionality of this form of discrimination stand alongside questions concerning the psychological, sociological and economic effects of such laws, elevating the subject of the rights of "illegitimates" to a high plateau of legislative, judicial and social concern.

One problem has usually confounded the efforts of those seeking to change the legal status of non-marital children, the problem of accurately determining the parentage of the child in question. While this has usually been a fairly straightforward affair where the maternal relationship is concerned, the paternity question has had less success. This, it may be assumed, is the principal reason why most States have restricted such benefits to an offspring as the right of inheritance, use of surname, and the duty to support to the mother-child relationship while denying them on the paternal side. The offspring of a married couple are afforded the protection of a (often conclusive but in some instances rebuttable) presumption of legitimacy that confers a legal relationship between the child and both parents. The offspring of unmarried couples, on the other hand, are given no such presumptions, and must have proof of parentage even to contest discriminatory laws.

Several States, notably Alaska, Arizona and Oregon, have had statutes for many years which attempt to afford all children an equal legal parent-

child relationship by utilizing the device of invalidating the concept of illegitimacy. More recently, a number of States have enacted the substantive provisions of the Uniform Parentage Act, the second section of which decrees that the "parent and child relationship extends equally to every child and every parent, regardless of the marital status of the parents." Obviously, the ability of the child to gain access to the relationship so provided by law is directly proportionate to his/her ability to legally verify the identity of the father, an aspect which is not, and perhaps cannot be, achieved by presumption. The same holds true in those States which have made less sweeping attempts to create legal equality between children born within and out of wedlock.

Paternity Determination

The establishment of paternity is the key to attaining such rights as are available under law. To this end, two fairly recent developments have made significant progress. They are: (1) the tremendous scientific advances in the field of immunohematology which permit the identification of a parent-child relationship on the basis of positive identifiable genetic factors present in the blood, and (2) the enactment by Congress of Public Law 93-647 which requires States to establish the paternity of children born out of wedlock who are receiving financial assistance from the Aid to Families with Dependent Children (AFDC) program.

The scientific advances are significant because they potentially remove the process of paternity determination from the arena of assertion and denial of sexual contact and place it within the scope of objectively demonstrable fact. It has been asserted that blood types are as unique as fingerprints and can be used for purposes of identification with the same accuracy. While from a purely technical standpoint this may be

true, on a practical basis the effort and expense required to demonstrate a biological parental relationship with 100% certainty is quite prohibitive.

In practice, the tests which are feasibly performed in a paternity determination case will, it is claimed, exclude more than 95% of men chosen at random. Employing a formula which takes account of the genetic population frequency of the individual factors being tested, immunohematologists can routinely reach conclusions which state the percent of probability that a given man is the father of the child in question. The use of such tests in the paternity determination process has grown considerably in recent years, a growth due in large part to the passage of Public Law 93-647, which added Title IV-D to the provisions of the Social Security Act.

Title IV-D requires that States establish mechanisms for the establishment and enforcement of support obligations against absent parents of children receiving AFDC assistance. It further requires that, when necessary, the paternity of a child born out of wedlock be formally established. The Second Annual Report to the Congress on the Child Support Enforcement Program reports more than 68,000 cases in which paternity was established in fiscal year 1977. These figures give some indication of the magnitude of the effect which IV-D is having and will continue to have on the status of children born out of wedlock. Prior to IV-D, few of these children would have been in the position, which the combination of legislative and scientific factors makes possible, to assert legal parent-child rights.

The Effects of Paternity Determination

The following legal rights are usually entailed in a parent-child relationship: a child may inherit from parents who die intestate; a child may use the father's surname; a child may be financially supported by both parents; a child may obtain benefits on the basis of the parent's death or

disability; both parents may be entitled to request and pursue the right to custody or visitation of the child. These rights, when applied to children born out of wedlock, are not uniform in all States. A number of the issues have been addressed on a federal level, for example, certain disability plans, including Social Security, are nationally administered. Title IV-D requires absent parents to contribute to the support of their children and the United States Supreme Court has heard several cases in recent years regarding the right of a State to restrict a child's right to inherit from a parent who dies intestate, but the individual States continue to retain a large degree of autonomy in determining the rights of a child born out of wedlock.

Of course, obtaining those rights, for any child, is dependent upon the ability to prove paternity, but there is a large discrepancy between States regarding what is entailed once paternity is established. As noted above, several States have legislatively eliminated the concept of "illegitimacy," thus giving paternity determination the effect of placing all children in an equal parent-child relation before the law. Children born out of wedlock, the vast majority of whose parents are not living together, are theoretically treated by the law no differently than children born in wedlock whose parents are separated or divorced. Other States have taken specific legislative measures which afford non-marital children rights which their status had previously denied them; a spectrum which ranges from a bare minimum of rights to almost total equality.

Once paternity is established, it is the responsibility of the child to assert his/her rights. During the child's minority, this responsibility falls upon the child's custodial parent (usually the mother) or guardian. The mother, therefore, must be aware of the spectrum of rights entailed in paternity establishment under the law of the State in which she and her child

reside. That such rights need to be specifically communicated may be deduced from the variety of possible legal situations which may occur in the various States.

In the same vein, the historical treatment of children born out of wedlock combined with the recent cultural and legislative developments may be assumed to generate confusion on the part of such children and their legal guardians. Historically, for example, a child born out of wedlock could only inherit intestate on the mother's side. Today, this holds true in some States while others place no restrictions on such rights. The mother of such a child, or even the adult who was born out of wedlock, may be hard pressed to be certain whether her State of residence provides them with none, some or all of the rights entailed in the parent-child relationship.

The present study was designed to address this issue of information flow from statute book to affected party. The statutes of the three States selected for scrutiny provide the person born out of wedlock with most, if not all, of the rights of his/her in-wedlock counterpart. Three States were selected for this purpose: Minnesota, Wisconsin and Washington. Of these, Minnesota's statutes provide for some degree of equality of treatment while those of Wisconsin and Washington, the latter having enacted the Uniform Parentage Act, provide for no legal discrimination against a person on the basis of the marital status of his or her parents. The study raises the question of the effect these laws have on the lives of a specific segment of the population - a question of increased relevance due to the dramatic effects of Title IV-D on the numbers of children born out of wedlock who are having their paternity established. Three specific factors were selected for study: the awareness and attitudes of the judiciary who make their decisions on the basis of the new laws, the awareness and attitudes of the government agency personnel who are directly involved in the establishment of paternity

and obtaining support for children born out of wedlock, and the awareness and attitudes of the mothers of such children - the custodial parents who are primarily responsible for obtaining rights and benefits available under the law. The basic issue is to determine the extent to which the potential effects of the more inclusive laws are being actualized. This primary element is essential to any further studies which address the psycho-social effects on the parties of such factors as the child's knowledge of the father and the father's potential right to visitation or custody of his child.

CHAPTER II METHODOLOGY

Background

The present "Project to Determine the Legal and Social Benefits, Rights and Remedies Accruing to Illegitimate Children Upon the Establishment of Paternity" was undertaken to assess the process by which the mother as custodial parent of a child born out of wedlock becomes aware of the rights which accrue to her child as a result of the adjudication of paternity. The study was implemented in four major steps: 1) a review of statutory and case law pertaining to illegitimacy in the fifty States, 2) a survey of IV-D and AFDC personnel in three target States, 3) a survey of judges who hear paternity cases in the three target States, 4) personal interviews with mothers of children who have had paternity established in three target States.

The following questions formed the foundation of the research effort and the basis for the surveys conducted.

1. What is the statutory and case law in the fifty States as to the rights and benefits which accrue to children born out of wedlock upon the establishment of paternity? How do these laws differ among States and how can they be classified?
2. What role do Child Support Enforcement (Title IV-D) and Aid to Families with Dependent Children (Title IV-A) personnel perform in informing mothers of the rights which accrue to their children upon the establishment of paternity?
3. What role does the judiciary perform in informing mothers of the legal rights to which her child is entitled? What are attitudes regarding the relevant State laws and their implementation?
4. What information do mothers have about the rights which accrue to their children as a result of the adjudication of paternity? Where did they obtain this information?

The results of the survey of State statutes are contained in Chapter III , results of the agency and judicial surveys in Chapters IV and V and the results of the personal interviews in Chapter VI.

Review of States Law

The first step in implementing the Children's Rights Study consisted of a review of the statutory and case law pertaining to illegitimacy in the fifty States. During the course of this review project staff delineated the relationship between "legitimation" and a legal adjudication of paternity. Paternity adjudication is the establishment of a legal relationship between a child and the man who admits to being, or, whom the court finds to be the natural father. Such an action may or may not entail the establishment of all legal rights and responsibilities between the parties. A legitimized child, on the other hand, is a child born out of wedlock who becomes the legal offspring of the putative father and natural mother for all legal purposes, including the inheritance of the father's property. Several items emerged while examining State laws which can be considered indices of possible legal discrimination against children born out of wedlock. They are as follows:

Inheritance - The fundamental indicator of whether or not a child born out of wedlock has equal legal status with his/her legitimate counterpart is whether or not he/she can inherit from the father when he dies intestate (without a will). State statutes specify wives and children as being a man's immediate successors with respect to inheritance. The question, then, is whether a man's children born out of wedlock are to be considered immediate successors just as his children born in wedlock. In states where this is the case, the establishment of paternity results in full legitimation for the child under the law (see Chapter III, Survey of State Statutes). In States where this is not the case, the establishment of paternity cannot

result in full legitimation since the fundamental right of inheritance is not provided for by law.

Birth Certificate - A child born in wedlock has a birth certificate which reflects the time, place of birth, and parents of the child. Each State has specific provisions for changing birth certificates in situations concerning adoption and the establishment of paternity. In cases of adoption, all States require that the original birth certificate be sealed and a new one issued listing the adoptive parents as if they were the natural parents, with no indication that the child has been adopted. The procedures employed in amending the birth certificates of children who have had their paternity established are not as non-discriminatory, however. Some States issue birth certificates indicating that a child is born out of wedlock and others do not. Once paternity is adjudicated the original birth certificate may be sealed and a new one issued, or, it may merely be amended indicating the name of the father. The circumstances under which the amending of a birth certificate occurs also varies tremendously. In some States, it occurs automatically when paternity is established. In others, a special request must be made by the court of the child's legal guardian for amendment to occur. In still other States no specific provisions for amending the birth certificate exist. The status of the birth certificate, then, can be indicative of a kind of legal discrimination against children born out of wedlock.

Visitation

If a child born out of wedlock were to have the same rights as a child born in wedlock, then theoretically he/she would be entitled to visitation from the father the same as is a child of a divorced couple. While there are established legal mechanisms which provide for paternal visitation for children in divorce cases, this is not so for children born out of wedlock.

Thus, visitation rights is an area which must be examined to determine whether or not children born out of wedlock have equal status with those who are not.

These three topics, inheritance laws, the amendment of birth certificates, and visitation practices, served as major focal points throughout the course of the study. A State's laws and procedures regarding these issues are a manifestation of the extent to which the legal and social status of a child born out of wedlock is equivalent to that of a child born in wedlock. Thus these items formed the foundation for the questions asked of judges, agency personnel and mothers of children born out of wedlock.

Selection of Target States

In compliance with PL 93-647, all States have specific provisions for the legal establishment of paternity. Some States equate the adjudication of paternity with legitimation, while others do not. In the process of reviewing statutory and case law, three general categories relating to legitimation emerged (see results, Chapter III). Category I States are those in which the establishment of paternity necessarily results in full legitimation for the child. In Category II States the establishment of paternity does not result in full legitimation, but certain rights accrue to the child as stipulated by law. Category III States are those in which the establishment of paternity does not constitute legitimation and no inheritance rights are provided the child by law.

The project included three separate surveys: 1) a mail out questionnaire survey of judges who hear paternity cases, 2) a mail out questionnaire survey of IV-D and IV-A Agency personnel and 3) personal interviews of mothers of children born out of wedlock. Project staff selected three states for in-depth study. Two (Washington and Wisconsin) are listed in Category I, and one

State (Minnesota) is from Category II. No Category III States were selected; since virtually no rights are allocated to children born out of wedlock who have paternity established in such States, there is no focus for the study of process by which mothers can become aware of these rights. Washington was selected on the basis of its passage of the Uniform Parentage Act. It is one of six States which have done so since 1975, and project staff considered this to be an emerging and continuing trend. Child Support Enforcement officials in the target states expressed interest and a willingness to cooperate in the study.

Judicial Survey

A survey of judicial practices and attitudes was conducted in the target States to determine the role of judges in the information dissemination process. Lists of the names and addresses of the judges hearing cases throughout the three States were obtained through the State Supreme Court offices. Since there was no way to determine a priori which judges heard paternity cases and which did not, a questionnaire was mailed to every non-appellate state court judge in the target States. A total of 359 judicial questionnaires were mailed, 72 to Minnesota, 109 to Washington and 178 to Wisconsin. Approximately 30% were returned from each State, with Minnesota accounting for 24, Washington 31, and Wisconsin 50. It is impossible to say what percentage of the judges who actually hear paternity cases returned the questionnaire since they could not be identified. However, it is probable that more than 30% of the target judges returned the questionnaire since they would be more motivated to do so.

The three survey instruments used were developed by project staff during the course of the study. (See Appendix A for all instruments and cover letters.) All instruments were pilot tested on a sample group and subsequently refined before being used in the field. In addition, they were reviewed by a staff

attorney and statistical consultant before being implemented. Both the Judicial and Agency Questionnaires were designed in a fold over, return mail format to facilitate their return. Cover letters describing the nature and purpose of the study and assuring anonymity of the respondent were also enclosed.

The judicial questionnaire was used to identify the characteristics of judges who hear paternity cases, the number and types of cases heard, procedures implemented in issues of custody and visitation, the type of information dispensed from the bench concerning the child's rights, and the attitudes of judges on various issues involved in the adjudication of paternity. (Two five point Summated Rating Scales of Never - Always and Disagree - Agree were used to measure frequencies and attitudes. For the most part, these scale items formed the dependent variables and the descriptive items formed in the independent variables of the study.

Agency Survey

The purpose of the agency survey was to obtain information from those professionals who have contact with mothers during the paternity adjudication process and to determine the type of information they disseminate to mothers of children born out of wedlock regarding the rights which accrue to the child. Isolating the appropriate personnel to be surveyed was a difficult task. It was decided that both Title IV-A (AFDC) and IV-D (Child Support Enforcement) workers should be surveyed since IV-A workers are the initial contact person for many mothers during the paternity adjudication process. Mothers applying for welfare who have a child born out of wedlock are routinely referred to the IV-D office by the IV-A workers to begin the paternity adjudication process. Thus the IV-A worker has an opportunity to inform the mother of the rights and benefits to which her child is entitled as a result of having paternity established. Child Support and AFDC workers are the only two categories of agency

personnel who have regular and consistent contact with mothers of children born out of wedlock.

State IV-D Directors were contacted by project staff and lists of all the Child Support Enforcement offices in the target States were obtained. Since there was no way to effectively determine the number of staff working in each office, estimates had to be made. The population of each county or region where the Child Support Office was located was obtained from the Standard Metropolitan Statistical Index. Questionnaires were then mailed to the IV-D Director of each county. Offices serving areas of 0-50,000 population were mailed two questionnaires, 50,000-100,000 four questionnaires, 100,000-150,000 six questionnaires, 150,000-200,000 eight questionnaires and so on. Packets of questionnaires were mailed to the Director of each office with a cover letter describing the nature and purpose of the study. Directors were asked to distribute the questionnaires to "all IV-D personnel in your county or jurisdiction who have contact with mothers involved in the establishment of paternity along with as many IV-A staff as possible." (See cover letter, Appendix A.) In addition, they were encouraged to contact the Project Director if additional questionnaires were needed. Five hundred and nineteen questionnaires were mailed and 319 were returned. Because of the absence of precise figures, it is impossible to know how many of those who actually have contact with mothers returned the questionnaire.

Personal Interviews of Mothers

Individual mothers of children born out of wedlock were interviewed by project staff to determine the level of knowledge they had regarding their child's legal rights. Project staff coordinated with the IV-D Directors in the target States to obtain a group of eligible mothers who were willing to participate in the study. Eligible subjects consisted of mothers whose children had had their paternity established with the past two years. Names of eligible mothers were obtained from official files by State IV-D personnel. Project staff worked with

Child Support Enforcement personnel to compose a letter eliciting the mothers' participation in the study. Letters were sent by the Child Support Offices and appointments for interviews were scheduled on a first-come first-serve basis for those mothers who responded.

A minimum of 16 mothers were interviewed in each State. More were interviewed as time and resources permitted with the end result being 16 interviews in Minnesota, 18 in Washington, and 17 in Wisconsin. Interviews were conducted in Minneapolis, Minnesota; St. Paul, Minnesota; Vancouver, Washington; Olympia, Washington; and Racine, Wisconsin. In some cases, there were not enough available subjects in one location and interviews were conducted in more than one city within the State.

The interview was selected by project staff as the most feasible method by which reliable data could be obtained from this population of mothers. A semistructured interview form was designed by project staff in conjunction with consultants from the Los Angeles firm of Communication Development Associates. (See Parent Interview Form, Appendix A.) Questions were designed to obtain a family profile of the mother and her child, the degree of past and present contact with the child's father, and her level of awareness of the child's rights. The interviewers also received extensive interview training from communication consultants to insure that a uniform interviewing procedure was used. Each subject's response to the interview was enthusiastic and many expressed an eagerness to discuss other issues involved in the paternity determination process with the interviewer.

CHAPTER III
RESULTS - Survey of State Statutes

In the process of reviewing statutory and case law three general categories relating to the establishment of paternity and legitimation emerged. A legitimized child is one who becomes the legal offspring of the putative father and natural mother for all legal purposes, including the inheritance of the father's property. All States have specific provisions for the legal establishment of paternity, but some States equate the establishment of paternity with legitimation while others do not. Table #1 page provides an overview of State laws governing the adjudication of paternity and legitimation. The fifty States may be placed in the following three categories:

Category I States - States in which the establishment of paternity necessarily results in legitimation. These are the States with 'yes' responses in columns A and B (Table I). This category includes those six States which have passed the Uniform Parentage Act. There are thirteen States in Category I.

Category II States - States in which the establishment of paternity does not result in full legitimation. In these States, however, certain rights accrue to the child as stipulated by law. These are the States with 'no/yes' responses in columns A and B. There are twelve States in this category.

Category III States - States in which the establishment of paternity does not constitute legitimation and no inheritance rights are provided by law. These are the States with 'no/no' responses in columns A and B. There are twenty-five States in this category.

The following is a list of all the States in Categories I, II and III. As shown, the majority of the States do not have provisions for legitimation and do not provide inheritance rights by law (Category III). There is still much to be done legislatively before children born out of wedlock who have had their paternity established will be on equal legal footing with children born to a married couple.

Category I

Alabama
Alaska
Arizona
California
Colorado
Delaware
Hawaii
Massachusetts
Montana
Oregon
Tennessee
Washington
Wisconsin

Category II

District of Columbia
Florida
Idaho
Indiana
Iowa
Kansas
Louisiana
Minnesota
Nebraska
New York
Utah
Vermont

Category III

Arkansas
Connecticut
Georgia
Illinois
Kentucky
Maine
Maryland
Michigan
Mississippi
Missouri
Nevada
New Hampshire
New Jersey
New Mexico
North Carolina
Ohio
Oklahoma
Pennsylvania
Rhode Island
South Carolina
South Dakota
Texas
Virginia
West Virginia
Wyoming

TABLE 1: STATE LAW SURVEY RESULTS

The following Table is a summary of the 50 States' laws regarding the rights which accrue to children who have had their paternity established. The far left hand column contains the names of the States in alphabetical order. The second column, Paternity Adjudication Equals Legitimation, answers the question: Does the legal adjudication of paternity constitute legitimation de jure? A yes response in this column indicates that a State has a statute which specifies that the adjudication of paternity makes the child eligible for the same rights and benefits as a child born in wedlock. Column three, Inheritance, answers affirmatively or negatively whether or not a child whose paternity has been established can inherit from the father. The responses in the fourth column, Birth Certificate, describe whether or not and any specific circumstances under which the child's birth certificate can be amended once paternity is established. The fifth column, Workmen's Comp/Veteran's Benefits, lists the requirements for a child to be eligible for such benefits from a man, regardless of whether or not paternity has been established. The numbers listed in the column correspond to the descriptors in the fold out key. For example, if numbers 8 and 11 are listed, this indicates that the child is eligible for benefits if he/she is an acknowledged illegitimate child or merely a dependent of the man involved. The last column, Adoption Consent, states whether or not the adjudicated fathers' consent is necessary in order for the mother to put the child up for adoption. The fold our key also contains a list of the questions answered in each column and explanations of all abbreviations used in Table 1.

STATE	PATERNITY ADJUDICATION EQUALS LEGITIMATION	INHERIT- ANCE	BIRTH CERTIFICATE	WORKMEN'S COMP/ VETERAN'S BENEFITS (see key)	ADOPTION CONSENT
ALABAMA	Yes	Yes	Yes/Auto	6	not add
ALASKA	Yes	Yes	Yes/Auto	2,3,4,7	Yes
ARIZONA	Yes	Yes	Yes/Auto	10	not add
ARKANSAS	No	No	Yes/Req	1,2,4,8,9	Yes
CALIFORNIA	Yes/(UPA)	Yes	Yes/Req	1,2,3,4	Yes
COLORADO	Yes/(UPA)	Yes	Yes/Auto	8,11	No
CONNECTICUT	No	No	No	11	No
DELAWARE	Yes	Yes	not addressed	2,4,7	Yes
DISTRICT OF COLUMBIA	No	Yes	Yes	11	Yes
FLORIDA	No	Yes	Yes/Auto	2,3,4,8	Yes
GEORGIA	No	No	Yes/Auto	2,3,4,8	No
HAWAII	Yes/(UPA)	Yes	Yes/Auto	2,3,4,8	Yes
IDAHO	No	Yes	Yes/Req	2,3,8	No
ILLINOIS	No	No	Yes/Auto	2,3,8,11	Yes
INDIANA	No	Yes	No	8,11	Yes
IOWA	No	Yes	Yes/Req	1,2,4	Yes
KANSAS	No	Yes	Yes/Auto	1,2,3,4	No
KENTUCKY	No	No	Yes/Req	16	No
LOUISIANA	No	Yes	Yes/Req	16	No
MAINE	No		No	2,4,11	not add
MARYLAND	No	No	Yes/Req	13	not add
MASSACHUSETTS	Yes	Yes	not addressed	11	No
MICHIGAN	No	No	not addressed	11	No
MINNESOTA	No	Yes	Yes/Auto	3,4,5,6,9,14	not add
MISSISSIPPI	No	No	not addressed	2,3,4,6,7	No
MISSOURI	No	No	Yes/Auto	16	No

STATE	PATERNITY ADJUDICATION EQUALS LEGITIMATION	INHERIT- ANCE	BIRTH CERTIFICATE	WORKMEN'S COMP/ VETERAN'S BENEFITS	ADOPTION CONSENT
MONTANA	Yes/(UPA)	Yes	not addressed	(see key) 11	not add
NEBRASKA	No	Yes	Yes/Auto	2,3,4,7,8	not add
NEVADA	No	No	Yes	1,2,3	not add
NEW HAMPSHIRE	No	No	Yes	3,11	not add
NEW JERSEY	No	No	No	1,4,5,8	No
NEW MEXICO	No	No	Yes/Req	11	No
NEW YORK	No	Yes	Yes/Auto	16	not add
NORTH CAROLINA	No	No	Yes/Auto	8	not add
NORTH DAKOTA	Yes/(UPA)	Yes	Yes/Auto	2,3,4,8,9	Yes
OHIO	No	No	Yes/Req	2,6,15	not add
OKLAHOMA	No	No	Yes/Req	16	No
OREGON	Yes	Yes	Yes/Auto	16	Yes
PENNSYLVANIA	No	No	Yes/Req	7	not add
RHODE ISLAND	No	No	Yes	16	not add
SOUTH CAROLINA	No	No	No	8	not add
SOUTH DAKOTA	No	No	not addressed	12	not add
TENNESSEE	Yes	Yes	Yes/Req	6	not add
TEXAS	No	No	not addressed	8	not add
UTAH	No	Yes	Yes/Req	12	No
VERMONT	No	Yes	No	8	not add
VIRGINIA	No	No	Yes/Req	8	not add
WASHINGTON	Yes/(UPA)	Yes	Yes/Req	1,11	not add
WEST VIRGINIA	No	No	No	11	Yes
WISCONSIN	Yes	Yes	Yes/Req	13	Yes
WYOMING	No	No	No	11	not add

KEY

THE QUESTIONS BELOW ARE THOSE ANSWERED
IN THE DESIGNATED COLUMNS

Paternity Adjudication Equals Legitimation:

Does a legal adjudication of paternity constitute
legitimation de jure?

Inheritance:

Can a child whose paternity has been established
inherit from the father?

Birth Certificate:

Is a birth certificate changed upon establishment of
paternity? If yes - automatically or upon request?

Workmen's Comp/Veteran's Benefits:

What constitutes eligibility for Workmen's
Compensation/Veteran's Benefits?

Adoption Consent:

Is the adjudicated father's consent necessary for
adoption?

UPA = Uniform Parentage Act
not add = not addressed
Auto = Amended Automatically
Req = Amended Upon Request

WORKMEN'S COMP/VETERAN'S BENEFITS

1. Natural child
2. Adopted child
3. Posthumous child
4. Stepchild
5. Grandchild dependent
6. Legitimated child
7. Loco parentis, 1 year
8. Acknowledged illegitimate child
9. Foster child dependent
10. Dependent child, no refusal of support
11. Dependent (no further specification)
12. Legally bound to support
13. Living with parent (no further specification)
14. Child legally entitled to inheritance
15. Legitimate child
16. No statement

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contrast was greatest in Wisconsin where 92% of the IV-D respondents had been at their positions for four years or less, while 95% of the AFDC respondents had been at their positions for three years or more. These differences between agencies may be accounted for in part by the fact that the child support enforcement program has only been in existence on a national level since 1975. Many States and jurisdictions which operated similar programs prior to that time have subsequently expanded and upgraded their programs to comply with new federal regulations.

Description of Tasks Performed

Because of the complex nature of the paternity adjudication/child support enforcement process and the lack of uniformity of job descriptions among personnel in different IV-D and AFDC offices, it was necessary to identify the respondents according to the various tasks they perform on the job. To that end, the questionnaire included a list of tasks involved with the establishment of paternity and the enforcement of child support. Subjects were asked to check as many of the tasks listed as were a function of their jobs. Thirty-two percent of the total sample said that they interview mothers to determine their eligibility to receive AFDC benefits. This task is almost always a function of AFDC personnel and not IV-D personnel, as evidenced by the fact that 92% of the AFDC respondents indicated that they perform it while only 4% of the IV-D respondents did so. The remaining tasks, with the exception of interviewing a mother about the putative father (85% IV-D compared with 71% AFDC), are almost exclusively associated with the IV-D Agency.

Respondents from the child support enforcement agency identified their tasks as follows: 73% interview putative fathers, 64% arrange for blood and polygraph testing; 64% negotiate formal stipulations of paternity; 50% prepare disputed cases for trial; 75% investigate information to support a paternity

case; 30% take disputed cases to trial; 55% prepare support orders; 80% monitor and enforce support orders. Respondents who indicated that they were responsible for taking a paternity case to trial, a task performed by the IV-D Attorney, comprised 17% of the returns from Minnesota, 10% from Washington and 33% from Wisconsin. The proportion of attorneys to other child support personnel within each State was 27% in Minnesota, 10% in Washington and 38% in Wisconsin. The organizational structure of IV-D agencies varies considerably from State to State, as reflected in the various levels of attorney participation in the paternity determination process.

Staff/Client Contact

The number of interviews associated with paternity determination conducted by the respondents ranged from 0 to 50 a week. The mean for the sample was 3.94, the median 1.25, and the mode was 1. Forty-six percent of the respondents indicated that they conduct one or less paternity interviews per week with approximately 80% of the sample falling below the mean.

Personnel in the IV-D and AFDC offices were asked under what circumstances they inform mothers of the rights which accrue to the child upon the establishment of paternity. An explanatory note identified the rights with which the study was concerned, including inheritance, use of the father's surname and social security benefits. The majority of respondents (56%) stated that they always inform mothers, 40% indicated that they inform mothers "sometimes" and 4% said that they never inform mothers regarding their children's rights. Among those who responded "sometimes," 4% stated that they do so when the mothers request information, 14% do so in order to encourage mothers to cooperate in the identification and location of the child's father, and 17% reported that no particular pattern exists. On an agency basis, 65% of the IV-D respondents stated that they inform mothers of their children's rights in all cases compared with 37% of those from AFDC.

Respondents from the three States vary with respect to the circumstances under which they inform mothers of the rights in question. This difference occurs specifically on the variable of eliciting the mother's cooperation. The majority of respondents from Washington (64%) indicated that they inform mothers in order to encourage their cooperation, as opposed to 35% in Minnesota and 42% in Wisconsin.

Subjects were asked: "What percentage of mothers that you interview request information from you regarding specific rights and benefits which accrue to their children as the result of an adjudication of paternity." Respondents indicated that an average of 21% of the mothers they interview request information regarding their children's rights (mean = 10%, mode = 10%). Broken down by agency, IV-D respondents stated that mothers request information in an average of 24% of their cases and AFDC respondents in an average of 15% of their cases. From these data it appears that AFDC workers as well as IV-D workers are seen as an information resource by mothers.

Approximately, half (54%) of the overall sample commented on the degree to which they inform mothers about paternal visitation rights. Overall, the respondents indicated that the issue of visitation arises in an average of 33% of their interviews with mothers (mode = 50%, median = 25%). AFDC respondents stated that the issue of visitation is raised in 15% of their cases and IV-D personnel said it is raised in 42% of the cases. In response to the question: "Under what circumstances do you inform the mother that visitation might be ordered as a result of an adjudication of paternity?," 37% responded that they always do so, 11% that they never do so; and 52% stated that they raise the issue "sometimes." Of those who responded "sometimes," 27% qualified it with "if the mother asks," 21% with "no particular pattern," and 4% with "when the putative father has requested visitation."

Respondents' Opinions

Subjects' opinions of various issues associated with the establishment of paternity were investigated in the Opinion Survey section of the questionnaire. Respondents were asked to indicate their level of agreement to a series of statements by means of a five point Summated Rating Scale ranging from strongly disagree to strongly agree. In response to the first statement: "My professional responsibilities include informing mothers of the specific rights and benefits which accrue to the child as a result of an adjudication of paternity," 69% of the sample agreed or strongly agreed and 13% disagreed or strongly disagreed ($\bar{M} = 3.9$). Personnel from IV-D had a mean score of 4.2 for the item while personnel from AFDC had a mean of 3.3. From these data it appears that IV-D personnel definitely see informing mothers of their children's rights as a responsibility of their job, while AFDC workers are ambivalent about the issue (3 = neither agree nor disagree).

The second statement asked respondents to evaluate their own knowledge of the "specific rights and benefits which accrue to children upon the establishment of paternity" with regard to its adequacy for meeting the demands of their job. Seventy percent of the total respondents agreed that their knowledge was adequate, 14% disagreed, and 16% neither agreed nor disagreed ($\bar{M} = 3.8$). The mean responses of AFDC (3.6) and IV-D (3.8) personnel were comparable for this item.

The following two items concerned the respondents' perceptions of where the responsibility for informing mothers about their children's rights lies in theory and in practice. Respondents were given five possible information sources - Judges, IV-D Attorneys, AFDC personnel, IV-D personnel and the mother herself - and asked to indicate their level of agreement regarding who should inform the mother and who, in their experience, actually provides such information. The mean scores for theoretical responsibility were as follows: Judge 3.2; IV-D Attorney 4.1; AFDC 3.3; IV-D staff 4.4; no one 1.3. On the

issue of practice, respondents indicated the following mean scores: Judge 2.6; IV-D Attorney 3.7; AFDC 3; IV-D staff 4.3; no one 1.9. These responses did not vary significantly by agency or by State.

Overall, then, there is agreement that IV-D personnel, including attorneys, should provide mothers with this information and in fact do provide the information more than any other professional group. Congruently, there is almost universal disagreement with the idea that the mother should be responsible for finding out this information by herself (mean = 1.3). These attitudes are further supported by the fact that respondents overwhelmingly agreed with the statement: "I would find it useful to have a brochure to give the mother which describes the rights and benefits accruing to the child upon the establishment of paternity," (mean = 4.5, median = 4.7, mode = 5.0). Sixty-five percent of the total sample strongly agreed with this statement and 21% agreed. It appears that IV-D personnel take seriously the responsibility of informing mothers of their rights and are looking for ways to do so more efficiently.

TABLE 2

MEANS, STANDARD DEVIATIONS AND PERCENTAGES ON
OPINION SURVEY FOR TOTAL AGENCY SAMPLE

Item Number	N	Mean	S.D.	Percent Responding to Each Item Alternative				
				1	2	3	4	5
1	310	3.92	1.16	4.5	8.7	18.1	26.8	41.9
2	309	3.77	1.03	3.2	10.7	15.9	46.0	24.3
3a	280	3.21	1.36	14.6	16.4	25.0	20.4	23.6
3b	289	4.12	1.02	3.5	4.2	13.5	33.9	45.0
3c	281	3.34	1.31	12.1	14.6	24.2	25.3	23.8
3d	300	4.39	0.82	1.7	1.3	8.3	33.7	55.0
3e	264	1.32	0.83	83.0	8.0	4.5	2.7	1.9
4a	269	2.55	1.20	23.4	26.0	30.1	12.6	7.8
4b	286	3.69	1.14	4.9	10.8	22.7	32.5	29.0
4c	274	3.04	1.14	11.7	19.0	31.4	28.8	9.1
4d	299	4.29	0.86	1.3	3.0	9.7	36.8	49.2
4e	264	1.88	1.09	52.3	18.2	20.8	6.1	2.7
5	169	3.71	1.28	8.9	10.7	15.4	30.8	34.3
6	311	4.52	0.81	1.6	0.6	9.0	21.5	67.2

CHAPTER V
RESULTS - Judicial Survey

Description of Judges

Judges in the three target States were surveyed by mail to assess their role in implementing State law and informing mothers of the rights of their children. A total of 530 judicial questionnaires were mailed to the three States with 72 going to Minnesota, 109 to Washington and 178 to Wisconsin. (For a complete description of selection and distribution procedures, see Chapter II, Methodology). Of the 105 questionnaires returned, 24 were from Minnesota, 31 from Washington and 50 from Wisconsin.

The Judicial Questionnaire (Appendix A) consists of two main sections. The Background Section describes who the judges are and how they work; the General Survey Section provides a description of their opinions and experiences regarding various judicial practices pertaining to paternity determination. The sample of 105 judges who responded to the questionnaire were predominantly male (98%) and ranged from 30 to 70 years of age. Approximately one fourth of the subjects were between the ages of 30-46, 47-54, 55-60, and 61-70 years of age, respectively. They have served from one to 32 years on the bench, with a mean of ten years. Out of the total number of subjects, one fourth have been on the bench from 1-4 years, 5-9, 10-15, and 16-32 years, respectively. Forty-five percent of the returns come from urban districts, 48% from rural, and 7% from districts composed of both urban and rural areas. The vast majority of the subjects (84%) hear paternity cases as part of a general caseload as opposed to being on permanent assignment (9%), or working on rotation (7%).

It was difficult to determine from the responses obtained, the number of domestic relations or paternity cases the judges hear in a twelve month period. It became obvious in analyzing the responses to items H through J that the subjects interpreted the phrase 'cases you have heard' in such a variety of ways as to render the data inconclusive. In response to item H, "estimate the total number of cases you have heard in the past twelve months," the responses ranged from 12 to 13,000. In order for a judge to hear 13,000 cases a year he would have to hear 260 cases a week (50 weeks a year) or 52 cases a day. It is apparent from this that the subjects interpreted cases to mean anything from a court ruling to the signing of a legal document. The mean for the same item was 1,270 while the mode was 100 and the median 376. Responses for item I - the total number of domestic relations cases heard - were equally ambiguous with a range of 0-1,920, a mean of 182, a mode of 50 and a median of 60. In response to item J - the total number of paternity adjudication cases heard in the past twelve months - the range was from 0-600 with a mean of 37, a mode of 10, and a median of 10. While these results seem more reliable, it is questionable to assume that the judges responded uniformly on this item after examining item H. The purpose of the group of items was to determine the ratio of paternity and domestic relations cases to total cases heard by the judges. Given the unreliable nature of the responses, however, this cannot be calculated with any accuracy.

Birth Certificates

When asked about the process of amending the child's birth certificate to include the father's surname after paternity is established, the judges responses were divided and did not seem to coincide with any of the legal statutes governing the subject in their respective States. About half (57.5%) of all the respondents stated that the birth certificate is amended

automatically with the court being required by law to communicate the information to the appropriate agency that paternity is established. Thirty-one percent of the total sample stated that it was amended on request and 11% at the discretion of the judge.

Minnesota is the only one of the three States with a statute specifically stating that the birth certificate is amended automatically. The statute specifies "when paternity is established, the clerk of the district court shall notify the State registrar of vital statistics of the name of the person against whom judgment is established . . . §257.29." Yet, only 55.6% of the judges responding from Minnesota said that the birth certificate is amended automatically, with 33% replying that it is amended upon request and 11% at the discretion of the judge.

Judicial Practices

When a man is judged by a court of law to be the father of a child born out of wedlock, he is, in some States, thereby held responsible for the care and support of that child as if the child had been born during a marriage. This means that he is liable for the economic support of the child and theoretically eligible for the same rights of custody and visitation as is a divorced father. Several of the items in the questionnaire pertain to the issue of paternal visitation. Subjects were asked when, under what circumstances and how the issue of paternal visitation is handled by the court. While it is common practice to raise the issue of paternal visitation in divorce cases, this does not appear to be the case in paternity cases. It should be noted that a paternity case may be resolved voluntarily without the putative father ever appearing personally before a judge. Judges, therefore, only necessarily come into contact with those putative fathers who deny paternity to the point of trial; those who voluntarily admit or stipulate to

being the father of the child in question may never come into contact with the judge.

Sixty-five percent of the judges stated that they seldom or never raise the issue of visitation when the putative father has contested paternity ($\bar{M} = 2.17$) and 58% gave the same response for fathers who voluntarily admit paternity ($\bar{M} = 2.52$). Twenty-one percent of the judges, however, say that they often or always raise the issue when the father contests paternity and 28% do so when he voluntarily admits paternity. Fourteen percent of the judges stated that they "sometimes" raise the issue of visitation when the father contests paternity and 13% do so when he admits paternity. It holds, then, that over half of the judges do not introduce the issue of paternal visitation regardless of the attitude of the putative father, and about 25% of them raise the issue whether he voluntarily admits paternity or not.

The judges are fairly well agreed that visitation rights are not awarded routinely regardless of the circumstances surrounding the establishment of paternity. When asked whether or not visitation is awarded as a matter of routine when the father has contested paternity, 71% said never or seldom ($\bar{M} = 1.9$) and 61% gave the same response regarding situations where the father voluntarily admits paternity ($\bar{M} = 2.1$). When judges were asked how often they award visitation rights at the request of the father, they expressed no real difference in the frequency of award for fathers who contest the paternity and fathers who voluntarily admit paternity. Forty-six percent stated that they award it often or always when the requesting father has contested ($\bar{M} = 3.23$) and 53% do so when he voluntarily admits ($M = 3.43$).

A one-way ANOVA was conducted to determine whether or not there were significant differences in the responses of the judges in three States. Significant differences between the States were observed on items concerning the routine awarding of visitation when paternity is contested, when it is

admitted voluntarily, and the awarding of visitation upon request ($p < .05$). Minnesota judges were the least likely to award visitation as a matter of routine to fathers who have contested paternity ($\bar{M} = 1.35$), with Wisconsin second ($\bar{M} = 1.85$) and Washington third ($\bar{M} = 2.54$). Congruently, judges from Washington were the most likely to award visitation upon request to fathers who have admitted paternity ($\bar{M} = 3.20$), assigning more neutral overall ratings to the item. Judges from Washington scored significantly higher overall ($\bar{M} = 3.04$) when asked if they would award visitation routinely when the father admits paternity than did judges in Minnesota ($\bar{M} = 1.42$) or Wisconsin ($\bar{M} = 2.06$). While the respondents from Minnesota and Wisconsin stated fairly emphatically that they would seldom or never award visitation routinely under such conditions, Washington judges stated that they sometimes would.

Since the primary purpose of this study was to examine the process by which mothers obtain information about the rights of their child who has had paternity established, judges were asked how frequently they give instructions from the bench informing the mother of specific rights and benefits which accrue to the child. Forty-seven percent stated that they never give such instructions and another 27% said that they seldom did so ($\bar{M} = 2.08$). It appears that the majority of judges are not disseminating this type of information with any regularity.

Judicial Opinion

Judges were given a series of statements on which they were asked to express their level of agreement or disagreement on a five point Summated Rating Scale. In order to assess their attitudes towards paternity cases, subjects were given the statement, "paternity casts should be treated like divorce cases in terms of the father/child relationship." Judges were more inclined to agree with the statement when the father voluntarily admits

paternity than they were when he disputes the paternity. Fifty-three percent of the respondents agreed or strongly agreed that this should be the case for voluntary admissions ($\bar{M} = 3.46$), while only 31% felt this should be the case when paternity is disputed ($\bar{M} = 2.78$). At the same time, 45% of the subjects disagreed or strongly disagreed that this should be the case for disputed paternities while only 19% gave this response for voluntary admissions.

A one-way ANOVA was conducted to determine whether or not there were significant differences in the responses of judges in urban and rural districts. Judges in rural districts disagreed the most strongly ($\bar{M} = 2.40$) that disputed paternity cases should be treated like divorce cases as compared to judges in urban ($\bar{M} = 3.11$) and urban/rural districts. There were no significant differences between the groups concerning voluntary admissions, however.

Judges in urban and rural districts showed significant differences in their overall responses to the statement that "paternal visitation should be considered only at the request of the father." Judges in urban districts disagreed the most strongly with this statement ($\bar{M} = 2.63$) while judges in the combined urban/rural districts agreed the most strongly with the statement ($\bar{M} = 4.00$). Those in rural districts agreed slightly more than they disagreed ($\bar{M} = 3.68$) indicating that it may be that judges in strictly urban settings are more inclined to consider other factors than paternal initiative in granting visitation.

This data is fairly congruent with that previously cited (above) on judicial practice. About half of the respondents are not inclined to raise the issue of visitation and are of the opinion that paternal visitation should be considered only at the request of the father. It appears that judges may be using the motivation and initiative of the father to ask for visitation as an indicator of whether or not such visitation is desirable.

The degree to which a mother as custodial parent should have control over the award of paternal visitation is an issue in divorce cases as well as paternity cases. Given that paternal visitation may often be disruptive for both mother and child, what role should the mother's desire to maintain a stable environment for herself and the child play in the decision to encourage a father/child relationship and provide the father with his rightful privileges? In light of this current debate, 64% of the respondents disagreed or strongly disagreed that the mother, as custodial parent, should be allowed to reject a putative father's request for visitation (\bar{M} 2.25). Either judges perceive this as a matter for the court to decide or they see merit in facilitating a father/child relationship via visitation despite any potential hardship on the mother or the custodial family unit.

Subjects were asked to express their opinions on the issue of child custody on two items. Sixty-eight percent agreed or strongly agreed that the mother should usually receive custody of the child in a disputed paternity case with only 6% disagreeing or strongly disagreeing (\bar{M} = 3.89). Their opinions were less dramatic concerning cases where the man voluntarily admits paternity, however. Fifty-five percent agreed that the mother should receive custody in cases of voluntary admission and only 9% strongly disagreed or disagreed with this (M = 3.57). But, 36% checked number three on the scale (neither agree nor disagree) indicating that they are neutral, or ambivalent, about the matter. This may indicate a feeling on the part of the judges that each case has to be considered individually, particularly when the father voluntarily admits paternity.

Subjects were asked to respond to the statement, "legal equality between children who have had their paternity established and children born in wedlock has been achieved in this State," in order to assess their perceptions of the legal status of these children in their own State. Of the total subjects, 58%

agreed or strongly agreed with the statement while 24% disagreed or strongly disagreed. Forty-eight percent of the judges in Minnesota agreed with the statement, 65% of those in Washington and 59% in Wisconsin. Only 10% of the judges in the State of Washington disagreed with the statement while 25% were neutral. It should be noted that Washington has enacted the Uniform Parentage Act, which prohibits any restrictions of the legal rights of a child on the basis of the marital status of his parents. A higher percentage of judges in Washington believe that equivalent legal status has been obtained by children born out of wedlock than do judges in the other two States. Also, only 10% of the judges disagree as opposed to 26% in Minnesota and 30% in Wisconsin. Whether or not this reflects the impact of the passage of the Uniform Parentage Act in theory and/or in practice is open to question. A higher proportion of judges in Washington perceive the achievement of equality than do those in the other States, but this does not necessarily reflect whether or not such equality has been achieved in practice.

At the same time, Minnesota is the only one of the three target States where the establishment of paternity does not de jure result in full legitimation (see Table I page 17). Minnesota also had the lowest percentage of agreement (48%) that legal equality has been achieved of any of the three States.

TABLE 3

MEANS, STANDARD DEVIATIONS AND PERCENTAGES ON
OPINION ITEMS FOR TOTAL JUDICIAL SAMPLE

Item Number	N	Mean	S.D.	Percent Responding to Each Item Alternative				
				1	2	3	4	5
1	93	4.51	0.74	---	2.2	8.6	24.7	64.5
2	92	2.17	1.41	48.9	16.3	14.1	9.8	10.9
3	94	2.52	1.5;	36.2	22.3	12.8	10.6	18.1
4a	89	3.23	1.22	11.2	15.7	27.0	30.3	13.7
4b	84	1.92	1.18	52.4	19.0	15.5	9.5	3.6
5a	93	3.43	1.19	8.6	12.9	24.7	34.4	19.4
5b	90	2.18	1.32	45.6	15.6	21.1	10.0	7.8
6	92	2.08	1.38	46.7	27.2	10.9	1.1	14.1
1	97	2.78	1.37	22.7	22.7	23.7	15.5	15.5
2	99	3.46	1.22	10.1	9.1	27.3	31.3	22.2
3	99	3.24	1.42	16.2	19.2	12.1	29.3	23.2
4	99	2.81	1.47	25.3	22.2	18.2	14.1	20.2
5	98	2.25	1.23	34.7	29.6	18.4	10.2	7.1
6	95	3.89	1.01	4.2	2.1	25.3	36.8	31.6
7	97	3.57	0.99	5.2	4.1	36.1	37.1	17.5
8	97	3.46	1.31	12.4	11.3	18.6	33.0	24.7

CHAPTER VI
RESULTS - Personal Interviews of Mothers

Description of Subjects

Mothers of children born out of wedlock whose paternity has been legally established were interviewed (Appendix A) by project staff in each of the target States to determine the extent of their knowledge concerning their children's legal rights. Seventeen mothers were interviewed in Wisconsin, 18 in Washington and 16 in Minnesota. They ranged in age from 18 to 36 years, with a mean of 24, a mode of 20 and a median of 24. Twenty-nine of the subjects had one child, 15 had two children, three had three and four children apiece and one had five. Seventy-three percent had one child born out of wedlock and 27% had two. The ages of the oldest child born out of wedlock ranged from three months to 16 years with a mean and mode of 4.0 and a median of 3.0. Seven of the subjects were married at the time of the interview, but only one of these was married to the father of the child born out of wedlock. The age range for the biological fathers of the children born out of wedlock was from 19 to 48 years with a mean of 27, a median of 25 and a mode of 24. Seventy-six percent of the mothers were receiving an AFDC grant at the time of the interview with an additional 4% receiving a grant for their child but not for themselves. The average length of time subjects had been receiving grants was 3.19 years with a mode of 2.0 and a median of 2.3. Three of the subjects had been receiving a grant for ten years. Twenty-four percent of the mothers were referred to the Title IV-D office to have the paternity of their child established at the time they first applied for an AFDC grant. These are children who might not have had paternity established had their mothers not applied for the grant and had Title IV-D not been in effect.

Mothers were asked at what point during the paternity adjudication process the child's father acknowledged paternity. Forty-five percent of the total

sample stated that the putative father freely admitted paternity. This indicates that there was no necessity for blood or polygraph testing, repeated interviews, or a court trial to establish paternity in these cases. Twenty-three percent stated that a formal interview had been conducted with the father and 29% had undergone blood testing. Only three subjects had undergone any polygraph testing but 13 subjects, or 25%, had to go to trial before a paternity could be established. Five subjects reported that the putative father acknowledged paternity just before going to trial and four subjects said that he had never admitted the paternity even though it had been legally adjudicated. The specific routine legal procedures used to adjudicate paternity vary from district to district as to the frequency and sequence of their use. In many jurisdictions, if a man believes that he is the father of the child in question, he can sign the appropriate papers in the IV-D office and paternity can be routinely adjudicated. In some cases, the putative father is willing to accept the responsibility of paternity but requests the evidence of blood test results in addition to the word of the mother before making a final commitment. This is often the case when the putative father believes that another man could have been the father. Generally, however, blood testing and polygraph techniques are employed by IV-D officials when there is resistance on the part of one or both parents to having paternity established. Modern blood testing techniques can currently exclude with certainty up to 99% of the innocent population as being the father of the child. In addition, the probability that a given man is the father of a child (probability of inclusion) can be calculated.¹

¹For further information see: University of Southern California, Center for Health Services Research, Paternity Determination: Techniques and Procedures to Establish the Paternity of Children Born Out of Wedlock, Condensed Report, DHEW Grant #18-P-90263-01. Office of Child Support Enforcement, April, 1977, and Center for Policy Research, Inc., Using Blood Tests to Establish Paternity, Condensed Report, DHEW, Grant #18-P-90241. Office of Child Support Enforcement, July, 1977.

Forty-five percent of the total sample stated that the putative father freely admitted paternity. This could have occurred before the interview, at the time of the interview or with the additional evidence of a blood test. Regardless of when the admission occurred, however, this response indicates that the fathers willingly accepted responsibility for the paternity and agreed to have it legally adjudicated in almost half of the cases sampled.

Custody and Visitation

Mothers were asked if the father ever officially or unofficially requested custody of their child. Only two respondents stated that he had requested custody officially through any established legal means. Of these, one mother stated that "nothing ever came of it" and the other that she was awarded custody because of her ability to provide 24-hour care for the child. Twenty-seven percent reported that the father requested custody unofficially. This included situations in which the father threatened to kidnap the child or threatened legal proceedings if the mother did not "take better care of the child" or meet some standard held by the father pertaining to the child's welfare. Some men merely expressed to the mother a desire to have the child live with him "when he gets older" or at some specific point in time.

Of the total number of mothers interviewed, 43%, or 22 subjects, reported that the child receives visits from his/her father. Forty-one percent of the children receiving visitation see their fathers between one and four times a month, with another 12% receiving visits twice a week, or eight times a month. Four mothers reported regular visits of three times a week, and another three subjects said that the father has the child overnight, every weekend. Sixty-seven percent of the fathers that visit, then, do so on a very regular basis. Four of the subjects who reported visits of more than three times a week used statements such as 'he's over at my house all the time' or 'he lives right

down the street' to describe the situation. In those cases, no visitation occurred in a formal structured sense, but the child was in close and constant contact with the father. Sixteen percent of the mothers reported that the father visited the child irregularly. These were cases in which the father had seen the child only a few times. In some cases, the man lived out of state, was in prison, or reportedly had little or no interest in seeing the child.

Forty-three percent of the mothers reported that the visitation arrangements were the result of a mutual agreement between herself and the child's father and involved no legal agreements or court orders. Ten percent of the mothers reported that the father had requested and received a court order establishing visitation and another 4% stated that they themselves had requested and received such an order. When the mothers requested a court order, it was almost always because problems had arisen surrounding the visitation and a more structured situation as to time and form was desired. When the father requested the court order, it was because he had experienced or anticipated experiencing an infringement of his visitation privileges on the part of the mother or because his lawyer advised him to do so. There were no cases reported in which the father had requested visitation and the judge had denied his request.

Twenty percent of the total sample reported that the father had never requested to visit the child. At the same time, 54% of the total sample stated that the father does not, in fact, visit the child. There are men in addition to those who have never requested visitation (34%), who are not visiting their children. Less than (46%) of the mothers reported that their children received visitation of any kind from the father. Of those children who do receive visitation, however, over half of them experience it on a regular

and consistent basis. It seems that if the father is motivated to visit the child, he will do so enthusiastically and regularly, and if he is not so motivated, will visit little, if at all.

It is highly questionable as to whether or not the father's motivation for visiting the child is always a demonstration of paternal interest. Twenty-two percent of the mothers interviewed stated that they felt the father "comes to visit me." In most cases, these mothers were married to other men or for some other reason did not desire any further relationship with the putative father. They saw the visitation situation as having a disruptive effect on their lives but were willing to endure it so that the child could have a relationship with his/her father. In a small number of cases, the mother's romantic involvement with the child's father was ongoing and his desire to see her as well as the child was welcomed. These responses demonstrate the complex nature of visitation in paternity cases.

Birth Certificate/Surname

Mothers were asked a series of questions pertaining to their child's birth certificate and use of the father's surname. Seventy percent of the mothers said that they were aware that the child could use his/her father's surname once paternity is established. The remaining 30% did not know that this is a right of the child which accrues with the establishment of paternity. Only 16% reported that the child uses the father's surname, however. The majority (84%) are known by the mother's surname whether it is her maiden name or her married name. Twenty-five percent of the mothers did not know whether or not the putative father's name was on the birth certificate and 37% reported that it was not. Thirty one percent of the mothers who knew that the father's name was on the birth certificate said it was added at the time of the child's birth, 50% when he acknowledged paternity, and 18% after the paternity trial.

Four mothers stated that the putative father had signed a birth certificate either at the hospital when the child was born, or when paternity was adjudicated.

Of the mothers who were aware that the child's birth certificate had been amended once paternity was established, five reported that they had made some kind of effort to accomplish this. Another 21 mothers stated that the birth certificate had been changed without any effort on their part. Forty-two percent of the total subjects stated that someone had talked to them about changes in their child's birth certificate at some point during the paternity adjudication process. When asked who they would go to to find out more about their child's birth certificate, 22% of the sample said they would ask a lawyer, 16% a IV-D staff member, one mother said she would ask her social worker, 28% would call the local courthouse or office of vital statistics, and another 22% listed various other sources of information such as friends or relatives. None of the respondents named judges as a source of information and only four women said they would not know where to go for further information.

Awareness of Rights

Mothers expressed a fair degree of knowledge regarding the benefits which could potentially accrue to their children with the establishment of paternity. Sixty-three percent of the mothers knew that their child was eligible to inherit from the father should he die without a will. Another 22% thought that the child could not inherit and 15% didn't know whether the child could inherit or not. Twenty-four percent of the mothers knew that their child was eligible for Workmen's Compensation benefits in the event that the father was injured on the job. Twenty-eight percent thought he/she was not eligible and another 48% didn't know whether the child was eligible or not. Twelve percent

of the mothers said that their child was eligible for health insurance benefits on the father's policy and 45% knew that the child was eligible for Social Security benefits.

Seventy-three percent of the total sample stated that they did not receive any verbal or written instructions pertaining to their child's rights at any point while paternity was being established. Of the 27% that did receive some kind of information, one received it from a judge and one from a lawyer. Eleven respondents said that they received information from the IV-D Office, four from a social worker, and another four from other miscellaneous sources. Seventy three percent of the mothers surveyed said that they saw no difference between the rights of their child and those of a child born to a married couple. Fifteen percent said that they saw some differences most of which related to the ease with which the child can inherit from the father.

TABLE 4
Ns, MEANS AND STANDARD DEVIATIONS FOR PERSONAL INTERVIEWS

FAMILY PROFILE
Relative Frequency of Number of Children in Family

ITEM	N	MEAN	S.D.	1	2	3	4	5
1 Total	51	1.66	0.97	56.9	29.4	5.9	5.9	2.0
2 Out of Wedlock	51	1.27	0.45	72.5	27.5	-	-	-

FAMILY PROFILE
Absolute Frequency of Ages (Years) of
Children Born Out of Wedlock

ITEM	N	MEAN	S.D.	0-1.8	1.8-3.5	3.5-5.3	5.3-7	7+
3a First Child	51	4.04	3.57	11	19	12	3	6
3b Second Child	14	2.06	1.77	8	2	4	-	-

FAMILY PROFILE
Absolute Frequency of Ages
(Years) of Parents

ITEM	N	MEAN	S.D.	18-21	22-25	26-29	30-33	34-37	37+
4a Mother	51	24.49	4.61	17	16	10	5	3	-
4b Father	48	27.25	6.13	7	17	10	8	2	4

NOTE: The numbers under ITEM correspond to the Item Numbers on the Interview Form, Appendix A.

FAMILY PROFILE
 Absolute Frequency of Number of Years
 Receiving AFDC Grant

ITEM	N	MEAN	S.D.	0-1.0	1.1-2.0	2.1-3.0	3.1-4.0	4.1-5.0	75
6b	49	3.19	2.47	10	14	5	9	5	6

FAMILY PROFILE
 Relative Frequency of Responses;
 Point at Which Father Admitted Paternity

ITEM	N	Before Trial	Free Admission	Inter- view	Blood Test	Poly- graph	Trial	Never Has
7 Admission of Paternity	51	9.8	45.1	23.5	29.4	5.9	25.5	7.8

FAMILY PROFILE
 Relative Frequency of Responses
 To Yes/No Questions

ITEM	N	YES	NO	OTHER
5 Currently Married	51	13.7	86.3	
5a Married to Child's Father	6	16.7	83.3	
6 Receiving AFDC Grant	50	76.0	20.0	4.0 (Child is/mother is not)
6a Receiving Grant at Start of Paternity Proceedings	50	60.0	16.0	24.0 (Begun at Grant)

CONTACT WITH FATHER

Relative Frequency of Yes/No Responses; Father Request
Custody During Paternity Proceedings?

ITEM	N	YES	NO
1a Officially	48	4.2	95.8
1b Unofficially	49	26.5	73.5

CONTACT WITH FATHER

Relative Frequency of Yes/No Responses;
Does Father Visit the Child?

ITEM	N	YES	NO
2	51	47.1	52.9

CONTACT WITH FATHER

Relative Frequency of Responses; Means of
Agreement to Father's Visitation of Child

ITEM	N	Mutual Agreement	Court Order His Request	Court Order My Request	He Requested Judge Denied	No Request	OTHER
2a	51	43.1	9.8	3.9	0	19.6	21.6

CONTACT WITH FATHER

Relative Frequency of Responses to
Regularity of Father's Visitation

ITEM	N	REGULAR	IRREGULAR
2b	25	20.0	80.0

AWARENESS OF RIGHTS
Relative Frequency of Responses;
Does Child Use Father's Surname?

ITEM	N	YES	MOTHERS	OTHER
2	51	15.7	82.4	2.0

AWARENESS OF RIGHTS
Relative Frequency of Responses; If Father's Name
On Birth Certificate, When Was This Done?

ITEM	N	BIRTH	When He Admitted	After Trial
4a	22	31.8	50.0	18.2

AWARENESS OF RIGHTS
Relative Frequency of Responses; Who Would You Ask
Concerning Father's Name on Birth Certificate?

ITEM	N	JUDGE	LAWYER	IV-D	GAL	SOCIAL WORKER	OTHER
5	51	0	21.6	15.7	0	2.0	21.6

AWARENESS OF RIGHTS

Relative Frequency of Responses; What Benefits to Child Do
You Know of, Once Paternity is Established?

ITEM	N	Don't Understand	Inheritance	Workmen's Compensation	Health Benefits	Other	D.K.	No
6	51	3.9	31.4	7.8	11.8	27.5	11.8	13.7

AWARENESS OF RIGHTS

Relative Frequency of Responses; Did You Receive Instructions
Concerning Child's Rights?

ITEM	N	NO	JUDGE	LAWYER	IV-D	GAL	SOCIAL WORKER	OTHER
7	51	72.5	2.0	2.0	21.6	0	7.8	7.8

AWARENESS OF RIGHTS

Relative Frequency of Responses; Who Would
You Ask About Child's Benefits?

ITEM	N	JUDGE	LAWYER	IV-D	GAL	SOCIAL WORKER	OTHER
9	51	0	25.5	47.1	0	19.6	27.5

CHAPTER VII
CONCLUSIONS AND RECOMMENDATIONS

The present study was undertaken in response to one of the many issues associated with children born out of wedlock: what are their legal rights once paternity is formally established? This issue has reached a high level of urgency in recent years, a fact attributable in part to the tremendous increase in non-marital children who are having legal parent-child relationships established as the result of the Federal Child Support Enforcement (IV-D) Program. Enacted in 1975 as Public Law 93-647, Title IV-D of the Social Security Act requires States to enforce child support obligations and, where necessary, establish paternity for children receiving assistance from the Aid to Families with Dependent Children (AFDC) program.

While the immediate impact of this program is financial, it is obvious that the program entails numerous legal and sociological implications, particularly in its effect on the members of the affected "families." The amount, kind and impact of the involvement between biological mother, father and child, when that relationship is legally established, (often without the parties' desire or even willingness) and the father is confronted with an enforceable financial obligation for his child's support are questions which must be raised if court, agency and service personnel are to act in a manner consistent with the best interests of all concerned.

These issues are complicated by the fact that the legal status of such children, with respect to the parent-child relationship, differs from State to State. It was only with the implementation of Title IV-D, for example, that the paternal obligation to support a non-marital child became a statutory reality in all the States. With regard to other rights, including the use of the father's surname, the right to inherit from a father who dies intestate and the rights of paternal visitation and custody, State statutes vary widely.

Some States maintain statutes which discriminate against "illegitimate" children, usually in an attempt to preserve the legal nuclear family by providing children born in that context with rights not otherwise available, while others, such as those which since 1975 have passed the Uniform Parentage Act, would place all children in an equal legal relationship to their respective parents.

In an effort to assist State legislators to make decisions regarding future changes in their statutes and to help court and agency personnel involved in the operation of the Child Support Enforcement Program better address the needs of their clients in this area, the University of Southern California Center for Health Services Research (CHSR) was funded by the Administration for Children, Youth and Families (ACYF) to examine both the nature of State statutes in this area and the immediate effect which laws providing legal parent-child equality are having on the parties involved. The following are a summary of the findings of that project, as detailed in the body of this report, and the major conclusions and recommendations of the CHSR Project Staff.

Overall Findings - State Laws

The major findings of the survey of State laws are as follows:

- Twenty-five States provide children born out of wedlock with legal status roughly equivalent to children born in wedlock either via legitimation statutes or inheritance laws.
- In twenty-five States, the legal establishment of paternity neither constitutes full legitimation nor provides inheritance rights when a non-marital child's father dies intestate.
- Nineteen States have laws which give instructions for the automatic amending of a child's birth certificate, once paternity is established, in order to remove any reference to illegitimacy.

- Thirty-one States either: 1) have no statutes which address the issue of amending the birth certificate once paternity is established, 2) have statutes which do not permit the amending of the birth certificate on the basis of paternity being established or 3) have statutes stipulating various procedures for requesting that the birth certificate be amended once paternity is established.
- The majority of judges, mothers, and agency personnel surveyed during the study exhibited considerable confusion regarding the status of the child's birth certificate once paternity is established.

The laws in the fifty States vary greatly in the extent to which children born out of wedlock are treated as the legal equals of children born in wedlock. Equality under the law for these children is not a reality nationwide at this time. In half of the States, the legal establishment of paternity does not constitute legitimation or provide inheritance rights when a father dies without a will, placing children born out of wedlock at a severe legal disadvantage because of the circumstances of their birth.

In the States which provide for the automatic amending of birth certificates the judge or clerk of the court is instructed by law to send a notice to the Bureau of Vital Statistics, or the equivalent agency, stating that paternity has been established. Either a new birth certificate is issued (and the old one permanently sealed) or the father's name is placed in the appropriate space. These procedures are performed automatically with no effort required on the part of the parent or legal guardian. The amended birth certificate then does not lead to discrimination against the child because of his/her parents' marital status. In the remaining thirty-one States, no such provisions for automatic amending of the birth certificate upon the establishment of paternity exist.

Regardless of the type of law governing birth certificates within a given State, the present study found considerable confusion on the part of

mothers, judges and agency personnel as to what actually happens to the birth certificate once paternity is established. The data from the judicial survey demonstrates that judges in the target States are not totally familiar with their State laws regarding the procedures for amending birth certificates. This confusion regarding the status of the birth certificate is not confined to judges alone; it was one of the most common misunderstandings among the mothers and agency personnel interviewed in the study. One District Attorney told an interviewer: "I don't know what happens with the birth certificates and as far as I can tell, no one else does either." In some States it is customary to file two birth certificates, one in the location of birth and one at the State Capitol. This adds to the confusion since one sometimes gets amended and another does not.

It is possible that judges are not aware of the procedures for amending the birth certificates because the matter is handled by another officer of the court. For whatever reason, it is apparent that mothers do not obtain accurate information about the status of the child's birth certificate from the judge. Many mothers expressed a desire for clarification regarding their child's certificate, and some had made previously unsuccessful efforts to gain such clarification. Many IV-D and AFDC personnel questioned by project staff were also unclear about specific procedures regarding the birth certificate and did not know where to refer mothers so that they might obtain accurate information in an efficient manner.

Overall Findings - Awareness of Rights

- Seventy percent of the mothers interviewed know that the child is entitled to use his/her father's surname and 63% know that the child is eligible to inherit from the father should he die without a will.
- Child Support (IV-D) personnel surveyed see the task of informing mothers of the child's rights as a part of their role and the mothers interviewed see IV-D staff as their primary information source.

- Judges surveyed do not see the task of informing mothers of the child's rights as a function of their role and mothers do not see judges as a source of information.
- Child Support (IV-D) personnel provide mothers with information regarding the child's rights more than any other professional group and enthusiastically support the prospect of having a brochure describing the child's rights which they can disseminate to mothers.

Since the number of mothers interviewed in the present study was fairly small (51) care must be taken not to over-generalize the findings obtained. The mothers interviewed in the present project are generally aware of the rights which accrue to their children upon the establishment of paternity, however. Most of the rights involved; inheritance, Social Security, Workmen's Compensation, are benefits which are likely to be received at some future rather than present time. Add to this the likelihood that having a child's paternity established is generally a time of high stress, it appears significant that 70% of the mothers are aware of some fundamental rights which accrue to their child upon the establishment of paternity.

The judges surveyed do not perform the task in the course of their duties and the mothers interviewed do not see the judge as a source of information. Child Support (IV-D) personnel, by contrast, do see the task of informing mothers of their children's rights as a responsibility of their position and the mothers interviewed saw IV-D staff as their primary information source. While IV-D personnel generally feel that their knowledge of the child's legal rights is adequate to meet the demands of their job, they overwhelmingly support the prospect of having a brochure describing the child's rights which they can dispense to mothers.

Overall Findings - Paternal Visitation

- Forty-three percent of the mothers interviewed reported that their child is visited by the father on a regular basis.

- Fourteen percent of the total sample reported that a court order establishing visitation has been issued. Forty-three percent of the mothers interviewed reported that visitation arrangements are the result of mutual agreement between herself and the child's father.
- The prospect of paternal visitation is at least being discussed by the child's parents in 80% of the cases studied.
- There is some evidence that mothers are not adequately informed about the legal provisions regarding paternal visitation of the out of wedlock child.

The significant amount of paternal visitation found to occur within the families studied is noteworthy in light of the fact that legal marriage was never a factor in the relationships of the parents or the father and child. Forty-three percent of the total subjects reported that the child receives visits from his/her father and most of these are visited on a very regular basis. This is true despite the fact that only 14% of the total sample reported that a court order establishing visitation had been issued; most visitation is occurring without legal intervention and as the result of mutual agreement between the child's parents. Only 20% of mothers reported that the father had never requested to visit his child, indicating that visitation is at least being discussed by parents in 80% of the cases studied. The question remains then as to why the 54% of the fathers who do not visit the child (according to the mothers interviewed) do not do so, and why the 43% of the fathers who do visit do so on a regular basis.

There is some evidence from the study that mothers (and probably fathers) are not adequately informed about the legal provisions surrounding the visitation of the out of wedlock child. Some mothers in the jurisdiction studied, reported to the interviewer that they had received a copy of the court order six weeks after paternity had been adjudicated. Included in the court order was a phrase stating the "reasonable visitation privileges shall be awarded the father." This was the first instruction these mothers had received pertaining to the issue of visitation. Not only does the phrase "reasonable

visitation" leave much room for ambiguity, but the element of surprise is not necessarily desirable in a matter having such potential impact on the lives of mother, father, and child. Given that the legal and social mechanisms for visitation of out of wedlock children are not yet well established, it is possible that the experience of these mothers is not unique.

Conclusions

The level of motivation and interest expressed by IV-D personnel concerning the dissemination of information about the rights of the child is noteworthy when one considers that the IV-D program, as prescribed by law and regulation, is primarily economic in nature. The purpose of the program is to collect child support payments from absent parents. It is important to note, therefore, that a high percentage of IV-D staff consider providing information to mothers about their legal rights to be an additional responsibility. Child Support (IV-D) personnel apparently see their role as having legal and social, as well as economic, impact. More importantly, they are in fact the primary dispensers of information about the child's rights and would welcome the opportunity to perform this function more efficiently by having appropriate materials available for distribution to concerned parties.

It appears from the data obtained in the present study that informing mothers of the rights which accrue to their children upon the establishment of paternity has become an ancillary, if unofficial, function of the IV-D Office. This is not surprising when one considers that IV-D personnel are those with whom most mothers of children having paternity established come in contact. Add to this the fact that before the advent of Title IV-D, the establishment of paternity, with its concomitant implications and benefits,

was not within the official purview of a single government agency, it is not surprising that IV-D personnel are currently the perceived experts in this area. They are the ones to whom mothers most often appeal for further information and they are the logical point from which to disseminate such information.

An important focus of the present study concerned the laws of the three States which were examined in depth. Project staff selected States which provide a large measure of, if not total, legal equality for all children regardless of the marital status of the parents. Particular attention was given to including one State which has enacted the substantive provisions of the Uniform Parentage Act, an act which concisely addresses the issues concerned with the parent-child relationship, providing equal legal standing for all children.

The State of Washington was selected as one of the target States for study because it has recently adopted the Uniform Parentage Act. The level of awareness of the rights of the child and the access to those rights in Washington was found to be equivalent to that of Wisconsin, which has provided equal legal status to children born out of wedlock for many years. Thus, project staff conclude that the adoption of the Uniform Parentage Act is a viable means of affording children born out of wedlock equal status under the law.

These conclusions are supported by findings which indicate that judges in Washington perceive legal equality between all children to be an accomplished fact at least to the same extent as judges in the other two States. It is further supported by the findings of the mother's interviews, indicating that passage of the act lends itself to an increased perception of rights on the part of the affected parties, an essential aspect of the success of legislation in actually providing intended benefits.

The issue of paternal visitation is one which judges, attorneys, and IV-D personnel raised with project staff throughout the course of this study as being considerably problematic; it is a complex issue for all of the parties involved. When a couple is married and subsequently divorced, they have initiated and terminated a relationship with specific legal and social boundaries. This definition of a relationship in legal and social terms does not exist in cases where the paternity of a child born out of wedlock is established. Therefore, a whole host of factors that are unique to this situation must be considered by judges and attorneys in making decisions about visitation for children born out of wedlock. In the judicial survey, one judge commented:

"Putative fathers, in my experience (14 years on the bench) seek visitation for one of two reasons -- to bother, or otherwise press unwanted attentions upon, the mother; or for ego-centered reasons of fatherhood status. Neither of these warrants any adverse impact on the child and I therefore disfavor court ordered visitation of illegitimate children."

The fact that 22% of the mothers interviewed agreed that the putative father visited the child in order to see her, would appear to substantiate this judges premise.

Forty-three percent of the mothers interviewed reported that the visitation arrangements which did exist were the result of a mutual agreement between herself and the child's father and involved no legal agreement or court orders. According to one District Attorney, this arrangement of visitation without formal legal intervention is encouraged by some judges and attorneys; visitation being considered a complex matter better left alone unless one of the parents wishes formal arrangements. The prevalence of this approach is supported by the findings of the judicial survey. A formal order stating the format and time of visitation is usually reserved for cases in which there are problems implementing informal visitation.

Whatever the attitudes of judges and attorneys about paternal visitation and the efficiency or inefficiency with which procedures are implemented, the fact remains that a growing number of children born out of wedlock are now in a position to be supported and visited by their fathers. Moreover, very little is currently known about the effects of paternal visitation on children born out of wedlock. Further research is needed in this area to establish guidelines for use by judges and attorneys faced with deciding what is in the best interests of the child. The social and psychological impact of such visitation on the child's growth and development needs to be studied to provide the groundwork for the future legal regulation of visitation and its implementation by professionals. Additional questions in this area include: (1) whether or not, and to what extent, the adjudication of paternity increases the likelihood that paternal visitation will occur; and (2) what are the factors separating the men who do visit their children from those who do not. The increase in the number of children currently being placed in a position where visitation is a possibility, if not a probability, makes the pursuit of research addressing these and other relevant questions imperative and urgent.

Recommendations

On the basis of the above findings and conclusions, Project Staff make the following specific and general recommendations:

- 1) Legislation which provides a legal status to children born out of wedlock who have had paternity established equal to that of children born within wedlock does in fact have the effect of generating a perceived legal equality and access to rights; therefore, governmental agencies (such as ACYF) should advocate passage of the substantive provisions of the Uniform Parentage Act in those States whose statutes deny legal equality to children born out of wedlock.

- 2) The issue of paternal visitation where no marriage relationship has existed should be examined in depth to determine its social, cultural and psychological impact on all parties. Project Staff believe visitation in such circumstances differs significantly from divorce cases, and, due to the impact of Title IV-D on the number of non-marital children being placed in a position where biological fathers have rights of visitation, strongly recommend that studies addressing this question commence immediately.
- 3) Mothers, or custodial parents, of children having their paternity established need adequate and accurate information concerning the legal status of their children once that has occurred. While such information is currently being disseminated to some extent, often on an ad hoc basis by agency staff not specifically trained in this area, the level of confusion identified in this study in such areas as the amendment of birth certificates and the father's right to visitation suggests that further efforts must be taken to ensure that affected parties are aware of the laws of their State. Project Staff therefore recommend that:
 - IV-D personnel, attorneys and judges receive specific training in the rights and benefits which are available to children once paternity is established.
 - Each State prepare a document which may be retained by mothers detailing the present and future rights and benefits to which their children are entitled, and the means by which those benefits may be obtained.
- 4) The amendment of birth certificates to eliminate reference to a child's "illegitimate" status, in those States where the establishment of paternity is sufficient criterion for doing so, should be accomplished in the most direct manner possible. This will avoid confusion on the part of the parties with regard to the process of amending and the current status of this document which is necessary to obtain a variety of benefits. Project Staff therefore recommend that States make the amending process automatic and a function of the court or agency in which paternity is legally established.

APPENDIX A
SURVEY INSTRUMENTS

UNIVERSITY OF SOUTHERN CALIFORNIA
CENTER FOR HEALTH SERVICES RESEARCH
2025 ZONAL AVENUE
LOS ANGELES, CALIFORNIA 90033
(213) 226-2337

May 24, 1978

Dear Sir:

The Center for Health Services Research (CHSR) of the University of Southern California is conducting a study for the United States Department of Health, Education and Welfare (HEW) Administration for Children, Youth and Families (ACYF) to determine the legal benefits accruing to children born out of wedlock upon the establishment of paternity. As you know, the enactment of Title IV-D of the Social Security Act in 1975 has resulted in a large increase in the number of children born out of wedlock for whom paternity is legally established. CHSR is examining the nature and extent of the legal rights and benefits to which such children are entitled in each state and the means by which they receive those rights.

A survey of your State's judges and interviews with a select number of mothers of children born out of wedlock have already been conducted. A remaining, vital part of this study involves a survey of the agency personnel (Attorneys, IV-A and IV-D workers) who have direct contact with mothers and putative fathers during the paternity adjudication process. We are interested in the procedures and opinions of these professionals regarding their function and role in the dissemination of information regarding these legal rights and benefits.

Your State's Director of Child Support Enforcement has given us considerable support on this project, and he has provided us with a list of contacts from which your office was selected. By distributing the enclosed stamped, self-addressed questionnaires to all IV-D (Child Support) personnel in your county or jurisdiction who have contact with mothers involved in the establishment of paternity along with as many IV-A (Public Assistance) staff as possible, you will greatly assist us in the completion of this important project. As you will notice, the form is fairly brief, and we ask that they be completed and returned to us by June 16, 1978.

Your cooperation is essential to the project's success, and we appreciate your efforts. If you need additional forms, or if you have any questions regarding any aspect of this project, please call me.

Thank you again.

Sincerely,

Madeleine Delker, Ph.D.
Project Director

Enclosures

UNIVERSITY OF SOUTHERN CALIFORNIA
CENTER FOR HEALTH SERVICES RESEARCH
2025 ZONAL AVENUE
LOS ANGELES, CALIFORNIA 90033
(213) 226-2337

AGENCY QUESTIONNAIRE

The Center for Health Services Research (CHSR) of the University of Southern California is conducting a national study for the Department of Health, Education and Welfare (HEW) Administration for Children, Youth and Families (ACYF) to determine the legal benefits accruing to children upon the establishment of paternity. A vital part of this study involves a survey of agency personnel who have direct contact with mothers and putative fathers during the paternity adjudication process. We are interested in the dissemination of information regarding these legal rights and benefits. If you can fill out this questionnaire and place it in the mail by June 16, you will greatly assist us in the completion of this important project. Please feel free to use available space on the questionnaire for any comments you may have. All responses are completely confidential. Please do not place your name anywhere on the questionnaire. Thank you for your cooperation.

1. Agency (check one)

AFDC (Public Assistance) (Child Support Enforcement)

2. Briefly describe your job title and function.

3. Tasks that you perform in your job (check as many as apply).

- a. interview mother for determination of AFDC eligibility.
- b. interview mother for information regarding the identity and location of the father of her out-of-wedlock child.
- c. interview putative father.
- d. arrange for blood and/or polygraph testing.
- e. negotiate and enter into formal stipulations of paternity.
- f. prepare disputed paternity case for trial.
- g. investigate facts to support paternity case.
- h. try disputed paternity case.
- i. prepare paternity/support orders.
- j. monitor child support collections.
- k. legally enforce child support collections.

4. How long have you been at this position? years

5. Age: years

6. Male; Female

GENERAL INFORMATION

NOTE: For purposes of this questionnaire, specific rights and benefits include such things as: Workmen's Compensation benefits, Social Security, use of father's surname, inheritance, wrongful death.

1. How many interviews involving a paternity case do you average a week? ____ number (includes mother and putative father only)

2. Under what circumstances do you inform the mother of specific rights and benefits which accrue to the child as the result of an adjudication of paternity (check as many as apply).

- ____ never - under no circumstances.
- ____ if the mother asks.
- ____ sometimes - no particular pattern.
- ____ to encourage the mother's cooperation.
- ____ always - as a matter of routine.

3. What percentage of mothers that you interview request information from you regarding specific rights and benefits which accrue to their children as the result of an adjudication of paternity.

____ % (estimated)

4. Under what circumstances do you inform the mother that visitation might be ordered as a result of an adjudication of paternity (check as many as apply).

- ____ never - under no circumstances
- ____ if the mother asks.
- ____ sometimes - no particular pattern
- ____ when the putative father has requested visitation.
- ____ always - as a matter of routine.

5. In what percentage of mother's interviews does the issue of visitation arise?

____ % (estimated)

OPINION SURVEY

Circle the number that most nearly reflects your opinion (1 = strongly disagree; 2 = disagree; 3 = neither agree nor disagree; 4 = agree; 5 = strongly agree).

DISAGREE ----- AGREE

1. My professional responsibilities include informing mothers of the specific rights and benefits which accrue to the child as a result of an adjudication of paternity 1 2 3 4 5

DISAGREE ----- AGREE

- 2. I feel that my own knowledge concerning the specific rights and benefits which accrue to children upon the establishment of paternity is adequate to meet the demands of my job 1 2 3 4 5
- 3. In theory, the responsibility for informing mothers of these rights and benefits belongs to the (circle a response for each line below).
 - a. Judge 1 2 3 4 5
 - b. IV-D Attorney 1 2 3 4 5
 - c. AFDC - Public Assistance Worker 1 2 3 4 5
 - d. IV-D - Child Support Personnel 1 2 3 4 5
 - e. No one - She should find out herself 1 2 3 4 5
- 4. In practice, information as to these rights and benefits is usually provided by (circle a response for each line below).
 - a. Judge 1 2 3 4 5
 - b. IV-D Attorney 1 2 3 4 5
 - c. AFDC - Public Assistance Worker 1 2 3 4 5
 - d. IV-D - Child Support Personnel 1 2 3 4 5
 - e. No one - She finds out herself 1 2 3 4 5
- 5. My professional responsibilities include informing mothers that visitation might be ordered as a result of adjudication of paternity 1 2 3 4 5
- 6. I would find it useful to have a brochure to give the mother which describes the rights and benefits accruing to the child upon the establishment of paternity 1 2 3 4 5

If you would like to see a brochure, please comment below as to its content and format.

COMMENTS:

COMMENTS:

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UNIVERSITY OF SOUTHERN CALIFORNIA
CENTER FOR HEALTH SERVICES RESEARCH
2025 ZONAL AVENUE
LOS ANGELES, CALIFORNIA 90033
(213) 226-2337

February 1, 1978

Dear Judge:

The Center for Health Services Research of the University of Southern California is conducting a study for the United States Department of Health, Education and Welfare (HEW) Administration for Children, Youth and Families (ACYF) to determine the legal benefits accruing to children born out of wedlock upon the establishment of paternity. As you may know, the enactment of Title IV-D of the Social Security Act in 1975 has resulted in a large increase in the number of illegitimate children for whom paternity is legally established. Because of this situation, we are attempting to discover the extent of the rights and benefits to which such children are legally entitled in each state and the means by which they receive those rights.

As a judge who hears paternity cases, your input can provide valuable information concerning one segment of the paternity establishment process. We are interested in discovering the procedures you use and the opinions you have concerning the rights of parents and children. Your participation in our study by completing the enclosed questionnaire and returning it to us by _____ would be greatly appreciated. Your responses will be analyzed together with those of other judges in your state. All responses will be completely confidential and no attempt will be made to identify you personally. Please do not place your name anywhere on the questionnaire.

Thank you again for your cooperation.

Sincerely,

Madeleine Delker, Ph.D.
Project Director

Enclosure

UNIVERSITY OF SOUTHERN CALIFORNIA
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JUDICIAL QUESTIONNAIRE

If you wish to explain or qualify any of your answers, please feel free to write in the margins or put your comments on a separate sheet and attach it to the *questionnaire*.

BACKGROUND

- A. Sex: 1. Male
2. Female
- B. Age: Years
- C. Total number of years on the bench: Years
- D. Name of the State in which you hear cases: _____.
- E. Name of county or counties in your jurisdiction: _____.
(If you hear cases in more than one county, list all counties involved.) _____

- F. Would you consider your jurisdiction to be predominantly (*check one*)
1. Urban?
2. Rural?
- NOTE: For purposes of this questionnaire, domestic relations cases are defined as those involving divorce, child custody, the establishment of paternity and child support.
- G. Do you hear domestic relations cases (*check one*)
1. On rotation?
2. On permanent assignment?
3. As part of a general caseload?
- H. Estimate the total number of cases you have heard in the past twelve months.

- I. Estimate the total number of domestic relations cases you have heard in the past twelve months.

J. Estimate the total number of paternity adjudication cases you have heard in the past twelve months.

1. Estimate the number of disputed paternity cases you have heard in the past twelve months.

2. Estimate the number of voluntary admissions of paternity you have entered in the past twelve months.

BIRTH CERTIFICATE

A. When paternity is adjudicated in your State, the child's birth certificate is amended to include the father's name (*check one*)

- 1. _____ Automatically (*the court is required by law to communicate the information to the appropriate agency*).
- 2. _____ At the request of the child, either parent, or legal guardian or representative.
- 3. _____ At the discretion of the judge (*the judge has the option of including it in court orders*).

GENERAL

Circle the number that most nearly reflects your experience where paternity is an issue. (1 = never; 2 = seldom; 3 = sometimes; 4 = often; 5 = always).

NEVER - - - - - ALWAYS

- | | | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|
| 1. A support order is entered upon a finding of paternity. | 1 | 2 | 3 | 4 | 5 |
| 2. When the putative father has <u>contested paternity</u> , the court raises the issue of <u>visitation</u> rights. | 1 | 2 | 3 | 4 | 5 |
| 3. When the putative father <u>voluntarily admits paternity</u> , the court raises the issue of <u>visitation</u> rights. | 1 | 2 | 3 | 4 | 5 |
| 4. When the putative father has <u>contested paternity</u> , he is awarded <u>visitation</u> rights . . . | 1 | 2 | 3 | 4 | 5 |
| a. at his request.. . . . | 1 | 2 | 3 | 4 | 5 |
| b. as a matter of routine.. . . . | 1 | 2 | 3 | 4 | 5 |

NEVER - - - - - ALWAYS

- 5. When the putative father voluntarily admits paternity, he is awarded visitation rights
 - a. at his request.. 1 2 3 4 5
 - b. as a matter of routine.. 1 2 3 4 5
- 6. Instructions are given from the bench informing the mother of specific rights and benefits (e.g. inheritance, Workmen's Compensation, wrongful death, veteran's benefits) which accrue to the child as a result of an adjudication of paternity. 1 2 3 4 5

Circle the number that most nearly reflects your opinion (1 = strongly disagree; 2 = disagree; 3 = neither agree nor disagree; 4 = agree; 5 = strongly agree).

DISAGREE - - - - - AGREE

- 1. A disputed paternity case should be treated like a divorce case in terms of the father/child relationship.. 1 2 3 4 5
- 2. A voluntary admission of paternity should be treated like a divorce case in terms of the father/child relationship. 1 2 3 4 5
- 3. Paternal visitation should be considered at the request of the father only.. 1 2 3 4 5
- 4. The bench should raise the issue of paternal visitation upon a finding of paternity. 1 2 3 4 5
- 5. The mother, as custodial parent, should be allowed to reject a putative father's request for visitation. 1 2 3 4 5
- 6. The mother should usually receive custody of the child in a disputed paternity case. 1 2 3 4 5
- 7. The mother should usually receive custody of the child when a man voluntarily admits paternity.. 1 2 3 4 5
- 8. Legal equality between children who have had their paternity established and children born in wedlock has been achieved in this State. . . . 1 2 3 4 5

If you wish to comment on any of the above, please use reverse side.

COMMENTS:

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PARENT INTERVIEW FORM

Interview # _____

State _____

IDENTIFICATION

1. Age of child: _____ Years _____ Months
2. Age of mother: _____ Years
3. How long ago was paternity legally established? _____ Months
4. Are you now receiving an AFDC grant? _____ Yes _____ No
 - a. Were you receiving a grant at the time paternity proceedings were begun?
_____ Yes _____ Eligibility/Paternity _____ No
Established
5. Are you currently married? _____ Yes _____ No
 - a. Are you married to the child's father? _____ Yes _____ No
6. At what point during the paternity determination process did the child's father admit paternity?
 Interview Trial
 Blood Test Never Has
 Polygraph

CONTACT WITH FATHER

1. Did the child's father request custody of the child at any time while paternity was being established?
 Yes/Denied Not Officially
 Yes/Withdrew Don't Know
2. Was the child's father awarded visitation rights by the court?
 Yes/His Request No Request
 Yes/My Request Don't Know
 He Requested/
Judge Denied

3. Does the child's father visit him/her?

- Yes ___Times Per Month
- No Takes Child Out
- Once or Twice Comes To Visit Me
- Regularly/Briefly

AWARENESS OF RIGHTS

The following questions which I am going to ask you are to be answered to the best of your knowledge. Some of them you may know the answers to and some you may not.

1. To the best of your knowledge, was your child assigned a guardian ad litem during the paternity determination process?

___ D.U. ___ Yes ___ No ___ Don't Know

a. Can you tell me what that person did? _____

2. Does your child use his/her father's last name?

___ Yes ___ Mother's ___ Stepfather's ___ Other

3. Are you aware that your child can use his/her father's name now that paternity is established?

___ Yes ___ No

4. Is the father's name listed on the birth certificate now that paternity is established?

___ Yes ___ No ___ Don't Know

a. (If yes) Do you remember who told you about this?

- Judge G.A.L.
- Lawyer Social Worker
- IV-D Other

b. (If yes) Did you have to do anything to get your child's birth certificate changed?

- Requested in Court Went to V.S. Office
- Filled Out Form No

5. If you wanted to know about the father's name being on the birth certificate, where would you go to find out?

- Judge G.A.L.
- Lawyer Social Worker
- IV-D Other

6. Can you think of any specific benefits your child is entitled to from his father now that his/her paternity is established?

- D.U. Other _____
- Inherit. Don't Know
- W.C. No
- Health Benefits

a. Can he/she inherit from the father if he dies?

_____ Yes _____ No _____ Don't Know

b. Collect Workmen's Compensation benefits if the father is injured on the job?

_____ Yes _____ No _____ Don't Know

7. Did you receive any verbal or written instructions from anyone regarding your child's rights when paternity was established?

- No G.A.L.
- Judge Social Worker
- Lawyer Other _____
- IV-D

a. Did you keep the document? _____ Yes _____ No

8. To the best of your knowledge, are there any differences between your child's rights and those of a child born to parents married to each other?

_____ Yes _____ No _____ Don't Know

a. If so what are they? _____

9. Who would you go to to find out about any benefits your child might be entitled to?

Judge

G.A.L.

Lawyer

Social Worker

IV-D

Other _____

10. Looking back on the process of having your child's paternity established, what information might have made the process easier for you and your child?

APPENDIX B

DESCRIPTION OF STATISTICAL ANALYSES CONDUCTED

Judicial Survey

1. Global Distribution Statistics

Overall descriptive statistics were obtained on the total sample. Ns, frequencies, percentages and the mean, median, and mode were obtained for each item in the questionnaire.

2. One-Way Analysis of Variance

Comparative analyses using one-way ANOVA were conducted to determine whether or not the variability between groups was large enough in comparison with the variability within groups to justify the inference that the means of the populations were not all the same. One-way ANOVA were conducted along the following dimensions: (item numbers from the questionnaire are in parenthesis).

Subject's Responses to each of the general survey items by Age of Subject (B)

Subject's Responses to each of the general survey items by Number of Years on the Bench (C)

Subject's Responses to the general survey items by State (D)

Subject's Responses to the general survey items by Urban, Rural (F)

Subject's Responses to the general survey items by Case Schedule (G); (on rotation, permanent assignment, general caseloads)

Agency Survey

1. Global Distribution Statistics

Overall distribution statistics were obtained on the total sample. Ns, frequencies, percentages and the mean, median and mode were obtained for each item in the questionnaire.

2. One-Way Analysis of Variance

One-way ANOVA were conducted along the following dimensions to determine whether or not there were significant differences between groups.

Subject's Responses to all items by Agency worked for (AFDC and Child Support)

Subject's Responses to all items by Number of Years on the job

Subject's Responses to all items by Age of Subject

Subject's Responses to all items by Average Number of Interviews

Subject's Responses to all items by State.

Personal Interviews

1. Global Distribution Statistics

Overall descriptive statistics were obtained on the total sample. Ns, frequencies, percentages and the mean, median and mode were obtained for each item in the interview form.

2. One-Way Analysis of Variance

One-way ANOVA were conducted to determine whether or not there were significant differences between groups on the following dimensions.

- a. Subject's Responses by State
- b. Subject's Responses by Level of Knowledge of Child's Rights