WHAT IS CDF?

The Children's Defense Fund (CDF) exists to provide a strong and effective voice for the children of America who cannot vote, lobby, or speak for themselves. Our goal is to educate the nation about the needs of children and encourage preventive investment in children before they get sick, drop out of school, or get into trouble.

CDF is a unique organization. CDF focuses on programs and policies that affect large numbers of children, rather than on helping families on a case-by-case basis. Our staff includes specialists in health, education, child welfare, mental health, child development, adolescent pregnancy prevention, and youth employment. CDF gathers data and disseminates information on key issues affecting children. We monitor the development and implementation of federal and state policies. We provide information, technical assistance, and support to a network of state and local child advocates. We pursue an annual legislative agenda in the United States Congress and litigate selected cases of major importance. CDF educates thousands of citizens annually about children's needs and responsible policy options for meeting those needs.

CDF is a national organization with roots in communities across America. Although our main office is in Washington, D.C., we reach out to towns and cities across the country to monitor the effects of changes in national and state policies and to help people and organizations who are concerned with what happens to children. CDF maintains state offices in Mississippi, Ohio, Minnesota, Texas, and Virginia. CDF has developed cooperative projects with groups in many states.

CDF is a private organization supported by foundations, corporate grants, and individual donations.

CDF's Adolescent Pregnancy Prevention Initiative

In January 1983, CDF began a major program initiative* to prevent teen pregnancy and to alleviate the range of problems facing adolescent and female-headed households.

CDF's first priority is to prevent a teen's first pregnancy. Our second priority is to ensure that teens who already have had one child do not have a second child. The third priority is to make sure that those babies who are born to teen mothers get adequate prenatal care so that prematurity, low birthweight, and birth defects are not added to their already stacked decks.

Underlying our entire effort is the need to come to grips with the role and future of all young people in our society, and their need for adequate skills and gainful employment. We believe young people with hope and positive life options are more likely to delay early parenting.

This report is part of a series of reports on adolescent pregnancy prevention that CDF's Adolescent Pregnancy Prevention Clearinghouse will produce. The reports are part of the Clearinghouse's effort to keep those working on the many components of the problem aware of important issues and developments in the field. Each report is, in many ways, a call to action.

CDF wants to ensure each child a successful adulthood. Adolescent pregnancy robs millions of youths of secure futures. CDF, through public education and media campaigns, networking and coalition building, policy analysis and development, and carefully selected action programs, hopes to help make a difference.

We will need your help. We have the best vantage point for learning what is going on at the federal level, but we need you to tell us what is going on in your states and communities. The reports we write will depend in large part on the information we receive from those of you in the field who are advocates, legislators, program administrators, and deliverers of services.


CHILD SUPPORT AND TEEN PARENTS

by Barbara D. Savage

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INTRODUCTION

This report focuses on ways to increase and improve paternity establishment and other child support enforcement services for children born to teen mothers.

Previous reports in this series have examined the complex factors that contribute to current levels of teen pregnancy and childbearing; described the poverty and attendant problems that usually follow, advocated policies necessary to help prevent adolescent pregnancy, and highlighted programs that help teen parents and their children.

The trends in adolescent childbearing and the economic and other problems that face young mothers and their families make paternity establishment and child support enforcement an important, but largely unexamined, issue for these families.

Significant proportions of teen mothers give birth outside of marriage, and married teen mothers are more likely to separate or divorce than older women. Teenage mothers are also much more likely than others to be educationally disadvantaged and consequently are more likely to face difficulties finding and keeping jobs with wages sufficient to support themselves and their children. Young families headed by single mothers are much more likely than others to be poor and to remain poor for long periods, and are disproportionately represented in the welfare system.

These families need the benefits that paternity establishment and child support services can provide. There are, however, some countervailing concerns, including questions about the extent of those benefits and fear of the child support enforcement system’s impact on the young fathers and on voluntary and informal support arrangements. This report addresses these concerns.

CDF is sensitive to the special needs and characteristics of teen mothers and young fathers. Still, CDF believes very strongly that every child has a right to paternity establishment and child support services except in very unusual circumstances. Ensuring the availability of these needed services would provide benefits far exceeding potential harm.

These benefits are not insignificant. Child support collections would help alleviate the poverty that usually faces teen mothers and their children while providing important psychological benefits for the children. Increased paternity establishments for children of unwed parents can enhance the father-child tie and open the door to the child’s eligibility not only for direct child support payments but often for other benefits and legal entitlements. Effective child support enforcement also would serve as a possible deterrent to too-early parenting by young men.

Child Support Collections

Many observers have seen child support enforcement services as having limited potential in improving the economic status of children of teen parents. There are several reasons underlying this attitude. First, historically the child support system has not served anyone well, regardless of age, income, or marital status. Second is the belief that the noncustodial parents of children in low-income families are themselves often poor, unemployed, or without sustained interest in their children and that, as a result, efforts to pursue child support are a waste of resources.

Certainly the absent parent’s current ability or inability to pay affects the likelihood and extent of child support payments to any family. But the child support system is not and never has been capable of vigorous or effective pursuit of maximum feasible payments from absent parents at any income level. It is precisely for this reason that the potential extent of contributions from absent fathers of children born to teen mothers, and the possible impact on the economic status of children in low-income families are not known.

Child support enforcement, practiced at its best, will not eliminate child poverty or the need for other income assistance programs. But in many cases where some income is available at some time for some period during a child’s dependency, child support payments can make a real difference. Children also benefit emotionally from knowing that their fathers are trying to help care for and support them, independent of the actual level of the contribution. All children deserve a system that ensures that benefits to which they are legally entitled are pursued aggressively and consistently.

Paternity Establishments

A child who is born out of wedlock receives many specific legal benefits from the formal establishment of paternity. Child support is one, but the child may also be eligible for benefits through the father’s employer, the Social Security system, or other sources.

Even if a father has no present resources to share with the child, he may
well have resources in the future that would be available if paternity is established. Americans' earnings typically grow over time. Even if the young father currently works at a minimum wage job, he can make some contribution and he probably has Social Security or Worker's Compensation coverage that would provide benefits to his child if an accident or death occurred.

Other important benefits include access to important information about family medical history. Familial ties with paternal relatives may also be formed or strengthened through formal establishment of paternity. The child and father both may benefit psychologically and emotionally from the formal identification. Young fathers also may benefit because the formal determination of paternity establishes and protects their legal rights as fathers. This would be important if questions concerning child custody, adoption, or visitation arise.

Grandparent Liability

In all states, parents are liable for the support of their children, and in a few states stepparents are legally responsible to support stepchildren. But generally other relatives are not responsible under the law for helping support children.

In November 1985, Wisconsin enacted a law establishing grandparents' liability for the maintenance of their minor children's offspring. This provision was designed to have grandparents share the duty to support the children of unmarried minors, to increase communication about family responsibility, and, by holding their parents liable, to deter young males from fathering children whom they might fail to support.

Under the Wisconsin law, grandparents are liable only to the extent that the minor parents are themselves unable to support the infant. The grandparents' liability ends when their child who is a minor parent turns 18. Although maternal and paternal grandparents are viewed as equally liable, paternal grandparent liability does not take effect until after a formal finding of paternity.

Unless the state has some clear financial interest in the case, no authority was written in the law to make grandparents generally responsible or to allow anyone to bring action against the grandparents; this limits the law's application generally to grandparents of AFDC recipients. The law contains no mechanism for the child's mother herself to sue any of the grandparents, or for one set of grandparents to take the other grandparents to court.

After its passage, several concerns were raised about the law's potential impact.
• The first was that significantly increased financial support for children of teen mothers was not likely to result. It is estimated that at least 45 percent of all the fathers of children of teen mothers are not minors. In those cases, only the teen mothers' families would be liable under the statute; her family, especially if she is still in the home, already bears a significant share of the responsibility for providing for her and her child. Since the law in essence only reaches those whose grandchildren are on AFDC, these grandparents are likely themselves to be low-income and are very unlikely to be able to contribute to the child's support.
• Second, the problems and delays endemic to paternity suits remain a significant barrier to child support awards not only from the fathers but from the fathers' parents.
• Third, since the support obligation ends when the teen parent turns 18, the grandparents' financial liability would exist for only a few years (if at all).
• A preliminary evaluation of the new law in a report prepared by the Wisconsin Department of Health and Social Services in July 1987 confirms the validity of these concerns. It concludes that the provision has had limited impact.
• County departments of social services referred only 47 cases to district attorneys for pursuit of grandparent support as of April 30, 1987. The average monthly caseload of minors who were parents during the period of December 1985 to June 1987 was more than 900.

• Support was ordered in only seven cases. In only two of the cases were paternal grandparents ordered to make maintenance payments for the minor son's out-of-wedlock child.
• The average monthly support order among the 13 grandparents ordered to pay support (individually, since the grandparents were often divorced) was $70.50. The seven minor mothers received an average $130.94 in monthly maintenance payments for their babies, ranging from $12.60 to $243.60.

According to the report, the low referral rate can be attributed to several factors, the most important of which was the lack of financial resources among the grandparents.
• Many maternal grandparents among the target group (parents of minor parents on AFDC) are themselves AFDC recipients.
• The age of the minor – 75 percent of births to unmarried minors in Wisconsin in 1986 were to 16- and 17-year-olds – plus the time (one month to three years at minimum) it takes to get paternity established in Wisconsin also contributed to the low referral rate.

All respondents to the department's survey (social services staff, district attorneys, and child support directors) generally rate the law as having a negative effect or no effect on the relationship between teens and parents and on the shared financial responsibility of both maternal and paternal grandparents.

A final report to the legislature is scheduled for the summer of 1988. Despite nationwide interest in the provision when it was passed in 1985, to date only Hawaii has passed a similar provision.
Enforcement as Deterrence

The belief that aggressive child support enforcement could serve as an adolescent pregnancy prevention strategy is untested. Little is known about young fathers and their motivations, or about the impact of early parenthood on them. We know less about whether raising their awareness about likely child support obligations would have a deterrent effect on their behavior, although some link seems probable.

We do know that poor and minority youths who see no opportunities on the horizon are far less likely than other teens to appreciate the risks and the burdens of early parenthood. Many disadvantaged youths sense that they have nothing to lose by becoming parents. They feel no door will be closed by teen pregnancy and parenting because they believe from the outset that no doors are open to them. The confidence among young people that there is a positive, attainable future worth planning and preparing for— that they have promising life options—is therefore a powerful and necessary element in adolescent pregnancy prevention.

It is much easier to fashion effective strategies for encouraging teens to delay parenthood when they foresee a future worth protecting and also are aware of how the financial and other responsibilities of too-early childbearing would foreclose it. That is why a central part of CDF’s approach to adolescent pregnancy prevention focuses on the importance of improving the life options available to poor and minority youths through such measures as better basic skills development and increased opportunities for job-related training and for economic success.

The child support enforcement system in this country, through its failures and ineffectiveness in the past, virtually transformed an absent parent’s responsibility for supporting his child from a duty to an option. If a male who fathers a child by a teen mother faces no consequences beyond those he elects to assume, it is very difficult indeed to create pregnancy prevention strategies aimed at young men, whatever their options for the future. Effective child support enforcement may be the primary way of forging the link between parenting and duty where it is otherwise ignored.

Without that link, two results are likely: too many efforts to prevent teen pregnancies will continue to focus solely on the teen mothers; and teen mothers will continue to bear the bulk of the consequences of childbearing, usually without help from the absent parent. Both of these conditions must be changed.

Opportunity for Reform

All children have a right to be supported, to the fullest extent possible, by both of their parents. As a society, we have a responsibility and a self-interest in helping protect and enforce that right.

Federal reform legislation passed in 1984 creates an opportunity to fashion a child support system that works for all children. The Child Support Enforcement Amendments of 1984 include important changes that are being implemented now and that hold the promise for greatly improved services and enforcement effectiveness for all families. Most states have made most of the legislative and administrative changes required under the 1984 Amendments. The success of the legislation, however, depends on the extent to which states effectively implement and manage the reforms.

In this process, special care must be taken to address the needs of the children of teen mothers and design a system that is sensitive to the special circumstances of vulnerable teen parents. The child support system has little experience working with teen parents, especially young fathers. The fathers may be more willing and able to cooperate than is commonly thought, but we will not know until we try to reach them. Many young parents have a natural suspicion and distrust of legal proceedings and social service agencies.

Child support agencies grew up as the prosecutorial, punitive side of state welfare systems, acting primarily as a debt collection program for recovering welfare costs. Although that orientation is changing, many state and county child support agencies are still not good at differentiating client needs and handling cases with sensitivity to those needs. Working with teen parents will require sensitive and thoughtful public education and outreach campaigns to counter public perceptions about the child support system. To achieve this, child support agencies will need advice from and coordination with social service providers, child advocates, youth service groups, and others more experienced with teens and their needs.
56 percent of the births to Hispanic teenagers, and 45 percent of the births to white teens.

The likelihood of being married when the child is born is even lower for younger teenagers. In 1984, nine out of 10 babies born to teens younger than 15 were born outside of marriage. About two-thirds of teenage parents between the ages of 15 and 17 were unmarried, compared to half of those who were 18 or 19.

Being married before the child is born is far from a guarantee that the teen will not be a single parent. Mothers who are of school age (14 to 17) and married when the child is born are three times more likely to divorce or separate than are married women who are in their twenties when their children are born.

The end result is that teenage mothers are disproportionately likely to bear children out of wedlock and to raise their children in homes from which the father is absent. This means that teenage mothers are particularly likely to need child support services, including a disproportionate need for paternity establishment services.

A second major problem for teen mothers is that they frequently are educationally disadvantaged, with consequent difficulties in the labor market. Teen mothers are more likely to drop out of school than their peers. Only half of the teenagers who have a child when they are younger than 18 finish high school, compared to two-thirds of those who have their first child when they are 18 to 19, and nine out of 10 of those who wait until they are at least 20 to have a child.

Cause and effect are mixed. Although 40 percent of girls who drop out do so because they are pregnant, many others drop out of school before they get pregnant but for reasons that make them likely candidates for early unwed parenthood. In fact, low academic skills and problems with school seem to be strong predictors of early parenthood. Young women between the ages of 16 and 19 who have low basic academic skills are—regardless of race—three times more likely to have children than are those who have average and above average basic skills.
As a result, teenage mothers are more likely to have low academic skills and are much less likely than their peers to have high school diplomas. Furthermore, their peers who delay childbearing are going on not only to complete high school but to enter college as well—half of all young adults are still in school at age 19.

Less likely to be married than their counterparts in past decades, young mothers cannot rely as heavily on a husband’s earnings. But their educational deficiencies put these young mothers at a great disadvantage in today’s labor market. Because so many more employers and jobs today demand a high school diploma and some college, compared to previous decades, their relative disadvantage is far greater. If these young mothers do find jobs, they are likely to earn lower wages than their peers. The lifetime earnings for a female high school drop-out (regardless of whether she has a child) are less than half of those of a female college graduate. Furthermore, their jobs are substantially less likely to provide them or their children health insurance. Young mothers who are working or want to work also face the problem of finding and paying for child care.

Taken together, these facts mean that young families headed by women who become mothers as teenagers are much more likely to be poor and remain poor. Three out of four single mothers younger than 25 are poor. (In 1986 the poverty line for a family of three was $8,700.) In 1985 fully 80 percent of the mothers younger than 30 who received payments from the Aid to Families with Dependent Children (AFDC) program had been teenage mothers (although they had not necessarily received AFDC continuously), compared to fewer than 40 percent of all mothers younger than 30.

**Young Fathers**

Efforts to prevent adolescent pregnancy, alleviate the poverty it brings too frequently, and provide needed services have focused almost exclusively on teen mothers and their children. Such a limited focus can hamper the effectiveness of efforts. Increasingly, researchers, policy-makers, and child advocates want to learn more about the men who father the children of teen mothers.

Unfortunately, researchers know very little about these men, at least on a national level. While several small studies provide some interesting information, some of which is described in this report, it is not known how representative these groups are of young fathers in general.

Many young fathers do not acknowledge having fathered a child when they are surveyed. Without accurate self-reporting, researchers cannot tell who the young fathers are and what their characteristics are. Young men who acknowledge that they are parents and who participate in studies may be very different from those who refuse to admit having a child, raising questions about the general applicability of the findings from existing studies.

Still, the research does demonstrate some important things about the fathers of children born to teen mothers. Significantly, many of the fathers are themselves not teenagers. In 1985, for example, 45 percent of the adolescent mothers who gave birth reported that the father of the child was 20 or older, 18 percent reported that the father was younger than 20, and the remaining 37 percent did not report any age for the man. On average, young men are two years older than their female partners, and the majority of teenage women giving birth are 18 or 19 years old.

Other research, although limited, indicates that young fathers have many of the same educational and economic problems as young mothers, and that premature parenthood affects some young fathers in some of the same ways it does teen mothers. For example, data indicate that 18- and 19-year-old males with poor basic skills are three times as likely to be fathers as are those with average basic skills. While unmarried teen fathers drop out of school less often than do unmarried teen mothers, their dropout rates are twice as high as those of single childless teen males, according to an analysis of the 1984 High School and Beyond Survey. Almost one-third of the unmarried fathers in the survey dropped out of school between their sophomore and senior years, compared to half of teen mothers.

Many of these young men are not yet taking steps toward independence. In one study, more than half of the young men between 19 and 26 who admitted to being absent fathers still lived with their parents.

Young fathers also face the same bleak economic prospects that confront teen mothers, particularly those with educational deficiencies (see Declining Earnings of Young Men: Their Relation to Poverty, Teen Pregnancy, and Family Formation, the May 1987 issue of the Adolescent Pregnancy Prevention Clearinghouse for more information on the declining earning power and wages facing all young men today and the role those losses play in the decrease in marriage rates and the resulting increase in out-of-wedlock births).

From 1973 to 1984, average annual real (adjusted for inflation) earnings for men age 20 to 24 fell by more than 30 percent, from $11,572 to $8,072, in 1984 dollars. The decline for young black men was nearly 50 percent.

Young men aged 20 to 24 with earnings above the federal poverty threshold for a family of three are three to four times more likely to marry than young adult males with below-poverty earnings, regardless of race or education. As earnings have declined for young men, marriage rates have fallen and out-of-wedlock births have soared.

The declines in real earnings and resulting drop in marriage rates have been most severe among high school dropouts and graduates not going on to college—the young people who have tended in the past to marry and bear children earliest. Young men between the ages of 20 and 24 who had not completed high school suffered the largest percentage drop in their real annual earnings during the 1973 to 1984 period—42 percent. Young black male dropouts experienced a stunning 61 percent drop in real annual earnings during that same period. As recently as 1974, more than half of all male high school dropouts and graduates not enrolled in college were married and living with their spouses by age 22. By 1986 only one-fourth of such young males had married.
Working With Young Fathers

Two localities have undertaken modest programs that embody novel approaches to working with young fathers.

An Indianapolis program designed and run by the local child support enforcement agency offers young fathers (ages 15 to 21) an opportunity to become better and more responsible parents by helping them complete educational and vocational training, get jobs, and learn parenting skills. This Teen Alternative Parenting Program relies on and coordinates other existing public and private resources to provide needed educational and vocational training and job hunting services to young men in the program.

A minimum child support order of $25 per week is entered in each case. Participants in the program earn credit toward their weekly obligation by staying in school and by participating in the GED, employment, and parenting skills programs to which they have been referred. Participation by the young father requires the consent of the custodial parent. Participants sign 60- or 90-day contracts; additional contracts for continued participation are available if the participant makes satisfactory progress. The amount of support awarded is reviewed automatically upon completion of the program.

The program began in December 1986 and is quite small, but there are plans to expand it. Forty-five young men have participated so far and 39 are currently enrolled. The child support agency operates the program out of its existing funding and without separate staff. It selects participants, refers them to appropriate existing resources, monitors progress and compliance, and renews participation contracts.

The program has been well received by the young men who participate and has been instrumental in helping many of them stay in school or get a GED, find work, and become supporting parents.

Another Indianapolis program tried to help young men who father children by teen mothers, and who, although in their late teens or twenties, have dropped out of or completed school but are unemployed and have limited skills. This program operated for two years but is now defunct due to federal budget cuts. It targeted fathers older than 18 who had no work history and who owed an average of $5,000 in child support arrears. The Riverside Employment Assurance Program helped these fathers through referrals to private and public job training and job-finding services. During the program’s tenure, 300 men completed it. Seventy percent of those completing the program found jobs and started paying child support.

The Human Resources Administration in New York City funds a similar pilot project operated jointly by the YWCA and the Vocational Foundation, Inc. The Services for Young Fathers program provides vocational and employment training and parent responsibility counseling for 16- to 25-year-old fathers who are not currently supporting their children.

In operation for three years, the program provides services to young fathers still in high school and to those who have dropped out or are out of work. The program helps those still in school find after-school jobs and assists them with vocational planning and counseling services. School dropouts enroll in an evening GED program and receive vocational training and interim part-time day jobs while they upgrade their training and skills. Individual counseling and peer support groups are an important program component provided to all participants (often continuing after the education and training ends).

More than 200 young men per year have enrolled in the program. Participation is voluntary and the young men are recruited through other community agencies that serve young parents. Direct outreach also is conducted in high schools, group homes, and emergency shelters for men. Once a young father has held a job for three months, the child support agency sets an award and payments begin.

An evaluation of a San Francisco service program for young parents (Teenage Pregnancy and Parenting Program) revealed that the initial engagement of fathers must be special. Males required more outreach because many refuse or do not know how to ask for help. They want concrete, tangible services specific to their needs, especially employment counseling and job training assistance. And they are eager for specific information and help in becoming better parents. Programs that attempt to reach these young men and help meet these needs are few, but those that have tried have had encouraging results.

Despite declining earnings and marriage rates, many young men are trying to meet their responsibilities as fathers, contrary to the prevailing image that they typically provide little financial or emotional support to their children. Several studies of young fathers and young mothers have found that a significant number of young fathers do maintain contact with and do provide support to their children.

• Several studies of young mothers have found that half of the young women reported that they were in regular contact with the young father. This appears to be particularly true in the first few years after the child is born.

• Mercer Sullivan, an anthropologist and senior research associate at the Vera Institute of Justice in New York, works with inner city teen fathers and has found that it is generally unacceptable within that community for a young man to "step off" from his obligation to
support his children as best he can, even though many face formidable obstacles in trying to get decent jobs. Much of this research is anecdotal, but it is based on extensive interviews and is thought to be reliable.

- Studies of unmarried mothers by E. F. Furstenberg of the University of Pennsylvania found that more than half reported receiving some financial assistance from the father in the first year of the child's life. Unfortunately, it is not known whether this assistance continued beyond that period, or how much of it was informal.
- A nationwide study of 400 teen fathers by the Bank Street College in New York revealed that 82 percent reported having daily contact with their children even though they lived apart, and 74 percent said they contributed financially to the child's support. Ninety percent claimed an ongoing relationship with the mother.

An August 1987 report by Sandra Danziger of the University of Michigan on adolescent welfare mothers and the fathers of their children confirms that no matter what the absent father's formal legal status in relation to the mother and child or the degree of financial contribution, regular contact was maintained with a strong majority of the men. She also concluded that an increase in legally formalized fatherhood (through voluntary acknowledgment or judicial establishment of paternity) did not reduce the existing informal involvement of the fathers nor did it create negative consequences for single mothers and their children as some had feared.

Other research concurs with these assessments, reporting elaborate informal networks between maternal and paternal families through which the latter provide child care, food, clothing, and other in-kind support, as well as unreported cash payments. With sensitive public education and outreach work and some flexibility, the child support system should be able to build upon informal support arrangements without destroying them.

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**THE CHILD SUPPORT ENFORCEMENT SYSTEM**

Until the 1950s, the federal government played no role in child support enforcement, leaving the job entirely to state laws and local enforcement agencies. Child support enforcement was considered a "family law" issue, in a realm traditionally left to the states. State provisions and procedures varied greatly. Some states relied primarily on criminal nonsupport laws enforced by state prosecutors. States in which civil (non-criminal) procedures were used required mothers seeking child support either to hire private attorneys or to pursue support through state social service agencies. Practices for pursuing child support differed widely from state to state, as well as from locality to locality within states. Enforcement effectiveness was very uneven. In many places establishing and enforcing child support obligations, especially for children born out of wedlock, was a very low priority.

In 1950 Congress took the first step toward federal involvement in child support enforcement. It amended the Social Security Act to require public assistance agencies to notify appropriate law enforcement officials when a child with an absent living parent began receiving AFDC. In 1967, Congress passed new amendments that required each state to have an agency to implement a program to establish the paternity of and secure support for each child born out of wedlock and receiving AFDC. The federal government assumed a significant portion of the costs of that program.

In 1975 largely as a response to an interest in controlling AFDC costs, Congress created a separate portion of the Social Security Act containing child support provisions—Title IV-D. It also established a federal Office of Child Support Enforcement to administer the program. Title IV-D strengthened previous federal provisions. It required states to establish paternity and to establish and enforce support obligations for families receiving AFDC benefits. In a significant expansion, however, these services were to be extended as well to all others who asked for assistance, regardless of income or AFDC eligibility. This was done in part to try to help families with absent parents avoid having to turn to AFDC for support.

Despite more stringent 1975 rules, nearly a decade later a large portion of children theoretically entitled to support orders did not have them and noncompliance with support orders was still at epidemic proportions. In 1985, for example, only 61 percent of the 8.8 million women raising at least one child whose father was absent from the home had been awarded child support. And of those with court orders, only 38 percent received the full amount due. One-third received nothing.

Demographic and social changes that occurred over the previous decades gave added impetus for improvements in the system. These included escalating divorce rates, the increase in marital separations, and the growing proportion of children born to unmarried women. The proportion of children and families that turned to AFDC for support not because of the death of a parent but due to the absence of the second living parent had grown substantially. At the same time, Americans were increasingly mobile and the geographical separation of unmarried, separated, or divorced parents made child support enforcement even more difficult.

The cost implications of these changes combined with concerns about the system's inability to meet the growing need culminated in the passage of the 1984 Child Support Amendments of the Social Security Act. Unlike the 1975 law, these federal amendments required the states to enact a number of specific remedies and procedures to improve their child support enforcement programs. Failure to do so jeopardizes the state's receipt of the full federal share of state costs for its AFDC program.

At the core of the Amendments is a set of new mandatory enforcement remedies designed to increase collections once an order has been entered. Congress also recognized that states had to remedy problems of delays in obtaining an award or enforcement of it. Each state
The Supreme Court and Children Born Out of Wedlock

Laws that discriminate against children born outside of marriage go back hundreds of years. Many laws in the Middle Ages treated such children as virtual outlaws. Early English “common law” defined such a child as filius nullius, or the son of no one, not even the mother. Among other legal disabilities, the child could not inherit from anyone. Other European countries similarly imposed major economic and social burdens of “illegitimacy” on the mother and child but not the father.

In America, states’ laws initially followed English law in most respects, including the denial of rights to children born out of wedlock. For nearly 200 years only modest improvements occurred in the legal status of such children in most states. The child’s relationship to the mother generally became recognized, but the child had very few rights flowing from the paternal relationship.

It took a series of U.S. Supreme Court decisions beginning in 1968 to improve dramatically the legal status of children born out of wedlock. The Court since has considered well over a dozen cases involving the status of such children. Among them:

- The first case, in 1968, in which the Court ruled that a state could not deny a child born out of wedlock the right to recover damages in an action arising from the mother’s death.
- A 1972 case that found that states could not constitutionally deny children born out of wedlock the worker's compensation dependent benefits for the injury of a parent that were paid to children of married parents. In one of the more ringing judicial condemnations of discrimination against children born out of wedlock, the Court’s majority stated: “The status of illegitimacy has expressed through the ages society’s condemnation of irresponsible liaisons beyond the bonds of marriage. But visiting this condemnation on the head of an infant is illogical and unjust. Moreover, imposing disabilities on the illegitimate child is contrary to the basic concept of our system that legal burdens should bear some relationship to individual responsibility of wrongdoing. Obviously, no child is responsible for his birth and penalizing the illegitimate child is an ineffectual – as well as an unjust – way of deterring the parent.”
- A series of cases from 1972 to 1974 in which the Supreme Court ruled or affirmed lower court rulings that invalidated several provisions of the Social Security insurance program that gave out-of-wedlock children lesser benefits than children of married parents when a father died or become disabled or retired. For example, the Social Security program has a monthly family maximum benefit amount payable to the dependents of an insured worker. The Supreme Court invalidated the part of the statute that said that the dependent out-of-wedlock child could only get Social Security if the children of the marriage did not first exhaust the family maximum.
- A 1973 ruling that Texas could not constitutionally deny children born out of wedlock a judicially enforceable right to child support from their natural fathers so long as it granted that right to children of a marriage. The Court broadly declared that “a State may not invidiously discriminate against illegitimate children by denying them substan-

- A 1977 decision ruling it unconstitutional for states to say that children born out of wedlock cannot inherit a share of a father’s estate in the same way that children born in marriage inherit when the father dies without leaving a will. This was at least symbolically a final blow to the original premises of the old English common law system of disinheritance and discrimination against children born out of wedlock.

While these and other Supreme Court decisions effectively struck down many of the traditional rules discriminating against children born out of wedlock, other barriers remained. In most circumstances the Court’s decisions protected children who had proven or could prove the father-child tie, either through a paternity adjudication in court or a formal acknowledgment of paternity.

But many states made such proof difficult through archaic rules of evidence or through very short statutes of limitations (time limits on suing) for paternity actions. Texas, for example, responded to the 1973 Supreme Court decision that it had to allow out-of-wedlock children to recover child support by saying that they first had to bring a paternity action — before their first birthday.

In 1982 the Court found such a period unconstitutionally short, and in 1983 it also found two-year limitations periods for paternity suits too short.

In 1984, following up on these decisions, Congress said that all states had to have at least an 18-year limitations period, removing one more arbitrary barrier to fair treatment of children born out of wedlock.
must establish an "expedited process" for processing child support cases.

The Amendments also seek to equalize the quality and availability of child support services for AFDC and non-AFDC families. States also are required to develop guidelines for setting amounts of child support awards to make awards more equitable.

Taken together, these and other new requirements have created a wave of reform in state child support laws and procedures. Most states have enacted necessary legislation to conform to the 1984 federal changes, but most are still far from fully implementing the changes in practice. What follows is a short description of the services state child support agencies must provide, including those added by the 1984 Amendments.

### Eligibility

State child support agencies must provide the full range of services to all who apply, regardless of the family's income, AFDC eligibility, or marital status. Any family is eligible to apply for and receive the services through the local child support office. In non-AFDC cases, states can collect a fee and reasonable costs for child support services they provide, but not in amounts that would discourage or prevent low-income women and children from obtaining services. AFDC applicants and recipients must assign to the state their rights to child support and must agree to cooperate (except in very limited circumstances) in pursuing support from the absent parent.

AFDC families for whom states collect child support are allowed to keep the first $50 per month without affecting their AFDC eligibility or benefits. This gives recipients a stake in collections on their behalf and encourages fathers to pay because they know that part of the payment will benefit their children directly. In most states, the remaining support collected goes to reimburse the state and federal government for AFDC paid. (A few states do allow the mother to keep more than $50 under a specific AFDC provision.) Generally, if current monthly child support payments for the family exceed AFDC payments by more than $50, the family loses AFDC.

Because state agencies have a direct financial interest in collecting child support payments on behalf of AFDC families, most agencies traditionally have paid little attention to giving non-AFDC cases the assistance they need, despite a federal mandate to do so. That mandate has been strengthened through the amendments, and financial incentives for the states have been adjusted to encourage the delivery of services to non-AFDC families.

Child support agencies are required to provide a full range of needed services. In addition to helping locate absent parents, agencies must also help an applicant establish paternity, when needed; help get a support order; enforce the order through a number of legal and administrative methods; and collect and distribute child support payments on behalf of the family.

### Establishing Paternity

Fathers cannot be ordered to contribute to the support of children who are born out of wedlock until paternity is legally established. In nearly all states, a man can acknowledge that he is a child's father and formally admit paternity by signing a written admission or consent agreement. The agreement, usually signed under oath, typically is filed with the court and becomes a legal document establishing paternity. If a man denies...
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<th>Average Number and Percentage of Cases in Which a Collection Was Made (Out of Average Annual Caseload)</th>
<th>Collections Per Dollar of Administrative Cost</th>
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Calculations by CDF. Includes both AFDC and non-AFDC cases.
that he is the father, is not sure, or contests the matter, the determination is made through a court or quasi-judicial proceeding brought by the state, the child's mother, or sometimes by the man himself.

Paternity establishment is not merely a prerequisite to child support. It is also critical to the child's eligibility for other public and private benefits stemming from the father-child relationship, such as Social Security payments (if the father dies, becomes disabled, or retires), veterans benefits, worker's compensation, various dependents' benefits, numerous other public and private insurance benefits, inheritance from the father, and the legal right to bring court action for damages if the father is injured or killed.

State child support agencies are required to provide paternity establishment services for both AFDC and non-AFDC families. Yet many states have been unwilling to pursue aggressively paternity adjudications even for AFDC clients, who are required by law to cooperate in paternity actions brought on their behalf. For non-AFDC women, the IV-D agencies' record for initiating paternity cases has been abysmal.

 Obtaining Support Orders

Child support agencies, with the assistance of the applicant, must gather information on the child's needs and the relative income and needs of both parents as a first step in assessing financial responsibility. The process for establishing the award and the standard for setting the award amount vary from state to state, but some common areas of concern were addressed in the 1984 Amendments.

Before the 1984 Amendments, most states used judges to determine child support payments. To deal with the problem of long delays in the establishment and enforcement of support orders, states are now required to use "expedited processes" in these cases. The "expedited processes" law means that a state can empower an administrative officer or a hearing officer supervised by a court to hold a hearing on a child support case. This is intended to ensure that decisions are made and action taken in the majority of cases within certain time frames.

Concerns about setting appropriate and consistent amounts for child support awards led to a provision requiring states to establish, by October 1987, guidelines for setting levels of support. The guidelines must be made available to judges and others setting award amounts, although they need not be binding unless the state so elects.

Finally, as health care costs have skyrocketed, the inclusion of medical support in child support orders has come to be an important benefit to children. The 1984 Amendments compel state agencies to include medical support as part of any child support order whenever health care insurance coverage for dependents is available to the absent parent at a reasonable cost (typically through an employer).

Enforcing Awards

Once a child support order is established, significant new enforcement procedures required by the 1984 Amendments should bolster collections and improve compliance.

The most important requires that the state withhold owed child support from the wages of an absent parent who falls more than 30 days in arrears on child support payments. A few states have even shorter periods of arrears before wage withholding is triggered. To assure that withholding occurs without a return trip to court, all new child support orders, all existing orders that are being modified, and all orders being enforced by the IV-D system must provide that automatic wage withholding will occur when the absent parent is in arrears.

Other new mandatory enforcement tools include the power to collect certain arrears by intercepting the absent parent's federal and/or state income tax refunds, or by placing liens against property the absent parent owns. At the request of consumer credit bureaus, states are required to make available information about the amount of overdue support owed by absent parents (with proper notice to the absent parent) if it exceeds $1,000. States also may provide the information without request, or report arrearages of less than $1,000, but the bureau is not required by federal law to include the information in its credit reports.

The most difficult child support cases to pursue are those in which the absent parent and the child and custodial parent live in different states. By law, state child support agencies must cooperate in handling each others' requests for assistance. Although the 1984 Amendments helped, the cases remain difficult because state child support laws and practices differ greatly and incentives for cooperation are weak.

The primary tool for interstate enforcement is the Uniform Reciprocal Enforcement of Support Act (URESA). The basic mechanism is a two-state lawsuit in which the custodial parent in one state petitions the enforcement agency or court in the state where the absent parent resides. Where the URESA provisions are compatible, the law can be used to establish paternity, locate an absent parent, and establish, modify, or enforce a support order. Where they are not, the process is extremely complex.

Collecting and Distributing Payments

State agencies keep an accounting of and distribute child support payments collected from absent parents. Amounts collected are credited and forwarded to the family, except in circumstances set out in the law involving current and former AFDC families, which may receive only part of the support. Key to meeting this responsibility is a capable state management and information system. Unfortunately, few states have this capability. Federal funds are available to cover most state costs for acquiring and developing automated systems for these purposes.
They need to be aware that they and the vices that confront older mothers, but babies are disproportionately low-income barriers to access to child support services. Absent parent (whether married or not). The children have rights and their children's rights or about teen mothers receive AFDC.

Teen mothers who must rely solely on AFDC caseworkers for information too often receive it in a confusing or coercive context that does not emphasize the long-term benefits for the child from paternity establishment or child support. Caseworkers are often harried and overworked, and may not have the time or training to communicate effectively or sensitively to teen mothers about their rights and their children's rights or about child support enforcement processes. If the teen mother lives in a household whose head applies for and receives AFDC on the teen's and her child's behalf, the teen may not have any direct contact with the caseworker at all.

It is important that teen mothers understand the full range of their options and appreciate the long-term benefits and consequences of each. Achieving this through AFDC caseworkers may require special training about and attention to the needs of teenage mothers and young fathers.

Substantial numbers of teen mothers—even though they are relatively poor—do not have contact with the AFDC system. Public education and outreach by IV-D child support agencies is essential for reaching non-AFDC teen mothers, although historically these agencies have done very little of it.

The 1984 Amendments do require state agencies to conduct public education campaigns on child support services and provide federal matching funds for doing so. The regulations implementing the law state that "such publicity shall be regular and frequent and involve the use of public service announcements." Moreover, publicity must include an address and phone number where further information can be obtained.

While there is no requirement that some of this publicity be aimed specifically at teen parents, it is obvious that such materials, for both males and females, should be developed. Some states already have done so, producing materials in English and other appropriate languages. For example, the Texas attorney general's office has produced a one-page flier in English and Spanish—with a simple explanation of paternity establishment and child support obligations with sections for both the teen mother and the teen father. It answers common questions such as whether a teen father is liable to pay support, whether support can be ordered if the mother and child live with the mother's parents, and whether support must be paid if the baby and mother receive welfare.

The Marion County, Indiana, prosecutor's Child Support Division has developed and distributed a comic book, "Teenage Parents: Choices and Responsibilities," which includes basic information on paternity establishment, child support, custody and visitation, and other parental rights and duties. Other jurisdictions should develop similar materials and can receive partial federal reimbursement for doing so.

Effectively educating teens about the benefits of paternity establishment and child support enforcement services may require significantly increased interaction between child support enforcement agencies and programs serving teens. Special outreach efforts on child support and paternity could be directed at health clinics, hospitals, or other facilities providing services for pregnant teens or young parents, including parenting classes and day care centers. Broader general education programs also can be conducted in conjunction with schools, PTAs, churches, and youth athletic, recreation, and job training programs. Youth-
serving agencies such as Boys Clubs and Girls Clubs, the YWCA and YMCA, and the Boy Scouts and Girl Scouts also have many opportunities to communicate with young people on such issues and should be urged to discuss child support and parental rights and duties.

**AFDC and Young Parents**

Any applicant for or recipient of AFDC must assign to the state any right he or she has to receive child support. Unless the baby was conceived as the result of incest or forcible rape or is being put up for adoption, the mother is required to cooperate (for example, to name the father and disclose where he lives) with the state in establishing paternity and obtaining support. If she believes that the father will harm her or the baby (physically or emotionally) she may claim and demonstrate to the agency that she has “good cause” for not cooperating. Otherwise, she must comply or face termination of her portion of the AFDC grant.

Teen mothers need to know this. Generally it is explained by the AFDC caseworkers during the application process when the mother receives a flood of other information and is focused on receiving benefits. Applying for AFDC can be an intimidating and humiliating experience for anyone, but especially for a young mother. The exceptions to the cooperation requirement often are not presented clearly, or are presented in a coercive manner. Agencies should take care to avoid this and also should make clear the long-term benefits of child support.

Organizations that serve teen mothers should be sure that the mothers understand their obligations and rights, and legal services programs and other service agencies could help by preparing community legal education materials on the subject. In addition, advocates might need to provide special assistance to teen mothers wishing to claim “good cause” for noncooperation.

Teen fathers need to know that if their child receives AFDC, they may be incurring a debt to the state. In some states, the debt begins accumulating when the child receives benefits; in some it accrues when a paternity action is commenced; in still others it does not accrue until paternity is established. A teen father needs to know what the law in his state is so that he is aware that he has an obligation.

In some states, the amount of state debt is limited to the amount of child support ordered by a court or administrative agency. For example, a child may be receiving $75 per month in AFDC benefits. If the child’s father has a court-ordered payment of $25 per month, the debt to the state is only $25—not $75. For this reason, if the child support agency does not initiate the paternity or child support action, a teen father might wish to do so himself to benefit the baby and to limit his own liability for the state debt. Again, people working with teen parents need to be aware of this and advise the fathers accordingly.

In the long term, those working with teens in states that do not limit the state debt to the amount of support ordered might want to advocate changes in state law to do so. Then, if a teen father acts responsibly and makes even small regular payments in an amount appropriate to his circumstances, he will not later find himself with a huge debt to the state.

**Paternity Services**

Because 58 percent of the babies born to teen mothers are born out of wedlock (90 percent for teens younger than 15 and 71 percent for teen mothers between 15 and 17), the paternity establishment process is the key entry point to child support and other benefits for most children of teen mothers. Statistics for the general population suggest that fewer than one-quarter of all women who have had babies out of wedlock have had paternity legally established. Not surprisingly, Census Bureau data reveal that fewer than 18 percent of never-married mothers had child support orders in 1985 (compared to 61 percent of all mothers of children whose fathers are absent). The low incidence of awards for never-married women reflects in large part the low rate of paternity establishments.

It is important to note, however, that when paternity was established and awards ordered, 76 percent of unmarried women received some child support payments in 1985, exceeding (by a slight margin) the percentage of all women with child support awards who received payments in that same year (74 percent). The comparability in this rate of payment after awards between children of married and never-married couples shows the significant potential for child support payments for children born to unwed parents. Improving the child support system’s services in paternity establishment is absolutely crucial for all children born out of wedlock, including those of teen mothers.

**Statutes of Limitations**

Until very recently, many states had “statutes of limitations” (laws defining a time limit for suing) that required a paternity action to be brought within a short period of time after a child’s birth, often one or two years. The theoretical purpose of these statutes was to prevent the assertion of stale or fraudulent claims—preventing a mother from making a claim against a man five or 10 years after the birth, when memories had faded and the case was harder to defend.

However, with the advent of genetic testing, the primary reason for short statutes of limitation became obsolete. The main element of proof does not get stale. Today, tests properly done many years after a child’s birth can exclude a wrongly named putative father or yield a high degree of probability that the named person is the father. Moreover, from the child’s point of view the support claim is never stale: the child needs current and future support as much at the age of five or 10 as at the age of one or two. For these reasons, the Supreme Court has struck down short statutes of limitations. Expanding the Supreme Court decisions, Congress, as part of the 1984 Amendments, required states to allow paternity to be established at any time at least until the child’s eighteenth birthday. States may establish longer periods if they choose.

It is still advisable in most cases for the mother and the state to pursue a paternity determination as soon as practical, so that the child’s right to support
and other benefits can be established. However, this provision may be of particular importance to teen mothers, who are particularly vulnerable to the emotional and financial stresses that may follow a child's birth and may delay paternity action. Teen mothers may place little immediate importance on paternity establishment and child support, especially in cases where the father is also young, in school, unemployed, or has few resources himself. In some cases, the mother may simply want to sever her current relationship with the young father and may delay pursuing paternity or child support pending that break.

Even if the young mother wants to bring a paternity action, if she has no resources and must bring the action through the IV-D agency, her case may be stymied by administrative delays or internal case priority-setting. In all of these cases the new law means that a teen mother who delays establishing paternity or has her case delayed by the state would not be foreclosed from pursuing it later.

**Paternity Procedures**

An extended statute of limitations and other improvements will have little impact on increasing paternity actions by mothers or by state agencies as long as the conviction remains that paternity cannot be established easily or without great cost.

Unfortunately, many states do not provide simple administrative procedures for fathers who want to acknowledge paternity formally and in a legally binding way. In these states, the parties must go to court even when the father wants to admit paternity.

Court appearances are intimidating enough for adults. For teens, the prospect of appearing before a judge and admitting to sexual activity may be particularly frightening. They often will not acknowledge paternity voluntarily if they have to go to court to do it.

In addition, even a simple court proceeding creates costs for the state. Since many states perceive the benefits of paternity establishment to be minimal, this cost discourages states from bringing even uncontested suits.

**Costs**

Advocates may want to push for the establishment of simple procedures in uncontested cases in states that do not have them. In Oregon and Missouri, voluntary acknowledgments of paternity may be entered through an administrative process when both parents file sworn affidavits. An order then is drafted and docketed and a new birth certificate issued to the child. Such a simplified method makes the process more accessible to teens and less expensive to the IV-D system.

It is important, however, that procedural protections for young fathers be included and heeded. There also may be legal questions in some states about whether an underage father can waive trial and admit paternity, or whether his lack of capacity to undertake legally binding acts bars such an acknowledgment. However, just as a young man in his teens generally would have the capacity to testify under oath in a court of law in civil and criminal proceedings, so too should he be able to attest to his own actions as part of a paternity acknowledgment process. It would be important, of course, that young men in these circumstances be fully informed of the rights and responsibilities that accompany paternity establishment.

Sometimes a man named as a putative father is not or does not believe he is the father. Sometimes a mother is not entirely sure who the father is. In such a case, a contested court proceeding is inevitable. The likelihood that such a proceeding will result in a correct finding of paternity or non-paternity can be greatly enhanced by the use of the new, more sophisticated blood tests and human leukocyte antigen (HLA) tests.

In all but a few states, statutes or court decisions have specifically considered the admissibility of the results of such tests. Most states with law on the subject have long allowed test results to disprove paternity, and recently an increasing number of states have begun to allow such results as positive evidence of the probability of paternity as well. Given the remarkable scientific advances in blood and tissue testing, advocates should urge states to allow both HLA and blood tests to be used to prove as well as disprove paternity. There is ample legal and scientific justification for that position.

**Costs**

Child support agencies often rely on concerns about costs as rationale for denying paternity establishment services to teen mothers and young fathers. States may claim that the investigation and prosecution of paternity cases are more time-consuming than other aspects of child support enforcement, use more highly paid staff (attorneys and investigators), and incur significant laboratory costs for HLA and blood tests.

Advocates should be skeptical of such claims. Paternity cases cannot be pursued without incurring some administrative or other costs. But the existence of those costs does not relieve child support agencies of the federal mandate that paternity cases be initiated and processed. Moreover, federal funds are available to defray parts of expenses such as identifying the father, investigation, pretrial discovery, and court actions. Federal financial participation is also available for interstate paternity cases and for laboratory costs.

States are allowed to ask some IV-D clients to pay child support enforcement fees and costs. States must charge non-AFDC applicants an application fee for IV-D services. This fee cannot exceed $25 and may be lower. The state may collect the fee from the applicant for services, or pay the application fee from state funds. The state also may elect to pursue the absent parent for reimbursement of the fee, to repay either the custodial parent or the state. Where non-AFDC families are involved, the state also can have clients share the costs involved, which can be more than a $25 fee.

However, the state is not allowed to require client cost sharing at a rate that would discourage applications for services by those most in need.

Because a state can pass on some of the costs does not mean it should. Many teen clients, although not on AFDC, are quite poor. Passing on the costs is a substantial disincentive. This is particularly the case for teen mothers pursuing paternity claims, especially if the potential short-term recovery of support is modest. The overwhelming long-term interest that the state shares with the child in having the child’s paternity established argues in favor of the state bearing the
costs and thereby encouraging the teen mother to use the IV-D system.

Furthermore, the Supreme Court has ruled that, under the due process clause, an indigent putative father defending a paternity and child support case against the state's IV-D system is entitled to have the state pay, at least initially, for blood tests he requests. In view of the fundamental importance of the process to the child and the fact that establishment of paternity can only be pursued through the state judicial system, it is possible to argue that the state's failure to provide free blood tests to an indigent child for whom paternity determination is sought violates due process. It is also possible that, if the state tries to pass on to IV-D clients its costs in paternity cases but not in other IV-D cases, questions of fairness and equal protection for children of unwed parents can be raised.

**Case Priorities**

Even if IV-D agencies bring more paternity actions overall because of the 1984 Amendments, an increase in the number of cases involving teen parents is not assured. Agency priority-setting policy must be carefully scrutinized by advocates for teens.

State child support agencies are allowed by federal rules to establish case

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**Paternity Testing**

Scientific tests used to establish or disprove paternity have become increasingly sophisticated. Blood tests have long been used as one kind of evidence of paternity, in addition to the testimony of the mother, alleged father, and others. But as technology has advanced, new tests have turned what was traditionally a subjective determination into a far more objective outcome. Here is an explanation of how these tests work.

Every child receives from each parent 23 chromosomes that determine the child's characteristics. These inherited characteristics are known as "genetic markers." Each person's genetic markers, like fingerprints, are unique; but the markers are also a composite of the genetic makeup of the parents. The concept behind blood and tissue testing is based on these simple notions of genetic inheritance.

Blood consists of red blood cells, white blood cells, platelets, and liquid plasma. Each of these components contains several genetic markers. If a particular genetic marker appears in a child's blood but not in the mother's, that marker must have been inherited from the father. Thus, if the marker does not appear in an alleged putative father's blood, he cannot be the biological father. He is excluded from paternity. Of course, an alleged father could share some genetic characteristics with a child and still not be the biological father. Even if a single test does not exclude paternity, it also does not prove paternity. If several different tests are used, however, the results can become increasingly conclusive. Modern practice is to perform a series of tests, starting with the simplest and proceeding to the most complex. If the simple test excludes paternity, the testing stops. If it does not, more sophisticated tests are performed. If the sophisticated tests do not exclude paternity, the probability that a man is the biological father can be calculated. At this point the process is called "inclusionary" because the tester is determining to what degree a man is likely to be the father.

Three different types of blood tests currently are in use:

- The simplest type is the **red cell antigen tests (RCAs)**. These tests involve examination of the chemicals attached to red blood cells. Although there are 250 different RCA tests, only 10 normally are performed. These tests are relatively inexpensive. However, they will exclude no more than 65 to 70 percent of the men who are not the biological father.

- A second type of test is **electrophoresis**. These tests examine serum proteins and cell enzymes. Currently, these tests are complex and expensive, and very few laboratories are equipped to perform them.

- The third type of test is the **human leukocyte antigen tests (HLAs)**. These tests examine white blood cells, lymph, and other tissues. HLAs are really tissue-typing tests rather than blood tests; the two commonly used in paternity actions are HLA-A and HLA-B. These tests are expensive and more complex than RCAs; not all laboratories are equipped to perform them. The HLA alone, however, will exclude more than 90 percent of putative fathers. If an RCA test does not exclude paternity and an HLA test also does not exclude paternity, there is a 98 percent probability that the putative father is the biological father. A 99 percent probability of paternity can be established with a subsequent electrophoresis test.

Unfortunately, performing all three tests is expensive, somewhat duplicative, and often difficult to accomplish because few testing facilities are able to perform all three. And like all scientific tests, the value of the results obtained varies with the skills of the tester and the quality of the chemical reagents used. This is especially true with the HLA test because a "false positive" can be obtained. None of the tests are accurate if performed on infants younger than six months old.

Some states have responded to the dramatic advances in testing. Because early blood test evidence was not always reliable, the results of blood test analysis used to be admissible only to exclude the putative father. Today, many states have adopted "inclusionary" statutes that permit the admission of blood test results to prove (as well as to disprove) paternity if the test shows a high degree of probability.

prioritization systems, but only through written procedures. Where written case criteria exist, advocates should examine them for fairness to the children of young, low-income, and unwed parents.

While federal regulation allows states to set priorities among paternity cases, it does not allow a state to assign a lower priority to paternity cases in general than to other types of support services. Within paternity priorities, it is important that criteria that assign priority do not depend entirely on short-term financial prospects alone. It is also important to ensure that unwritten and covert agency priority-setting policies do not exist.

Special Legal Issues for Teens

As advocates encourage state agencies to pursue paternity establishment more aggressively, caution should be taken to protect the rights of teen parents. Two particular concerns are the cooperation requirement for AFDC recipients and paternity actions against unrepresented fathers. In each instance, teen parents, because of their age and inexperience, are likely to be less well informed and more easily intimidated. For that reason, they require some special attention to protecting their rights.

Because an AFDC applicant or recipient must cooperate with the state in establishing paternity and child support unless there is "good cause" for refusing to cooperate, teen mothers, like other mothers, may be required to appear at the IV-D office, provide verbal or written information, appear as witnesses if necessary, and help locate the father. Teens may well need special help and advice in fulfilling these obligations. The threat of losing AFDC eligibility for no cooperation may be especially effective if the teen is unaware that there are grounds for refusal.

Similarly, in pursuing paternity actions against young fathers, particular attention must be paid to the father's access to counsel, especially if he cannot afford to hire a lawyer. There is a strong argument that his interests are such that he is entitled to state-appointed counsel, and several courts have so held.

In some states, teens face a peculiar problem if they wish to establish paternity voluntarily. The establishment of paternity—whether through consent or through adjudication—in effect requires the father's acknowledgment or a court finding that the baby's father and mother have had sexual intercourse. In several states, however, it is a crime (statutory rape) for a male to have sexual intercourse with a young woman under a certain age (usually 16). In those states, if the mother is under age, the father is admitting to commission of a felony even if the relationship was consensual.

This consequence makes it doubtful that fathers of babies born to very young mothers will come forward voluntarily, and it gives them a strong stake in opposing establishment of paternity. Moreover, since the critical question is the mother's age at the time of intercourse, this problem cannot be solved by simply waiting a year or two to bring the paternity action.

Even if statutory rape is not an issue, there is an additional criminal law complication in some states. Fathering a child out of wedlock (regardless of the mother's age) still is a crime in some states. And in some states the only way to establish paternity is through a criminal proceeding. In these states, the parents may be reluctant to proceed for fear of giving the father a criminal record with all its potential consequences.

Both of these issues require that advocates and those who work with teens examine their own state laws for potential criminal ramifications. Some argue that the value of statutory rape laws in setting a community standard and deterring some behavior, even if the laws are rarely enforced, outweighs their negative effect in paternity establishment. Others suggest that the statutory rape laws be redrawn so that voluntary relationships between people of similar ages would not be considered criminal. Still others favor outright repeal. Another approach would be to bar the use of any evidence (including an admission) in a paternity proceeding from being used in any other proceeding. In states where fathering a child out of wedlock is itself still a crime, advocates should consider urging the removal of the element of criminality and substituting a civil paternity establishment procedure.

Improving Awards

Setting fair awards for children of teen parents is a difficult area requiring a balance between the short- and long-term interests of the child and those of each of the young parents.

Young parents should be required to contribute to the support of their children, but obviously their economic status often makes any immediate substantial support unlikely. A young father who is in school and either has no earnings or has only limited earnings from a part-time job may be enhancing his long-range economic prospects and ability to support the child, but in the short term the child and mother receive little or no benefit from his schooling. For young fathers who have dropped out or completed schooling but are still unable to obtain jobs without additional training or skills, imposing an arbitrary and substantial monthly support obligation without doing more yields little for the child.

These are hardly hypothetical situations, as this report's earlier discussion of the educational deficiencies and economic disadvantages which face young men has revealed. The real wages (adjusted for inflation) of 20- to 24-year-old males fell 30 percent from 1973 to 1984. For high school dropouts they fell 42 percent. In 1984, among 20- to 24-year-old males, only four in 10 white dropouts, three in 10 Hispanic dropouts, and one in nine black dropouts earned enough to support a family of three above the poverty line.

Teen wages are even lower. Only 42 percent of teen males hold jobs, and a teen high school dropout has only a one in five chance of having a job. Even if they have full-time jobs, young workers ages 16 to 24 earn less than 60 percent of what older workers earn. In 1984, 65 percent of teen hourly workers could not make wages sufficient to bring an intact, one-income family with one child out of poverty.

The declining earnings of young men and their growing inability to support families have hit those with the least education and the least opportunity hardest. The decreased likelihood of marriage among this population and the rising share of births that are out of...
wedlock are all part of the same conundrum. In some ways, teens and men and women in their early twenties have suffered the brunt of America’s economic upheavals of the past 15 years. Routes to economic self-sufficiency that were available to past generations — entry-level jobs that paid wages sufficient to help start and support a family — have been blocked by massive changes in our economy.

Children born to young parents have needs that must be met, however, and their parents bear the primary responsibility for meeting those needs. But child support enforcement alone will yield little benefit without some aggressive efforts also to improve the long-term economic prospects of both parents.

The new federal child support law — excellent in many respects — does not attempt to address these issues. It does require states to have in place guidelines or a formula for determining the amount of support an absent parent should pay, although it does not mandate their use by decision-makers. States can take a more assertive role in balancing the concerns outlined above by ensuring that the guidelines realistically take into account not only the child’s needs but the parents’ current earnings and resources or school or training status as well as their long-term earning potential. States should require that child support decision-makers follow the guidelines once they are designed, rather than leaving that as a matter of discretion.

Most guidelines assume the availability of adequate income and strive merely for an equitable distribution between the custodial and absent parents. For low-income parents, and many teen and young parents are in this category, guidelines that fail to address the issue of limited overall income may be inappropriate and sometimes harmful. Care also should be taken to ensure that guidelines allow for at least a minimal living allowance for the absent parent.

Whether the child was born in or outside of marriage should not be a relevant factor in setting child support awards. There have long been reports that in certain jurisdictions children born out of wedlock consistently are awarded less support than are children of separated or divorced parents of similar means. Any pattern of doing this is inappropriate and probably illegal. New state guidelines should serve to eliminate any inequitable treatment in setting awards for children of unmarried parents.

While the federal child support requirements do not address the issue of setting awards for young parents, states do have considerable flexibility in this area. Efforts to increase the child support system’s sensitivity to young parents should focus on the state and local level. For example, some observers have suggested that child support awards be adapted so that a teen in school or in a GED or job training program is not required to drop out and work full time in order to meet his child support obligation. The predicate here is that completion of schooling or training will be more likely to yield substantially greater contributions to the child in the long term.

To accomplish this may require some revision of state practices, however. Current state guidelines may preclude such a practice, setting an award amount without regard to the young man’s participation in school or training.

If he is already subject to a child support order and wants to return to school, matters become even more complex. In most states, once paternity is established and a support order entered, that order is difficult to reopen. In most jurisdictions the party wanting to change it has to show a “significant change in circumstances.” This traditionally has been a barrier, and often an inappropriate one, to custodial parents getting increased support once an order is in place but the absent parent’s earnings increase. It is also an impediment to getting awards to the rapidly changing circumstances of young parents.

As a partial solution to this difficulty, if the father is younger than 21 and attending school or a GED or training program the state could allow a temporary order to be entered setting the award in an amount the young father could pay. Ordering such young fathers to pay limited cash support from part-time work rarely would elicit substantial amounts for the child. Fathers in school or training programs who have very little or no earned income also could supplement cash contributions through in-kind support, such as child care, for as long as they were enrolled. When the father completed his education or training, the state and the child could return to court seeking a permanent and more substantial order based on the father’s earnings.

Obviously, there are some drawbacks to approaches such as these which leave any substantial support obligation in abeyance pending completion of the young fathers’ schooling or training. It leaves the mother and child in a difficult position in the short term. But in reality, if carefully administered, this approach may be a necessary first step and the only hope for generating increased resources for the child in the long term.

The short-term difficulties encountered by the mother and child could be eased by a number of steps such as decent child care subsidized by the state if the mother works and has limited earnings, and decent income maintenance programs for the family if the mother stays in school and is herself making efforts to enhance family’s long-term economic prospects.

Child support enforcement does have an important role to play in improving the economic prospects of children born to teen mothers by collecting all available resources due them. But the outcome of that effort, regardless of its vigor, is limited by the poor educational, employment, and training opportunities available to disadvantaged youths, male and female. Clearly, child support enforcement alone will not be enough. Effective strategies to help alleviate the poverty that afflicts the children of many young parents must also include efforts to increase the parents’ educational and economic opportunities significantly.

SUMMARY OF POLICY RECOMMENDATIONS

As advocates work to improve the child support enforcement system overall, several areas need special emphasis to ensure better service to teens.

This report reviewed a number of
important areas of emphasis. Recommendations include:
- States should undertake extensive and targeted outreach and public education about the legal rights and responsibilities of parenthood, about paternity establishment, and about available child support enforcement services. Information should be targeted specifically to teens, both male and female, and to parents of teens.
- Child support enforcement agencies and programs (public and private) that serve and work with teens and young parents should establish ties and coordinate efforts to provide needed information about paternity establishment and child support to young people.
- Access to high quality and timely child support services for AFDC and non-AFDC clients should be improved.
- Paternity establishment cases must be pursued more aggressively and in greater numbers. Advocates should work to ensure that agency concerns about paternity cases, such as problems of proof and costs, do not limit paternity adjudication services; that agency priority-setting does not eliminate most cases involving teen parents; and that procedural protections for teen parents are not overlooked.
- Award amounts and enforcement services for children of teen parents, married or not, should be comparable to those provided other applicants for service. However, more use should be made of temporary child support orders and innovative services that allow young parents to finish school or training and enhance their earnings prospects and ability to support their children over the longer term.

Selected References


