FAMILY LAW AND NONMARITAL FAMILIES

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Despite the sharp increase in nonmarital childbearing, family law still places marriage at the very foundation of the legal regulation of families. Family law's doctrine draws clear distinctions between married and unmarried couples, which then carries over to the treatment of children. Family law's legal institutions created to oversee the family, particularly upon divorce, are designed for married families that have been formally recognized by the state. And traditional gender norms still inform much of family law's approach to legal regulation, particularly in the conception of legal fatherhood. After establishing that this "marital family law" undermines relationships in nonmarital families, this article proposes reforms to integrate nonmarital families into family law.

Key Points for the Family Court Community:

- Identifies legal distinctions between marital and nonmarital families
- Demonstrates how family law harms nonmarital families
- Provides a blueprint for reform

Keywords: *Child Support*; *Custody*; *Family Law*; *Nonmarital Families*; *and Unwed Fathers*

INTRODUCTION

As this special issue of *Family Court Review* makes clear, nonmarital families are the new normal, particularly in some communities. Family law, however, has not caught up. Family law's legal rules still place marriage at the very foundation of legal regulation, with a deep dividing line between married and unmarried couples. Family law's legal institutions are designed for married families who have been formally recognized by the state. And family law still draws on and reinforces traditional gender norms, establishing economic support as the sine qua non of fatherhood and day-to-day caregiving as the hallmark of motherhood. Together, this amounts to what this article calls "marital family law."

Marital family law is hardly ideal for the married families it governs,[2] but it wreaks havoc on the nonmarital families it excludes. A fundamental mismatch between marital family law and nonmarital family life undermines relationships in nonmarital families, to the great detriment of nonmarital children. First, marital family law's legal rules foster what sociologists term maternal "gatekeeping,"[3] where mothers control fathers' access to shared children, making it harder for fathers to maintain a relationship with their children. Further, child support rules exacerbate existing acrimony between parents. Relatively effective for divorcing families, child support rules impose unrealistic obligations on unmarried fathers, many of whom have dismal economic prospects. The failure to satisfy child support requirements fuels animosity between unmarried parents, many of whom are already experiencing difficulty co-parenting.

Second, because only the state can dissolve a marriage, marital family law presumes that couples will go to court at the end of relationships. The court system is designed to establish co-parenting structures for a couple's post-divorce family life. But unmarried couples do not need the state to end their relationships, and although they could seek a custody order, many do not do so. This means that in most states unmarried parents are left without an effective institution to help them transition from a family based on a romantic relationship to a family based on co-parenting.

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Finally, marital family law's reinforcement of traditional gender norms, while anachronistic for many married couples, is starkly at odds with the reality of nonmarital family life. Most unmarried fathers struggle to support their children economically, and most unmarried mothers are both full-time caregivers *and* breadwinners. Marital norms thus render unmarried fathers failures, undermining their place in the family by telling mothers and children that fathers are not acting as they should. In all these ways, marital family law weakens the already tenuous bonds that tie nonmarital families together.

It is essential to develop a more inclusive family law, better suited to the needs of both marital and nonmarital families. Accordingly, this article proposes a new theoretical framework for the regulation of nonmarital families. This new understanding begins with the premise that although we are increasingly witnessing the separation of *marriage* from parenthood, we cannot separate *relationships* from parenthood. Whether unmarried parents get along deeply affects how they parent their children. If they do get along, both parents are better able to provide their children with the relationships necessary for healthy child development. Family law should recognize that relationships between parents are critical to caregiving and child well-being, even if parents are not romantically involved, let alone married. Thus, the state's goal should be to nurture a functional relationship between parents to foster co-parenting.

This approach reflects two principles. First, children benefit when they can maintain a high-quality relationship with both parents. Second, the law should not assume that unmarried parents, and especially unmarried fathers, are categorically different from married parents. In an age of declining marriage rates, the law should not use marriage to determine which fathers are committed to their children. Instead, the law should treat both married and unmarried families as a whole (two parents and a child), instead of its current approach to unmarried parents (mother and child with the father on the side).

To instantiate this new approach to nonmarital families, this article proposes critical reforms to family law's legal rules, institutions, and social norms. To be clear, this article is not proposing a complete dismantlement of marital family law. For those couples who do marry, the basic goals of marital family law—reinforcing relationships to prevent breakdown and helping parents transition to a co-parenting relationship if a marriage does end—are not inherently problematic, although perhaps imperfectly realized. The difficulty is the mismatch between marital family law's rules, institutions, and norms and the particular needs of nonmarital families.

The article proceeds in three parts. Part I explains the genesis and continuing pull of the deeply entrenched marriage-based paradigm for family law. Part II briefly summarizes the sea change in family form and then describes the multiple ways marital family law undermines relationships in nonmarital families. Part III begins by proposing a new theory of post marital family law that focuses on the relationship between the parents as a means of promoting child well-being and then offers several illustrative reforms that embody the new theoretical framework, focusing on the relationship between mothers and fathers.[4]

MARITAL FAMILY LAW

Marriage is so ubiquitous in family law that it is easy to overlook its presence. Our legal system, however, has always used marriage as the focus for the regulation of families and continues to do so today.[5] With a few exceptions, the law no longer directly penalizes children born to unmarried parents—formerly, "illegitimate" children—but the marital family remains the paradigm. The legal rules governing the family draw a sharp line between married and unmarried couples, and this distinction carries over to doctrines governing parental rights. Legal institutions governing family dissolution are designed for, and primarily used by, marital families. And family law reinforces gender roles associated with traditional married families, with fathers as breadwinners and mothers as caregivers. In short, family law as it exists today should be understood fundamentally as *marital* family law.

LEGAL RULES

The central dividing line in family law is marriage. As the marriage equality movement highlights, legal marriage is a powerful institution that comes with a host of tangible benefits and deep emotional resonance. Moreover, family law insists on legal marriage, not its functional equivalent. Thus, couples who live together but are unmarried—cohabitants—are not treated the same as married couples. Individual states have different rules, but the dominant approach draws a clear distinction between married and cohabiting couples, with the latter receiving far fewer of the rights and obligations associated with marriage.[6] If a marriage ends, for example, courts may grant spousal support to the less economically stable spouse and divide property equitably, without regard to who paid for it, thus imposing a strong norm of economic sharing. By contrast, courts treat unmarried cohabitants as separate economic units, with claims for spousal support possible but rarely granted, and property typically retained by whomever paid for it.[7]

This privileging of marriage carries over to the context of parenting. The doctrine of parental rights is skewed strongly in favor of marital families. Most states have some version of the marital presumption,[8] which provides that any child born to the wife of a married man is presumed to be the child of the husband as well as the wife; thus, the father does not need to take an additional step to establish parental rights over his child. Additionally, family law assumes that parents live together—as most married couples do—and thus there is no need to determine custody at birth. In most states, then, the law is silent as to the custody of newborns.

LEGAL INSTITUTIONS

Family law's institutional response to conflict flows from the marital framework. Married couples need the state to dissolve their legal relationship, and the state uses one formal mechanism for this process: the court system. Even though most divorces do not proceed to trial and instead are resolved through mediation or negotiated settlements, the court still oversees this process. When a divorcing couple goes through the court system, they leave with custody and child support orders in place, and one of the state's central goals is to ensure that the couple will continue in their roles as co-parents. Often they will have a detailed, legally binding parenting plan that specifies how they will address myriad co-parenting issues. The significance of the custody order cannot be overstated. As a practical matter, it gives the nonresidential parent (overwhelmingly the father) the right to see the child at specified times, rather than leaving this to the discretion of the residential parent. On a symbolic level, the custody order reinforces the importance of the child's continued relationship with both parents. Additionally, the parenting plan is an important mechanism for forestalling conflict, helping parents think through tricky issues before they arise.

There are also court-related resources to help divorced parents adjust to their new role as co-parents. Court-appointed parenting coordinators, for example, work with parents to develop a concrete plan for parenting and then help parents resolve the disputes that often arise. Similarly, some courts offer parenting programs to help divorcing parents learn how to work together after the divorce. These programs have been effective at decreasing conflict between divorced parents.[9]

There are numerous problems with this court system, and it can introduce or exacerbate acrimony, but it does provide an institutional platform for families to adapt to new circumstances and establish clear and legally enforceable rights to custody and support.

GENDER NORMS

Finally, family law draws upon and reinforces traditional gender norms based on the marital family, with mothers as caregivers and fathers as breadwinners. Historically, one of the goals of marriage was to facilitate "specialization," with wives caring for children and husbands earning a family wage.[10] Today, even though married couples increasingly share the breadwinning and caregiving roles,[11] family law still reinforces, or at the very least reflects, these norms.

The implementation of child custody rules is an example of the continuing force of gender norms. Although facially gender neutral, in practice mothers are far more likely than fathers to have either sole physical custody or a disproportionate share of physical custody.[12] This does not necessarily mean that the system is biased. The discrepancy could be explained by an unequal division of labor before the divorce, with the custody order simply reflecting the predivorce division of labor. Alternatively, it could be explained by fewer men seeking sole or primary physical custody.[13] It is notable, however, that when states amend their custody laws directing courts to maximize the time a child spends with each parent,[14] custody orders are far more likely to reflect equally shared custody.[15]

Similarly, child support rules are facially gender neutral, with both parents having a legal obligation to provide economically for children. But, in practice, it is overwhelmingly fathers who pay child support because the children are living primarily with their mothers. Even more fundamentally, child support laws focus only on the economic contributions of noncustodial parents, requiring that parent to provide money, but not time or attention, to a child.

A further separation of paternal breadwinning and caregiving is reflected in the structure of the child support system. The vast majority of states do not require a visitation order as a pre-requisite or co-requisite to the imposition of a child support order.[16] And in many states, an administrative agency, not a court, is empowered to issue a child support order, further bifurcating child support and custody. Consider, too, the extensive legal apparatus designed to enforce child support obligations, with federal incentives for states to collect payments. This system is not designed to ensure noncustodial parents have visitation orders in place, and, unlike the incentives to collect payments, there is no corresponding set of incentives for states to establish and enforce visitation orders. The child support system thus reinforces the idea that fathers' most important contribution is financial and that this alone is sufficient.

MARITAL FAMILY LAW AND NONMARITAL FAMILY LIFE

Family law may be based on marriage, but family life increasingly is not. As Cynthia Osborne and Nora Ankrum explain in their contribution to this special issue, the American family is undergoing a seismic shift, with marriage rates sharply declining for large portions of the population. As the authors explain, unmarried parents generally have children in the context of a romantic relationship, and the men greet the news of impending fatherhood with excitement and anticipation. The fathers also tend to be highly involved with the children during the first few months of the child's life. Despite this early optimism and involvement, most couples do not stay together and even fewer get married. After the relationship ends, children almost always live with their mother, and the fathers' involvement dwindles over time. Both parents usually go on to find new partners, often bearing new children. The stress associated with these family transitions can have a negative impact on the quality of a mother's caregiving.

As Osborne and Ankrum explain, whether a father maintains an ongoing relationship with his child turns on the quality of the relationship between the parents. If they can get along and have a functioning co-parenting relationship, the father is more likely to see the child. Although children of unmarried parents tend to have worse outcomes than children of married parents as measured by a variety of metrics, a high quality relationship between a father and child can reduce the problems associated with nonmarital childbearing and improve outcomes for children.

The problem, however, is that a fundamental mismatch between marital family law and nonmarital family life destabilizes families, affecting the parenting of both fathers and mothers. Marital family law does not help unmarried parents develop a co-parenting relationship that would defuse conflict and enable both parents to provide children with the attentive, responsive relationships they need. Co-parenting outside of a committed relationship is challenging, but marital family law makes it particularly difficult for unmarried parents. This mismatch between marital family law and nonmarital family life permeates family's law's legal rules, institutions, and gender norms.

LEGAL RULES

Marital family law's rules harm nonmarital families in two important ways. First, marital family law empowers mothers to determine whether and when fathers will see their children. This gatekeeping is a problem because of the developmental importance of strong relationships with caregivers. When fathers do not see their children consistently, it is much harder for them to provide the time and attention necessary for child development.

As explained in Part I, marital family law is solicitous of the relationship between married fathers and their children. The marital presumption ensures that married fathers are automatically considered legal fathers. The vast majority of married fathers live with their children at birth, so custody is not an immediate concern. And if marriages end, courts will issue legally binding orders determining exactly when and where fathers will see their children.

Unmarried fathers have none of these protections. They are not automatically granted parental rights at birth. Instead, family law insists that an unmarried father prove his fatherhood by, for example, signing a "voluntary acknowledgment of paternity," living with the child for two years and holding the child out as his own, initiating a legitimacy action, or, if he is unsure if a child even exists, placing his name on a putative father registry.

Even if a man is considered a legal father, this does not necessarily mean he has custody or a right to visitation. Marital family law assumes the child is living with both parents and, therefore, most states do not have a default rule allocating custody between parents at birth. If a state does have a default rule, it strongly favors the mother: In fifteen states, when a child is born to unmarried parents, the mother automatically gets sole custody of the child, and the father must petition the court for custody or visitation.[17] Sometimes this is done as part of a paternity action, but not always. Family law thus assumes that there are either two married (or cohabiting) parents or only one unmarried parent. There is no accommodation for two unmarried parents living apart but both invested in establishing a relationship with the child.

This lack of an automatic right to custody upon birth for fathers allows mothers to act as de facto gatekeepers, permitting a father to see his child only if the mother approves of the contact. This can be exceptionally difficult in light of family complexity. Mothers may have good reasons for limiting contact, such as domestic violence or substance abuse. However, some mothers may bar fathers from seeing their children for less sympathetic reasons, such as a desire to limit jealousy from a current partner. Unmarried fathers could go to court to secure a custody order, but most do not.[18]

The second way that marital family law's legal rules harm nonmarital families is by making it harder for parents to maintain a functioning co-parenting relationship. Consider the child support system, which plays an enormous role in family life today, affecting one in four children in the United States and half of all children living in poverty.[19] Child support laws are relatively effective for divorcing families, with most custodial parents (typically mothers) receiving full or partial payment of the child support owed.[20] These laws are also an important tool in fighting poverty, at least for the families receiving child support payments.[21] But never-married custodial parents are much less likely to receive full payment than divorced custodial parents, and they receive a lower percentage of the overall amount owed.[22] This is not surprising given the distinct disadvantages facing unmarried fathers, described by Osborne and Ankrum.

Despite some promising reforms,[23] child support laws largely fail to take into account the dismal economic circumstances of unmarried fathers and instead create unrealistic obligations. Mothers are understandably angry that they have little economic support, but child support rules make it seem like the fathers *should* be able to pay, when in fact many cannot. Fathers are understandably angry that they are saddled with unworkable expectations and little help in trying to fulfill them. As a result, each parent blames the other, making it much harder to cooperate in raising their shared child.

In both of these important ways—allowing mothers to exclude fathers from their children's lives and exacerbating acrimony in an already challenging situation—marital family law makes it more difficult for parents to build a co-parenting relationship and provide children with the relationships they need.

Family law does make some accommodations for nonmarital families. Unmarried fathers at least have mechanisms for establishing legal fatherhood, and child support laws apply equally to parents, regardless of marital status. Family law's legal rules thus acknowledge that nonmarital families exist but treat these families as marginal, unworthy of the same rights and presumptive default rules as marital families. Even more importantly, marital family law fails to recognize the needs of nonmarital families for clear custody rules on birth and laws and policies that help decrease acrimony.

LEGAL INSTITUTIONS

The second problem with marital family law is that it relies solely on the court system, leaving many unmarried couples without an effective mechanism to transition from a romantic relationship to a co-parenting relationship. As Part I described, when a married couple divorces, the court-based process manages the family transition. Custody and visitation orders ensure both parents have a legally enforceable right to maintain a relationship with a child; detailed parenting plans provide parents an opportunity to think through tricky co-parenting issues before conflicts arise; parenting coordinators mediate conflicts; and co-parenting classes prepare parents for the new world of parenting after a divorce.

Although these services are accessible in theory, most unmarried couples do not have this support in practice. Unmarried couples have no need for a court order of dissolution because the state never sanctioned the relationship at its start. An unmarried couple *could* go to court at the end of the relationship and seek a custody or visitation order, and would thus have access to the court-based resources such as parenting programs and parenting coordinators. But in practice, court orders are difficult to come by for low-income families. Lawyers are expensive. Legal Services and Legal Aid cannot begin to meet the demand for representation in family law matters. And litigants are often unfamiliar with, or wary of, the court system. Indeed, family law is one of the top access-to-justice issues facing the legal system.

Without custody orders and parenting plans in place, unmarried mothers continue to act as de facto gatekeepers to shared children, and unmarried fathers are less likely to see their children. Additionally, when parents have no assistance in negotiating the tricky world of co-parenting, they must handle the stress of the family transition on their own, likely affecting the quality of their parenting.

In short, by assuming all couples will go to court, marital family law fails to provide an effective institution for helping a nonmarital family transition to a post-relationship life and establish clear expectations and legally protected rights, particularly around custody.

GENDER NORMS

The final way that marital family law harms nonmarital families is by reinforcing traditional gender norms that are completely out of sync with nonmarital family life. The mother-as-caregiver and father-as-breadwinner norms are increasingly inapt for married parents. But they are wholly inaccurate for unmarried parents, where women, in addition to full-time caregiving, are typically the primary source of economic support for the family, and men contribute little socially and even less economically.

In addition to fueling animosity between unmarried parents, another problem with the child support laws is that they reinforce the notion that men add value to the family primarily through their economic contributions, not their caregiving. Given the disparity between their abilities and the jobs available, unmarried fathers are unlikely to become meaningful breadwinners. By sending the message that the only "parenting" required of fathers is that they pay child support, marital family law underscores the economic failure of these fathers and devalues the caregiving that they try to offer. The continued application of these outdated norms, and the sense of failure they generate among unmarried fathers, leads many men to disengage from their children.[24]

FAMILY LAW FOR ALL FAMILIES

It may be possible to separate marriage and parenthood, as the literature on nonmarital family life underscores, but it is simply not possible to separate relationships and parenthood. Married or not, the relationship between the mother and father affects the relationship between the parent and child. Thus, the goal of state regulation for all families should be to strengthen relationships between parents so that they can effectively co-parent the child and give the child the time and attention needed for child development. For some families, marriage does and will continue to serve this purpose. If these parents divorce, marital family law will help them transition into a co-parenting relationship and will facilitate interaction between both parents and the child. But for those parents who never marry, legal regulation should serve the same goal. An effective co-parenting relationship will likely reduce the stress in a mother's life, enabling her to focus on the child's needs. And an effective co-parenting relationship will encourage involvement by a nonresidential father, which, in turn, can benefit the child.

It is thus essential to address those aspects of nonmarital family life that make it harder for parents to maintain a functional relationship with each other and, in turn, more difficult to provide children with time and attention. Recall the salient aspects of nonmarital family life outlined above: children are born to romantically involved parents, and fathers are excited about the birth of the child; despite this early optimism, relationships soon end; mothers become informal gatekeepers to children, and fathers can see children only if they can stay on good terms with the mothers; both parents often go on to find new partners and have other children, and these transitions can negatively influence mothers' parenting; fathers drift away over time. These features of nonmarital family life make it harder for parents to provide children with the relationships they need for healthy child development because fathers are often uninvolved and mothers are distracted by the stress of managing a complex family.

An initial step is helping parents delay childbearing until they have found a reliable partner and providing an alternative legal status that better suits the needs and interests of unmarried couples. I have elaborated both points elsewhere,[25] but the main relevance here is that in the age of no-fault divorce, marriage or a similar status will not keep a couple together and therefore is not a complete solution. To the extent legal status can help cement a relationship, the state should provide nonmarital families with this option, but there is clearly a need for other approaches to nonmarital families.

In light of the current empirical reality that most nonmarital relationships end fairly quickly, the real focus should be on helping unmarried parents transition to a co-parenting relationship after their romantic relationship ends. This would encourage fathers to stay involved in their children's lives; it would likewise decrease maternal stress and distraction, enabling mothers to spend more crucial development time with their children and use more effective parenting strategies. This is not a panacea and can work only in tandem with other supports for nonmarital families.[26] But improving the adult–adult, co-parenting relationship is a crucial piece of the puzzle and should inform family law throughout.

To further these ends, family law should adopt changes to the legal rules that discourage maternal gatekeeping, defuse conflict, and encourage cooperation. Family law also should create new legal institutions to help parents negotiate co-parenting and nurture new social norms that embrace a broader notion of unmarried fatherhood.

LEGAL RULES: ENCOURAGING CO-PARENTING

There are numerous doctrinal changes that can and should be made, but four stand out in particular. First, to put married and unmarried parents on level playing ground, it is essential to disrupt the formal relationship between marriage and parental rights. The most direct way to do so is for states to eliminate the marital presumption and, instead, adopt other methods for the automatic conferral of parental rights, many of which are already in place, such as a voluntary acknowledgement of paternity.

A decision to sign the birth certificate, for example, should be sufficient evidence of a parent's intention to claim the child as his or her own. When one parent does not want to sign, then the legal system can use the mechanisms it already has in place for establishing parentage, but requiring all parents to take the affirmative step of signing the birth certificate is an important step towards treating mothers and fathers equally, as well as treating married and unmarried parents equally. In this way, marriage would no longer be the guarantor of parental rights. Although this step would not help unmarried parents directly, it would mean that the state is using the same rule for all families.

Second, once we eliminate marriage as the default category for parental rights, we need to think in more nuanced ways about legal recognition of families. Consistent with the goal of nurturing functional parental relationships, family law should grant all parents, regardless of marital status, a legally significant designation of "co-parent."[27] An individual would thus be recognized as a parent in two ways: as a father or mother to a particular child and as a co-parent to another person. This designation would attach at the birth of a child and, like the legal designation of "parent," it could not be dissolved until the child reached age eighteen, absent a decision to relinquish a child for adoption or a court's order to terminate parental—including "co-parental"—rights.

This designation would have both expressive and practical value. As an expressive matter, the designation reflects the reality that even if a romantic relationship ends, a co-parenting relationship continues, and it underscores the relevance to child well-being of the relationship *between* the parents. The designation would indirectly help with gatekeeping by making clear that the father is as important to the child as the mother. Rather than reinforcing the idea that the mother is the real parent and the father is a visitor in the child's life, the designation sends the message that the child has two parents. It also emphasizes the shared endeavor of raising children.

As a practical matter, the designation would have legal weight, giving each parent rights and responsibilities to each other concerning the child. This new legal category could, for example, give a parent something akin to a right of first refusal for time with the child. If the parents are living together, there may be little practical effect. But for parents who do not live together, as with many unmarried parents, it would mean that if the custodial parent took on a full-time job, or was going out of town without the child for an extended period of time, the custodial parent would have an obligation to check with the other parent to determine if that parent could spend the time with the child. Many divorcing couples write this kind of provision into custody agreements, and it could form the basis for a default rule through the co-parent designation for all parents.

Third, absent a history of domestic violence, states should adopt default rules that assign legal and physical custody to both parents at birth, regardless of marital status. The states that currently grant sole custody to an unmarried mother should repeal these laws and replace them with a legal rule that grants custody to both parents. And the majority of states that do not address this issue should adopt the same rule, affirmatively granting custody to both parents. This reform is essential to defusing what is troubling about mothers as gatekeepers. Allowing both parents to have automatic custody of the child affirms that both parents count: fathers can and should be involved with their children from birth, and mothers are not in complete control. Unlike the current rule, which effectively ousts an unmarried father from all roles except the breadwinner role, this rule expects a father to participate in the child's upbringing. It also builds productively on the fact that many unmarried fathers want a greater role in their children's lives, and uses law to facilitate that role. In short, this approach recognizes the unmarried father as a full father.

For couples who do not live together, the default rule of shared legal and physical custody means that the couple will either work out an arrangement on their own or, perhaps through the use of a non-court-based institution (discussed below), come to an agreement. Alternatively, the couple could go to court and seek a judicial order of custody. This will almost certainly present challenges, but the goal is to require both parents to consider each other as a full parent.

Another aspect of the default custody rule should be an attempt to maximize the time a child spends with each parent through an "equal access" rule. For example, in 1999, Wisconsin amended its law to direct state courts to maximize the time a child spends with each parent, regardless of the marital status of the parents.[28] In practice, an equal access rule would either be a background rule,

influencing the negotiations between the couple, on their own or through a non-court-based institution, or it would be the rule used by the court. For many unmarried couples, the result of the maximization rule would not be anything close to a 50–50 split. But the rule could help increase the amount of time the father spends with the child, allowing him greater opportunity to develop a high-quality relationship with the child and also sending the message that fathers can and should play an important role in their children's lives.

Finally, it is critical to reform child support policies to decrease acrimony between unmarried parents. In a change from past policies, the federal Office of Child Support Enforcement (OCSE) has recognized the need to address the underlying reasons why low-income, noncustodial parents often do not pay child support.[29] In a multi-pronged effort, OCSE is starting to work *with* families rather than simply enforcing child support orders. Three such efforts are particularly relevant to the issues identified in this article: engaging fathers when a child is first born, addressing the economic circumstances of fathers through work support programs, and improving family relationships.

To engage fathers early on, OCSE is funding state programs that recognize that unmarried fathers are typically involved in a child's life at birth. Programs include efforts to work specifically with fathers, not just mothers, so that both parents are treated as full parents. This idea is built on research documenting a virtuous cycle: when fathers are involved with their children's lives, they are more likely to pay child support, and when they pay child support, they are more likely to stay involved.[30]

To improve the economic circumstances of fathers, OCSE is funding state programs that connect fathers with job training programs and case managers trained to help fathers find and keep work. Studies have found that even simple programs, such as job placement assistance, increase both earnings and child support payments.[31]

To improve family relationships, OCSE is funding state efforts to provide mediation, relationship counseling, parenting programs, and, critically, visitation programs that help fathers see their children. These programs, especially the Access and Visitation Program, which secures parenting time for fathers, have been shown to increase child support payments and parental engagement and also improve the co-parenting relationship.[32]

The reach of these scattered programs, however, should not be overstated. Consider the critical Access and Visitation Program. In fiscal year 2008, the most recent year for which statistics are available, the OCSE had a caseload of 15.7 million,[33] but the Access and Visitation Program served only 85,237 parents or guardians.[34] Thus, these programs should be understood as initial steps in the right direction, not sea changes in the approach to child support.

Family law should embrace these efforts by, for example, fully integrating access and visitation into the core mission of the OCSE. Indeed, a truly radical change to the child support system would be to link support orders to visitation orders, allowing the former only after evaluating whether the latter is appropriate. As Alicia Key explores in her contribution to this special issue, Texas provides an interesting model for this approach.

INSTITUTIONS: ASSISTANCE FOR FAMILY TRANSITIONS

In lieu of a court-only approach to family transitions, family law should create a new institution to help unmarried parents manage the change from romantic partners to co-parents. Parents will need assistance resolving both quotidian issues, such as where the child will be on particular days of the week, as well as larger issues, such as how to respond to a medical problem or whether one parent should move to a distant town or another state.

A promising example of reform comes from Australia and the introduction in 2006 of Family Relationship Centres (FRCs).[35] As readers of this journal will remember from the special issue of *Family Court Review* in 2013 dedicated to the centers, the FRCs were part of a larger package of reforms adopted in 2006 that were intended to produce a "cultural shift" to encourage co-parenting following a separation.[36] The goals of the reforms were to keep parents together, increase involvement by both parents following a separation, and help separating parents work together to decide matters relating to shared children. There were a series of legislative reforms, including a presumption of

shared parenting responsibility following a separation and the introduction of less adversarial court-based procedures, but the reform that is most relevant to the problem of court dominance in the United States is the development of the FRCs.

FRCs are community-based mediation centers designed to help parents address relationship issues so they can stay together or otherwise help parents in the initial transition as they separate, whether they were married or not. Built in centrally located areas such as shopping malls, the centers are designed to be easily accessible and in familiar places. The centers focus on issues concerning children and offer relationship counseling to parents and also referrals to outside services for specific needs, such as addiction and anger management.

For separating parents, the goal is to help them develop a short-term workable plan to smooth the initial switch from one familial unit to two. By providing parents with free or nearly free mediation services, the centers help separating parents make "the transition from parenting together to parenting apart."[37]

The plans are not legally binding, but the idea is that by forging an agreement for the first year or two after the romantic relationship ends, a couple will get in the habit of working together and then, as their lives inevitably change, they will be better positioned to adapt and continue their co-parenting. There are now more than sixty-five centers throughout the country, in every region. For clients who cannot visit the centers in person, there is also a website and telephone hotlines that offer relationship services. The Australian government funds the centers, but they are run by nongovernmental organizations focused on counseling and mediation. A group in Colorado has developed a pilot program to bring the idea of FRCs to the United States.[38]

One of the most intriguing ideas of these new institutions is that they are specifically designed to resolve issues at the relationship level, rather than resorting to the legal system. Most alternative dispute resolution systems are still legal in nature, either issuing legally binding agreements or established as a part of the court system. FRCs, however, are a community-based approach to family conflicts, not a court-based approach, and are designed to forestall court involvement. In the words of Patrick Parkinson, the Australian academic who was the driving force behind the FRCs, "[t]he concept behind the . . . FRCs is that when parents are having difficulty agreeing on the post-separation parenting arrangements, they have a relationship problem, not necessarily a legal one."[39] The courts are available if the FRC cannot help with the problem, but courts are only a back-up system.

These centers offer a completely different paradigm for addressing the conflicts between unmarried parents. The centers are also an important way to address the pressing access-to-justice issue in family law because the services are free and widely available, including options to access help online or by telephone. The centers thus provide unmarried parents with the kind of third-party assistance that can help move them beyond their conflicts.

As the creation of the Family Relationship Centres makes clear, family law needs to prepare for a world in which couples do not necessarily need to go to court to end their romantic relationship but still need assistance transitioning into a co-parenting relationship and negotiating important rights and obligations. This is one way to address this problem, and there are surely others as well.

NORMS: FATHERS AS BREADWINNERS AND CAREGIVERS

Finally, it is important to update the traditional gender norm that fathers are valuable only as breadwinners.[40] Given the limited earning potential for most unmarried fathers, this norm renders unmarried fathers as failures because most do not, and likely cannot, support their children economically, and yet they still want to be involved in their children's lives. The problem, then, is that we are in a period of flux, with the old model of breadwinning no longer applicable but no new model yet readily available. Indeed, there is no institutionalized role or expectations for this group of men at all beyond the unrealistic expectation of paying child support in meaningful amounts.[41]

Family law should help build new norms by encouraging fathers to be both caregivers *and* breadwinners, thus broadening the current script and giving parents clearer expectations of each other's roles. Beginning with breadwinning, family law should create a new wage-support program

for noncustodial parents. Such a program, perhaps modeled on the Earned Income Tax Credit, could supplement a father's wages with the express purpose of paying the differential to the mother. This would increase the incentive for fathers to work, ensure mothers have greater financial support, and help decrease acrimony between parents because the parents would be less resentful of each other. At least one state is experimenting with a similar idea. In 2006, New York adopted a program known as the Noncustodial Parent EITC.[42] Eligibility is limited to noncustodial parents who have paid their child support in full, and thus the program operates as an incentive to both work and pay child support; the additional money is then retained by the father. A study found that the program modestly increased child support payments and employment rates.

To be sure, a wage supplement would reinforce the social norm of fathers as economic providers, but it could be coupled with other reforms that encourage more hands-on fathering, such as default rules that share custody at birth and maximize the time a child spends with each parent. This package of reforms would reinforce the notion that, like mothers, fathers are both breadwinners and caregivers.

CONCLUSION

As we prepare for a future where marriage is largely absent, at least in some communities, the only question is whether the law will adequately respond to this challenge. Imposing marital family law on nonmarital families is not the answer because doing so undermines the already tenuous bonds in these families. Instead, it is important to develop a new legal structure to help unmarried parents make the transition from romantic relationships to effective co-parenting. This requires changes to family law's legal rules, institutions, and gender norms. Nonmarital families are here to stay. Family law needs to adapt.

NOTES

1. A longer version of this article appeared in the *Stanford Law Review*. *See* Clare Huntington, *Postmarital Family Law: A Legal Structure for Nonmarital Families*, 67 STAN. L. REV. 167 (2015). When possible and appropriate, please cite to that version.

2. Clare Huntington, Failure to Flourish: How Law Undermines Family Relationships (2014).

3. *See* Kathryn Edin & Timothy J. Nelson, Doing the Best I Can: Fatherhood in the Inner City 157, 169, 208, 214 (2013).

4. This article typically uses the terms mother and father, rather than a more gender-neutral term, to refer to the two parents. The reason is twofold. First, the main focus of the article is on low-income, unmarried parents, who typically have a child without an explicit plan to become pregnant. By definition, this excludes same-sex couples. Second, the article highlights the many ways marital family law reinforces traditional gender norms. By talking explicitly about mothers and fathers, it is easier to identify and analyze this dynamic.

5. *See* Hendrik Hartog, Man and Wife in America: A History 12–15 (2000).

6. Cynthia Grant Bowman, Unmarried Couples, Law, and Public Policy (2010).

7. Ann Laquer Estin, *Ordinary Cohabitation*, 76 Notre Dame L. Rev. 1381, 1391–1402 (2001).

8. Leslie Joan Harris, *Reforming Paternity Law to Eliminate Gender, Status, and Class Inequality*, 2013 Mich. St. L. Rev. 1295, 1308–13. *But see In re* J.W.T., 872 S.W.2d 189, 189–90 (Tex. 1994) (rejecting the marital presumption in Texas).

9. *See* Jeffrey T. Cookston et al., *Effects of the Dads for Life Intervention on Interparental Conflict and Coparenting in the Two Years After Divorce*, 46 Fam. Process 123, 132–35 (2007) (describing how in a program designed for noncustodial fathers, participants had a significant increase in co-parenting with a corresponding decrease in parental conflict).

10. Joanna L. Grossman & Lawrence M. Friedman, Inside the Castle: Law and the Family in 20th Century America 161–63, 195 (2011).

11. *See* Kim Parker & Wendy Wang, Pew Research Ctr., Modern Parenthood: Roles of Moms and Dads Converge as They Balance Work and Family (Mar. 14, 2013), *available at* www.pewresearch.org; Wendy Wang et al., Pew Research Ctr., Breadwinner Moms: Mothers Are the Sole or Primary Provider in Four-in-Ten Households with Children; Public Conflicted About the Growing Trend 20 (May 29, 2013), *available at* www.pewresearch.org.

12. *See* Timothy S. Grall, U.S. Census Bureau, Custodial Mothers and Fathers and Their Child Support: 2007, at 2 (2009), *available at* https://www.census.gov/hhes/www/childsupport/cs07.html (in 2008, of all children living with only one parent, 82.6% of the children lived with their mother as compared with only 17.4% living with their father); Suzanne

Reynolds et al., *Back to the Future: An Empirical Study of Child Custody Outcomes*, 85 N.C. L. REV. 1629, 1667 (2007) (describing results of an empirical study of one jurisdiction and finding that "[t]he mother received primary physical custody in 71.9% of the cases . . . . The father received primary physical custody in 12.8% of the cases . . . . Joint physical custody, defined for the study as one involving at least 123 overnights, resulted in 15.3% of the cases").

13. *See* Reynolds et al., *supra* note 12, at 1666 (describing study findings that "[f]athers also usually sought primary physical custody when they were plaintiffs, but were less likely than mothers to do so").

14. *See, e.g.*, ARIZ. REV. STAT. ANN. § 25-403.02(B) (2013) ("Consistent with the child's best interests . . . the court shall adopt a parenting plan that provides for both parents to share legal decision-making regarding their child and that maximizes their respective parenting time."); WIS. STAT. § 767.41(4)(a)(2) (2014) ("The court shall set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into account geographic separation and accommodations for different households.").

15. *See* PATRICIA BROWN & STEVEN T. COOK, CHILDREN'S PLACEMENT ARRANGEMENTS IN DIVORCE AND PATERNITY CASES IN WISCONSIN 2, 9–12, 18–19 (rev. ed. 2012) (tracking cases from before and after Wisconsin changed its law and finding that after the law took effect in 2000, fathers were still highly unlikely to have sole custody, but they were much more likely to have equally shared custody, with the percentage of such cases rising 14.6% to 30.5%; further noting that although this trend predated the law, it appears the law accelerated the trend). In this study, equally shared custody was defined as a 50–50 split of the child's time. *See id.* at 9.

16. Texas is the primary counterexample. *See* Alicia G. Key, *Parenting Time in Texas Child Support Cases*, 53 FAM. CT. REV. 258 (2015).

17. Arkansas's statutory scheme illustrates this approach. That state's laws provide that, "[w]hen a child is born to an unmarried woman, legal custody of that child shall be in the woman giving birth to the child until the child reaches eighteen (18) years of age unless a court of competent jurisdiction enters an order placing the child in the custody of another party." ARK. CODE ANN. § 9-10-113(a) (2007). After establishing paternity, an unmarried father "may petition the circuit court in the county where the child resides for custody of the child," *id.* § 9-10-113(b), but he does not get custody, or even visitation, without a court order, *see id.* § 9-10-113(d) ("When in the best interest of a child, visitation shall be awarded in a way that assures the frequent and continuing contact of the child with the mother and the biological father."). For a list of the other statutory schemes, see Huntington, *supra* note 1.

18. OFF. CHILD SUPPORT ENFORCEMENT, DEP'T OF HEALTH & HUMAN SERVS., CHILD SUPPORT AND PARENTING TIME: IMPROVING COORDINATION TO BENEFIT CHILDREN 1–2 (2013).

19. *See* OFF. CHILD SUPPORT ENFORCEMENT, DEP'T OF HEALTH & HUMAN SERVS., FAMILY-CENTERED INNOVATIONS IMPROVE CHILD SUPPORT OUTCOMES 1 (2011).

20. *See* GRALL, *supra* note 12, at 7 tbl.2.

21. *See* OFF. CHILD SUPPORT ENFORCEMENT, *supra* note 19, at 2 (stating that child support payments lift one million people out of poverty each year and that child support payments account for 10% of all income for families living in poverty and 40% of all income for families living in poverty who receive child support payments).

22. *See* GRALL, *supra* note 12, at 7 tbl.2.

23. Jane C. Venohr, *Child Support Guidelines and Guidelines Reviews: State Differences and Common Issues*, 47 FAM. L.Q. 327, 340–41 (2013) (describing state efforts to address problems facing low-income obligors, including some states ensuring that child support obligations do not accrue while the obligor is in prison and also setting very minimal payments, such as $50 per month).

24. EDIN & NELSON, *supra* note 3, at 104–29, 208–09.

25. *See* HUNTINGTON, *supra* note 2, at 160 & 185–87 (discussing ways to encourage young men and women to delay childbearing), 177–80 (discussing alternatives to marriage).

26. I focus on these at length in my book. *See* HUNTINGTON, *supra* note 2, at 145–63, 180–99.

27. For another proposal that a legal status should attach to parents on the birth of a child, see MERLE H. WEINER, THE PARENT-PARTNER STATUS IN AMERICAN FAMILY LAW (forthcoming 2015).

28. Act of Oct. 27, 1999, No. 9, § 3054(cr), § 3052cr, Reg. Sess., 1999 Wis. Advance Legis. Serv. 9 (codified as WIS. STAT. § 767.41(4)(a)(2) (2014)).

29. *See* OFF. CHILD SUPPORT ENFORCEMENT, *supra* note 19, at 2–3.

30. *See* OFF. CHILD SUPPORT ENFORCEMENT, U.S. DEP'T HEALTH & HUM. SERVS., ENGAGEMENT OF FATHERS FROM BIRTH 2–3 (2011).

31. *See* U.S. DEP'T OF HEALTH & HUMAN SERVS., OFF. CHILD SUPPORT ENFORCEMENT, PROMOTING CHILD WELL-BEING & FAMILY SELF-SUFFICIENCY NO. 4, ECONOMIC STABILITY 1–4 (2011).

32. *See* U.S. DEP'T HEALTH & HUMAN SERVS., OFF. CHILD SUPPORT ENFORCEMENT, PROMOTING CHILD WELL-BEING & FAMILY SELF-SUFFICIENCY NO. 5, HEALTHY FAMILY RELATIONSHIPS 2 (2011).

33. U.S. DEP'T HEALTH & HUM. SERVS., OFF. CHILD SUPPORT ENFORCEMENT, FY2008 ANNUAL REPORT TO CONGRESS.

34. U.S. DEP'T HEALTH & HUM. SERVS., OFF. CHILD SUPPORT ENFORCEMENT, CHILD ACCESS AND VISITATION GRANTS: STATE/JURISDICTION PROFILES FOR FY 2008 1 (2010).

35. PATRICK PARKINSON, FAMILY LAW AND THE INDISSOLUBILITY OF PARENTHOOD 187 (2011).

36. RAE KASPIEW ET AL., AUSTL. GOV'T, AUSTL. INST. FAMILY STUD., EVALUATION OF THE 2006 FAMILY LAW REFORMS, at E1 (Lan Wang et al. eds., 2009).

37. Patrick Parkinson, *The Idea of Family Relationship Centres in Australia*, 51 FAM. CT. REV. 195, 195–96 (2013).

38. *See About Us*, RES. CTR. FOR SEPARATING & DIVORCING FAMILIES AT THE UNIV. OF DENVER, http://www.du.edu/rcsdf/about.html (last visited Oct. 11, 2014).

39. Parkinson, *supra* note 37, at 197.

40. For a thoughtful discussion of how to make caregiving a central feature of fatherhood for all fathers regardless of marital status, see NANCY E. DOWD, REDEFINING FATHERHOOD 157, 213–31 (2000).

41. EDIN & NELSON, *supra* note 3, at 213–16.

42. *Noncustodial Parent New York State Earned Income Tax Credit (EITC)*, OFF. TEMPORARY & DISABILITY ASSISTANCE, https://otda.ny.gov/workingfamilies/noncustodial.asp (last visited Oct. 11, 2014).

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ESTABLISHING PARENTING TIME IN CHILD SUPPORT CASES: NEW OPPORTUNITIES AND CHALLENGES*

Jessica Pearson

Despite dramatic increases in collections, child support frequently fails to be the linchpin to family self-sufficiency that it could be, and many researchers, advocates and policymakers have concluded that future progress in collections will require making the child support system more fair and responsive to its growing poor, never-married caseload. High on the list of suggested reforms is paying more attention to involving poor fathers in the lives of their children. Since the inception of the child support program in 1975, parenting time and child support have been legally distinct issues and activities pertaining to parenting time have not qualified for the 66 percent of funding that the federal government provides to fund the child support program. As a result, few child support programs address parenting time when they establish or enforce child support orders. Public Law 113–183 (2014) includes a provision to encourage the establishment of safe parenting time arrangements in new child support orders, although the activity is voluntary and no new funding is provided. This article describes the treatment of parenting time in the child support program and the approaches that some states and local jurisdictions have adopted to develop and incorporate parenting time responsibilities with family violence safeguards in new child support orders. This includes the use of standard parenting time schedules, self-help resources, mediation or facilitation with a neutral third party, and comprehensive programs that attempt to address multiple barriers.

Key Points for the Family Court Community:

- Parenting time and child support are legally distinct issues and courts typically order child support for parents of children born out-of-wedlock without simultaneously ordering parenting time arrangements.
- Research shows that addressing parenting time improves parent-child contact and child support payments and that positive paternal engagement improves child outcomes.
- A few state and local child support agencies address parenting time using standard parenting time schedules, self-help resources for parents, mediation or facilitation with a neutral third-party; and comprehensive programs that address multiple barriers.
- Developing a safe, structured approach to parenting time for the child support population will require coordination among courts, domestic violence programs and child support agencies, and allowing these activities to qualify for federal matching funds.

Keywords: *Parenting Time*; *Co-parenting*; *Unmarried Parents*; *Access and Visitation*; *Child Support*; *and Public Policy*

INTRODUCTION

President Obama included a provision in his 2012–2015 budget proposals that would have updated the statutory purposes of the Child Support Program (authorized through Title IV-D of the Social Security Act) to include activities to help parents develop parenting time orders, allocated $448 million over 10 years for this activity, and required all states, effective FY 2020, to establish access and visitation responsibilities in all initial child support orders with full integration of "domestic violence and abuse victimization approaches" (U.S. Department of Health and Human Services, 2014). However, in September 2014, a less aggressive version of this proposal was enacted by Congress (Section 303 of H.R. 4980) and signed by President Obama. The Sense of the Congress provision treats the incorporation of parenting time with strong family violence safeguards in new child support orders as an "important goal," but keeps it a voluntary activity with no new funding (Pub. L. 113–183).

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Both the new law and the Obama budget proposal underscore that courts typically order child support for parents of children born out of wedlock without simultaneously ordering parenting time arrangements (also termed access and visitation). Currently, there is no systematic, efficient mechanism for families to establish parenting time agreements for children whose parents were not married at the time of their birth. Because child support systems and family law systems are usually distinct, unwed parents with child support cases, in most states, must pursue a separate legal action, often in a different court, and pay a substantial filing fee to obtain a court order for parenting time with their children. To contrast, divorcing parents typically establish parenting time responsibilities as part of their divorce proceedings in a court or tribunal with jurisdiction over all family law issues.

The new law and the budget proposal also reflect the fact that family violence is a serious problem, especially for low-income populations that are likely to be among the unmarried parents served by the child support system. A 2010 national survey found that 35.6% of women reported rape, physical violence, and/or stalking by an intimate partner during their lifetime (Black et al., 2011). More to the point, women in household with incomes below $7,500 per year are estimated to experience intimate partner violence (IPV) rates of 13 per 1,000, compared with rates of 2 per 1,000 for women in households earning $50,000 or more (Catalano, 2007).

This article describes the treatment of parenting time in the child support program and the approaches that some states and local jurisdictions have adopted to establish access and visitation responsibilities with family violence safeguards in their child support caseload.

THE TREATMENT OF PARENTING TIME IN THE CHILD SUPPORT PROGRAM

The child support program was established in 1975, serves approximately 17 million children (one in four), and collects over $28 billion per year (Office of Child Support Enforcement [OCSE], 2014b). Serving 60% of all children growing up in single parent families and 84% of poor children in single parent families, child support comprises an estimated 10% of family income among poor custodial families (40% among those who receive child support) and is credited with lifting a million people from poverty in 2008 (Sorensen, 2010).

The dramatic gains in child support collection reflect generous federal funding for state programs (66% of allowable IV-D costs plus incentive payment to states for success in meeting child support performance goals) and the passage of several federal laws that vastly expanded the program's power. Nationally, the program has over 54,000 workers and an annual budget that exceeds $5 billion. State and local child support agencies established more than 1 million new orders in 2013 and handled a caseload that exceeded 15.5 million (OCSE, 2014b). Despite dramatic increases in child support collections (which more than doubled from $12 billion collected and distributed in 1996 to $28 billion in 2013; OCSE, 2014b), child support frequently fails to be the linchpin to family self-sufficiency that it could be. Nationally, only 63.6% of the total amount of current support due in FY 2013 was collected (OCSE, 2014b) and data from a 2010 survey by the U.S. Census Bureau show that just 41% of custodial parents due support received the full amount of child support due, while 24% received nothing (OCSE, 2013). The total amount of past due support owed to custodial parents and the state for all fiscal years is now $116 billion (OCSE, 2014b).

According to many researchers, advocates and policymakers, future progress in collections will require making the system more fair and responsive to its growing poor, never-married caseload rather than obtaining new powers and enforcement remedies. High on the list is paying more attention to involving poor fathers in the lives of their children. Since the inception of the child support program in 1975, parenting time and child support have been legally distinct issues and activities pertaining to access and visitation have not qualified for the 66% of funding that the federal government provides to fund the child support program. As a result, few child support programs address parenting time. For example, the most frequently mentioned actions "usually" taken by 500 surveyed child support

workers in Texas when they hear about access problems is to "tell the parent that child support and visitation are two separate issues" (87%) and that there is "nothing the child support agency can do" (64%; OCSE, 2006).

The legal and fiscal bifurcation of child support and parenting time flies in the face of their many practical interconnections. Thirty-four states have child support guidelines (mathematical formulae that are to be used to determine the amount of support that the obligor pays) that provide an adjustment for the obligor's parenting time (Venohr, 2013). In most states, the adjustment requires a court-ordered custody or agreed-upon parenting time plan. A growing number of families in the child support caseload have orders addressing financial responsibilities with no attention to access and visitation because of the bifurcated system that never-married parents face. According to surveys conducted with custodial parents by the U.S. Census Bureau in 2010, 40% of custodial parents in the IV-D program were never married, only 33% of noncustodial parents (NCPs; usually fathers) reportedly had a legal visitation agreement, and 35% had no contact with their youngest child in the previous year (Lippold & Sorensen, 2013). Other estimates of these patterns are even higher. For example, in Texas, 67% of cases in the IV-D caseload involved children born out of wedlock (Hayes, 2010). And five years after the birth of their child, 63% of unmarried fathers in the Fragile Families Study were living away from their child (Carlson, McLanahan, & Brooks-Gunn, 2008).

Access and visitation (AV) problems are common. More than three-quarters of surveyed child support workers report that they "often" or "almost always" hear about AV problems when speaking with NCPs, the chief complaints being not being allowed to visit and not having a parenting time order from the court (OCSE, 2006). And although they say that they are too busy to ask parents about their access problems and help them, nearly all surveyed workers (92%) would be willing to refer parents to community services and 78% would like to refer parents with access problems to a specialized worker at the child support agency (OCSE, 2006).

The connections between child support and parenting time that parents report and workers have long suspected have been noted by researchers too. For example, in 1979, David Chambers found that fathers with little or no contact with their children after divorce paid only about 34% of their child support, while fathers in regular contact paid 85%. Since then, many researchers have confirmed the relationship, although there is less agreement on the causal direction. Some researchers contend that paying more support leads to more visitation (Peters, Argys, Howard, & Butler, 2003; Seltzer, McLanahan, & Hanson, 1998; Nord & Zill, 1996) because those who pay feel more invested in their children or mothers who receive some child support may be more supportive of a father who wishes to visit. Another researcher found a significant negative relationship between contact and payment, perhaps indicating that fathers' time and money may be substitutes for one other (Bitler, 2000). Still others conclude that there is no relationship and that both paternal contact and support are driven by unobserved variables, such as fathers' desire for involvement (Nepomnyaschy, 2007). To complicate matters even further, data from the Fragile Families and Child Well-Being Study reveal no impact of contact on the payment of formal child support but a strong, positive reciprocal relationship between father–child contact and the likelihood and amount of informal support, with slightly stronger and more consistent effects of contact on payments than of payments on contact (Nepomnyaschy & Garfinkel, 2007).

In addition to a possible causal relationship between parenting time and child support payment, research reveals that child support receipts improve child outcomes. For example, Argys et al. (1988) find that child support receipt has a "positive impact on children's cognitive test scores that is over and above its contribution to total income." Other research (Garfinkel, 2001; Knox & Bane, 1994) finds that child support receipt improves higher educational attainment, including higher reading and math scores on standardized tests. And many studies conclude that positive parental involvement is associated with the social and emotional well-being of children (Amato & Gilbreth, 1999; King & Sobolewski, 2006), even among those who have limited contact with their nonresidential fathers (Fabricius, Sokol, Diaz, & Braver, 2012). Based on these and other research findings, there is growing sentiment that the child support agency should support programs to enhance access and visitation.

EARLY EFFORTS TO ADDRESS ACCESS AND VISITATION IN THE CHILD SUPPORT CASELOAD

Faced with complaints that child support agencies and courts were doing little to address problems with parent–child contact in the child support caseload, the federal OCSE began to fill the gap with some research and demonstration activity. In 1990 and 1991, OCSE funded seven states to experiment with the use of mediation to address access and visitation problems. A 1996 evaluation of these services (OCSE, 1996) confirmed that access and visitation problems are common, with at least half of NCPs at each of the seven research sites initially saying they did not have enough time with the child. In a similar vein, more than half (52%) of the 1,491 never-married NCPs served in OCSE-funded responsible fatherhood programs in seven states characterized themselves as "very dissatisfied" with the frequency of contact they had with their youngest child and wanting help with this issue (Pearson et al., 2003).

In 1996, as part of PRWORA, Congress authorized the State AV Program, which provides total annual grant awards of $10 million for states to promote various services to alleviate access problems. In FY 2008, the most recent year for which data is available, the program served 85,237 parents, of whom 46% were unmarried and a majority reported yearly incomes of less than $29,000. The program increased parenting time for approximately 40,000 NCPs, chiefly through the provision of parent education, mediation, and services to develop parenting plans. Other common services included supervised visitation, neutral drop-off services, and counseling (OCSE, 2008).

Studies on the effectiveness of some of the services offered through the AV program using nonexperimental or pre- and postprogram study designs concluded that the services were successful in increasing the payment of child support and increasing parent–child contact (U.S. Office of the Inspector General [OIG], 2002; Pearson, Davis, & Thoennes, 2005). In the OIG study, 61% paid more child support after services and payments rose from 52 to 70% of what was owed. In the Pearson et al. (2005) study, payments for never-married parents rose from 59 to 79% of what was owed and one-third to one-half of NCPs in every program reported increases in parent-child contact following program participation with supervised visitation users, who typically have the lowest levels of parent–child contact, reporting a significant increase in the number of days of contact.

To generate further information on the impact of AV services on parent-child contact and child support payments, OCSE funded several other demonstration and evaluation projects. Conducted by child support enforcement agencies in Colorado, which served 523 parents (Pearson, Thoennes, & Davis, 2007), Texas, which served 646 parents (Pearson & Davis, 2007), and Tennessee which served 1,591 parents, (Davis, Pearson, & Thoennes, 2010), the projects involved multiyear efforts to integrate access and visitation services with regular agency activities. At all three sites, families with open child support cases who had visitation problems were assigned to high- and low-level treatments on a random basis, although random assignment was not strictly enforced in some project settings. Parents in the low-level treatment group received written materials about their rights and community services available to help. The high-level treatment group was offered the opportunity to participate in informal facilitation by a specially trained worker at the child support agency or a free consultation with an attorney and a mediator. The objective of these interventions was to develop a parenting plan that spelled out when the children would spend time with each parent or to resolve a parenting time disagreement. Information on all project participants was collected at intake, when visitation problems were identified at the child support agency, and in telephone interviews conducted with NCPs six months later. Official child support records were checked for payment behavior and enforcement actions taken 12 months prior to and following referral for parenting time services.

The evaluations of the three state programs concluded that visitation assistance was a service that was valued by noncustodial parents and child support workers and could be integrated into child support agencies and courts at all stages of case processing without creating case processing delays. However, many eligible families could not be served either because the noncustodial (33%) or custodial (33%) parent could not be reached to arrange a meeting or failed to appear for scheduled meetings. An additional 10% had domestic violence and other factors that might make parenting time

unsafe. Despite these caveats, the proportion reaching an agreement on visitation ranged from 69% in Tennessee to 74% in Colorado and 81% in Texas. In addition, compared to the low-level treatment groups, members of the high-level treatment group in Tennessee reported statistically significant gains in parent-child contact and nonresident parents in Texas who participated in free attorney consultations or parenting time conferences reported substantial improvements in co-parental relationships. Finally, in two of the three sites (where randomization was more rigorously enforced) child support payments improved significantly following the parenting time intervention. In Tennessee, the percentage of support paid relative to the amount owed rose from 54.2 to 57.6% in the high-level treatment group, compared with 52% at both pre- and postprogram time periods for the low-level treatment group. In Texas, child support payments rose from 73 to 88% in the high-level treatment group, compared with 75 to 78% for the low-level treatment group (McHale, Waller, & Pearson, 2012).

APPROACHES TO INCORPORATING ACCESS AND VISITATION INTO A CHILD SUPPORT AGENCY

Although some states use the modest funding available through the state AV program to support parenting time services for unmarried parents in the child support program (Pearson & Price, 2002), only a handful of jurisdictions have mechanisms to routinely incorporate parenting time agreements into initial child support orders, and most of these programs have been small-scale rather than large, statewide initiatives (OCSE, 2013). To generate more information on how parenting time can be implemented with attention to safety for families that have experienced family violence, OCSE is sponsoring the Parenting Time Opportunities for Children in the Child Support Program grants (PTOC). Now in the third year of their 4-year life, the PTOC awards to five states are piloting and testing strategies to establish parenting time responsibilities as part of new child support orders and fully integrate family violence safeguards and protocols into all grant activities. Each project has a small-scale, independent evaluation, although none involve rigorous experimental designs, with results due in 2016 (OCSE, 2013b).

OCSE also contracted with CPR from 2011 to 2013 to conduct the Child Support Program and Parenting Time Orders Project, the purpose of which was to identify and describe promising ways states and local jurisdictions are establishing parenting time orders for the child support population and addressing family violence safeguards. Based on conversations with state AV coordinators and with input from OCSE, CPR selected five jurisdictions and conducted site visits to each from May 2012 through December 2012: the State of Texas; the State of Oregon; Cuyahoga County, Ohio; Oakland County, Michigan; and DuPage County, Illinois. Each 2-day site visit involved semi-structured interviews and focus groups with approximately 12 to 15 child support, parenting time, court, and domestic violence professionals. The case studies revealed that states or local jurisdictions use one of four main approaches to establishing parenting time:

1. Standard parenting time schedules;
2. Self-help resources for parents;
3. Mediation or facilitation with a neutral third party; and
4. Comprehensive programs that address multiple barriers.

Each approach has certain strengths and limitations and lends itself to a different method of identifying and addressing IPV and safety (Pearson, 2013). (See Ver Steegh & Davis [2015] for a discussion of safety concerns in parenting time processes.)

STANDARD PARENTING TIME SCHEDULE

Standard visitation schedules are used on a presumptive basis in Texas and some Michigan counties. (See Key [2015] for further information on Texas.) They tend to be a one-size-fits-all

approach, with the standard plan spelling out how the child's time will be divided between each parent during the school year, vacation, and holiday time periods. However, parents are free to adopt any mutually agreed-upon schedule and the standard order only takes effect if parents do not submit a plan of their own or if they do not ask for a court hearing to develop an alternative. Approximately 75% of parents are believed to adopt the visitation schedule embodied in the Texas Standard Possession Order, which was adopted by the Texas legislature in 1989 in connection with the adoption of mandatory child support guidelines. It calls for children to spend the first, third, and fifth weekend of the month with the NCP, along with a midweek overnight visit, divides holidays between the parents and includes extended visitation of 30 days during the summer. There are adjustments for parents who live over 100 miles apart and those with infants and toddlers. Parents who are concerned about domestic violence or have another safety issue must ask the court to intervene. It is estimated that about 15% of the parents who do not use standard possession have safety considerations that require court attention, and the development of plans that are more attentive to safety including the use of step orders, supervised exchanges, and supervised visits.

According to interviewed professionals, a major benefit of standard visitation schedules is that they assist large number of families with virtually no cost or delay. In Texas, standard visitation plans are used in most of the 60,000 new child support orders established by the Office of Attorney General and many of the 40,000 divorce decrees issued by the court each year. Another benefit is that parents are not required to pursue a separate legal action or pay a filing fee because the visitation provision is part of the child support order, which is provided at no cost. Other noted features of standard schedules include being more concrete than visitation orders that call for "reasonable" access, establishing a norm of regular contact with both parents without interfering with plans they develop on their own, sending a message that the child support agency cares about parenting as well as financial responsibilities, and possibly reducing the dangers associated with negotiating about visitation informally. Standard visitation schedules may be implemented at the state level with legislation (as in Texas) or the local/county level with a local rule (as in some Michigan counties) and are not perceived by judges who establish child support orders to add to their work.

There are many critics of standard parenting time schedules. The chief objection is that they are perceived to be a one-size-fits-all approach to parenting time and that more customization and consideration of the specific needs and capabilities of each family would be preferable. Another criticism is that they only address parenting at the time when the child support order is established and that there is no clear and readily accessible mechanism to enforce or change the plan. Indeed, in Texas, parents who are unable to exercise visitation or wish to change their order must file a petition in a non-IV-D district court, which typically involves paying filing fees and hiring a lawyer. Although most states have judicial or quasi-judicial procedures for establishing child support orders, in some states child support orders may be established through an administrative tribunal. Many states' quasi-judicial and administrative tribunals lack the authority under their current statutes or court rules to hear a parenting time matter or issue a parenting time order or a visitation schedule. Finally, there is concern that victims who fail to disclose domestic violence and do not get more individualized treatment by the court will get a standard visitation arrangement that may be inappropriate for them.

States and counties that use standard parenting time schedules typically approach IPV by informing parents about safety issues at multiple points of application, case processing, and inviting victims to disclose. Those who do are scheduled for a court hearing where they can request a safety-focused parenting plan, such as the gradual introduction of a parent into the life of the child over time, supervised exchanges or public exchanges, supervised visits, participation in a battering intervention and prevention program, and no contact orders.

Although universal notification and self-disclosure procedures are viewed as the only realistic ways to provide safety protections in parenting time programs that are impersonal, very large scale, very brief, and/or rely on self-help approaches, there is little research on their effectiveness in detecting IPV. Staff training on IPV is perceived to help because trained professionals will be more encouraging of disclosures at any point in the process of establishing and/or enforcing child support. Jurisdictions can also strengthen their approach to IPV by partnering with local domestic violence

advocacy organizations. For example, the Texas Office of the Attorney General contracts with the Texas Council on Family Violence to review its policies and procedures so that that they address family violence, assist with developing online and printed materials for parents, and help create and implement mandatory training on family violence for all child support staff.

SELF-HELP RESOURCES

Some jurisdictions have developed self-help resources that parents may access on their own to assist them with the development of parenting time plans. For example, Oregon has developed fill-in-the-blank parenting plans that are available on the Judicial Department website and can be downloaded, completed, and filed with the court, along with required legal forms and the payment of a filing fee. There are templates for numerous plan options, including basic schedules for children in various age ranges (i.e., newborns, infants, elementary and middle school aged students, and teenagers) and for children who live more than 60 miles away from one parent. There are also three levels of safety-focused plans: no solo time with the other parent, limited unsupervised time with no overnights, and overnight parenting time with public exchanges. Parents are instructed to answer 13 online safety screening questions to help them select an appropriate plan. As one family law professional explained, "We try to direct the parents to the safety focused plans as much as possible so that they know they are an option." Oregon hopes to convert the plans into an interactive online format similar to TurboTax. The series of questions would guide parents as they create a parenting plan that they could e-file with the court either by attaching it to the legal action establishing or modifying child support or printing the plan for signature by both parents.

Another self-help resource is the Texas Access and Visitation Hotline. This is staffed by legal aid attorneys who answer questions and provide information and guidance on visitation issues in a general, anonymous fashion to approximately 35,000 callers per year.

The benefits to self-help resources are that they serve large numbers of parents with minimal cost and delays to the both the child support system and the courts. They also require low staffing levels. Another benefit is that they have the capacity to yield detailed and customized parenting plans because parents work through a schedule template and can complete the plan on their own or with minimal guidance.

The drawbacks to relying on these approaches to address parenting time are inherent to all self-help interventions. Parents must access and use these resources on their own and few actually do. As one veteran child support worker in Oregon observed, "I have never seen a parent come in with one of the online parenting plans." To generate usage, states or local jurisdictions must aggressively outreach to parents about the availability of these services. Self-help resources can be complex. For example, each Oregon parenting plan is 15 pages and has many questions and options. Making it legally enforceable would require filing it with the court, along with a 40-page petition and paying a filing fee of $260. As to Texas Hotline, while follow-up interviews with callers show that they find the general information and advice they receive to be helpful, most callers want more one-on-one assistance with recommended follow-up actions (Pearson, Thoennes, & Davis, 2004).

Although there are many options for parents with safety concerns who use self-help resources, they must self-identify any issues with IPV and independently choose to take advantage of safety-focused plans or enhancements. It is assumed that parents with IPV issues will select the safety-focused tools or opt not to develop a parenting plan altogether but there are no court or child support agency checks to make sure that parents select an "appropriate" plan. Further, there is no certainty that the services selected to enhance safety (e.g., supervised visitation) will be available and affordable to the parents.

MEDIATION AND FACILITATION BY A NEUTRAL THIRD PARTY

A larger number of sites—such as DuPage County, Illinois; Oakland County, Michigan; Cuyahoga County, Ohio; and various counties in Colorado—offer neutral, third-party assistance to help

never-married parents in the child support program create parenting plans. These facilitators and mediators can be based at the court, the child support agency, or at a community-based organization. In DuPage County, mediators attend daily sessions of the Parentage Court where child support matters are heard to provide on-the-spot assistance to parents who lack parenting plans (Dudgeon, 1999).

There is a voluminous literature on the benefits of third-party dispute resolution processes like mediation and facilitation (see summary in Kourlis, Taylor, Schepard, & Pruett, 2013), but its effectiveness among unique subpopulations, including unmarried parents in the child support system, has not been extensively evaluated. The limited evidence available, however, suggests that unmarried parents in the child support system also benefit from third-party dispute resolution processes. Plans that are developed in mediated settings are customized to each family's situation. Parents understand parenting plans better with a third-party explanation and ambiguities that might be the source of future problems can be identified and corrected before the plan goes into effect. As with divorcing parents, most never-married parents who attempt mediation/facilitations are successful in producing a parenting plan, with many reaching agreement in a single, brief session and reporting strong satisfaction with the process and outcome. And depending on the jurisdiction, the parenting plan often can be combined with the child support order and filed without a separate filing fee. In other jurisdictions, there must be a separate motion for visitation and a filing fee.

One drawback to using mediation or facilitation for child support populations is cost. In DuPage, mediation is free to families but a 3-hour session costs the Parents and Kids Program approximately $400 (Murphy-Russell, 2012). Identifying those parents who want and need parenting time help and educating them about mediation are also challenging. In DuPage County, the judge asks parents about parenting time when they appear to get a child support order, suggests that they meet with a mediator available at the court and briefly explains the process. In many other settings, the screening and referral process would fall to child support workers who work on establishing new child support orders. Given high child support caseloads, short timeframes for order establishment, the frequent nonappearance of one or both parents at child support meetings, and the historical prohibition about addressing visitation issues in child support settings, this may be an unrealistic or difficult additional duty to impose on a child support establishment worker. In addition, mediation and facilitation are unfamiliar to workers and clients in the child support program and there are few built-in opportunities to educate parents about the concept and the process. Once referred to mediation, many parents do not follow through or refuse to participate. Unlike divorcing parents who often must prove that they attended a parent education class or an orientation to mediation to obtain a court hearing and a decree, there is no practical way to compel a parent in the child support program to respond to a mediation referral. Existing court and community-based mediation programs—the logical partners for child support agencies that want to serve interested parents in their caseload—are typically oversubscribed and underfunded. Finally, some critics disapprove of the regular use of mediation because it promulgates inappropriate expectations for co-parental communication, cooperation, and compromise in IPV cases (see the special issue of *Mediation Quarterly* edited by Girdner, 1990).

To address IPV, mediators and facilitators follow practices recommended in various guidelines adopted by leading organizations such as the American Bar Association, the Association of Family and Conciliation Courts, the National Council of Juvenile and Family Court Judges, and interdisciplinary conferences (Ver Steegh & Dalton, 2008). This involves actively screening for safety and IPV in every case, assessing for domestic abuse throughout the mediation process, conducting mediation with attention to safety, and using safety-oriented parenting time practices. Mediators contact each parent individually to discuss safety and determine whether to move forward with mediation. During the mediation, they look for power imbalances or intimidation by one parent. If there is a safety concern, mediators may use shuttle techniques or telephone formats so that the parents are kept apart. Mediators can stop the session at any time, and a survivor of IPV can choose not to mediate and/or not to reach an agreement about visitation. Finally, mediated or facilitated parenting plans can include provisions for supervised visits, neutral exchanges, and/or step visitation plans that begin with limited, supervised contact and gradually introduce fewer restrictions and more access.

As with screening processes in family courts (Ver Steegh, Davis, & Frederick, 2012), screening for IPV with child support populations is challenging. Programs must make numerous decisions including how a screening will be administered (e.g., a written self-administered screening or a staff member asking parents questions), what types of IPV to ask about (e.g., emotional or physical abuse), and what time period to cover (e.g., the entire length of a relationship versus the past year). There are few practical instruments available for use in court and child support agency settings, especially with large numbers of clients and few screening resources (Ellis & Stuckless, 2008). Research suggests that most tools fail to detect some IPV (Center for Families, Children and Courts, 2002). Nor is there research on longer-term safety and parenting outcomes for victims and their children.

Safety practices like supervised visitation and neutral or monitored exchange services are also difficult to implement. At a minimum, they require a court order to activate and can be expensive, unavailable in many geographical settings, require trips back to court to modify or suspend the order, and do not protect against all types of IPV (e.g., emotional abuse and control issues).

COMPREHENSIVE SERVICES

A few sites offer comprehensive parenting time services to parents. The sites typically involve short-term, grant-funded programs that combine help with parenting time with help with employment, education, and co-parenting skills. The grant-initiated Minnesota Co-Parent Court offers comprehensive services to never-married parents, including a four-session parent education course, intensive case management, referrals to a wide array of service providers (including domestic violence resources), help with employment, and mediated parenting plans. (See Marczak et al. [2015] for more information on the Co-Parent Court.) Genesee County, Michigan, also received funding from OCSE and conducted a demonstration project that involved creating a detailed parenting time plan as soon as the child support order was developed, in combination with offering families job training, parenting skills development, drug treatment, GED, and other proactive services in paternity and new child support cases.

Like problem solving courts in the criminal court arena (Porter, Rempel, & Mansky, 2010), comprehensive programs try to address the underlying problems of unmarried parents by simultaneously working on their economic problems as well as their parenting skills, parental relationships and paternal participation. The Co-Parent Court utilizes “navigators” who identify parental needs and make appropriate social services referrals, a wide array of community partners that can deliver needed services, parental education to teach parents how to parent together even though they are not in a relationship, and conflict resolution and mediation services to develop a parenting plan. The evaluation shows that a majority of parents completed the parent education component of the program and agreed to a parenting plan.

Comprehensive, multiservice programs are costly, serve only a few families, and rely heavily on short-term grant funding although Hennepin County made a public commitment to the Co-Parent Court following the end of grant funding. Comprehensive, multisession programs experience challenges recruiting parents who are willing to enroll and often confront high levels of attrition. A holistic program must build a strong network of community-based referrals so that parents can receive needed assistance.

Programs offering comprehensive services to parents often use intensive screening and assessment tools for all types of problems and needs, including IPV, and have a strong network of partners to whom they can refer IPV survivors. Of the 214 mothers enrolled in the Co-Parent Court, 14 (6.5%) were referred to domestic violence services. The Genesee County project screened for domestic violence and would not serve families in which there was a history or indication of IPV.

CONCLUSION

There is currently no systematic mechanism for families to establish parenting time agreements for children whose parents were not married at the time of their birth. Unlike parents who divorce,

parenting time is not addressed at the time their child support order is established. To expedite the establishment of a child support order, most IV-D agencies use court or tribunals whose jurisdiction is limited to child support issues. Hence, parents with parenting time or child access issues typically must file an action with another court with jurisdiction beyond child support, a process that may be time consuming, complex, and expensive.

Addressing this unmet need for parenting time orders among parents of out-of-wedlock children will be challenging. More than 1 million new child support orders are established each year, many for low-income and vulnerable families. Child support programs are large, complex, highly automated, and use a variety of judicial, administrative, and hybrid procedures that do not lend themselves to standardization. The natural entities for child support to partner with to serve unmarried families—family courts and their education, mediation, facilitation, and pro se services—are oversubscribed and underresourced. The seriousness of family violence and the safety risks that arise for victims present service delivery challenges.

At the same time, researchers, child support workers, and parents themselves acknowledge that fathers who are involved with their children are more likely to pay support and that fathers who pay support are more likely to stay involved in their children's lives. More to the point, children usually benefit from the positive involvement of their nonresidential fathers, while those who lack contact suffer cognitive, social, and emotional deficits.

Developing a safe, structured approach to parenting time for the child support population will require a number of critical steps. These include coordinating new parenting time interventions with existing programs funded by AV grants in order to leverage the resources of both; funding new parenting time services as was planned in the Administration's FY 2012–2014 budget proposals (but not incorporated into Pub. L. 113–183) and allowing states to draw down 66% matching funds to support this new activity (which was not included in a notice of proposed rulemaking that limits federal matching funds to *de minimis* costs associated with the inclusion of parenting time provisions entered as part of a child support order (OCSE 2014a)); developing meaningful collaborations among courts, domestic violence programs and child support agencies; engaging in discussions about new policy that consider a broad range of issues including accessibility to the unmarried child support population, ease of use, understandability, cost, time factors, as well as family violence safeguards; and conducting rigorous empirical research to resolve some concerns and debates about parenting time such as father–child engagement, custodial parent safety, and child wellbeing.

NOTE

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Dr. Pearson is Director of the Center for Policy Research (CPR), a private, nonprofit research agency in Denver, Colorado, that she founded in 1981 to conduct evaluation research on issues that affect low-income families. Her research includes some of the first national studies of mediation in custody and visitation disputes, parent education, and supervised visitation. She and her colleagues at CPR have also done leading, national evaluations of new initiatives in the child support program including hospital-based paternity, family-centered services, early intervention strategies, methods of avoiding and addressing child support debt, methods of identifying and addressing domestic violence in the child support caseload, incarceration and child support, responsible fatherhood, and parenting time. Her work on parenting time includes multi-state evaluations of mediation in the child support caseload; projects funded under the Access and Visitation Grant Program; projects to integrate parenting time interventions in child support agencies in Colorado, Texas, and Tennessee; and projects to explore how state and local child support agencies implement parenting time in new child support orders with attention to safety. She is currently co-directs the Fatherhood Research and Practice Network (FRPN), a HHS-funded initiative (9OPR0006) to generate rigorous evaluation research and build evaluation capacity among fatherhood programs.

CO-PARENT COURT: A PROBLEM-SOLVING COURT MODEL FOR SUPPORTING UNMARRIED PARENTS[1]

Mary S. Marczak, Dylan L. Galos, Alisha M. Hardman, Emily H. Becher, Ebony Ruhland, and Kjersti A. Olson

Co-Parent Court is an innovative problem solving court in Hennepin County, Minnesota, which seeks to better meet the needs of unmarried co-parents who are establishing paternity. A 3 year, mixed method quasi-experimental design evaluation study was conducted on the outcomes of participation in Co-Parent Court with data collected at pre, post and follow-up. Outcomes examined for this article included child support payments and measures assessing attitudes about the importance of the role of fathers in a child's life. Findings included that child-support payments across groups was connected to a father's ability to pay at pre-survey and that a majority of both fathers and mothers reported that a father's involvement in the lives of his children went beyond an ability to pay child support.

Key Points for the Family Court Community:

- Courts-Community agencies partnering to build a quality program for unmarried parents and their children.
- What types of community agencies are critical to provide a network of support for young, under-resourced, unmarried parents?
- What does it take to get unmarried parents to complete a multi-component intervention (education, case management and agreed upon parenting plan)?

Keywords: *Co-Parent Court*; *Unmarried Parents*; *Problem Solving Court*; *Child Support*; *Role of the Father*

INTRODUCTION

As the percentage of nonmarital births has increased across the country, states have been challenged to meet the need for innovative judicial interventions given the unique challenges of these nontraditional families. Since reaching a peak in 2009 at 41% nationally, the percentage of nonmarital births has since declined to 40.6% as of 2013 (Curtin, Ventura, & Martinez, 2014). Minnesota is below the national average for percentage of nonmarital births at 30.7% with 14% of birth certificates with no listed father (Minnesota Department of Health, 2012; Shattuck & Kreider, 2013). When a father is not on a birth certificate, he can establish paternity in two ways: (1) file for recognition of parenting jointly with the child's mother or (2) obtain a court order. If parents are unmarried, even if a father is listed on a birth certificate, a mother has sole custody until a court issues a custody order (Minnesota Judicial Branch, Basics of Paternity). Of families needing to establish paternity, most (81%) establish paternity through a recognition of parenting process with the remaining (19%) using a court order (Child Support Enforcement Division, 2013).

In larger, more urban counties of Minnesota, the percentage of nonmarital birth increases and is more comparable to national trends. Hennepin County is the largest metro county in Minnesota with over 22% of the state's population. It is also one of the most diverse (U.S. Census Bureau, 2013). In Hennepin County, a third of women (33.2%) who gave birth in 2011 were unmarried, and 16.9% did not have a father listed on the birth certificate (Minnesota Department of Health, 2012). Family court systems in Hennepin County were established to work with families going through divorce and separation with little resources devoted to these younger, unmarried co-parents who were also using

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family court to establish paternity and address issues of custody. Officials in the Hennepin County Family Court officials recognized the need to better meet the needs of these families, and began to take steps to understand how to do so.

In 2007, the Fourth Judicial District conducted a needs assessment survey of single parents who had a case on the child support and paternity calendars ($n = 167$). The survey found that a majority of these parents were relatively young (52% in their 20s or 30s), African American (61%), and had received a high school diploma (65%). About a third (34%) were unemployed and those who were working, were mostly working low-wage jobs ($M = \$12.81$). Respondents who were court ordered to pay child support said they struggled to make their payments. In addition, nearly half of the survey respondents indicated that they lacked stable housing; and one-quarter of all respondents (or one half of all male respondents) had a criminal record. Their criminal records consisted predominately of drug and assault related offenses (Podkopacz, Eckberg, Caron & Kubits, 2007). Most survey respondents had children through multipartner fertility and characterized their relationship with their co-parents as "less than warm." One third of all noncustodial single parent respondents said they would like to spend more time with their child, but only 10% had filed a parenting time petition with the court to do so. When survey respondents were asked about key supports they needed, they indicated that would benefit from education, employment, and childcare assistance (Podkopacz, Eckberg, Caron, & Kubits, 2007). Following the needs assessment survey, stakeholders came together to develop what would become Co-Parent Court.

CO-PARENT COURT

Co-Parent Court is an innovative problem-solving model intended to better support unmarried parents who are summoned to family court in order to establish paternity. Typically these families enter family court because one of the parents, often the mother, has requested public assistance. According to the Minnesota Judicial Branch Web site, "if either parent receives public assistance for the child, the county attorney will start the paternity case on behalf of the public. The law allows for this so that the county can ask that the other parent be ordered to financially support his child" (Minnesota Judicial Branch, Establish Paternity by Court Order). Prior to receiving the court order, some parents have already been co-parenting together while others have had little to no contact with one another. Therefore, the program was developed to provide "support and services to help unmarried parents develop the skills and knowledge to be involved parents—both financially and emotionally—and to develop a healthy co-parent relationship" (Co-Parent Court Program Model/Toolkit, 2014, p. 1).

Co-Parent Court is a partnership between the Family Court, the child support enforcement agency, and community service providers to serve unwed parents in the paternity system. During the demonstration project, there was a single judge assigned to the Co-Parent Court project. Co-Parent Court hearings (initial, follow-up and final) were limited to a single day each week, scheduled on Thursdays, allowing the judge adequate time to continue work on other events on the court calendar. Key community partners included: a family strengthening and empowerment program as well as a fathering program that provided individual and family case management for mothers and fathers; a community-driven nonprofit law firm that provided mediation services; and crisis intervention programs that addressed issues related to healthy relationships, domestic violence, and anger management. The Co-Parent Court programmatic model is comprised of several key elements, each of which will be briefly described.

The first element is individualized assessment and attention throughout involvement in Co-Parent Court. "Co-Parent Court Navigators," hereafter referred to as the "navigators," meet with parents at court in order to identify needs and recommend appropriate referrals to relevant project partners (housing, jobs, child care, chemical dependency treatment, domestic violence assistance, etc.). The navigators remain in contact with parents and provide the judge with progress reports at follow-up court dates. The second component of the model is social services tailored to the needs of parents and

children. Partnering community social service providers work closely with Co-Parent Court to provide case management and services tailored to clients referred from the program. There were two community-based programs, one for mothers and another for fathers, which provided case management for parents enrolled in Co-Parent Court. The family facilitator (for the mothers) and father advocate (for the fathers) met one-on-one with parents to help determine needs and connect them with supports and resources. These include assistance in self-empowerment and responsibility, domestic violence and safety, relationship development, education, employment, housing, chemical and mental health, and basic parenting and child development. Intensive case management services are provided to high need parents who express needs across many of the above mentioned areas.

The third element of the program model is a court mandated co-parent education program designed specifically for unmarried parents and fragile families. The co-parent education component seeks to develop co-parenting skills; improve parental relationships and communication, and encourage paternal participation in the lives of the children. It consisted of six sessions lasting two-hours or four sessions lasting three hours. The fourth component of the model is assistance with the establishment of a parenting plan following attendance at the co-parenting workshops. The parenting plan covers issues such as custody, parenting time, and decision making. The intention of the parenting agreement is for parents to determine on their own the arrangements that will best suit their family's circumstances. The parenting agreement is then adopted by the court as a legally binding document. If parents cannot agree on a joint parenting plan, they are referred to conflict resolution services that assists high conflict parents in the development of their parenting plans. If the individualized mediation and family group conferencing cannot assist parents to complete the parenting plan together, they will continue to final hearing at Co-Parent Court at which time the Judge will adopt a default child support and custody arrangement. Finally, supportive services are provided to help stabilize and support parents enrolled in the program. Supportive services are typically resources that allow parents to participate in the program. These services include transportation to and from the workshops, childcare during the workshops, or resources that supplement the social services being received, such as purchase of work clothes for a job interview. Additionally, when circumstances require, assistance with rent and utilities are provided.

DESCRIPTION OF THE EVALUATION

The stakeholders behind Co-Parent Court partnered with the University of Minnesota Extension Family Development Research and Evaluation team to conduct and manage the evaluation component of the project. This study employed a quasi-experimental, mixed methods design, indicating that both qualitative and quantitative data were collected and analyzed separately with the intent to merge the results of these data analyses at the end (Creswell, 2015). For the purposes of the quasi-experimental design, cases ordered to establish paternity were randomly assigned into either the control (traditional court) or intervention (co-parent court) groups. The eligibility criteria used to determine whether a case was a candidate for Co-Parent Court included: both parents were at least 18 years of age, there were no active child welfare cases or existing order of protection against the other parent, parents lived within a certain geographic area determined by zip codes, and no interpreter was necessary. Once eligible cases had been identified, assignment was conducted by Principal Support Services Supervisor who used a random numbers table developed by the university evaluation team. Each case was randomly assigned a number and the number would determine whether that case would be in the control or intervention group. Once eligible cases had been assigned into either the control (traditional court) or intervention (Co-Parent Court), parents in each case were sent documents ordering them to appear in court. Those in the control group were ordered to appear at the traditional paternity establishment court held every Tuesday and those assigned to the intervention group received an order to appear in Co-Parent Court held each Thursday. The design was quasi-experimental because the Judge had leeway to move select participants into the intervention group as designated referee referrals.

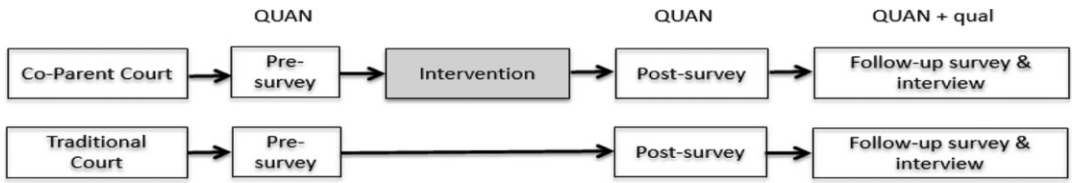

Figure 1 Co-Parent Court Intervention Mixed Method Design.

The quasi-experimental survey design employed in this study included three data collection instances: pre (prior to the intervention), post (approximately six months following the intervention) and follow-up (at least a year following completion of the intervention). Figure 1 displays the intervention mixed methods design used in this study. This article reports selected data on the completion of court-mandated interventions and its connection to improved child support payments, one of the targeted outcomes of Co-Parent Court.

METHOD

PROCEDURE

Graduate research assistants working on the evaluation team conducted data collection with both the control and intervention group. The control group participants were approached by the graduate assistants at Family Court as they were awaiting their paternity case to be heard. The intervention group was approached about participation in the study at the first two co-parent education workshops. The project was explained and if participants elected to participate in the study, they signed a consent form. It should be noted that nearly all parents in both study conditions agreed to participate when approached by the research team. In fact, we can recall no cases in which both members of the dyad declined to participate. Only those participants who signed a consent form were considered enrolled in the study. After consent had been signed, participants completed the pre-survey. All pre-survey data was completed by the individual, so each case consists of a mother and father survey, if both agreed to participate in the study, and were collected via "paper and pen." Upon completion of the survey, participants received a $25 gift card to a large retail store as a "thank you" for their participation. Data was entered from the surveys into SPSS for later analysis. The hard copies were then filed for data quality checks and security purposes.

Participants were contacted to complete a post-survey six to nine months after the pre-survey was administered to them. Due to the rolling enrollment nature of this project, control cases were "matched" with intervention cases to account for the differential amount of time that intervention participants spent being actively involved in the program. This was an attempt to maintain similarity in data collection timeframes for participants in the control and intervention groups. Participants were contacted most often via the telephone (this was the most successful method of contact) and occasionally sent letters when a working phone number was not available. Participants were given the option either to complete the survey in person or online. Remark, secure web survey software, was used to collect survey data online. Participants who chose to complete the survey online were sent an e-mail with a link to the survey and their identification code. As an incentive to complete the survey in-person, the participant was given a $30 gift card on the spot and anyone who completed the survey online was mailed a $30 gift card. The follow-up survey and interview were scheduled approximately six months after the post survey had been completed (at least a year after signing consent). Again the online option was also available for the follow-up survey and a phone interview. A $40 gift card was offered upon completion of the follow up survey and interview.

PARTICIPANTS

The Co-Parent Court enrolled 709 participants representing both mothers and fathers across three groups: control ($n = 208$), intervention ($n = 454$), and referee referral ($n = 47$). A concern throughout the project was the predominance of participants who were enrolled in the intervention group despite the use of a randomization process. There were multiple instances of court and other project staff carefully tracking the randomization process to ensure that randomization was occurring properly. When no errors in the process were detected, the project partners had ongoing discussions about the cause of the difference. The difference in the size of the two groups appears to be due to the substantially higher rate of no-shows at the Tuesday court (traditional court attended by parents in the control group) as compared with the Co-Parent Court on Thursdays. Project partners have posited that some of this may be due to the more understandable, friendly language in the Co-Parent brochure that was sent to parents in the intervention group, as compared with the intimidating language used in the normal appearance order that was sent to parents in the traditional court. Another possible reason for the difference in appearance rates is word-of-mouth communication about the Co-Parent Court in the tight-knit community where many project participants lived. Without a clear explanation for this difference, readers should interpret the results with some caution.

At enrollment, the majority of participants were African American (72.4%) and between the ages of 18 and 35 (85.2%). While most (82.8%) had at least a high school diploma, GED, or a higher level of education, the unemployment rate was high (52.2%) and 56.8% of participants reported receiving public assistance. Nearly all (94.5%) were living apart from the co-parent and most (80.3%) had only one child with their co-parent. Over half of parents (54.9%) had more than one child under age 18, and nearly all had never been married (90.5%). The average age of the child at the time parents were being enrolled in Co-Parent Court was 3.51 years. Over 80% of the children at the time of Co-Parent Court enrollment were age 5 and younger.

MEASURES

A modified eight-item version of the Role of the Father Questionnaire (ROFQ; Palkovitz, 1984) was used to measure attitudes toward the father's role. Items are written on a five-point Likert scale with a range of 1 = "Strongly Disagree" to 5 = "Strongly Agree". A single item, "The most important thing a man invests into his family is time and energy" was used to highlight the father's role. This item was selected because it provides a strong contrast to the primary financial outcome of the study- child support payment behavior. A father's income was measured using the question "What is your total income (gross income) before taxes in the past month?" at pre-survey. A father's employment status was measured using the question "What is your work status" with the options of "Working full-time," "Working part-time," and "Not working for pay." Public assistance was measured using the question "Are you currently receiving public assistance" with the answers of "Yes" and "No".

Child support data was collected monthly between June 2010 and August 2013 by the child support agency in Hennepin County. The data was limited to monthly child support owed and paid. The ratio of total child support paid to child support owed over the project year was used to measure payment behavior. This ratio, known as payment performance, is the key outcome measure tracked by local, state, and federal child support agencies. One advantage of using a performance ratio to measure payment behavior is that it is not affected by differences in the number of months that participants are required to pay child support and their order levels. Sums for each year were used to compare control participants to intervention and referee referral participants the year after they enrolled into the Co-Parent Court. Data was available for all participants. Given that Co-Parent Court targeted paternity establishment cases, child support payments prior to enrollment in Co-Parent Court were not applicable for many of the participants, and thus not collected for this study.

Completion of the Co-Parent Court interventions such as education and receipt of support services were tracked through a performance management system. All partners, including the courts,

navigators, and service agencies were trained to enter relevant data and make/accept referrals that in essence created a "dashboard" for each parent with dates of completion for key program components.

ANALYSIS

To examine differences in the proportion of child support paid, two analyses were performed. First, all participants who were assigned to the intervention condition (i.e., referee referral and intervention) were compared to control participants using linear regression. Next, all who completed the intervention (attended at least four classes in six-session group, or at least three classes in four-session group) were compared to noncompleters. These analyses were performed in order to identify if there were differences in results among completers, versus being assigned to a condition. Models comparing intervention and control adjusted for father's employment status, public assistance status, and gross monthly personal income at time of study entry. This adjustment was included to account for differences between intervention and control participants not removed by randomization and to increase the precision of estimates. Yearly data was analyzed separately for participants during 2011, 2012, and 2013 to identify differences in results over time. As a portion of participants in the intervention condition did not complete the classes or the parenting plan, it was important to explore the data by those who completed the intervention components and those who did not. To compare completers and noncompleters, intervention participants from all years were pooled together, and regression models were not adjusted. Analyses of categorical variables and the co-parent court differences in the role of the father question were analyzed using chi-squared ($\chi 2$) statistics. Data management and analysis was conducted using Stata 13.

RESULTS

Given the high-risk population served through the Co-Parent Court, a critical question was whether participants would complete the intervention components as intended. The following describes rates of completion. Where appropriate, differences by gender and other key factors are explored.

CO-PARENTING EDUCATION

The original curriculum was designed as six 2-hour sessions. During a steering committee meeting held during the first project year, the navigators, as well as community partners, advocated for changing the session frequency (not dosage) to four 3-hour sessions. It was believed that this would reduce hardship on parents and better accommodate their ability to look for employment and/or attend school. Completion rates are reported separately for those attending six and four sessions. Parents were counted as "completers" if they attended at least four out of six or three out of four sessions. Results indicate that a majority of parents completed the co-parent education component. As noted in Table 1, among mothers, 167 (78%) completed the sessions and 47 did not; 140 (69%) fathers

Table 1
Session Attendance and Completion by Gender and Number of Sessions

	Mothers		*Fathers*		*4-session*		*6-session*	
	N	*%*	*N*	*%*	*N*	*%*	*N*	*%*
Completed	167	78.04	140	69.31	218	72.19	89	78.07
Not Completed	47	21.96	62	30.69	84	27.81	25	21.93
Total	214	100.00	202	100.00	302	100.00	114	100.00

completed classes and 62 did not. Mothers completed classes at a statistically significantly higher rate ($\chi^{22} = 4.09$, $p = 0.04$) than fathers, however nearly 80% of mothers and 70% of fathers completed classes. While completion rates differed between mothers and fathers, there was no statistical difference in completion rates between four-session and six-session classes ($\chi^2 = 0.003$, $p = 0.96$).

DEVELOPING A JOINT PARENTING PLAN

The majority of co-parents (57%) agreed to their parenting plans, however at the time of data collection, nearly half (43%) did not agree to their parenting plans. It should be noted that of the 43% without an agreed upon parenting plan, only 4 (1%) could not reach a parenting plan. At the time of this data collection, the remaining participants were still working on coming up with a parenting plan, with most eventually completing a parenting plan with support from mediation services and/or additional supports from the navigators. Reporting rates of agreement did not statistically differ between mothers and fathers ($\chi^2 = 0.15$, $p = 0.70$), nor did they differ by number of sessions of co-parent education attended ($\chi^2 = 1.26$, $p = 0.26$).

Wraparound Support Services

Partnering community organizations offered critical services to parents through intensive case management, incidental supports, and mediation. Over the tenure of the project, 400 referrals were made on behalf of parents in the intervention group. Figure 2 offers a breakdown of the types of referrals by gender. Most mothers were referred for intensive case management, parenting plan completion, and housing services while fathers were primarily referred for intensive case management, parenting plan completion and employment services. Domestic violence referrals were made for 14 mothers and three fathers and comprised 4.25% of the 400 referrals for services.

Child Support Payment

An important outcome that the court hoped to see was an increase in child support payments made by noncustodial fathers. Data provided by the Office of Child Support Enforcement indicate that overall, fathers in the intervention condition paid at a slightly higher percentage of total child support owed than those in the control condition across the three years of the project (see Table 2).

After accounting for pre-survey differences in employment status, public assistance, and monthly personal income, there was no statistically significant difference between intervention and control fathers with respect to payment performance although intervention fathers paid slightly more child

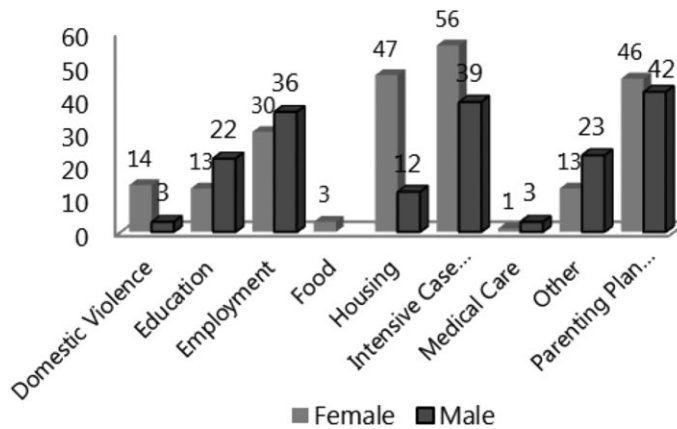

Figure 2 Number of Types of Referrals by Gender (based on 400 total referrals).

Table 2
Percentage of Total Child Support Paid from What was Owed

Project Year	*Intervention*	*Control*
2011	84%	80%
2012	77.15%	74.6%
2013	72.8%	69.35%

Table 3
Regression Results for Co-Parent Court Effect on Child Support, by Year

2010–2011	*Coef.*	*SE*	*95% Conf. Interval*
Intervention/control status	−0.06	0.12	−0.30,0.18
Income**	0.03	0.01	0.02,0.05
Employment Status†			
Not Working	−0.28	0.20	−0.69,0.14
Working part-time	0.03	0.13	−0.24,0.30
Public Assistance	−0.14	0.16	−0.47,0.19
2011–2012	*Coef.*	*SE*	*95% CI*
Intervention/control status	−0.02	0.11	−0.24,0.21
Income	0.01	0.01	−0.01,0.03
Employment Status†			
Not working	−0.24	0.18	−0.61,0.13
Working part-time	0.06	0.13	−0.22,0.33
Public Assistance	−0.03	0.16	−0.35,0.29
2012–2013	*Coef.*	*SE*	*95% CI*
Intervention/control status	−0.06	0.07	−0.20,0.08
Income *	0.01	0.004	0.00,0.02
Employment Status†			
Not working	−0.07	0.10	−0.30,0.16
Working part-time	0.02	0.11	−0.19,0.24
Public Assistance	−0.01	0.004	−0.22,0.19

Models were adjusted for father's employment status, monthly personal gross income, race and ethnicity, and public assistance status at time of presurvey. Income predictions per 100 dollar increase in father's personal monthly income.
*$p < 0.05$; **$p < 0.01$.
†Fathers who were not working and working part time were compared to fathers working full time.

support than did fathers in the control condition. Rather, results of this regression model indicate that monthly personal income at baseline was the strongest predictor of rate of child support payment, regardless of intervention assignment, with higher personal incomes predicting statistically significantly higher rates of child support payment from 2011 to 2013 (Table 3).

Important to note, however, is that the null result of Co-Parent Court changes when examining intervention completion. When exploring child support payments by those who completed the intervention (attended minimum number of classes and developed a parenting plan), completers are paying at a significantly higher rate child support than those in the control group (Table 4).

While this result is intriguing, interpretation is difficult without knowing the preintervention child support payment patterns (which did not exist for many of the parents who were newly establishing paternity). Among fathers who were assigned to Co-Parent Court, completers, on average, paid

Table 4
Percentage of Total Child Support Amount Paid from What Was Owed (2013)*

	Child support amount owed	*Child support amount paid*	*Total % paid*
Control Group	$140,157.59	$97,202.17	69.35%
Total Intervention Group (IG)	$276,004.65	$200,893.38	72.8%
IG where moms completed intervention	$159,903	$130,853.79	81.8%
IG where dads completed intervention	$120,569.34	$103,112.79	85.5%
IG when both mom and dad (with shared child) completed intervention	$83,139	$72,148.73	86.78%

*Given the rolling enrollment of participants throughout the duration of the project, 2013 was selected for analysis as nearly all participants had been enrolled and completed the intervention components at this point in the project.

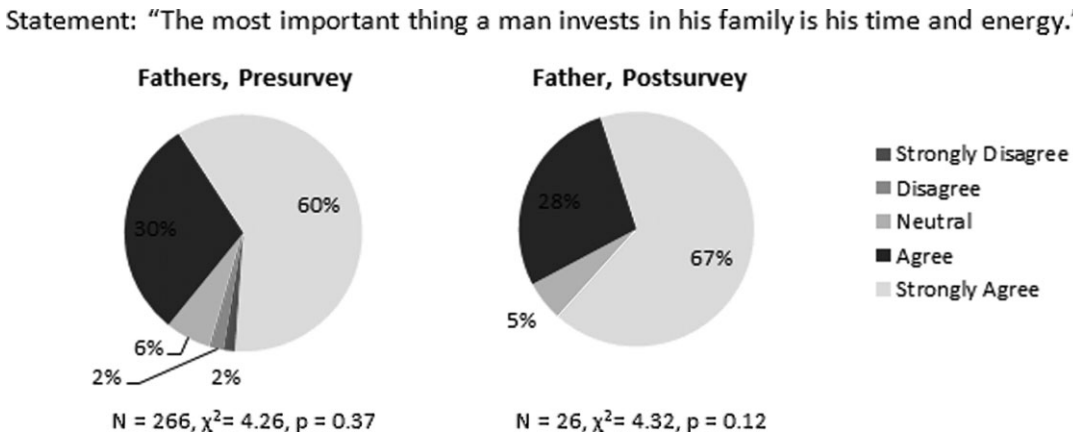

Figure 3 Role of the Father among Fathers.

21.22% more of their total child support owed than noncompleters. It may be that more responsible fathers are more likely to complete classes and also pay child support. Because the data does not allow us to pull out comparable "less responsible" fathers from control cases, the result also cannot be compared with fathers in control cases.

Role of the Father

Among both mothers and fathers, the overwhelming majority agreed or strongly agreed that the most important thing a father invests in his family is his time and energy (Figures 3 and 4). At baseline, there was a marginally statistically significant difference between intervention and control mothers, with more intervention mothers disagreeing with this viewpoint (Figure 4). At the time of post-survey, however, this difference was no longer there. Very few (9%) fathers disagreed that time and energy is a father's most important investment during pre-survey, and no fathers disagreed with this statement at post-survey (Figure 3).

DISCUSSION

The Co-Parent Court utilizes a judicial problem-solving model to support unmarried parents to develop the skills and knowledge to be involved parents—both financially and emotionally. The fact that the Co-Parent Court project was embedded in a family court was an important aspect of the

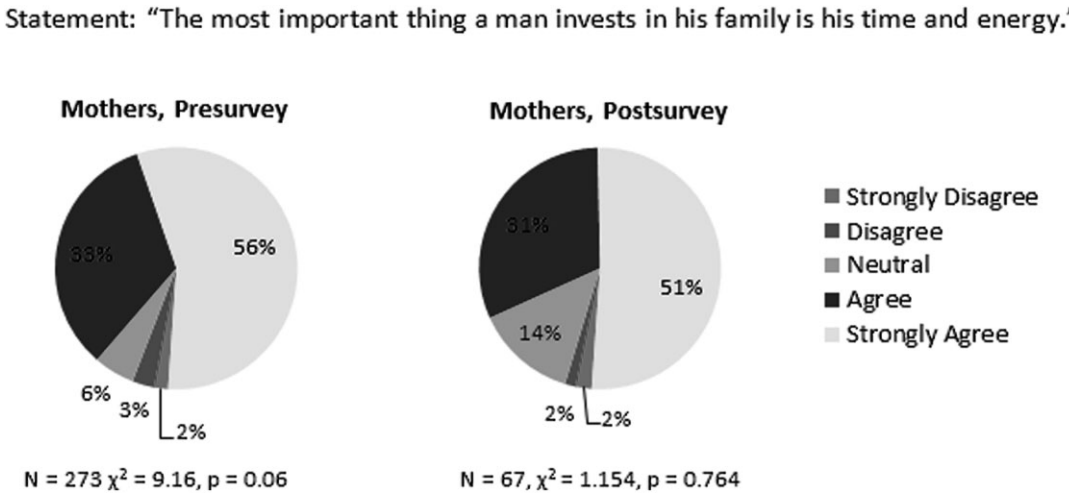

Figure 4 Role of the Father among Mothers.

project. The court played a critical role in getting the participants to attend the program and was able to encourage participation in ways that are unavailable to community-based programs. Given the many stressors that participants experienced (e.g., unemployment and underemployment, low levels of education, criminal records, lack of housing), it was a surprise to many of the partners who had extensive experience working with this population that an overwhelming majority of parents (69% of fathers and 78% of mothers) completed court-ordered classes and generated a parenting plan together.

While the results of the analysis of child support payments were somewhat mixed and differences between the groups were not statistically significant, fathers in the intervention condition paid their total child support obligations at a slightly higher level than did the fathers in the control condition at each of the 3 years of the project. While this behavior may be due to a confounding factor such as a greater overall sense of responsibility, it is promising that the fathers who completed co-parent education classes and parenting plans were paying 21% more of the total child support that they owed as compared with fathers who did not complete the intervention.

Validating what is known to many of those who work with unmarried parents, the single best predictor of child-support payments across study conditions was the father's ability to pay at baseline, as measured by his employment status and income level. When this finding became more evident during the course of the project, the Co-Parent Court Project steering committee responded by paying greater attention to job and education supports for fathers. While anecdotal evidence was offered by project partners about the impact of these added efforts, given that this occurred during the last year of the project, it had not yet resulted in a significant increase in employment status for fathers. Future programs that seek to improve child support payments through parenting time and co-parenting interventions should be attentive to the employment needs of fathers and collaborate with workforce programs.

Another important finding from this project was the steadfast belief by both fathers and mothers in the importance of the role of fathers in their children's lives from baseline to postsurvey. This result was reinforced by the parents during follow-up interviews. The majority of parents spoke of the importance of father involvement in the lives of their children, and indicated that involvement went beyond an ability to pay child support. They stressed that it was critical for fathers to be emotionally present in the lives of their children. Both mothers and fathers agreed that any intervention to improve father involvement must work to enhance quality of life issues for fathers, including employment, housing, and mental health supports.

The importance of the Co-Parent Court community partners, then, cannot be overstated. While the court helped to ensure that parents attended the co-parenting classes, the fact that the educational

navigators were employed by a trusted community-based agency rather than the court was important in getting continued buy-in from parents. Parents appreciated the individual case management and information about other community resources that they received and recognized that they that they may not have had access to them had they not been a part of the Co-Parent Court project.

The research also sheds some empirical light on the salience of domestic violence issues for unmarried parents in court education and co-parenting interventions. While parents who had a no-contact order were excluded from participating in the Co-Parent Court, participants may have had a history of domestic violence. Thus, domestic violence was a key concern at the inception of this project. Early on, advocates on the steering committee expressed concern that few parents were being referred to existing domestic violence services. This concern was addressed by having advocates from two local domestic abuse organizations attend the initial co-parent court hearing. Domestic violence advocates continued to be a major partner throughout duration of the project. They were available during court hearings but they also attended at least one educational workshop to discuss domestic violence and provide resources. Additionally, participants could attend individual or group services offered by community-based organizations to address any domestic violence they were experiencing. Having domestic violence advocates involved in the beginning and throughout the project was important for alleviating concerns and addressing domestic violence at every step. It also provided participants the help that they may have needed but were not aware of the services available. The finding that fewer than 5% of total referrals were made for domestic violence even with all these steps suggests that co-parenting services can be used with unmarried child support populations and that domestic violence is not an overwhelming barrier.

The Co-Parent Court project was a pilot effort involving critical partnerships between the court and community agencies. The steering committee placed a high premium on making continuous improvements along the way with an eye toward improving conditions for unmarried parents and their children. While changes and variation along the way made the study condition more difficult, it has resulted in the partnership developing a sound model for future replication.

NOTES

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