

# Ronald Reagan Presidential Library Digital Library Collections

---

This is a PDF of a folder from our textual collections.

---

**Collection:** Reagan, Ronald: Gubernatorial Papers,  
1966-74: Press Unit

**Folder Title:** [Welfare] – State Social Welfare Board –  
Unplanned Parenthood, April 1974 (1 of 2)

**Box:** P39

---

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: [reagan.library@nara.gov](mailto:reagan.library@nara.gov)

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

# **PRESS**★

## **STATE SOCIAL WELFARE BOARD**

# **UNPLANNED PARENTHOOD**

### **A STUDY OF UNWED PARENTS AND THE POTENTIALLY ENDANGERED CHILD**



**STATE OF CALIFORNIA  
HEALTH AND WELFARE AGENCY  
DEPARTMENT OF BENEFIT PAYMENTS**

**APRIL 1974**

FOR IMMEDIATE RELEASE

DEPARTMENT OF BENEFIT PAYMENTS  
Health and Welfare Agency  
State of California  
Contact: Robert E. Mitchell  
213/863-8736

May 14, 1974

Sacramento: Robert E. Mitchell, Chairman of the State Social Welfare Board, announced the release of the Board's final report on the problems of illegitimacy, entitled UNPLANNED PARENTHOOD: A STUDY OF UNWED PARENTS AND THE POTENTIALLY ENDANGERED CHILD.

Mitchell, a Los Angeles County attorney, pointed out that three out of every four illegitimate children are born to mothers twenty-four and under, and two out of five are born to mothers who are eighteen and under. He went on to state that one-fourth of the children currently receiving welfare in California are illegitimate and that Californians spend about 1/2 billion dollars annually for the care of these children.

The Board feels that much of the problem is caused by the lack of involvement of the male. Most studies of the unwed father show that fathers of illegitimate children were in many, if not most cases, raised in female dominated homes themselves. Thus it appears that the phenomenon of illegitimacy is cyclical.

The report offers both long-range and short-range solutions to the problem. Education of children in the "art of parenting" as well as the responsibilities of parenthood is the ultimate solution, however, the Board has come up with a Protective Services System to provide immediate help. The Board has proposed that both parents sign the birth certificate and that paternity be legally established, where possible, within six months of the child's birth. Further, the Board has recommended referral of all illegitimate births to a county protective services agency who must determine on a case by case basis whether or not the child is adequately provided for or endangered.

The Board has endorsed the family planning services and called for statewide standards for family planning consultants. The Board addressed the abortion issue stating that we do not have enough facts in hand to adequately weigh the long-term consequences to our society of the availability of abortion on demand.

The State Social Welfare Board began this in-depth study almost two years ago after the release of their original position statement on illegitimacy. This statement required a look into the mother's fitness after the birth of her third illegitimate child.

The present report does not constitute a change of attitude. The proposed system establishes a case by case review of the living conditions of each child born out of wedlock rather than the arbitrary classification set forth in the original report. The question the Board raises is, Does society feel sufficiently concerned about the problems of the potentially endangered child to devote enough resources to insure adequate protection of this child's legal rights as well as provide for his physical and social needs?

###



STATE SOCIAL WELFARE BOARD

UNPLANNED PARENTHOOD

A Study of Unwed Parents and  
The Potentially Endangered Child

April 1974

MEMBERSHIP LIST

STATE SOCIAL WELFARE BOARD

Chairman

Mr. Robert E. Mitchell  
Attorney at Law  
Norwalk, California

Members

Mr. Antonio G. Bueno  
Attorney at Law  
Los Angeles, California

Mr. Thomas G. Daugherty  
Attorney at Law  
Sacramento, California

Mrs. Jacqueline N. Marker  
Encino, California

Mrs. Dorothy D. Natland  
Laguna Beach, California

Mr. Alan S. Raffee  
San Diego, California

Mrs. Susan C. Schwab  
Piedmont, California

Legislative Members

Senator Peter H. Behr  
Sacramento, California  
District Office:  
San Rafael, California

Senator Anthony C. Beilenson  
Sacramento, California  
District Office:  
Los Angeles, California

Assemblyman Lawrence Kapiloff  
Sacramento, California  
District Office:  
San Diego, California

Assemblyman Joseph B. Montoya  
Sacramento, California  
District Office:  
La Puente, California

Executive Secretary

Mr. William R. Knudson  
744 P Street  
Sacramento, California 95814  
916/322-3206

DEPARTMENT OF SOCIAL WELFARE - 744 P STREET  
STATE SOCIAL WELFARE BOARD  
SACRAMENTO 95814

MEMBERS

ROBERT E. MITCHELL, CHAIRMAN  
ANTONIO G. BUENO  
THOMAS G. DAUGHERTY  
JACQUELINE N. HARKER  
DOROTHY D. NATLAND  
ALAN S. RAFFEE  
SUSAN C. SCHWAB

WILLIAM R. KNUDSON, EXECUTIVE SECRETARY

JOINT INTERIM LEGISLATIVE COMMITTEE

SENATOR PETER H. BEHR  
SENATOR ANTHONY C. BEILENSON  
ASSEMBLYMAN LAWRENCE KAPLOFF  
ASSEMBLYMAN JOSEPH B. MONTOYA

The State Social Welfare Board wishes to express special thanks to Mr. Jack W. Thompson, former Executive Secretary, whose research and many contributions formed the core of much of this report. The Board also wishes to acknowledge the many people who testified, submitted reports or otherwise presented information from which the Board gained perspective and insight into the problems surrounding illegitimacy. The Board wishes to give recognition to the following experts for their outstanding work in the many fields dealt with in this report:

1. Beth Berkov, MA, Public Health Statistician, Family Health Services Section, Department of Health
2. Professor Kingsley Davis, Ford Professor of Sociology and Comparative Studies, University of California
3. Donald Galloway, Chief, Special Children's Service, Los Angeles County Department of Social Services
4. Shirley Hartley, Ph.D., Department of Sociology, California State University at Hayward
5. Mrs. Donald A. Nielsen, Executive Director, Florence Crittendon Services
6. Mary Nolan, Coordinator of Teen Mother Program, Santa Ana Unified School District
7. Reuben Pannor, ACSW, Director of Casework and Research, Vista Del Mar Child-Care Center
8. Susan Varner, Public Health Social Work Consultant, Department of Health

## TABLE OF CONTENTS

	<u>Page</u>
I. Introduction. . . . .	1
II. The Concept of the Potentially Endangered Child . . . . .	4
III. Dimensions of the Illegitimacy Problem. . . . .	14
A. Visibility of the Problem . . . . .	14
B. Illegitimacy in California. . . . .	15
C. Illegitimacy in the United States & Abroad. . . . .	19
D. The Cost of Illegitimacy in California. . . . .	24
IV. Manifestations of Family and Social Problems. . . . .	29
A. Preparation for Marriage. . . . .	32
B. Dissolution and Annulments. . . . .	32
C. Problems in Child Support . . . . .	33
D. Abdication of Responsibility for Birth Control. . . . .	34
E. Increased Illegitimacy. . . . .	35
F. Increases in Abortion . . . . .	36
G. Foster Care . . . . .	36
H. Shifting Responsibilities to Education. . . . .	37
I. Summary . . . . .	38
V. Role of the Male. . . . .	40
A. Introduction. . . . .	40
B. Sociological Father . . . . .	40
C. Social and Cultural Attitudes . . . . .	41
D. The Teen-Age Father . . . . .	42
E. The Welfare Alternative . . . . .	46
F. Male's Role in Conception . . . . .	46
G. Male's Role in Abortion . . . . .	47
H. Male's Role in Marriage . . . . .	48
I. Male's Role in Adoption . . . . .	49
J. Role in Foster Care & Guardianship. . . . .	50
K. The Birth Certificate . . . . .	51
L. Paternity and Legitimation. . . . .	51
M. Paternity . . . . .	55

# TABLE OF CONTENTS (continued)

	<u>Page</u>
VI. Remedies and Solutions . . . . .	61
A. Introduction . . . . .	61
B. Public Social Services . . . . .	61
C. Success in Goal-Oriented Programs. . . . .	62
D. Illegitimacy: A Social Problem. . . . .	63
E. Development of the Protective Services System. . . . .	63
F. Shortcomings of the Juvenile Courts System for the Dependent Neglected Child. . . . .	67
G. Creation of the Family Court . . . . .	67
H. Conclusion . . . . .	69
VII. Family Planning. . . . .	70
A. Definition of Family Planning. . . . .	70
B. The Case for Birth Control Information . . . . .	71
C. The Providers of Birth Control Information . . . . .	74
D. Psychological Vulnerability in Birth Control . . . . .	78
E. The Moral Issue in Family Planning . . . . .	79
F. Other Considerations in the Delivery of Birth Control Services . . . . .	80
VIII. Abortion . . . . .	83
A. Philosophical and Historical Perspective . . . . .	83
B. Statistical Perspective. . . . .	85
C. Relationship of Therapeutic Abortions to Illegal Abortions. . . . .	86
D. The Therapeutic Abortion Act in Practice . . . . .	87
E. The Process and Procedures . . . . .	90
F. The Consequences . . . . .	92
IX. Appendices . . . . .	95
X. References . . . . .	147

## I. INTRODUCTION

The State Social Welfare Board has had the opportunity to study and observe welfare problems and conditions for the last six years, while continuing to retain its daily contacts with society. The Board entered the field without any preconceived concepts, bureaucratic doctrines, or particular theory or philosophy, thus it has been influenced primarily by the flow of events in the welfare area and personalities who have been involved in the welfare dialogue.

The activities of the Board have provided an opportunity to review the emotional, social and legal disabilities of welfare and nonwelfare children from several perspectives. Out of these experiences grew a concern (on the part of the Board) about the emotional growth, development, and physical well-being of all children.

The first impression was dominated by the fact that more than 1,000,000 children in California received their primary source of support from the welfare system. The Board doubted that such a system could adequately provide for the full needs of the child and further questioned whether society would continue to support ever-increasing costs which appeared to show only minimal benefits.

The initial concern was with the absent father and with his lack of responsibility in the financial support of his children. The Board felt strongly that such responsibility should be placed where it belonged squarely on the fathers of both welfare and nonwelfare children. The Board's report on the absent parent problem issued in January 1971, set forth a number of suggestions and recommendations to increase child support collections. Many of the recommendations have been adopted and implemented with the result that child support contributions have nearly doubled. Our report left two principal questions unanswered. We did not discuss why nearly 85% of the AFDC welfare cases involve absent parents and the phenomenon that approximately 25% of the children of these absent parents were conceived out of wedlock.

In the 1972 study of foster care the Board developed an acute awareness and an in-depth knowledge of the nonfinancial needs of the child. Dramatic evidence of the consequences in a society in which both parents were unable or refused to perform their usual functions was seen. It became obvious that a society in which there was substantial fractionalization of the family unit would produce many children who would be unable to function adequately as adults. The dramatic increase in the foster care caseload over the last ten years is strong evidence of social and family fractionalization. Although there was a minimum of statistical evidence, it was the Board's observation that a substantial number of children in foster care were born out of wedlock, and were in many cases, second generation births out of wedlock.

Integrating the concepts and conclusions we had gained from the study of the absent father and the study of the foster child led to the recognition of the phenomenon of illegitimacy. The Board fully appreciated that the study of such a subject was highly controversial and explosive. However, it was the Board's

search for the causes of these social problems which had brought it to this point. As citizens serving on a public board, we believed it to be our responsibility to raise this issue for public discussion and so the Board issued its first report on illegitimacy in March 1972. It was the purpose of that report to alert the public to the dimensions of a problem which affects one of the most fundamental institutions of our society - the family. The public response confirmed that illegitimacy was indeed a social problem upon which there was a diversity of opinion but a unity of interest.

As a result of the interest shown, the Board decided to undertake as thorough a study of this subject as time, abilities, and the talents of its members permitted. This report was researched, conceived and written by the Board, and although we accept full responsibility for its contents, the report was not conceived or written in a vacuum. In the last two years the Board has made an exhaustive study of materials written concerning illegitimacy and in addition, has searched out and used materials from the related areas of anthropology, sociology, psychology, biology and the law to broaden its views and concepts. In addition two public hearings were held and the Board has taken an opportunity to engage in discussions with many informed experts in these related areas. We did not always agree, but the input of these experts allowed the Board to obtain added insight and perspective on illegitimacy and its related problems.

The Board dislikes the term "illegitimate" as it is a term steeped in emotion and serves to conjure up unconscious reactions which only cloud attempts at problem definition and solution. "Illegitimate" purports to describe a legal condition of birth. Instead, it is a millstone borne by hundreds of thousands of children in California who must suffer a lifelong stigma because of factual circumstances over which they had no control. There is nothing intrinsically "different" about children born out of wedlock. Someone has said there is no such thing as an illegitimate child - only illegitimate parents. Unfortunately, illegitimate is a word which society will not soon relinquish in its attempts to categorize human events and conditions. At this point in time, the introduction of another word or phrase to describe a legal condition of births out of wedlock would only confuse the issue and delay the day when such distinctions may no longer be necessary. Therefore, for the purposes of this statement, the Board has reluctantly chosen to continue using the label of "illegitimate" for those children born to parents who are not married.

The Board believes that the present dimensions of illegitimacy are dangerous to our society as we know it. The continuity of society depends upon the child learning in the family and in the community those things necessary to perpetuate his being and his society. The Board's concern is that the family must perform successfully in the majority of cases, or the result will be a great number of people drifting, rootless and unanchored. These people will be unable to understand society's demands, much less meet them, and will be unable to provide for themselves, not only economically, but of more importance, sociologically. Most will never have the opportunity of becoming healthy, stable persons who are able to relate with reality and feel at home in the world. These persons will be precluded from ever obtaining peace of mind because fundamentally they will never understand their function or role in society.



The Board is aware that, impliedly if not expressly, moral judgments are made in this report. We have made recommendations notwithstanding the current vogue not to pass moral judgments. The exercise of moral tolerance on fundamental issues is, in essence, a decision to let nature take its course until overwhelming events or circumstances force a purely pragmatic decision. We believe that a failure to make moral judgments would be to abdicate our responsibility on an issue so fundamental to our society.

Birth is fundamental to man. The conditions and environmental factors of man's birth effect and influence his well-being and attitude throughout his life. Anthropologists and psychologists all appear to agree that the family unit is the basic structure which is best able to fulfill the needs of the child. The world is changing at an increasingly rapid rate. These changes have minimized the importance of most traditional institutions, placing greater need upon the basic family unit. Therefore, the Board believes the greater the rate of the change, the stronger the family must be. For modern man, the family unit may well provide the only home base which he may ever possess.

The Board discusses illegitimacy in the context of the failing family unit and ill-defined parental roles. Therefore, rather than to discard the family, we believe it should be strengthened and made more viable to contend with the ever-increasing demands of society. The Board reviews and discusses the expected roles of the parents, but because it appears that the male's role has been greatly diminished by other social institutions, a great deal of attention has been given to his role in the family and in society.

The Board also discusses society's attempts to provide emergency and temporary solutions to the social ill of illegitimacy. The Board is convinced abortion is only a temporary and inadequate remedy which, by its nature, creates social problems about which we may not as yet be fully aware. Family planning concepts may assist our society to reduce illegitimacy, but such methods, medications, and devices alone will not solve the problem unless accompanied by proper motivation for their usage.

Society must devote more time and effort to the development of systems and remedies to solve social problems. In particular, the family unit has been too long taken for granted. The courts, social agencies, medical institutions, and educational systems must make themselves available so that the basic family unit will be defined and understood by all members of society.



## II. THE CONCEPT OF THE POTENTIALLY ENDANGERED CHILD

There is concern at all levels of society about the increasing incidence of abandonment, neglect and abuse of children. A growing list of research projects seeks to identify and understand further the characteristics of the "battered child" and other factors related to the children, as well as the adults who perpetrate these crimes. Legislation has been enacted in this state and elsewhere to deal with the problem of endangered children - after the fact. In recent years, this solicitude has resulted in the launching of a number of social programs designed to provide protection to children who have been abandoned, neglected, or mistreated. A number of deficiencies have become clearly identified by the Board in connection with its work on this and related subjects:

- The current protective service approach falls short of the mark in that it essentially treats the results.
- There has been a general lack of appreciation that these phenomena may occur in all socio-economic groups, coupled with a reluctance to make difficult decisions necessary for the protection of such children.
- Among those charged with responsibility, there has been a tendency to overlook concomitant factors which place children at risk and, consequently, a significant number of potentially endangered children are overlooked - these are the children born out of wedlock.

The Board has observed over the years, in both its formal studies and its informal work, a distinct correlation between illegitimacy and the problems of abuse, abandonment, and neglect of children. The inability to parent, or perhaps better said, the inability to function well in most relationships and endeavors, also shows a high degree of correlation to these problems. It appears that in situations of multiple illegitimacy these factors increase with each successive illegitimate child born to a particular parent.

Educators, by and large, deal with the problems of children after the age of three. There is a singular lack of concern over the mind of a child under that age. Experience has shown that the problems of the potentially endangered child begin with the parents before his birth, not at the time his formal education begins. By age three, the die has often been cast, the problems are well on their way so that educational programs are attempts at after-the-fact cures which do not get to the cause. The Board feels that the responsibility of bringing children into the world, with emphasis on raising them, should be a major concern in the education of all children. Each child is a potential parent and surely his role as a future responsible parent needs the attention of educators as much, if not more, than anything else. This is looking a long way ahead but there must be a beginning. It is often too late to deal with the problem by the time the potentially endangered child is conceived.

Illegitimate births are not isolated events; rather, they result from a whole series of circumstances and decisions made or not made by the persons involved.

To paraphrase Dr. Hartley of California State University at Hayward, the extent of illegitimate births is related to the number of unmarried women of child-bearing age; reduced by the number who are not sexually active; reduced by the number who use contraceptives consistently and do not conceive; reduced by the number who choose abortion; and, further reduced by the number of pregnant unmarried women who choose marriage. The net result is a birth out of wedlock. In spite of increased contraceptive technology and use and in spite of increased use of legal abortions, there were still 40,171 illegitimate births in California in 1972. The Board suggests that the birth of 110 illegitimate children each day represents a problem of the most serious magnitude.

The illegitimate birth is not the end of the problem. It is a beginning of a whole series of personal and material problems for the unwed mother, the unwed father, for society and, most important, for the child. The birth of a child should be and usually is celebrated as a joyous event, not only by the parents, but by family members and friends as well. The birth of a child out of wedlock is accompanied by social difficulties which often cause it to be shrouded in secrecy. The stigma which clouds such an event is almost an ominous indication of the problems to follow.

The problems faced by the baby conceived out of wedlock begin early without even waiting for the full nine-month gestation period. Studies have shown a higher incidence of premature births in out-of-wedlock pregnancies. For example, the British Perinatal Mortality Survey indicates that "...women with no husbands have a prematurity rate of 10.8 percent which was 30 percent higher than that of the lowest social class."

There is also a higher incidence of infant mortality among illegitimate births. Data from Scotland is consistent with that of other European countries. In spite of ample provision for unmarried women in maternity hospitals and homes, the death rate in the neonatal period for illegitimate infants is 31.9 against 17.2 for legitimates. For deaths between 28 days and one year, the infant mortality rate of legitimate children is 8.5 per 1,000 and of illegitimate children 11.2 per 1,000. Data collected in the United States in the 1964-66 National Natality Survey and the National Infant Mortality Survey show similar distinctions. In 1968, the infant mortality rate in the United States was as follows:

<u>Age of Mother</u>	<u>Deaths per 1000 Live Legitimate Births</u>	<u>Deaths per 1000 Live Illegitimate Births</u>
Under 15 years	20.6	26.5
15 - 19 Years	12.3	19.4
20 - 24 years	10.8	20.8
25 - 29 years	12.0	25.7
30 - 34 years	17.6	41.0
35 - 39 years	26.3	51.5
40 years and over	39.5	57.8

From the outset, therefore, the child conceived out of wedlock begins his existence under more hazardous conditions than those of the legitimate child. He has increased exposure to premature birth and is more likely than his legitimate counterpart to die in infancy.

Economic deprivation is another factor closely related to illegitimacy and represents an additional obstacle which must be faced directly or indirectly by the potentially endangered child. In this context, however, the Board reemphasizes the fact that the phenomenon of illegitimacy is not restricted to welfare families. Out-of-wedlock births occur to some extent in all socio-economic groups. The Board is concerned about the well-being of all potentially endangered children, not just those receiving public assistance, and the positions expressed apply to all children born out of wedlock.

The illegitimate child shows a greater potential for requiring public assistance than does his legitimate counterpart. While only 13% of total births in 1972 were illegitimate, the illegitimate child made up approximately 25% of the welfare caseload that year. Further, the National Council on Illegitimacy has pointed out that "...approximately one-half of the women who receive AFDC for one out-of-wedlock child continue to bear children without benefit of marriage." The specific impact of this problem on tax-supported programs is discussed fully in the section on Dimensions of the Illegitimacy Problem. It can be said that all children, for whom welfare assistance is sought, are economically endangered.

Most out-of-wedlock births occur to women in the younger age groups who have limited vocational skills and economic resources (43% age 19 and under, or 75% age 24 and under in 1972 - Appendix 4). Under these circumstances, there is a strong likelihood that the unwed pregnant girl will qualify for public assistance and related benefits for herself and unborn child as soon as the pregnancy is sufficiently advanced to be verifiable. These circumstances are significant in the life of the potentially endangered child. In addition to the social distinction made by the legal condition of birth, the illegitimate child is further stigmatized as a "welfare child".

A mother and her child become eligible for public assistance where there is financial need and the child has "been deprived of parental support and care ... due to the continued absence of a parent", Welfare and Institutions Code Section 11250. A key element in determining eligibility is the deprivation due to the absence from the home of an identified parent. This deprivation is not only financial, it is sociological. Eligibility for assistance brings with it both monetary support in the form of a grant and parental-substitute support in the form of social services. Although the word "deprivation" is not synonymous with "endangerment", there is a clear recognition by Congress and the California Legislature that the absence of a parent is a departure from normalcy requiring special attention. Not only must the child be given financial assistance, he is given medical care and remedial social service to help compensate for the lack of parental support and care. Further, it is a recognition that the single-parent family may not be capable of meeting the needs of the growing child. It follows, therefore, that such children are recognized as potentially endangered in a nonspecific sense. The combination of factors which have created an illegitimate child and failed to provide adequate social and economic support for him have motivated both federal and state governments to take an active interest in his welfare.

Having considered the alternative of abortion and electing to carry the child to term, the unwed mother is faced with another difficult decision - whether she should keep the baby or relinquish it for adoption. Contrary to the popular viewpoint, the father is not unknown to the unmarried mother involved and should have the right, if desired, to participate in planning for the child. In the Board's study of 259 paternity cases (Appendix 6j), the putative father had admitted paternity to the mother or some other person in 83% of the cases. Further, in studying 1,062 unmarried mothers, Vincent, in Unwed Mothers, found that in at least 80% of the cases, the unmarried mother had a love relationship of some duration (32%); a close friendship relationship (23%); or, a casual relationship (25%) with the father of the baby.

Adoption, particularly in infancy, may represent for the child born out of wedlock his best chance for a stable and loving family life experience in his developing years and beyond. However, over the past few years, there has been an increasing trend of young unwed mothers keeping their children as opposed to relinquishing them for adoption. Appendix 12 reveals that the number of public and private relinquishment adoptions in fiscal 1970-71 (5,559) was about equal to the 1963-64 level, and independent adoptions in 1970-71 (2,603) were less than at any time since 1955 - this in spite of the fact that illegitimacy in California reached its peak in 1970. Although there is some early indication that more unwed mothers are considering adoption in recent months, it seems clear that the number of mothers who elect to keep their babies is part of the problem of the potentially endangered child.

Joseph Reid, Director of the Child Welfare League, has observed, "No other form of substitute care offers children - or adults seeking children - the quality of legal, psychological, and familial belonging that adoption creates." Other authorities have made similar expressions; nevertheless, there is no regular procedure established by which the mother is made aware of this alternative. The young, immature, unwed mother is unable to ensure to the greatest extent possible, the future health and welfare of her child. Concern about this particular problem has led at least two of California's major facilities formerly furnishing maternity home care to design programs with this specific problem in mind. What is planned is a structured living arrangement for the young mother who has elected to keep her child so that the mother can have full responsibility under supervised conditions. It is expected that in this type of setting, the staff can monitor potential neglect or abuse and help the girl take a realistic view of her new responsibilities before the decision to keep the child is final.

One facility executive of Florence Crittenton Services noted that those mothers selected for the program will be the "most deprived, most immature, most vulnerable girls, many of whom have no family, or a caricature of a family, and who are woefully ill-equipped to parent a child." Programs such as this are intended not only to acquaint the mother with her responsibilities, but hopefully to minimize future problems for the child, reduce the possibility of eventual foster care placement, and to provide the mother with basic knowledge of child rearing and vocational training so that she will have a marketable skill, should she continue to keep the child. Responsible professional persons have observed these unfavorable conditions and have independently developed

programs to meet the needs of the illegitimate child. Unfortunately, only a small percentage of potentially endangered children are benefiting from these programs. The concern and actions of these professionals demonstrate their belief that these children are potentially endangered.

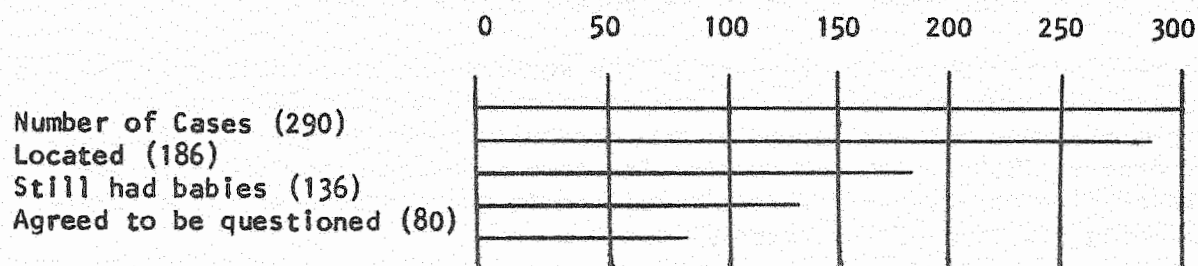
Interesting insights with respect to the mothers who keep their children and mothers who gave up their babies are contained in a study based on a sample of unwed mothers served at two maternity homes in the San Francisco Bay Area in 1954. Although recognizing some sampling bias, the data and interpretive material are directly related to the concerns expressed above. Following are some of the observations:

- (1) On a group basis, those who kept their children had a significantly less positive CPI (California Psychological Inventory) profile than those who released their children for adoption.
- (2) On a group basis, the unwed mothers who kept their children had significantly less positive intrafamily relationships and home situations than those who released their children for adoption.
- (3) There was an inference that the unwed mothers who kept their children came from unhappy and mother-dominated homes.
- (4) The unwed mothers who kept their children had less self-confidence and experience in heterosexual relations, and more negative attitudes concerning sex.
- (5) The unwed mothers who kept their children appeared to be either relatively isolated from, or in revolt against, the traditional sex mores and the stigma attached to deviant sexual behavior.
- (6) Unwed mothers who keep their children have minimal positive identification with the individuals and social groups who might communicate the traditional sex mores and the stigma concomitant with giving birth out of wedlock to them in a meaningful way.
- (7) Unwed mothers, in keeping their children, show their desperate need for at least one primary relationship in which they are needed and loved by someone whose dependence on them makes it safe for them to receive and return that love in their own ways.

There have been a number of similar studies which attempt to assess the adjustment of the unwed mother and her child. Although the results of group studies cannot be applied to individual cases, they do provide interesting perspectives as an aid to planning for the protection of the children.



A study of unwed mothers who kept their babies contained interesting data, but the information not explored was even more significant.



Almost 27% of those contacted no longer had their child, and of the 80 unwed mothers in this highly selective sample, over 40% were identified as maladjusted. These are the kinds of factors which have a direct bearing on the physical and emotional health and development of the children. They represent danger signals which point to a risk group of children whose protection must be assured.

There is a strong tendency to blame the shortcomings and maladjustments of the unwed mother on poverty. Although admitting that poverty does impact on the unwed mother's ability to cope, and recognizing that there is a higher incidence of illegitimacy and maladjustment in the lower economic groups, the Board believes that basic responsibility rests with the particular individual, rather than on some vaguely defined, unsolved social problem. In spite of the human effort expended over the centuries to eliminate poverty, such conditions still exist. This is not a valid excuse for society's continued failure to establish safeguards to protect the individuals who are subjected to possible conditions - in this context, the illegitimate, or potentially endangered child.

Many of the same kinds of emotional and adjustment problems and the level of maturity identified in studies of unwed mothers who keep their children are also found among parents who abuse their children. This is not to suggest a direct cause and effect relationship between illegitimacy and child abuse, or that instances of abuse and neglect are perpetrated by the mother only, unwed or not. It does, however, point up another possible hazardous condition which must be faced by the potentially endangered child.

Some correlating elements between the parents of illegitimate children and abusing parents have been cited by a number of professionals in child-related fields. Consider the following statement by Dr. Kingsley Davis:

"From the standpoint of child welfare, there is no inherent, or necessary, difference between a legitimate and illegitimate child. A child whose parents live together, take good care of him, and guide him on the road to a successful life--even though they are not legally married--is better off than one whose parents are legally married but are irresponsible and incapable of supporting him. If so, the essential problem is

that of irresponsible and incompetent parenthood rather than legitimacy or illegitimacy. Legitimacy comes into the welfare picture simply because the proportion of individuals unqualified to rear children is much higher among unmarried than among married parents. As a result, in every country the rate of stillbirths, deaths, adoption, dependency, abandonment, neglect, and cruelty is much higher for illegitimate children than for legitimate ones. The reason is that, if two people both have a responsible attitude toward children, they do not mind committing themselves publicly by getting married. On the other hand, if one or both have no responsibility toward children--in fact, did not intend to have any at all, but had offspring as a by-product of carelessness--they (especially the man) will likely have little interest in marriage." (Emphasis added.)

Mrs. Nielsen of Florence Crittenton Services stated:

"The most constant personality factor among the battering parents is marked emotional immaturity. Their acute immaturity and insecurity tends to make them look to their infants for reassurance, comfort, and love. When the baby does not fulfill this fantasy they become enraged, lose control, and neglect and abuse the child." (Emphasis added.)

Some, but not all, of the characteristics of abusing and neglecting parents have been identified as lack of responsibility toward recognizing and meeting the child's needs; emotional immaturity; social isolation; and personal decomposition sufficient to result in incompetency in fulfilling the parental role. Studies of young unwed mothers describe many of these same characteristics as being found among those who unrealistically elect to keep their children as a means of fulfilling their own needs. Role reversal, mentioned by Nielsen (above) is a common phenomenon in cases of abuse and neglect. Here the insecure and immature mother becomes dependent on the child for love, security and affection. When the child does not act properly, the mother treats this as a rejection, often becoming enraged and turning to physical abuse. Further, there is mounting evidence that among parents who abuse their child, the greatest percentage were themselves abused as children. The marked similarities in the characteristics discussed in relation to young unwed mothers, as a group, as compared to those attributed to child abusers is a matter which must be given consideration in efforts to protect the potentially endangered child.

The decision of the unwed mother to keep her child, as opposed to relinquishing it for adoption, is crucial for the child in terms of both its short and long-term ramifications. Elsewhere in this report, the Board discussed the problems created for the child growing up in a single-parent family group. The other side of the problem relates to the unwed mother who reverses her decision to keep the child, often coming to the realization that she cannot cope with the child's material and emotional needs, or realizing that her social and academic life-style suffers by comparison with her peers who do not have babies. In such

instances, the child is frequently placed in foster care. By this time, emotional damage, sometimes severe, has been done to the child and the separation often adds to his problem. Although foster care is intended to be a short-term form of temporary placement, studies conducted by the Board and others reveal that nearly 39% of the children have been in foster care for five or more years, that 64% are known to have been placed two or more times, and that the most frequent disability found among foster care children is severe emotional distress. Often, the mother remains in the periphery of the child's life out of her own needs, rather than for any positive influence on the child, effectively preventing his adoption. The possibility that the unwed mother may reverse her decision to keep the child, and the impact of this action on the child, represents just one more factor which places the potentially endangered child at risk.

Child support is probably the area in which the deprivation suffered by the illegitimate child can be most clearly demonstrated. Once again, however, statistical data must be gleaned from welfare caseloads since detailed information on nonwelfare families is not available. The Board has done extensive work on the subject of child support enforcement and on the basis of its contacts with law enforcement professionals, as well as with organized groups of mothers seeking a higher level of enforcement activity, it has found the problems of welfare and nonwelfare child support are quite similar. The child born out of wedlock is missing one-half of his legal support base (the father) and, consequently, the full load is placed on the mother - or, as is often the case, assumed by the taxpayer.

The child is entitled to the support of both parents. This right should not and cannot be compromised by either the unwillingness of the mother to identify the father, or an unwillingness on the part of the father to assume his full share of responsibility. There is long-standing legal and moral precedence to sustain the support right regardless of whether the child is aided by public assistance or not. Herein lies a basic conflict between the child's right and the claimed rights of the natural mother who pursues the "new life-style" to have and raise children without benefit of marriage. This conflict has nothing to do with the status of women or their respective rights. Whether the mother herself may be able to support the child now or in the future is not at issue. The plain fact is that a mother who, having given birth to a child out of wedlock, refuses to identify the father and to assist in efforts to enforce his responsibility to the child is, in fact, failing to meet her responsibilities to the child.

The lack of responsibility demonstrated by absent fathers in the State of California represents a major social and fiscal problem. Although there has been marked improvement, the Board reported in 1971 that only 14.7% of the fathers of California's welfare children were contributing anything to the support of these children. The report further disclosed that the nonwelfare problem was equally as serious. The mounting of a major statewide effort by agencies of state and local government has proven that a coordinated child support enforcement program can produce positive results for the benefit of affected children. The problem of the collection of child support is compounded with respect to those children who are born out of wedlock. Paternity must be established as a prelude to enforcing the support obligation.



The Board's study of 259 welfare paternity cases in August 1972 (Appendix 6, a through l) indicates clearly just how seriously the rights of the children involved have been ignored and how this irresponsibility on the part of the father affects the mother and the taxpayer. The study shows that 83% of the unwed expectant mothers told the putative father of the pregnancy and, interestingly, 83% of the fathers admitted paternity to the mother or another person. However, there was a substantial difference between the 'word and the deed'. The fact is that 82% of the births were paid for at taxpayer expense through the Medi-Cal program, and 75% of the biological fathers failed to assist the mother before delivery, or the mother and child after delivery.

Considering the fact that there were 40,171 illegitimate births in 1972 and that 245,000 illegitimate children were on welfare in California in 1973, as well as the relevancy of this issue to the lives of the children affected, society must take prompt and effective action to assure the rights of these potentially endangered children. The support responsibility should be placed squarely where it belongs - on the shoulders of both parents.

The problem of illegitimacy in California is further complicated by statutes which amended birth certificates to protect the identity of those persons involved in births out of wedlock. This is in sharp contrast to Department of Health regulations in the State of Minnesota, for example, which require hospitals to report out-of-wedlock births to the Commissioner of Public Health within 24 hours. He has statutory responsibility to protect the interests of illegitimate children to make sure there is secured for them the nearest possible approximation to the care, support and education to which he would be entitled if born of lawful marriage.

Society's efforts to meet the problem of endangered children are reflected in protective services programs and certain statutes which impose a responsibility to report cases of abuse and neglect. Essentially, these activities come into play after the fact - after a child has obviously been neglected or obviously been mistreated. These children do need society's protection. However, it should be clear that the factors described above can and do result in emotional damage which is more subtle, but fully as serious as physical damage.

In a legal context, the United States Supreme Court has issued a number of recent landmark decisions which affirm rights of children born out of wedlock and strike down states' statutes which discriminate against these children. There is evidence that other states are advancing to establish safeguards for the protection of these children and their rights. In California, the situation continues to be relatively static. Civil Code Section 232 provides a mechanism for terminating the legal parent/child relationship under a variety of circumstances. As with protective services programs and statutes requiring reports, Section 232 is used mainly in connection with abandonment, obvious neglect or physical abuse - seldom in response to emotional abuse or deprivation. The public's preoccupation with the obvious and failure to adequately monitor the more subtle problem can be illustrated by the involvement of the Superior Court in dissolution proceedings involving children. The court maintains a continuing jurisdiction as an intermediary between the parties with respect to custody, support, visitation and the welfare of the children of divorcing parents - no such protection is afforded to the child born out of wedlock.

The cloud which surrounds the birth of a child out of wedlock, along with the higher incidence of stillbirth and infant mortality, are but forerunners of the physical and emotional risk and the risk of material deprivation which follows the child throughout his life regardless of socio-economic class. The child is potentially endangered by irrational decisions of the unwed mother who is often young, immature and ill-prepared to care for herself, let alone an infant. The child is faced with the high potential of economic deprivation and the twofold risk of growing up in an "incomplete" family and bearing an added stigma as a "welfare child". There is the increased risk that the child will require foster care when his mother is unable or unwilling to care for him. The child's deprivation is increased by the fact that he has half the legal rights to support and inheritance as does his legitimate counterpart. Then there is the ominous correlation between the personality factors of some young unwed mothers and parents who have abused or neglected their children. It is time for society to look at these many factors which place the illegitimate child at risk.

### III. DIMENSIONS OF THE ILLEGITIMACY PROBLEM

In 1972 there were 40,171 potentially endangered children born in California. These are our youngsters born out of wedlock. Assuming this level remains constant, by the time these children reach their 18th birthday, they will have been joined by an additional 720,000 children born out of wedlock. From birth, these children are in jeopardy facing the social stigma associated with illegitimacy; the emotional trauma; the legal disabilities; and, the diminished rights and entitlements to support from both their parents during their childhood years.

How many of these children will join the more than 245,000 illegitimate children now receiving Aid to Families with Dependent Children (AFDC) in California cannot be accurately predicted. However, it is clear that the very nature of their birth meets one of the basic eligibility requirements for AFDC-FG (Family Group) - absence of at least one parent, in this case, the father. All that remains is a determination of financial need and the Board suggests that in too many cases, this need is present.

#### A. Visibility of the Problem

Out-of-wedlock births are not a new phenomenon in human history, nor are the problems encountered by these youngsters unique. However, the growth of this social problem and its costs, in terms of human suffering and public resources, has not been effectively communicated in recent years. For each of the few social scientists who have sought to inform or warn our social planners and programmers, there have been scores who literally turned their back on the problem. Generally, those who would overlook the problem have tended to be guided by an overly-protective attitude toward the unwed parents or have been motivated by a desire to safeguard or rebuild public confidence in a particular program. The Board suggests that such a misguided approach in fact, works to the detriment of the innocent party - the child. These actions obscure the magnitude of the problem, represent a barrier to understanding the phenomenon, and, make corrective action much more difficult. Two examples of this kind of obscuration are cited below.

California has recently enacted statutes to protect the identity of parents of children born out of wedlock. The intent of the statute is to protect the rights of the parent. While this intent is commendable, the effect is to secrete or disguise a birth out of wedlock. Society is thus prevented from dealing with the problem or helping the child who is a victim of these circumstances.

A second result is that efforts to define, understand and cope with the problem of illegitimacy are further frustrated. The State Department of Health has had to develop an inferential method for the statistical classification of live births in this state by their apparent legitimacy status. This statute is in sharp contrast with other states, such as Minnesota, which requires the reporting of births out of wedlock so that efforts can be made to protect the illegitimate child, as well as his rights and interests.

The second example illustrates an official defensiveness on the subject of illegitimacy in the face of waning public confidence in tax-supported welfare programs. Following is a quotation from the U. S. Department of Health, Education and Welfare pamphlet titled "Welfare Myths vs Facts":

"Myth: Most welfare children are illegitimate."

"Fact: A sizable majority - approximately 68% - of the more than seven million children in welfare families were born in wedlock according to data compiled by Social and Rehabilitation Services."

The information contained in the HEW pamphlet on illegitimacy is doubtless true. However, it begs the question - what about the 32% of the seven million welfare children who were not born in wedlock? In raw numbers this is 2,240,000 children! The subtle intent of the statement is to protect and support the welfare program, rather than shed light on the true nature of the problem. This type of rhetorical gamemanship illustrates one of the reasons why it is so difficult to resolve social problems and it should only serve to further infuriate the thinking person.

The fact is that by any standard of measurement, births out of wedlock do represent a significant problem. Government leaders and social planners have a responsibility to the public to ensure that accurate and objective data is available and is not manipulated to further obscure the problem. In virtually all cultures, a birth out of wedlock is not a socially acceptable occurrence. In recognition of this fact, government, in the broadest context, needs to work toward four general goals:

- a. Develop better reporting systems to assist in understanding and coping with the problem;
- b. Provide for the responsible and effective dissemination of birth control information;
- c. Establish safeguards for the physical and emotional needs of children born out of wedlock, as well as their rights and interests; and
- d. Place primary responsibility where it belongs, squarely on both natural parents.

## B. Illegitimacy in California

The State of California did not begin to keep records of illegitimate births until 1966, therefore, there is no accurate means for determining the actual number of illegitimate births prior to that year short of a survey of old birth certificates. Further, the method currently used to determine birth status is an inferential one. That is, the Vital Statistics Section of the State Department of Health infers that in all probability an illegitimate birth has occurred where certain data is present or absent from the birth certificate. This, of course, means that some births out of wedlock may escape unnoticed thus making the resultant statistics minimum figures. It is relatively easy for a birth certificate to be filled out in such a way that the occurrence of an illegitimate birth may be disguised.

Probably the most recent and authoritative sources of information on illegitimacy in California are the works of Berkov and Sklar entitled "The Impact of Legalized Abortion on Fertility in California" and "The Effects of Legal Abortion on Legitimate and Illegitimate Birth Rates: The California Experience". Both documents were prepared under the direction of Kingsley Davis, Ford Professor of Sociology and Comparative Studies and Chairman of International Population and Urban Research. They rely heavily on the data compiled by the Vital Statistics Section of the State Department of Health.

Reference is made to Appendices 3 and 4 for detailed analysis of births in California from 1966-1972. The following information has been extracted from the charts:

#### LEGITIMATE AND ILLEGITIMATE BIRTHS

<u>Year</u>	<u>Legitimate</u>	<u>illegitimate</u>	<u>Live Births</u>	<u>% Illegitimate</u>
1966	305,819	31,804	337,623	9.4
1967	301,369	35,215	336,584	10.6
1968	301,168	38,053	339,221	11.2
1969	210,822	42,058	352,907	11.9
1970	317,059	45,593	362,652	12.5
1971	289,914	39,912	329,826	12.1
1972	266,204	40,171	306,375	13.1

#### ILLEGITIMATE BIRTHS BY MOTHER'S AGE

<u>Year</u>	<u>15 - 19</u>	<u>20 - 24</u>	<u>25 - 34</u>	<u>35 +</u>
1966	12,819	10,303	6,582	1,627
1967	14,440	11,658	6,841	1,740
1968	15,587	13,110	7,177	1,614
1969	17,348	14,557	8,009	1,600
1970	18,888	15,615	8,793	1,676
1971	16,726	13,222	7,887	1,419
1972	17,499	12,056	7,917	1,277

The information reveals some very startling characteristics with respect to the number of illegitimate births compared to the total number of live births. In 1966 approximately 9.4% of all children born in California were illegitimate. Just six years later this figure increased to 13.1% of all births. While such an increase may not appear too alarming on its face, the fact is that in numbers there were 39,615 fewer live births in 1972 than in 1966, but there were 8,367 more illegitimate births in 1972 than in 1966.

The same chart reveals that the number of illegitimate births has declined from the 1970 peak of 45,593. There seems little doubt that this decline is due to the increased use of abortions under the California Therapeutic Abortion Act passed in 1967. Berkov and Sklar stated:

"The increased availability and use of legal abortions in California appears to have been a major influence in both the illegitimate and



legitimate birth rate, although examination of the data shows that the legal abortion seems to have had a relatively greater impact on illegitimate fertility."

Of the 113,034 abortions performed between July 1, 1971 and June 30, 1972, 82,573 or 73% were performed for unmarried (single, widowed, divorced or separated) women.

The increasing percentage of births involving illegitimate children can be understood more fully by reference to the age groups where illegitimate births occur.

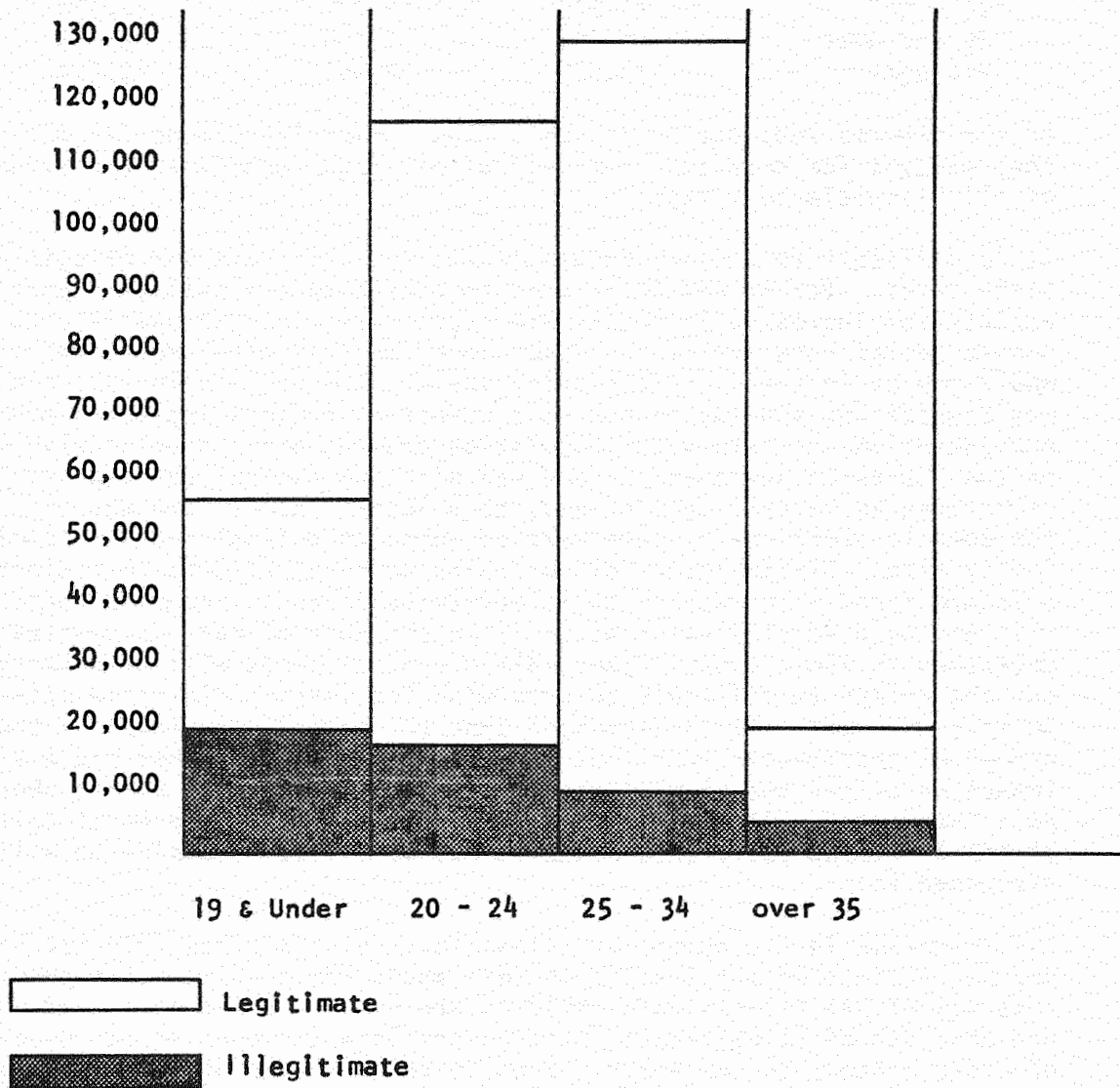
#### ILLEGITIMATE BIRTHS COMPARED TO LEGITIMATE 1972

	<u>Total Number of Births</u>	<u>Number Illegitimate Births</u>	<u>% of All Children Born to Group Who Are Illegitimate</u>	<u>% of All Illegitimate Children Born to Group</u>
19 and under	52,329	17,499	33.4%	43.5%
20-24	110,639	12,806	11.5%	31.9%
25-34	126,279	7,917	6.3%	19.7%
35 and over	16,268	1,277	7.8%	3.2%
all ages	306,375	40,171	13.0%	100.0%

What is clear is that the group "19 and under" is responsible for 43% of all illegitimate children born and one out of every three children born to this group is illegitimate. The Board submits that the group least prepared for and able to cope with a child is the very group where the problem of illegitimacy is most serious.

A simple graph of legitimate versus illegitimate births by age group further illustrates the magnitude of the phenomenon of children having children.

**ILLEGITIMATE AND LEGITIMATE BIRTHS  
IN CALIFORNIA  
IN 1972 BY MOTHER'S AGE**



As the graph illustrates the problem of illegitimacy is nearly unique to the youngest age groups. When the data on the age of women who have abortions is compared to the age group most involved in the illegitimacy problem, similar patterns appear.

LEGAL ABORTIONS BY MARITAL STATUS AND AGE  
FISCAL 1971/72

	<u>Total</u>	<u>Married</u>	<u>Unmarried</u>
19 and under	37,006	2,550	34,456
20 - 24	35,786	8,386	27,400
25 - 34	31,619	14,235	17,384
35 and over	8,623	5,290	3,333
all ages	113,034	30,461	82,573

As the figures indicate it is the younger unmarried groups (24 and under) that account for more than one-half of all legal abortions and three-fourths of all illegitimate births!

It is difficult to project future trends in legitimate and illegitimate birth rates. Berkov and Sklar tend to attribute a significant part of the anticipated increases in legitimate birth rates in 1969 and 1970 to the female babies born during the "baby boom" shortly after World War II who would now be in their child-bearing years. The decline in 1971 and 1972 was significant and may be due to a number of factors including economic consideration, concern about population growth, etc. Coupled with these is the increased awareness of and use of birth control devices and techniques by married couples and, to a lesser extent, the use of therapeutic abortions by some married women as a final means of limiting family size. Similar kinds of variables confound efforts to project a future trend with respect to illegitimate births. Economic factors will not be a consideration as it is in the case of married couples' decisions to limit family size. Birth control usage will be a factor, but the extent is difficult to determine for reasons discussed elsewhere in this document. It is suggested that the meteoric increase in the number of therapeutic abortions performed in this state has had a significant impact on births out of wedlock. Although the continued use of abortion as a "backstop" will likely have an appreciable influence on illegitimate births in coming years this practice may be a mixed blessing as will be discussed later.

The reduction in the number of illegitimate births since 1970 has not in any way diminished the Board's concern about the problem. The phenomenon that 43% of all illegitimate children are born to children 19 and under and that 75% of illegitimate children are born to women 24 and under is of grave concern to the Board. Even at today's rate of illegitimate births nearly 110 babies are brought into the world each day with legal and social disabilities which all too often include a young immature girl as a parent.

C. Illegitimacy in the United States and Abroad

Concern about the problem of illegitimacy should not be confined to California. The startling fact is that illegitimate births in the United States more than doubled between 1950 and 1967 and more than tripled since 1940 according to the United States Public Health Service.



### Illegitimate Births in the United States

<u>1940</u>	<u>1950</u>	<u>1967</u>	<u>1968</u>
89,500	141,600	318,100	339,200

For the sake of comparison, it is interesting to note that the total illegitimate births in the United States in 1968 (339,200) equalled the total number of all live births in California in the same year (339,221). Another troublesome comparison reveals that California's illegitimate births in 1968 (38,053) represented more than 10% of the national total. Further, the rate (measure of illegitimate births per 1,000 unmarried females of child bearing age) of illegitimate births in California exceeded the national rate and between 1966 and 1967, it increased to a greater extent.

### Illegitimate Birth Rate

	<u>1966</u>	<u>1967</u>	<u>Change</u>
California	25.6	27.2	+1.6
U. S. (National Average)	23.4	23.9	+ .5

Gathering timely and accurate data on illegitimate birth rates from countries throughout the world presents some difficult problems. Appendix 5 represents one attempt at ranking forty-six countries by their illegitimacy rate. It should be noted that the latest year for which information was available for use in this chart varied from 1947 to 1965. The Board also expresses a note of caution against making judgments based solely on the data contained in Appendix 5. There is only limited comparability between the illegitimacy rate of the various countries. The data contained in this chart, even if timely, would have to be weighed to take into consideration cultural, social, economic and statutory differences in the countries listed. The information, in its present form, is suitable only for very broad generalizations.

Even with the deficiencies noted above, Appendix 5 offers some interesting broad insights. In spite of increased awareness and use of birth control devices and techniques in the United States over the past several years, this country occupies only a mid-point position with respect to the illegitimate birth rates of the forty-five other countries. This chart also shows a heavy representation of Central and South American countries with illegitimate birth rates greater than the United States and a consequent clustering of European countries with rates lower than the United States. It should be noted that almost without exception, those countries immediately above the United States on the chart - with higher illegitimate birth rates - are undeveloped countries with nonindustrialized societies.

Hartley has stated in testimony before the Board:

"All societies have what we think of as the principle of legitimacy. That is, all societies prefer to have children born in wedlock with parents responsible for their upbringing."

In the face of this, however, there is a considerable variance in the illegitimate birth rates of the various countries - based on the data in Appendix 5, from a low of 1.3 to a high of 209.9 (per 1,000 unmarried women ages 15-44). Attaining a zero illegitimacy rate is an ideal that most societies are far from achieving. The social practices which affect the illegitimacy rate in foreign countries are not necessarily those which could or should be adopted in the United States.

At the outset, it should be understood that an illegitimate birth is not a point-in-time phenomenon, but rather the result of a process which takes place over a period of time. In the beginning, cultural practices play an important part. Later, whether or not an illegitimate birth will occur will depend on the individuals exercising certain options prior to and following conception. The availability of these options, however, again depends on social attitudes as reflected by statutes and programs offering alternatives to the members of the society. These factors can be more clearly illustrated by reference to circumstances in other countries.

Hartley's work reveals that two of the early controls are still in use in some societies. Social mores in some countries provide that young girls are married off at puberty; in most cases such marriages are arranged by the family. In other instances, a system of strict chaperonage of single girls is still in force. Early marriage and "guarding" of young girls has an obvious effect on premarital intercourse and, consequently, on out-of-wedlock births. The outrage of the girl's family and overt actions which they may take may also represent a form of control or a deterrent factor. Guttmacher in the Planned Parenthood newsletter states that in India, unmarried minors rarely visit birth control clinics; marriages are still arranged at a very youthful age and a system of strict chaperonage is still in force. He points out that for the young unwed pregnant girl, an illegal abortion or suicide are the only solutions. Although India recently enacted an abortion law, he expresses the view that if any change occurs, it will be very slow. Quoting an International Planned Parenthood Foundation official, Guttmacher further states that in the Mid-East, premarital intercourse is almost unheard of. "If a single girl becomes pregnant, her brother is likely to kill her to absolve the disgrace brought upon the family."

Quoting from physician-author, Dr. Han Suyin, Guttmacher also indicates that premarital sex in the Peoples' Republic of China is very uncommon despite the fact that the state exhorts women to postpone marriage until they are 25 and men until they are 28. He states that it is not uncommon to see groups of female and male youths walking separately on the streets, but the two never meet and mix. This is another example of a form of control exercised as a result of the social mores of a particular country.

Guttmacher further describes the changing patterns in Africa based on his travel observations. He indicates that monastic female sexual behavior is the norm for most of Asia and Africa, but suggests that chastity may be encouraged by the legalized prostitution which exists throughout these areas. There are indications that traditional female chastity is breaking down in some places, however, and he reports a serious outbreak of illegitimate

pregnancies among teen-agers in Nairobi. There seems to be a growing sentiment, at least among some elements of the clergy in parts of Africa, to provide birth control information and devices to young single girls. While visiting birth control clinics in Central Africa he observed that the very young were conspicuous by their absence.

Social practices in Latin America are significant in view of the heavy representation of these countries among those with the highest illegitimacy birth rates in Appendix 5. Dr. Ofelia Mendoza, Field Specialist for the International Planned Parenthood's Western Hemisphere Region, observes that the pattern of female sexual behavior in Latin American countries differs markedly according to social class. He states as follows:

"The small upper class behaves in a very sophisticated fashion and unmarried girls of this group do not hesitate to go to private physicians for pills and other contraceptives. If pregnant, they are likely to go abroad for abortion. On the other hand, the middle class lays great emphasis on chastity, and to effect a good marriage a bride must be a virgin. Chaperonage is rigidly enforced to protect this goal. In the very large lower class, females ordinarily begin intercourse between the ages of 12 and 14 without any attempt at contraception. The female consorts with a succession of men, constantly seeking the one who will give her financial security. Two-thirds of children born in Latin America are illegitimate."

Beyond the controls imposed by social custom as discussed above, i.e., chaperonage, early marriage; the programs of a particular country, which are based on that country's statutes, are also a reflection of that group's social attitudes and represent a factor in the illegitimacy birth rate. The presence, or absence, of these programs offer, or limit, the options which are available to young unmarried individuals. Hartley refers to these options as "escape mechanisms". She conceptualizes these escape mechanisms as occurring along a time line leading from the large part of a society's population which is at risk (women of child-bearing age) to a smaller part of the at-risk population which eventually give birth to a child out of wedlock. Each escape mechanism represents an option point along the time line which, if chosen by the woman, will reduce or eliminate the potential birth out of wedlock. The path leading to births out of wedlock is described by the following points considered in chronological sequence, with the escape mechanisms represented by the indented lines:

- Proportion of the population in the child-bearing ages
  - Proportion married (a)
- Proportion of the population unmarried
  - Proportion not sexually active (b)
- Proportion unmarried but sexually active
  - Proportion consistently using contraceptive measures (c)
- Proportion conceiving out of wedlock
  - Proportion marrying during pregnancy (d)
- Proportion still unmarried and pregnant
  - Proportion aborting (e)
- Proportion giving birth out of wedlock

As suggested earlier, social traditions and customs in such matters as early marriage and various forms of chaperonage, etc., relate closely to options (a) and (b) and are factors in controlling out-of-wedlock pregnancies. Although still common in many parts of the world, it is doubtful that such a rigid system of controls could or should be applied in the United States. On the other hand, the practice of entering into marriage after conception is common in the United States. Hartley observes that in countries such as Jamaica and Japan, unmarried pregnant women do not hurry into marriage, but in the United States 60% of the white women and 17% of the nonwhite women who have conceived out of wedlock opt to marry. In other parts of this paper, the Board will discuss factors which may influence this decision on the part of the unwed pregnant woman.

Clearly, the way in which each society views birth control and abortion will determine if options (c) and (e) are even available to the sexually active woman. Both have significant impact on the illegitimacy birth rate of the particular country. However, both subjects also involve some significant trade offs - fewer births out of wedlock compared to many traditional and very basic moral and religious considerations related to premarital intercourse, individual and family responsibility, and the rights of the unborn child. These issues continue to be the subject of heated debate in most parts of the world and are treated separately later in this document.

Although easy access to abortion may have an effect on illegitimacy, as demonstrated in California in recent years, some enlightened countries have been able to maintain relatively low out-of-wedlock birth rates without resorting to abortions on a large scale. Scandinavian countries, for example, do not allow easy abortion; yet according to the information in Appendix 5 have comparatively lower illegitimacy rates. Norway is somewhat unique in that laws were enacted in 1916 based on the concept that every child should have a legal father. Since that time, they have been quite successful in determining paternity of children born out of wedlock and insuring a full support base for the child.

Japan is another country whose history involves rather unique circumstances. This country recognized a relationship wherein a woman could contract herself to a man, presumably married, as a concubine. Thus, there has been historical acceptance of these nonmarital relationships, the issue of which were illegitimate. Japan is also one of those countries which has permitted relatively easy and safe abortion. Japan has also been marked by one of the most dramatic declines in illegitimacy anywhere in the world, according to Hartley. She also discusses family cohesiveness in Japan and the quality and effect of these family relationships on the individual to the extent that the irresponsible individual is simply pushed out by his family and peer group. She attributes Japan's decline in illegitimacy, or the motivation for such decline, to these strong family relationships and responsibilities pointing out that the legalization of abortion in that country came late in the decline in illegitimacy.

Throughout the world, there is and has been almost universal lack of acceptance of illegitimacy as a viable social condition. Societies and cultures have evidenced varying degrees of acceptance of premarital sexual



relations, but have been essentially united in their rejection of out-of-wedlock births as being socially acceptable. Societies continue to approach the problem from various points. In some countries, women are closely protected against contact with members of the opposite sex, and in other countries young girls are married off at puberty. Other countries have placed a heavy reliance on individual responsibility and the influence of family tradition and allegiance. What is also clear is that in some advanced (nonagricultural) countries, such as the United States, there are many factors which, in fact, maximize the opportunities and facilitate the social and sexual intercourse of unmarried persons. In addition, advertisements, movies and television present a constant sex bombardment so that young people are pushed toward, not away from sexual involvement. Whether or not the Board agrees or disagrees with practices in other countries, it is clear that these countries have a social policy direction on this subject. The Board suggests that a more balanced approach to the problem of out-of-wedlock pregnancies lies in a manner which fosters and enhances the assumption of responsibility by individuals and the quality of family relationships and responsibilities which have a stabilizing influence on the individual members.

#### D. The Cost of Illegitimacy in California

The Board perceives its responsibilities as including a concern for all the people of this state. It has a commitment to those who are in need of public help, but it also has an equal commitment to the public who must pay for this help. In the study of social problems and recommendations made for their resolution the Board has given balanced consideration whenever possible to the interests of all persons.

This consideration includes, whenever possible, a full disclosure of cost factors. The fact of the matter is that public assistance and illegitimacy are linked. The incidence of illegitimate children in welfare caseloads is twice that in the general population. There are also direct costs related to the care and support of these youngsters which are being borne by the taxpayer. Although all children born out of wedlock in a given year do not immediately find a place on welfare rolls, the Board suggests that a substantial percentage of illegitimate children will at some time be aided by one or more of the publicly supported programs.

It is virtually impossible to catalogue all of the cost elements to learn the full impact of conceptions outside marriage. To do a complete analysis, it would be necessary to consider those persons who marry following conception. There are no statistics available to determine the numbers or costs involved in this group. If marriage does not follow conception, then the cost of abortion needs to be considered. The fees for at least 40% of the abortions performed in California in 1971 were paid by the tax-supported Medi-Cal program. If abortion is not chosen and the unwed pregnant woman carries the baby to term, a child is born out of wedlock. Beginning at this point, complicated efforts to identify the fiscal impact are further compounded. Although it is relatively easy to determine how many of the children receiving public assistance at any given time were born out of wedlock, it is not known how many of the illegitimate children born during a particular year will receive public assistance at some point in time, will require free medical care, will utilize food subsidy programs,

will incur public expense related to adoption, or, will now or at some future time be served by foster care programs. Although these costs are impossible to document in detail, the following estimates related to only a few of these points indicate the potential of a very significant cost impact.

There were 116,749 therapeutic abortions performed in California in 1971. At least 40% of these services were performed at public expense (46,669). The minimum charge throughout the state for the suction-type abortion is \$200. Amnio-type abortions for more advanced pregnancies exceed \$400 in cost. However, using the lower figure as an average indicates very conservatively that the public cost of abortions in California in 1971 was \$9,339,800.

It is also difficult to determine the cost of obstetric services related to the delivery of babies born out of wedlock. Prior to the Medi-Cal program (implemented in mid-1966), most obstetric care provided to medically indigent women was in county hospitals. Illegitimacy is much more frequent in lower economic and social groups. Medi-Cal payment of these services has resulted in diverting substantial numbers of the medically indigent to other hospitals of various types (nonprofit, proprietary and district). In 1966, county hospitals accounted for 47,324 babies delivered. The mothers of nearly 12,000 of these babies were unmarried. Considering the rapid increase in welfare rolls between 1966 and 1971, along with Medi-Cal eligibility, it is not unreasonable to assume that the percentage of illegitimate births paid by public funds in 1966 has at least remained constant through 1971. Simple arithmetic reveals that the above figures result in approximately 12,000 illegitimate children delivered at public expense in 1966. Even at an average of \$500 per delivery, this represents a cost of \$6,000,000.

There is good reason to believe, however, that the public cost of obstetric services related to births out of wedlock may be several times greater than the conservative estimates noted above. For example, in the course of its work the Board conducted a characteristics survey of 259 paternity cases in two California counties during August 1972 (see Appendix 6). These were cases involving children born out of wedlock in which the district attorney's offices were now attempting to obtain a judicial determination of paternity. In 82% of the cases (212), the child was born at Medi-Cal expense. If this nonscientific percentage is applied to the number of illegitimate births in 1971, at \$500 per delivery, it would yield an estimate of \$16,400,000 representing the public cost of obstetric services related to illegitimate births. The Board suggests that the actual cost is somewhere between these two figures.

Of the 40,171 illegitimate births in 1972, 43% of the mothers were age 19 or under (see Appendix 4). Further, 75% of the mothers were age 24 or under. It is obvious that considering the age of these mothers, they are the least likely to be able to provide the full support and maintenance needed by their children. This coupled with the fact that state and federal welfare law and regulations provide for the immediate payment of public assistance to the unborn child and expectant mother in the approximate amount of \$197 per month, where financial need exists and as soon as the pregnancy is verified. There is also good evidence

to indicate that of those unwed mothers who elect to keep their child, as opposed to utilizing adoption services, a number will eventually place their children in foster homes. These costs far exceed \$100 per month and generally are not of short-term duration. These welfare mothers and their children also qualify for the food subsidy programs and, along with children in foster care, free medical care. The costs are nearly impossible to document accurately.

What can be documented is the number of illegitimate children and their unwed mothers currently receiving benefits under the Aid to Families with Dependent Children-Family Group program (AFDC-FG). In January 1974 there were 1,184,887 persons aided in the AFDC-FG program (830,856 of them children). Funding for this program comes from state, county and federal tax resources. In the AFDC-FG program in January 1974 there was an average payment of \$93.44 per child.

Based on its 1971 study the United States Department of Health, Education, and Welfare indicated that in the United States, 43.5% of the families aided by the AFDC program had one or more illegitimate children. Further, the proportion of all AFDC children who were illegitimate stood at 31.4% (of over 7,000,000 children). With 36.7% of its AFDC recipient families comprised of one or more children classed as illegitimate, California was not among the leading states (see Appendix 7).

Critics of the Board's work on the emotional subject of illegitimacy have been quick to point out that in California, the percentage of AFDC-FG families with one or more illegitimate children has dropped from 44.0% in 1960 to 39.4% in 1970. However, in January of 1973 the percentage had risen to 43.0%. This shows California to be very close to the national average and represents a numerical increase of 18,905 AFDC-FG cases involving illegitimacy between 1970 and 1973. These percentages are, of course, functions of two variables - the number of AFDC families with illegitimate children and the total number of families receiving AFDC at a given time.

<u>Year</u>	<u>Number of Families with Illegitimate Children on AFDC-FG (California)</u>	<u>% of Caseload</u>
1960	32,497	44.0
1962	43,217	50.0
1965	52,842	43.5
1966	65,908	46.4
1967	74,740	45.1
1968	84,525	45.8
1969	106,920	44.8
1970	143,412	39.4
1973	161,507	43.0

In its March 1972 Position Statement on Illegitimacy, the Board categorized those California AFDC-FG families with illegitimate children by the number of illegitimate children in each as of December 1970. The following chart was extracted from publications of the State Department of Social Welfare and updated using information from the forthcoming report for January 1973, Department of Benefit Payments:

	<u>Dec. 1970</u>	<u>Jan. 1973</u>	<u>% Change</u>
Total AFDC Families with illegitimate children	143,412	184,159	+ 28.4
Number of families with:			
1 illegitimate child	97,140	123,772	+ 27.4
2 illegitimate children	28,384	38,117	+ 34.2
3 illegitimate children	12,154	11,135	- 9.1
4 illegitimate children	5,976	4,711	- 21.2
5 illegitimate children	3,297	2,998	- 9.0
6 or more illegitimate children	2,641	3,426	+ 29.7

The 248,407 illegitimate children aided by AFDC-FG and AFDC-U in December 1970 represented 25.0% of the total number of children in the caseload. In January of 1973 the AFDC-FG and AFDC-U caseload was 991,274 children of which 244,117 or 24.6% were illegitimate. These figures add substantial weight to the Board's concern over the significant number of children born out of wedlock each year who will be at one time or another aided by public programs.

The fiscal impact of tax-supported programs resulting from aid payments to caretaking parents of children born out of wedlock is staggering. In calendar year 1973 it is estimated that AFDC-FG and AFDC-U cash grants amounted to more than \$1,044,000,000. As discussed 24.6% of the children receiving AFDC-FG and AFDC-U in 1973 were illegitimate and assuming the child/parent ratio to be at least equal to that in cases involving legitimate children it would appear that nearly one-quarter of the grant payments went to illegitimate children and their caretakers. Thus, approximately \$256,800,000 was paid during 1973 in welfare grants for the maintenance of illegitimate children. This by no means is the total cost. Applying the same percentage (24.6) to the annual administrative budget for AFDC of \$139,624,000 some \$34,340,000 of the administrative expense may be traced to illegitimate children and their caretakers.

Persons receiving AFDC-FG and AFDC-U during 1973 were also eligible for food stamps. The bonus value (purchasing power less cost to recipient) of these food stamps exceeded \$92,995,000. The share estimated to have gone to children born out of wedlock and their caretakers would be \$22,877,000. AFDC-FG and AFDC-U recipients are also eligible for Medi-Cal benefits. In 1973 the out-of-wedlock group accounted for more than \$100,686,000 of the \$409,296,000 spent to give medical care to AFDC-FG and AFDC-U families.

AFDC-FG and AFDC-U benefits also include eligibility for various social services. These social services cost approximately \$242,288,000 in 1973. The share allocable to illegitimate children and their caretakers would be \$59,602,000.

One can readily observe that the cost of AFDC (\$1,928,632,896) for 1973 is almost beyond comprehension, but equally staggering is the cost of supporting and caring for the nearly one-quarter million (250,000) illegitimate children who were linked to AFDC that year. Briefly, the costs traced to this group were:



1) Cash Grants	\$256,800,000
2) Administrative	34,340,000
3) Food Stamps	22,877,000
4) Medical	100,686,000
5) Social Services	59,602,000

TOTAL	\$474,305,000
-------	---------------

In raw figures the welfare cost involved in the quarter million illegitimate children approached one-half billion dollars in federal, state and county funds in 1973. Can anyone argue that illegitimacy is a serious social, as well as fiscal, dilemma?

The size of the California taxpayers' commitment in caring for the children born out of wedlock in this state is substantial. However, the Board cautions that this is only part of the fiscal picture. As noted above, HEW indicates that 43.5% of all AFDC families in the United States in 1971 had one or more illegitimate children as compared to 36.7% in California. This is further illustrated in the list of "selected states" shown in Appendix 7 which reveals the fact that most of these states have a higher percentage of welfare families with illegitimate children than does California. The significance of this fact is that public assistance programs involve a substantial application of federal tax funds. California county and state taxpayers are also federal taxpayers and, as such, share a major part of the cost burden for aiding illegitimate children and their caretaking parents in other states as well.

It is clear that the social and fiscal magnitude of the illegitimacy problem in this state has reached enormous proportions. Without repeating the detail mentioned earlier in this section, the Board suggests that at least some of the fiscal costs will approximate the following:

- |  |                                |
|--|--------------------------------|
| 1. Estimated cost in payment for abortions performed on 40% of 116,749 pregnant women in 1971, most of whom were unmarried | \$ 9,339,800                   |
| 2. Estimated cost of providing obstetric service to unwed mothers  | \$ 6,000,000 to \$ 16,000,000  |
| 3. Estimated cost of providing public assistance benefits to illegitimate children in 1973                                 | <u>\$474,305,000</u>           |
| Total Cost   | \$489,644,800 to \$499,644,800 |

#### IV. MANIFESTATIONS OF FAMILY AND SOCIAL PROBLEMS

There are many factors which have contributed to what the Board sees as a numbing of the conscience of a growing number of individuals with respect to their basic obligations and responsibilities and their relationship with society generally. Some of these contributing factors may be: overpermissiveness on the part of parents and other authority figures; the lack of strong religious ethic in contemporary society; the growing lack of cohesiveness in the family structure as a stabilizing and learning influence; the increased frequency and magnitude of attacks on fundamental beliefs generally held and on time-honored institutions; overemphasis on the rights of individuals without a balanced emphasis on the responsibilities; social isolation of the individual growing out of increased urbanization; and the increased tendency toward substituting government-sponsored social programs as the responsible entity for individual and family problems.

Although the problems growing out of individual irresponsibility are many fold, they can be most clearly illustrated with reference to family life and, in this context, projected into their broader social impact. The family has long been recognized as the bulwark and the basic unit of this and other social systems. However, economics, mobility, and a myriad of other factors have resulted in changes in family structure over the years.

It is important to note that family life embodies a number of important and basic elements which are in no way affected by the move to a more complex and industrialized social system. A close and healthy family unit continues to represent the most effective entity for individual sustenance. The functioning family not only provides for the material needs of the growing child, it represents a network of relationships which provide the child, during his developmental years, with an understanding of interpersonal relationships, security and acceptance, early exposure to his responsibilities as a member of a larger social unit, and models of adult behavior which the developing child can emulate. All of these elements are vitally important to the child's emotional growth and development and remain as the most significant contribution of family life.

Many cultures have been successful in preserving the essential elements of family life in the face of a complex industrialized society. In the United States, however, the basic family unit, now commonly referred to as the nuclear family, has been the subject of attack by certain groups, the consequences of which they hope will lead to a complete reshuffling of our social structure in order to accommodate their particular interests and desires. They question the future viability and effectiveness of the nuclear family.

Chief among these critics are those who claim the nuclear family is "going out of style" and eventually will be replaced by new and varied social structures such as the group family and the commune. But one must ask the advocates of such living arrangements why, if they are so successful, is there up to a 70% turnover in their membership? And more pertinent still, where is there evidence

that these arrangements produce emotionally (or even physically) healthy children who mature into happy and productive adults? Indeed, the facts suggest just the opposite. One can cite the kibbutzes of Israel as a successful example, but they are supported by tremendous ideological forces, not the least being national survival, are politically sophisticated, and represent a return to an agrarian society. Even in Israel, the kibbutzes are gradually moving toward a more traditional family structure.

Critics of the nuclear family also include certain groups who advocate the right of women to make individual decisions with respect to childbearing, regardless of marital status. These women who claim the right to bear illegitimate children ignore the fact that every society, ancient and modern, primitive and advanced, has by necessity concerned itself with the procreation and the rearing of future generations. The social group is advantaged by the development of responsible adults; indeed, the survival of a society (as well as the individual) and its cultural patterns are dependent upon the socialization process. (Hartley: "From the 'Principle of Illegitimacy' to a Concatenated Theory of Illegitimacy," paper delivered at the 7th World Congress of Sociology, 1970 and Illegitimacy, U. C. Press, forthcoming). Malinowski stated the situation somewhat differently, as a "universal sociological law":

"The most important moral and legal rule concerning kinship is that no child should be brought into the world without a man...and one man at that...assuming the role of sociological father, that is, guardian and protector, the male link between the child and the rest of the community..."

Although formulated forty years ago, Malinowski's "principle of legitimacy" has been confirmed by other social scientists over the years. Virtually every society views birth out of wedlock as undesirable. (Murdock, Blake, Goode)

Advocates of childbearing out-of-wedlock by choice conveniently overlook the fact that although an illegitimate child may grow up to be a happy and productive member of society and that there is no guarantee that a legitimate child will mature successfully, the probabilities for both groups are vastly different.

Many studies have shown that there is no question that there are deleterious effects on children who are products of fatherless homes. Both male and female children need both mother and father to relate to. While girls are taught their feminine roles by their mothers, they learn how to relate to and what to expect from the opposite sex through their fathers. Boys, on the other hand, learn their masculine roles from their fathers. Moreover, the father, for a boy, is far more than just a disciplinary figure; he is also an expressive leader, that is, he is important in expressing love and warmth to his son. Boys from fatherless homes have been found in a number of studies to be less mature, less well-adjusted in peer relations, striving for "compensatory masculinity", more anxious about sex, and more effeminate than boys who have had consistent fathering. Father-absent

girls showed greater dependence on their mothers than those from father-present homes. Research also shows that being alone or lacking a secure commitment from the father deeply affects the mother's self-esteem, and that this self-esteem or lack of it is passed on to the child. (Hartley from Jones, Cattell, & Coopersmith)

There has been a good deal of research done on the question of parental absence and its impact on the child. Most studies deal with families of European seamen who are away from home for extended periods of time; families in which the father is in the military on overseas assignment; and families in which the father is deceased. Little, if any, research has been done with respect to the impact on youngsters in homes where there is no father - by choice. The fact is in the first stated instances, there is a father figure in the family constellation. Because of prolonged absence, he may not be involved in the day-to-day responsibility of child rearing, but the fact that his presence is felt in the family structure can have a significant influence.

Herzog and Sudia in "Boys in Fatherless Homes" have concluded,

"It seems at least reasonable speculation that temporary, planned, socially approved (or even honored) father absence is likely to have a different impact on a child than permanent, socially deplored absence, even if the social and economic settings were similar."

The very nature of the single-parent family means it probably will be less effective in meeting the material needs of the family members, regardless of equal pay and opportunity.

"None, furthermore, is only one of the many contributions of a father to his family. The lack of a stable father figure, the completion of a nuclear family cannot be overcome by government fiat. Just as the child needs the emotional and financial support of the father, most mothers need his emotional and financial support in order to feel adequate to fulfill their roles." (Hartley, Illegitimacy)

In spite of this and other factors, the advocacy of single-parent families by otherwise responsible professional persons and some groups continues to gather momentum. The number of one-parent families resulting from divorce and desertion is put forth as justification for the views held by those who champion this life-style.

One such professional testified before the Board at its public hearing on July 28, 1972. After stating that the one-parent family was even more superior than the two-parent structure, she then admitted that the single-parent arrangement needed "supports" to give it a chance of success. By supports she meant a minister, family friend, or social worker to substitute for the father. However, it would seem logical that if a father figure is necessary to maximize the chances of a one-parent family for success, a father himself would be all the better. Thus, unintentionally, she was saying that the two-parent family with father present was more likely to be better for the child.

When confronted with the deficiencies of the single-parent family, such persons also speak of other supports necessary to make this structure more effective; public assistance to back up the mother's earning power; government subsidized child care, along with components to assist with the children's educational, nutritional, medical, and emotional needs in the absence of the mother who is employed; and other programs to assist the youngster with role identification. Unfortunately, the simple fact is that money cannot buy nor anyone substitute for stable and consistent fathering. The increasing number of mothers who are attempting to raise their children alone with or without public assistance will attest to this. As a result of its work in child support enforcement, the Board has had broad contact with these mothers. They know well the daily heartache, responsibility, and strain of raising a family without the material and emotional support of the second parent.

Much is heard today on the subject of individuals' rights and freedoms. Precious little is heard on the subject of responsibility. The contemporary scene is remarkably void of anyone demonstrating in support of responsibility and yet the two elements - rights and responsibilities are inexorably linked. One cannot long survive without the other.

The Board suggests that the lack of a strongly imbued sense of responsibility on the part of the individual to fulfill his legal and moral commitments to himself and others is really at the heart of the issue. In the viewpoint of the Board, the following are some of the concerns which form a part of the chain reaction traceable to lack of responsibility. In reviewing these brief examples, the reader should be alert to the significant changes which have occurred in the past 8-10 years as set forth under each subject heading.

#### A. Preparation for Marriage

For all practical purposes, there is no real preparation for most marriages. This problem is usually found among the young, but is not necessarily restricted to them nor does it necessarily apply only to the first marriage. Essentially, emotionally immature people who do not yet know or understand themselves are embarking on what should be a lifelong commitment to and relationship with another individual. The concept of marriage is too often formed by exposure to the unreality of the mass communication media. Often the young person does not have experience with a strong marital relationship in his own family home to help him with an understanding of the qualities, benefits and sacrifices necessary to a stable marriage relationship.

#### B. Dissolution and Annulments

Another link in the chain reaction of social problems, associated with the discussion above, can be demonstrated by the statistical data on family breakup. In the six-month period, January through June 1972, there were 73,187 initial complaints for divorce, annulment and separate maintenance or petitions for dissolution of marriage, judgment of nullity and legal separation in California. This represents a continuation of a long-standing increasing trend and, in fact, represents a 30% increase over the same period in the year 1966 when there were 52,008 such actions. This



increase occurred during a time when the state's population increased by only 5.9%. As alarming as this information may be, it should not be treated in isolation. The breakup in family life illustrated by this data has a dramatic effect on society in terms of its children, its economy, and the social programs that have been developed to treat the aftermath.

### C. Problems in Child Support

Once a marriage fails, lack of responsibility tends to manifest itself in an unwillingness to support the children when the father no longer has the benefits of that union. Often, in a dissolution proceeding, the court will agree to a settlement which places first priority on the payment of the couple's debts with child support considerations assuming a secondary role. This interferes with the child's basic legal and moral rights and places an undue strain on the ability of the mother to raise the child. The division of the father's income among the creditors results in the mother and children being diverted to the welfare system, where the taxpayers subsidize the family. In effect, the creditors are favored to the detriment of the children and the taxpayer.

#### 1. Nonwelfare cases

In many cases, welfare programs are called upon to take up the slack when the child support payment is too low, delayed or discontinued. The specific impact on welfare caseloads is discussed below. Nobody has authoritatively measured the dimension of the problem suffered by low-income nonwelfare mothers who are attempting to meet their families' needs without resort to publicly-supported programs. Information obtained by the Board indicates that this is a major but largely unrecognized problem in our society. Even in those cases where the mother's outside earnings are quite low, some district attorneys will not assist with child support enforcement. One measurement of this problem is the frequency with which district attorneys in California contact the Attorney General's Central Registry in an attempt to locate nonwelfare absent fathers who are failing to support their children. In the seven-month period, July 1972 through January 1973, local agencies initiated 27,106 locator inquiries. Of these, only 4.2% (1,163) were nonwelfare cases.

Without the financial ability to hire private counsel, many low-income nonwelfare mothers are faced with a financial crunch month in and month out and, finally, simply give up and turn to welfare programs. As a cash benefit recipient, she and her children now not only qualify for free medical care and food subsidy programs, but also, assistance from the District Attorney's Office in enforcing the child support obligation. It is clear that in these cases, an important element of prevention is lost with the resulting increase in local tax expenditure. It is also clear that aside from the problem of family economics, the irresponsible behavior of the father cannot help but color the attitudes and interrelationships of the family members during the children's formative years and beyond.

## 2. Welfare caseload

Aid to Families with Dependent Children (AFDC) is the largest single category of public assistance in California comprising approximately 2/3 of the welfare population. Of these 1.3 million people, nearly 85% qualify for welfare because of the economic and social deprivation related to the absence of a parent from the home.

In 1969 and 1970 the Board set up a Task Force which studied this problem and in January of 1971 released the final report of the Task Force on Absent Parent Child Support. This report showed that only 14.7% of the absent parents contributed support. More surprising, however, was the Task Force discovery that the typical absent parent was still in the same geographic area as his family and further that he had the ability to pay child support.

The Child Support Task Force released the "Guide for Administration and Conduct of a Coordinated Child Support Program by California Counties" in September of 1971. The Welfare Reform Act of 1971 embodied many of the Task Force recommendations, such as the grand jury child support audit and the Support Enforcement Incentive Fund. Since the implementation of these new child support provisions the percentage of contributing absent parents has increased to 24.1% and the dollar collections in welfare cases alone exceed 55 million annually. Clearly more needs to be done to increase family responsibility, however, the Board feels that a good start has been made.

The real problem in family support is the result of the large incidence of desertion, dissolution, and the high incidence of illegitimate births. All of these factors are related to the failure of one or both parents to meet legal and moral responsibilities. Government makes an inadequate and expensive "stepparent." Those with the primary responsibility to care for their offspring must be made to recognize and meet the obligations they have created.

### D. Abdication of Responsibility for Birth Control

Every significant research study, including that conducted by the Board, indicates that with respect to the birth of "unplanned" children, the overwhelming majority of parents had knowledge of birth control methods. It is also a fact that the more responsible and mature segment of society makes more use of birth control techniques. They tend, for example, to voluntarily place limits on family size based on their ability to meet the financial demands of raising children. This subject will be treated more fully under the heading of Family Planning later in this report.

In any discussion of responsibility in relation to birth control, an important point must be made. The fact is that men have shifted almost complete responsibility for birth control onto their female partners and tend to adopt the same irresponsible attitude toward the child when birth control methods are not used or fail. Over the years, the use of the condom was popularized as an effective device in the prevention of venereal disease transmission. In the minds of many men, however, the condom played a dual and equally important role in preventing unwanted pregnancies.

As birth control pills for women came into vogue, men simply deferred to the simple but unrealistic expediency of expecting their sex partner to be the responsible party. In questioning young unwed fathers about their failure to use condoms, the responses clearly indicated that their use for venereal disease prevention loomed larger in the minds of these young men than their use for pregnancy prevention. The fact is that many women do not use birth control pills because of unpleasant side effects or for other health reasons. Further, to expect any person to exercise the sole responsibility and diligence necessary for an effective birth control program using the pill, without any consideration being given to the woman's age, level of maturity, emotional stability or the pressures of daily living is asking a great deal. Apparently, many men have overlooked these factors in their headlong flight toward newfound sexual liberation.

How much the reduced use of condoms has contributed to the epidemic incidence of venereal disease, particularly among the young, has never been fully documented. What is crystal clear, however, is the fact that men must bear equal responsibility along with women for the application of birth control methods. The other inescapable fact is that men clearly bear an equal and joint responsibility for unwanted pregnancies, whether conceived in or out of wedlock. This concept needs to be emphasized through changes in attitudes at all levels of society and social programs must be reformed to highlight and enforce this responsibility.

#### E. Increased Illegitimacy

Another way in which irresponsibility manifests itself is through the incidence of births out-of-wedlock. This subject has been discussed at length earlier in this report. Suffice to state, however, that the increase in illegitimate births in California has been startling. In 1966, there were 31,804 births out-of-wedlock in California. In 1970, four years later, illegitimate births increased to 45,593 - from 9.4% of total live births to 12.6%. The rapid increase in the number of therapeutic abortions performed during those years contributed to the drop in illegitimate births in 1972 to 40,171 - still over 8,000 more than in 1966.

As alarming as this fact may be, the reader should resist the tendency so common in today's computer oriented social research of thinking about this problem only in terms of numbers. Each of these out-of-wedlock births represents a baby who begins life under a disability resulting from the legal condition of his parents' relationship - a baby who has immediate needs which must be met now and at every stage of his growth and development. Each of these out-of-wedlock births also means that two biological parents have, through their irresponsible actions, created a living human being who must, throughout his lifetime, bear the burden of their deficiencies.

In the absence of parents who are willing and able to assume their obligations, society has a responsibility to the child to ensure that its interests are safeguarded, that it enjoys an equal status with legitimate children, that the biological parents fulfill their responsibilities to the child and to society, and to ensure that the rights of the biological parents are carefully balanced in relation to the legal and moral rights of the child they have created.

#### F. Increases in Abortion

The Board has previously discussed some of the ways in which irresponsible behavior influences family life and society. Closely related to the problems cited earlier is the impact of abortions performed in this state. California's Therapeutic Abortion Act was enacted in 1967. In 1968 there were 5,018 therapeutic abortions performed in California. In 1971, three years later, there were 116,749 therapeutic abortions performed - more than one abortion for every three live births in that year. What had been created through the misapplication of California's Therapeutic Abortion Act was a "backstop" method of birth control for irresponsible persons whose ineffective or nonuse of more traditional methods resulted in an unwanted pregnancy in or out of wedlock.

An entire new medical-industry has grown up around the abortion statutes. In application, the provisions of California's abortion statutes were seriously "stretched" to accommodate the vocal few who view this procedure as a fail-safe method of problem solving. The effect of recent court decisions on California's statutes, essentially, represents a legitimization of the questionable practices which marked the application of this state's law prior to the decisions. The Board does not question the need to reduce births out-of-wedlock. In the viewpoint of the Board, what does need to be questioned is the method. Further, the Board is concerned about the direction that future planning will take with respect to decisions affecting human life after having overcome the first hurdle exemplified by a legalization of what amounts to "abortion on demand". The discussion of this concern, as well as specific examples, may be found in the section entitled Abortion.

#### G. Foster Care

Foster care is the program which provides substitute parents for children whose natural parents are unwilling or unable to care for them either on a temporary or permanent basis. The Board's study of this program revealed that California's foster care caseload increased by almost 100% between 1964 and 1972. What the Board has seen is a reduction in the stigma associated with out-of-wedlock births, resulting in a growing number of young unwed mothers keeping their babies instead of relinquishing them for adoption. When many of these child-mothers finally realize they cannot provide for their youngster's material and emotional needs, the child is placed in foster care.

Recently, however, caseload growth has tended to stabilize and the figures between June and December 1972 reflected an 8% reduction to 30,936. The Board is forced to question if the number of abortions performed in 1971 (116,749) has had its effect on the recent static condition of this caseload.

Aside from the numbers, however, the real significance lies in the youngsters themselves. Almost half of the children placed in foster care are placed voluntarily. The remainder are placed by court order following abuse, neglect and/or abandonment of the child by the natural parent(s). Again the ravages of irresponsibility are noted in the form of damaged children.

The placement of the child in foster care is not a cure-all. The present system is such that the child may remain for long periods of time, if not indefinitely. He is likely to be shifted from one home to another and likely to be emotionally damaged when placed. Even if it is clear that he has no natural home to which he can return or his return is unlikely, his chances of enjoying the security and stability of an adoptive home are remote. Often the biological parent or parents remain in the periphery of his life, having little positive influence on the child, but effectively preventing adoption.

#### H. Shifting Responsibilities to Education

Observers will note a subtle broadening of educational programs, particularly at the elementary level, which embody the assumption of responsibilities which have traditionally been the province of families. This shift has taken place at a time when the birth rate in California has started to decline, with the expectation of reduced elementary school enrollment in coming years. One prelude to the change has been an increased preoccupation by professional educational planners with emotional considerations in relation to the school children.

Education's shifting emphasis is illustrated by the enactment of two recent pieces of legislation in California. One provides for early childhood education in the public school system and the other centralizes within the State Department of Education, total responsibility for child care programs in California. Although not yet fully implemented, these programs involve vast changes in the traditional role of education. Children may enter the system at 3½ years of age; vast plans are being made for the rendering of social services within the educational system; and, the addition of child care responsibilities results in almost total involvement of the various educational disciplines in the early formative years of California's children.

The Board raises questions about the further surrendering of family responsibilities to a governmental entity. Questions are also raised about the ability of such an entity to assume this broadened role in the face of the present overwhelming educational needs of California's children which, in some respects, does not meet public expectations from the standpoint of



quality. The Board does recognize the need for educators to be more alert to problems presented by youngsters in the classroom situation. In fact, this need, identified by the Board in its report on foster care, is one of the factors which raises questions about the ability of education to involve itself deeply in matters affecting the noneducational needs of children. In the Board's study of 533 foster care placements, it was noted that in only eight cases (1.5%) were the child's physical and/or emotional problems brought to the attention of the social agency by school authorities. The Board also supports carefully regulated programs beginning at an early grade level designed to acquaint students with family life and the responsibilities of parenting. The Board believes that to the maximum extent possible, families should exercise responsibility for providing for the early emotional sustenance of their children as opposed to government.

# I. Summary

What has been discussed in the preceding section is the Board's perspective on manifestations of family and social problems resulting from an abdication of individual and family responsibility by a growing number of persons in society. The Board suggests that each of the several social problems and programs discussed are among those which are influenced directly or indirectly by such irresponsibility. The issues cited above are not new nor are the programs which are designed to cope with the problems. The Board suggests there is a correlation between these phenomena "lack of responsibility" and the full impact of this influence cannot really be appreciated without depicting as a whole what previously has been treated as a series of isolated social concerns. The following summary table shows the various increases mentioned in previous subsections with regard to California:

	<u>Jan.-June 1966</u>	<u>Jan.-June 1972</u>
<u>Dissolutions and Annulments</u>	52,008	73,187
	<u>1966</u>	<u>1971-2</u>
<u>Fathers Contributing to Support of Welfare Children</u>	30.3%	24.0%
	<u>1966</u>	<u>1972</u>
<u>Births Out-of-Wedlock</u>	31,804	40,171
	<u>1968</u>	<u>1971</u>
<u>Therapeutic Abortions Performed</u>	5,018	116,749
	<u>1966</u>	<u>1972</u>
<u>Children in Foster Care</u>	21,002	33,550

In mid-1966 California's population was 18,851,000. In August 1972, the state's population had climbed to 20,025,000 - this represents an increase of 5.9%. In the face of this relatively modest rise in the state's population, the above chart reflects a 30% increase in dissolutions and annulments; a 6.3% decrease in the percentage of absent fathers supporting their welfare children, a 26.3% increase in the number of illegitimate births; and, a 38% increase in the number of children in foster homes. Although there were 23 times as many abortions performed in 1971 as in 1968, the kinds of comparisons made in other programs do not necessarily apply to abortions since the law was so recently enacted.

From the vantage point gained by the State Social Welfare Board, after several years of viewing social issues and programs, it is the Board's viewpoint that an abdication of individual and family responsibility are at the root of many of society's most serious social problems. The laissez-faire attitude held by irresponsible segments of society has been strengthened by ill-conceived and misapplied tax-supported programs which at least condone, if not reward, such behavior. What should be apparent to social planners in the face of past failures, is that the investment of additional billions of dollars will not promote greater responsibility.

What is required on the part of each individual is a rethinking of his personal philosophy and a reordering of his personal priorities. The concept of individual and family responsibility must be clearly enunciated and it must represent the basic element and motivating influence in social planning. An inventory of social programs and policies should be made to identify and utilize those which encourage, rather than substitute for, individual responsibility. There needs to be a clear and unequivocal realization that responsibilities will be placed with those who have the legal and moral obligation. This will be a long and arduous task, but if the chain reaction stemming from lack of responsibility is to be broken, it must start with the individual - in his relationship with the members of his family, his community, and, his government.

## V. ROLE OF THE MALE

### A. Introduction

That there is an unwed father for every unwed mother is a fact that society and particularly those involved in the social sciences have largely ignored. The father has not been recognized as a person, given an identity or credited as being more than a financial resource.

The traditional approach to the problem of an illegitimate child is focused upon motivation and education of the girl. The boy is unprepared, untrained and unaware of his role. Society apparently has assumed that unwed parenthood is a problem created solely by female behavior. The boy's acts, attitude and behavior are tolerated or ignored. Reuben Pannor properly described the unwed father as the "forgotten man".

It is time that society treat the whole problem, not just the female aspect. The father has a responsibility to understand the consequences of his acts as they relate to society, himself, the mother, and the child.

Efforts to adequately cope with the mother of the illegitimate child will be incomplete until the father is involved in the solution. The problems created by an out-of-wedlock birth cannot be minimized. As Reuben Pannor aptly described it, "The problems have deep roots, have deep scars, affect numerous lives and often perpetuate themselves into the next generation. For the overwhelming majority of unwed fathers and mothers there are no easy, uncomplicated solutions."

To avoid the tragedies of unwed parenthood, society must do the best job possible to provide meaningful and effective assistance to the unwed parents. As already stated, encouraging progress has been made with respect to the mother; we must now do some hard thinking and seek to develop solutions which include the father.

To this end the Board has devoted this section. Hopefully this work will be a beginning to the establishment of a realistic approach to one of society's most perplexing dilemmas.

### B. Sociological Father

As an initial and beginning premise the Board feels that every child should have a sociological father. It is preferred that the biological father and the sociological father be one and the same. Adopting the concept of the "principle of legitimization" first enunciated by Malinosky, the father's role is primarily to serve as a link between the child and society; he is primarily the guardian and protector of the child. He is, in essence, a shield against the adversary and negative aspect of society until the child is able to defend himself.

In a primitive society the absence of the father meant that the mother, as well as the child, might well fall prey to an enemy people or other physical evil. In such a society the father provided for the basic physical needs, the support and stability, and gave the child status - both social and legal.

The question must be asked, "Has the role of the male really changed?" The Board thinks not. Because of these changes it is believed now more than ever the role of the man is a necessary and vital ingredient in the child's status and stability. The clearly defined role as protector has been displaced by a vague linkage role, creating some of the ambivalence toward the male's role in modern society. Unfortunately our society appears to be on a course to diminish the role of the male in the family context at the very time the role should be increased.

Society's inability to correlate the traditional and linkage roles of the male is exemplified by the increasing interest in the female dominated single-parent family. A further substantial cause of this trend is the confusion on the part of the male himself as to his role in our changing society. He fails to adequately perceive his role as that of the sociological father and is confused by the inapplicability of the traditional role he understands.

The traditional role as physical protector, provider of food and shelter, creator of social and legal status in the group, preparor for the child's economic role, and provider of a link with society has given way to a far more subtle and complex role. Today government often gives the appearance of fulfilling many of these functions. Law enforcement agencies are charged with the primary duty of protection; insurance or welfare benefits act as a back-up provider of food and shelter; our public education system purports to prepare the child for his economic role. What then is left of the traditional role of the male? It is small wonder that many fathers fail to clearly perceive the sociologicathe long-term consequences of their failure to perform the duties of the sociological father.

The Board submits that the male's role as provider of social and legal status in the group is too often overlooked or minimized and his role as a link to society, explaining and interpreting its ways, is not accorded proper significance. Rather than the father being primarily a shield against society, he must act more as a referee and interpreter of society to the child. Further, he must serve as an identifiable figure to assist the child in having an awareness of self-worth, and to help the child understand the complex social, legal, and economic status which the child must in turn assume. The importance of the father figure itself as a contributor to the continuity of the child's life should not be underestimated.

The Board feels that it is time the role of the sociological father in our society is studied, analyzed and defined. An ill-defined father role all too often leads to frustration and failure of the basic family unit. The male must understand what is expected of him before he will gain satisfaction in performing duties necessary to continue in this role.

#### C. Social and Cultural Attitudes

In our society the father has been held less accountable for the conception of the illegitimate offspring than the mother. Undoubtedly the social acceptance in our culture of the double standard is a primary source of this social attitude. There are, of course, many other social and cultural reasons and no attempt will be made herein to make an exhaustive identification of all the causes. However, a review of some of those causes may be helpful in placing the problem in a better perspective and in helping us find solutions.

The mother's internal chemistry is affected by the pregnancy, the father's is not. The mother's appearance is changed, the father's is not. The mother's daily activities are affected, the father's likely are not. The mother's well-being and energies are fundamental to the child's birth, the father's are not. Therefore, the mother is more directly involved socially, economically, physically, and psychologically. The father may be more affected psychologically than is generally recognized, but otherwise his daily pattern and activities are unaffected.

Another cause of the social attitude is the fact that in the last one hundred years the father has had the opportunity for great mobility and, even if his identity is known, he may easily defeat any responsibility by moving on.

There is also the contention that the father of an illegitimate child has no resources, will not pay, and it is not worth the time and money to chase him for the few dollars that he may or may not have. And, last but not least - the mother's identity is obvious, whereas there may be some question as to the identity of the father. This, incidentally, raises by implication, the unfortunate social attitude that, but for the conduct of the mother, there would be no illegitimate child and resulting unhappy consequences.

It is our contention that society needs today a new attitude toward the father of the illegitimate child. What was at one time, perhaps, a private affair is now "a public affair" in which the public has a real and legitimate interest. Society can no longer tolerate or excuse this conduct as a harmless adventure of the father for the consequences are such that the illegitimate child pays throughout his life.

Unfortunately the issuance of this report will not immediately change long held social attitudes on so basic a subject. However, it is hoped that those persons dealing with the problem will realize that great inroads toward its solution will not be made until it is established that it is socially unacceptable for one to father an illegitimate child without assuming the responsibility.

There is no question that the father's lack of interest in his responsibility has been encouraged by many mothers, grandparents and by social agencies. By refusing to identify the father, the mother may treat the child as her own property, unaware of the child's best interests or the father's desires and suggestions. Many social agencies actually prefer that the father not be involved, believing that adoption and foster care placements and other solutions may be more easily reached if he is not. However, it is believed that the more enlightened view and experience is that the involvement of the father offers the best solution, and one with which the mother can more easily live. It can work if the natural father participates in some way in the decisions for the child. Attention is directed to the studies of the Vista Del Mar Institute in which it is shown that the assistance of the father has, in fact, been of great value to the mother.

#### D. The Teen-Age Father

Elsewhere in this report we have devoted considerable attention to the unmarried teen-age mother. We have pointed up her relative inability to be a mature mother, or to make logical decisions in the best interests of the child and for herself. But what about the teen-age father?



Although occasionally there is a considerable age gap between the teen-age mother and the natural father, in most situations, the teen-age mother has had sexual relations with one of comparable age and, therefore, the father is most often a teen-ager as well. Thus, society finds the unusual phenomenon of children having children. With teen-age illegitimate pregnancies amounting to approximately 43% of all illegitimate births, it is vitally important that we give the teen-age father our keen attention.

A review of the work of Reuben Pannor, discloses that a boy in his teens is often confused and uncertain. His character and personality are in the formation stage. Usually his ability to provide economic support is limited. He lacks experience for decision-making, particularly on problems of this dimension. There are few people with whom he can discuss such problems.

An incisive study conducted by the Youth Study Center, a part of the juvenile division of the Philadelphia County Court, is reported on by Robert F. Perkins, and Ellis S. Grayson. The study contains individual interviews of teen-age fathers in a detention facility. It is assumed that this group consists of boys who committed some infraction of the law. This group is in contrast to the young men involved in the Vista Del Mar Study, who were essentially a law-abiding group. The Philadelphia findings are dramatic. Perkins and Grayson conclude that at least 75% of the youngsters are boys who are not deserters, uncaring or detached. Their first reaction was, of course, defensive, usually showing a certain amount of bravado and aggressive overlay. However, once the boys started talking it developed they had deep-seated anguish and doubt about their respective self-worth. The boys were confused as to what they should do and what society expected of them. There was a strong feeling about deserting the child when they had specific knowledge that the girl would keep the child. Some would attempt to "play father" by making attempts to visit the child. Unfortunately, most of the boys had no real idea as to what the responsibilities of a father are.

A factual finding of the study disclosed that more than 75% of the boys themselves came from female-dominated homes in which the natural father was absent or only minimally involved. These boys who had been deserted had strong feelings about this fact. Now they saw themselves caught up in the same father-desertion syndrome.

The study disclosed a direct relation with the female-dominated family. The report states as follows:

"When the records of hundreds of hours of individual and group counseling sessions were analyzed, one particular pattern in the makeup of the boys' families began to emerge - the pattern of female domination of the family. There seemed to be a connection between this pattern and the opinions the children held regarding the opposite sex. This was especially true of boys between the ages of 14½ and 16 who came from families headed by the mother and in which the father was entirely absent or only minimally present. It is of first importance that this factor of female domination be held in focus and considered as distinct from the many other factors that can result in a child's warped outlook on life."

The report concludes that unless we realistically work with the teen-age father, he will engage in other antisocial conduct which may well include further fathering of illegitimate children.

The Board desires to direct particular attention to the absent father factor. These boys, because of their experience in a female-dominated situation, have developed deep-seated emotional feelings against their own mother and against their natural father, and these feelings in turn are a cause for their own conduct. In essence, we see developing a father-desertion cycle from one generation to the next. Although this study does not disclose the number of boys who are illegitimate, it does point up the attitude and feelings of the boys created as a result of being from a home in which the father was absent. They blame their mother for the absence of the father, whose absence in turn deprived them of an opportunity for a meaningful masculine relationship and the opportunity to obtain a firm male identity.

In the opinion of the Board it is the 43% of the illegitimate birthrate attributable to teen-agers that constitutes the most difficult portion of this social problem. Usually, children born of teen-age parents are less likely to have any resources from the father or the mother. Further, these teen-age parents are often themselves the products of fractured families from which relationships they have received little or no experience or awareness of their role as parents.

Unfortunately for society, the number of children born of these teen-age parents is increasing, and the respective age of teen-age parents is decreasing. It is indeed a new phenomenon in our society. No apparent analogous situation experienced by other societies or civilizations comes to mind except for the existence of street children in Europe following World War II.

Society, unfortunately, has requested little of the teen-age father. He has been ignored primarily for the reason that it is apparent that he has little if anything to offer to the mother, child, or the situation during pregnancy, at birth, or immediately thereafter. By the act of conception, he has set in motion a series of events and consequences which he does not understand, nor can he control. The hard facts are, that he is equipped only biologically for parenthood; he lacks the social, emotional, and economic tools or resources to be of significant and meaningful help.

It is the teen-age father, because of his inability to cope with the problem, who is most apt to take advantage of the welfare alternative. His rationalization that welfare may better provide for the young mother and the child, is based upon a sound premise.

His feelings and attitudes are probably correct when he contrasts his own confused efforts with those of the apparently knowledgeable social worker. So too, is he influenced when he compares his earning ability with the regular, continuous, and reliable monthly welfare check, which is in addition to the free medical services. He possesses sufficient good sense and instinct not to compete; he shrinks from responsibility. In fact he is encouraged to do so by the very institutions which were created to solve the problem.

For society, this experience sets a bad example, for he has learned that if he appears hopeless and incapable to cope with a difficult problem, others will solve the problem for him. His sense of responsibility, if any, is dulled. He

learns to avoid responsibility and the opportunity to learn to face up to social problems and difficulties is lost. This experience may well set an example for future conduct when confronted by other difficult problems encountered at school, on the job, or future family responsibilities.

For these reasons the young teen-age father is usually ignored and he fails to realize that the child needs a sociological father. Although his ability to assist with the immediate needs of the child is indeed limited, he will, in the future, hopefully have resources and abilities to provide for the long-term needs of the child, and at least provide a masculine identity and relationship with the child.

We believe that society is now caught up in a most unique problem which it has as yet failed to identify or to understand its significance. By focusing our attention on the teen-age father, we begin to see the results and consequences of having in our society, a substantial number of families which are designated as female oriented, or families headed by women.

The failure to establish a meaningful male identity and relationship directly affects the ability of the boys of these families to in turn learn and/or become aware of the responsibilities of parenthood. Growing up in a family without a male image with which to identify, they are under a severe disability to understand the male role in the family context, or in our society.

A recent report of the Census Bureau, issued in the latter part of 1973, indicates that the number of families headed by women has been on the uptrend continuously since 1959. The report further reflects that there is increasing poverty in these families as contrasted to families headed by a male. In black families the growth rate was substantial. Presently 66% of all poor black families are headed by the female, an increase from 33% in 1959. There was also a significant increase among the white population. We are now witnessing the by-product and social implications created by the absent father. It is not suggested or intended that all children of absent fathers are illegitimate; many of the absent fathers did indeed have a marriage relationship with the mother. The point is, however, the absence of a sociological father has devastating effects upon the boys born of these relationships. Perhaps boys, more than girls, are more profoundly affected by the absence of the father.

We see no decline in births out of wedlock from in the teen-age group. In fact, because of the continuing increase in female-dominated homes, we will continue to experience increasing illegitimate births, not less. It is anticipated that this group will comprise 50% of the unwed parents within a few years. However, society is faced with the burden of attempting to find a solution for this unusual problem. Frankly, we question whether or not courses in family planning or parenthood will be much help to this group of teen-age fathers. Hopefully in a generation or two, when the principles of parenthood and family responsibility have become an integral part of the educational fabric and of the community, these attitudes will modify his conduct because of the awareness of social norms.

In the meantime, what do we do ... unfortunately, the Board has seen few suggestions in this area. There are no proven solutions. We must take some steps to increase and improve our knowledge and ability to reduce what appears to be a continuing and growing cycle. We see no decrease in births-out of wedlock. In fact, because of the substantial increase in female-dominated homes and

single parent families, we believe that births from teen-age parents will steadily increase unless something is done immediately.

#### E. The Welfare Alternative

Undoubtedly a contributing factor for the lack of involvement of the male has been the welfare alternative. Welfare benefits are now available to the mother upon her pregnancy being medically verified if she is otherwise eligible. This enables the young pregnant minor to escape parental control and to establish her independent residency.

Further, her financial independence may be achieved without help from the father. In most instances the young father's resources are limited or nonexistent. The fact that the state provides medical assistance during pregnancy and at birth, and provides cash grants after birth, gives the appearance that the father is not necessary. In essence, he is not expected or required to satisfy any of the apparent immediate needs. Thus, the welfare alternative may well create in the unwed father the attitude of lack of involvement because welfare is apparently taking care of the problem. In light of that influence he may rationally believe that the child will be just as well off without his assistance ignoring the fact that there is more responsibility to parenthood than providing financial support. This frustration of not being needed may cause the father to abdicate responsibility in the long term.

The welfare alternative may well be contributing to the lack of involvement by the male. We do not recommend that such assistance be abolished, but that it not be relied upon as the sole resource. The public should demand that the mother and the welfare agencies thoroughly explore and obtain for the child all the resources, including the social as well as economic support of the father.

#### F. Male's Role in Conception

The activity of Planned Parenthood and many other organizations is generally directed toward the female. Little is said about the responsibility of the male in preventing conception. This responsibility is dealt with in the Family Planning Section of this report.

It is the Board's observation that generally it is the female who shoulders this unique burden of responsibility. Perhaps this is because the medical professions' knowledge and training in the development of contraceptive devices have been primarily directed toward the mother.

Studies show that many unwed fathers knowingly engage in sexual intercourse without any thought of its consequences. They place total reliance on the contraception devices, if any, used by the girl. It is also appropriate for the young man to take a long look at this problem for the simple reason that statistics show that a high percentage are likely to become casualties. In the past several years the annual statistics disclosed that boys have fathered nearly one-quarter million babies out of wedlock, impregnated approximately another one-half million girls who underwent legal and illegal abortions, and in addition at least another one-half million entered into hasty and questionable marriage relationships because the young girls were pregnant.



For the male to really appreciate his role in conception a society must establish systems by which his responsibility is enforced. To perform an act without experiencing its consequences breeds irresponsibility. This is really our current policy - or nonpolicy. An innovative program on family education structured for small groups of teen-age students in which questions and answers may be given freely should be the first step taken in a preventative program.

In our sections dealing with services to teen-age fathers and paternity the Board has set forth specific recommendations which should be implemented to involve the teen-age father. These recommendations, of course, reach the problem after the fact. It is our expectation that these programs will reduce the recurrence of births out of wedlock for those concerned. It is also our expectation that the awareness the existence of these programs and their effectiveness will serve as a deterrent to bolster and complement the structured family life instruction.

#### G. Male's Role in Abortion

The U. S. Supreme Court recently ruled that the abortion decision during the first three months of pregnancy is in the complete discretion of the mother. After that time is passed, the state has an interest in the situation and may so regulate.

The Board feels that the potential father of an illegitimate child should be consulted in the abortion decision; however, it does not feel that the father's wishes should govern. The mother cannot and should not be forced to carry and bear a child against her will solely because the father of the child desires her to do so. The father's role should be purely advisory with no right to dictate the decision of the mother during the first trimester.

Once the first trimester of pregnancy has passed, the decision to abort should be made solely for medical reasons which lie beyond the control of either parent. Therefore, the Board would limit the role of the unwed father in the abortion decision beyond the first trimester to be solely advisory as well.

Studies conducted by Vista Del Mar Maternity Home and a special study conducted by the Adoptions Department of the County of Los Angeles demonstrate that the interest and concern of the father is most helpful to the pregnant mother in making a rational decision. The rejection by the father of the mother only serves to aggravate an already emotional experience.

The father's attention and interest in the ultimate decision of the mother will improve her outlook and mental health during a most important period in her life. Rather than leaving the experience embittered and psychologically scarred, the event may well serve as a meaningful experience.

The question has been raised as to whether the unwed father should contribute to the expense of abortions when performed by a public agency. State statistics reflect that more than 30% were paid for at public expense. As the abortion is a direct consequence of the actions of both parties, the primary financial responsibility for it should rest with both parents.



## H. Male's Role in Marriage

The Board acknowledges that the mere existence of a marriage does not alone safeguard or guarantee the protection of the child. A successful marriage requires the genuine commitment of both parties; it requires their sincere efforts to promote and maintain a stable relationship.

Marriage is not only a legal status or condition, but it is one of life's fundamental processes through which each individual has the opportunity to grow and mature. Too often it appears that marriage is primarily for the condition of the female rather than the male. Malinosky acknowledges this dilemma when he finds that it is the paternal side of kinship which raises most difficult problems and question. "It is the ignorance of fatherhood and its social consequences which are among the problems which must be functionally solved."

Again it appears that the husband's role in marriage is too often ill-defined and misunderstood by the male. His uncertainty and frustration as to his proper role creates an unstable relationship which may ultimately lead to separation or divorce. Participation in marriage must be more than assuming burdens and acquitting responsibilities. Both parties must expect and realize meaningful rewards for their efforts. In the Board's opinion it is perhaps the failure of the parties to realize reward concepts within the family relationship that contributes to family disorganization.

Our society creates and reinforces a definite female family role while the male role in the family context is left ill-defined or often ignored. This discussion leads the Board to conclude that society must develop means by which the male role - as defined in the sociological father - is understood and reinforced. The lack of a definite role causes frustration where no role/reward correlation is established.

For example our society is witnessing a severe dichotomy. In our daily newspaper we observe that the sports and financial pages are primarily for men, and the women's section is for the female. This demonstrates that it is the woman who appears to be primarily engaged in maintaining, sustaining and strengthening the relationship. In what way does modern man have to extend his knowledge and his awareness of the duties and responsibilities of marriage?

Of course, the Board's primary concern is the effect upon the child of an unstable relationship. The Board accepts the fact that the unstable family relationship in the context of a marriage may well be detrimental to the child's emotional and psychological growth. However, unless the separation occurs soon after the birth, the child at least has the knowledge as to the identity of his father and may well obtain some image of the male model. Depending upon many variant circumstances, the child may well enjoy an episodic or perhaps meaningful male relationship with his father. Notwithstanding the admitted potential inadequacies of this unstable relationship, in the Board's opinion it is superior to the condition and status of the child born out of wedlock. It is this child who perhaps will never have the opportunity to know his father or to know the balance of the male/female relationship.

In many cases, separation and divorce occur some time after the birth of the child and the child has had a chance to gain emotional and psychological stability during the young formative years of his life when the separated parents did function in a manner so as to assure the child of a good start in life.

The Board believes that these distinctions are more than distinctions in degree, but are really in-kind distinctions. To support this conclusion, reference is made to our discussion in "Manifestations of Family and Social Problems".

## I. Male's Role in Adoption

The Board is of the opinion that the practice of placing children for adoption has been generally a successful social solution which recognizes the best interests of the illegitimate child. In California, as in most states, a legitimate child cannot be placed for adoption without the consent of both parents. This practice is often experienced in stepparent adoptions where one legitimate parent relinquishes the status of parenthood. Until recently the general rule was that the illegitimate child could be placed for adoption without the knowledge or consent of the natural father. In practice, in California, the adoption agencies would make a concerted attempt to obtain the consent of the natural father in those cases in which the parents lived together.

As a result of several recent judicial decisions, one of which being Stanley v. Illinois, the Supreme Court determined that the natural father should have the right to obtain custody of the child if he so desired. The implication of this decision is that the natural father must be given notice of the adoption proceedings. This places upon the adoption procedure the burden of attempting to give notice to every natural father in this condition. It adds to the expense of the proceeding and it increases its duration. In essence it appears to provide an additional disincentive to the utilization of the adoption procedure. The question is, are the rights of the child to be placed in a suitable home of more social magnitude than the right of the father to be informed and given the opportunity to gain custody of the child if he so desires?

It may be reasoned that the former state of the law implies that the natural father was unfit, or at least uncaring so that society could move ahead to make permanent plans for the child without his involvement.

This policy of the law was undoubtedly too harsh and not in keeping with reality. It closed the door on all natural fathers with very few exceptions. On the other hand we do not believe that the best interest of the child in permanent placement should be prevented by the arbitrary action of the natural father. Action which may well be based on emotion more directed toward the mother or her family than a genuine concern for the welfare of the child. However, the arbitrary action of the mother should not be permitted to foreclose the rights of an interested father.

It is obvious that a system must be established which provides a means by which the natural father may protect his rights but at the same time not unduly burden the adoption procedure to the detriment of the child. We believe the interested father must assert himself in at least a minimal manner - that he cannot lie back and demand that society search him out; that he cannot remain silent, permitting others to assume responsibilities or adopt courses of action and then belatedly ride into court on his writ of mandamus.

As in all legal matters the one proclaiming a right must timely assert it. The natural father of an illegitimate child should be no exception. We believe that a procedure should allow the assertion of these rights in a manner that is simple and not costly.

Initially he should be afforded full opportunity to place his signature on the birth certificate. This act would automatically require that he be notified of all proceedings affecting the child. As suggested elsewhere in this report, the mother should not have arbitrary and sole power over the contents of the birth certificate. Hospital authorities must be authorized to make the birth certificate available to him. As an additional procedure he should be permitted to assert right by filing with the Vital Statistics Section of the State Department of Health a request for notice which would place agencies on notice as to his interest in the child. This procedure would safeguard the rights of the natural father in those cases where the natural mother attempted to hide herself or use other tactics to preclude the father from asserting his rights. By this procedure only interested fathers would be required to be notified, thereby eliminating unnecessary expense and delay which would otherwise be required in giving uninterested persons notice only to have them fail to assert any rights.

#### J. Male's Role in Foster Care and Guardianship

Foster care and guardianship are programs designed to deal with the child whose parents either cannot, or refuse to, care for him. While the Board dislikes shifting of parental responsibilities from the natural parent to the state or other individuals, it realizes the necessity of such programs to protect the interests of the child concerned.

Under current law the father of an illegitimate child need not be notified nor consent to foster care or guardianship proceedings. The Board feels that these situations are analogous to that found in adoption. There is a need to expedite these proceedings as much as possible, yet the rights of an interested and concerned parent should not be arbitrarily cut off.

The procedure by which the interested unwed father either signs the birth certificate or files a request for notice with the Vital Statistics Section of the State Department of Health would serve here as well as in adoption proceedings. At the time a child is placed for foster care or guardianship proceedings are initiated, a check with Vital Statistics would reveal the name filed by an absent parent. If no name were recorded no notice need be given and only the consent of the mother would be required.

Where an unwed father receives notice of a foster care placement or guardianship proceeding he would be given full opportunity to have his views heard, but should have no veto power unless he is willing to take responsibility of the child. To hold otherwise would be to give the unwed father power to keep the child with an unwilling mother.

The Board feels that in serious decisions affecting a child's future such as placement for foster care or guardianship proceedings, the advice of all concerned persons including the natural father should be sought. However, where the natural father has expressed no prior interest or responsibility, his right to appear and participate in such proceedings should be deemed waived so that notice to him is not required.

#### K. The Birth Certificate

Current law and practice allow the mother of an illegitimate child to place the name of the father on the birth certificate. The mother possesses an arbitrary power to do this, as the father's consent is not required. The mother may name the true father, may attempt to disguise the fact the child is born out of wedlock by naming a fictitious person, or may name another to protect the true father.

The Board feels that the birth certificate is the most fundamental and basic document of one's life. The state has an interest to see that the content of the document is accurate and complete. To assure this accuracy and completeness, we recommend that the birth certificate require the signature of both the natural mother and the natural father. The absence of the father's signature would signal the fact that the child was, perhaps, born out of wedlock.

Provision would be made for an affidavit form for fathers who are unable to be present at the birth of the child but who desire to legally identify themselves as the father.

The legal effect of signing the birth certificate would be a rebuttable presumption of paternity, that is, the signer would be presumed to be the natural parent. In any subsequent proceedings in which paternity was raised as an issue, the father would have the burden of proof to rebut this presumption.

In essence, this procedure would protect the father from being falsely accused and it would provide a simple procedure for a putative father to legally admit paternity. Further, we would have a system that would not distinguish between welfare and nonwelfare mothers.

It is suggested that by placing his signature upon the birth certificate the putative father would be admitting paternity only. This act standing alone would not constitute legitimation. The distinctions between legitimation and paternity are set forth in the following section.

In order to protect the confidentiality of the birth certificate, it is suggested that a separate affidavit of live birth be utilized whereby the official custodian of the original birth certificate could issue such affidavits where appropriate. This affidavit would declare under penalty of perjury that a person was born at a certain time and place.

#### L. Paternity and Legitimation

During the Board's discussions pertaining to illegitimacy problems, the issue was raised as to whether it would be in the best interests of the child to equate paternity with legitimation. As a result of this discussion, the Board has made an analysis of the rights and obligations of the child born out of wedlock as they pertain to paternity and legitimacy, and concluded that there appears to be some confusion as to the different relations established by these proceedings.

Generally, paternity is established for the primary reason of perfecting the child's right to support from the natural father. This right did not exist in common-law. Modern law, however, allows a paternity action with the added benefit of establishing the child's ancestry and origin, as well as obtaining the right to support.



Statutes provide that paternity may be imposed upon the putative father, by the mother, or the state, or a guardian ad litem on behalf of the child. The father may voluntarily admit his paternity, but even if he does not, this condition can be imposed upon him after a trial on the merits. On the other hand, legitimation, historically and under our present law, cannot be imposed upon the father of a child born out of wedlock. In California, the father may voluntarily legitimize the child by the subsequent marriage of the mother or by bringing action pursuant to Civil Code Section 230. At common-law there was no method by which the father could legitimize his child born out of wedlock.

Civil Code Section 231 is entitled, "A Declaration to Establish Parental Relationship", and there is some confusion as to whether this law is intended only to establish paternity or whether it may also be used to establish legitimation. It is our recommendation that this law be clarified to permit establishment of legitimacy.

Once legitimation is established, the rights and responsibilities of each parent become equal. Both parents must care for and support the child and have full rights and obligations of one another.

To adequately differentiate between paternity and legitimation, a close analysis must be made of the rights and obligations between the child born out of wedlock and the putative father. The following is an attempt to set forth more important elements of this relationship. When the paternity only is established, the respective rights of the parties are as follows:

1. The child has a right to support from the father during his minority. It would appear that an adult child would have no such right to support and the state could not compel a putative father to pay for medical assistance or other services provided by the state to an adult child.
2. The father has no right to support from the assets or earnings of the minor child or an adult child. The state could not, therefore, reach the earnings or assets of the adult child under the parents' responsibility program or similar statutes.
3. The father has limited visitation rights. For a more complete discussion on this issue, see comments set forth in the latter part of this section.
4. The father has no right to the services of the child.
5. The father has no right to direct or authorize the care, education, or training of the child.
6. The father has no right to possession or control of the property of the child, nor does the child the property of the father.
7. The father has no right to family allowance or homestead from the estate of the child.



8. The child may have limited rights to family allowance from the estate of the father but no rights to the homestead in his estate.
9. The father does not inherit from the estate of the child or through the child.
10. The child does not inherit from the estate of the father or through the father.
11. The child does not establish any legal sibling relationships with other children of the father or of the father's wife, if any.
  - a. The child inherits solely through his natural mother.
12. The father has no parental authority over the child.
13. The father has no right to custody if the mother is alive and has a right to custody if the mother is dead only if he is found to be a fit person.
14. The father would not have a right to be an heir under the wrongful death statute.
15. The child would have limited rights under a wrongful death statute, but would not be entitled to comfort or the society of the father, but only entitled to the father's support.

In contrast, legitimate parents and children enjoy all of the rights enumerated above.

Because of the obvious differences between the respective legal relationships established by paternity and by legitimation, it would not appear to be wise to treat the relationship as the same. However, we believe the law should encourage legitimation and we understand it to be the policy and law in the State of California to encourage legitimation. Civil Code Section 195 provides that a child born of a marriage which is later determined to be invalid or declared a nullity still remains a legitimate child.

Legitimation of the child removes the stigma from the child, it gives status, it affords rights and protection, it is obviously a more desirable condition. Civil Section 230 provides that the father may legitimate the child by subsequent marriage of the mother or by publicly holding out the child as his and taking the child into his home.

Although the first impression is that the terms and conditions of Civil Code Section 230 are easy to satisfy, unfortunately, court decisions have narrowly construed its terms. Public acknowledgment must be clear and unequivocal and the problems of proof may occur years later in will and probate contest. Further, the mother well may frustrate the efforts of the father who, in good faith, attempts to legitimize the child. For if the mother denies the father access to the child, it would thereby be impossible to legitimize the child under the above statute.

Following our initial illegitimacy report, the Board received criticism to the effect that present law did not afford legitimation to the child born of

the common-law relationship. Certainly the law should be clarified in this respect. Perhaps the husband and wife living in these conditions believe in good faith that the child is legitimate. In any event, there appears to be no sound social policy against providing for their legitimation under certain conditions. Therefore, the Board recommends that Civil Code Section 230 should provide an additional method of legitimation. We recommend that the statutory method for legitimation should be extended. That is, Civil Code Section 230 should provide in the event the natural father resides with or supports the natural mother and child for a period of one year, that such conduct is deemed to constitute legitimation. Such provision will provide protection for the child who in some other state would be the legitimate issue of the common-law marriage. Providing support for the child and/or admitting to paternity standing alone will not amount to legitimation. The key element would be the father's relationship with the natural mother. If the father provided substantial support and the father and mother held themselves out to be husband and wife, or lived together in such a manner as to appear to be a common-law relationship, and held the child out as their issue - then legitimation from birth would be established. It is also suggested that if the period of the relationship was the substantial portion of a year that legitimation would be established by estopping the father from denying legitimacy.

Civil Code Section 231 should be amended to clearly declare that such statutory declaration of legitimation should be looked upon as an adoption statute. The putative father should be advised of the existence of his statutory rights at the time paternity is established. It would appear to be in the public interest to waive filing fees incurred for the fathers who initiate such a proceeding.

Upon the filing of a legitimacy petition, the court should be empowered to order an investigation report by the county agency created for this purpose. This report would be submitted to the court in order to permit the court to make an adequate finding concerning visitation rights of the natural child and father.

In addition to the above proceedings, a new procedure should be established in the Vital Statistics Section of the State Department of Health. A simplified procedure would provide that the child could be legitimated simply by the father declaring that he is the natural father and that he intended to treat the child as his own legitimate child for all purposes. The declaration witnessed by two persons or signed before a Notary Public, upon being filed at Vital Statistics would establish presumptive legitimation. Vital Statistics would then notify the natural mother of this filing. If, in the event the mother filed no protest within 60 days after being so notified, the child would be deemed to be legitimated. Of course, an adult child should have the power to prevent legitimation by his father when for selfish reasons the father now wants to claim his offspring.

The Board is aware that we are subjecting ourselves to the criticism that to liberalize the legitimation processes we would be opening the door to abuse and possible fraud and unmeritorious claims, particularly in probate proceedings. However, it is the conviction of the Board that these suggestions will not lead to such a result but rather would provide substantial benefits and protection to many children who otherwise would not be legitimated. Further, we believe this policy will bear substantial benefits for society at large.

Paternity is a necessary first step for legitimation in most cases. Once paternity is established, the father may well desire to legitimize his child. However, paternity will not necessarily lead to legitimation unless society encourages a continued relationship between the natural father and the mother. The Board is well aware that in many cases it will not be practical or desirable for the parents to maintain any relationship. However, studies show that in most cases the putative father and the mother are of similar age, have some knowledge of one another, and there is some meaningful relationship. It is suggested that a continued relationship between the natural parents in which there is cooperation, communication, and consultation can only lead to the child's benefit. This relationship may be only visitation of the child and advice and cooperation in making the major decisions affecting his life. Such a relationship with the natural father cannot be established when the natural father is not given an opportunity to see and visit the child. Therefore, the question as to the extent of his rights of visitation must be answered and because of its individualized nature it must be answered on a case-by-case basis. Therefore, we recommend that when paternity is established the court also make a determination as to the father's visitation rights. Such visitation rights, of course, could be modified by either party upon making appropriate application.

#### M. Paternity

Every child should have the right to know both his parents and to receive the benefit of their resources; the child born out of wedlock should be no exception. Unfortunately, these rights are often unrealized, ignored or compromised, when the natural mother either fails to identify the father, or fails to institute an action to have the parental relationship established. The mother, by her failure to act, effectively cuts off the child's rights.

Unfortunately, the mother cannot be required by those administering the welfare system to cooperate to determine paternity as a condition of obtaining support. The natural mother may accept the welfare benefits while refusing to identify the father, and thereby deprive the child of his most fundamental rights and resources. Under present law there is no way in which the child can assert his rights without the help of the mother.

The Board endorses the approach to this problem proposed by the members of the U. S. Senate Finance Committee. This proposed legislation requires cooperation of a mother on welfare as a condition of eligibility for assistance. It provides that local officials may bring a paternity and support action on behalf of the illegitimate child. The Board takes some pride in noting that this approach is similar to the one outlined by the Board's recommendations in "Guide for Administration and Conduct of a Coordinated Child Support Program by California Counties" issued in 1971.

The right to support of the child, by the natural father is an established statutory right in the State of California. Court decisions and administrative procedures which permit a mother to refuse to identify the natural father, we believe, deny the child this fundamental right. The child born out of wedlock has enough burdens placed upon him. This child needs all the resources which the law permits. The mother's arbitrary refusal to name the father, a decision which is often made under emotional stress and circumstances, has long and enduring consequences and effect upon the child. Society should not tolerate or permit one to exercise such absolute power. Neither at Common Law, nor under our present law, does the mother own the child.

The law should be administered for welfare and nonwelfare mothers alike. Certainly, the fact that a mother is receiving welfare should not entitle her to gain by her refusal to cooperate, or to have advantages not available to nonwelfare mothers.

We contend that the State Legislature should declare that it is in the public interest for a child to know its natural father, therefore his own heritage, and to enjoy the benefits of support which the law allows. It should be a matter of public policy that, unless the child is placed for adoption at birth, or immediately thereafter, it is in the best interests of the minor child born out of wedlock in the State of California for paternity to be established. This recommendation should apply to children born of welfare and nonwelfare mothers alike. Therefore, the Board recommends that the state adopt and establish a mandatory paternity program by which a state agency or designated branch of county government is charged with the responsibility to carry out these proposals.

It is appreciated, that for many practical reasons, it will not be possible to establish paternity. The State of Minnesota which has adopted such a program for all its children, regardless of welfare status, has experienced certain limitations. Such circumstances as unusual promiscuity, transience of the mother, the natural father being a relative or close friend, or the total desertion of the father, may preclude an adjudication of paternity.

Notwithstanding these limitations, we believe that a mandatory paternity program would establish paternity for a high percentage of the children born out of wedlock. Questions may be raised as to the need to establish a mandatory program, rather than to simply provide for stronger enabling legislation which would permit each respective county to pursue a program in accordance with local needs and conditions. The Board appreciates that the initiation of such a program places additional burdens upon county agencies, although many county agencies are presently involved in this activity. However, because of the statewide importance of this problem, and because of the mobility of the natural mother as well as the natural father, it would appear that there should be established a consistent and uniform program throughout the State of California. To assure this consistency and uniformity, it appears desirable to establish the program on a mandatory basis.

To some observers this program may appear to be severe and harsh because the program does involve an intrusion into the personal affairs of the natural mother as well as the natural father. However, it would appear that these personal affairs must give way in light of the state's interest in preserving for the child his fundamental rights as we have set forth herein.

The Board in its consideration of this problem of conflicting interests has given considerable attention to the establishment of a system or procedure by which paternity could be established. The first question to be resolved is, "How may the child born out of wedlock, be identified?" To identify all children born out of wedlock, both nonwelfare and welfare, the only means available is by reference to the birth certificate. The Board recommends the requirement that both the natural father and mother sign the birth certificate. Those birth certificates which were not signed by the natural father, or those certificates on which the surname of the father differed from that of the mother, would raise a question of legitimacy. It would be the duty of the appropriate



state agency, and that would apparently be the Vital Statistics Section of the State Department of Health, to refer the matter to the county in which the child was born. In the county of birth, it would be the duty of the appropriate county agency to determine the conditions and circumstances of birth. If, as a result of this determination, it was found that the child was born out of wedlock, it would then be the duty of the county agency to encourage the natural mother to commence paternity proceedings through the respective District Attorney's Office. It is our suggestion that these matters be referred initially to the County Welfare Department. We do not believe that the early stages of this procedure should be placed in the hands of the district attorney. It is our hope that, in a great number of cases, the mother after being contacted by a representative of the County Welfare Department, would fully appreciate the problem, and take the appropriate steps to protect the child's rights. We believe in the context of a social problem, that the natural mother will be willing to cooperate. In those situations where there are complex problems caused by the relationship existing between the natural mother and father, the experience and training of the social worker may better handle such a situation, than an investigator of the District Attorney's Office.

These matters should be referred to the protective services division of the welfare department as the protective services worker is best suited to handle complex and difficult family problems. Further, because we have a real concern as to the minor child's welfare, and the conditions in which he may be reared when the young mother retains the child, the experience of the protective service worker would be helpful to determine if in fact the child appeared to be endangered, or potentially endangered.

If in the event the protective services worker was of the opinion that the living conditions of the child were incompatible with normal living standards, or it appeared that the child was in fact endangered, then the protective services worker would be authorized to take such specific action as the circumstances may require. This would include direct referral to the other social agencies.

The protective services worker's primary responsibility, insofar as the paternity program is concerned, would be to prevail upon the natural mother to commence proceedings through the District Attorney's Office. The worker should be sufficiently trained and experienced so that the worker would be able to explain the full consequences and effects to the mother, of not cooperating in identifying the father. As already stated, the Board is well aware that the mother, for many reasons, may be reluctant to identify the father. It is not our intent to attempt to itemize the many reasons for the mother's reluctance, and the Board does not minimize the problems that may exist in these circumstances. However, experience has shown that when a skillful, trained, and properly motivated social worker or interviewer of a District Attorney's Office fully explains the importance of these matters and points out to the mother that her failure to identify the father not only deprives the child of the resources of the father at this time, but perhaps for all time, experience has shown that a great number of mothers cooperate in identifying the father and securing their children's birthright.

The presence of the protective services worker in the context of the young mother's life provides an additional resource and strength to her during this difficult period of time. If there are fears of recrimination or other severe



family problems, the protective services worker can be of some assistance by providing protection for the young mother.

If in the event the mother does not, on her own initiative, commence paternity proceedings within six months from the child's birth, it is then our recommendation that a county agency be authorized to commence the proceedings on behalf of the minor child. In such a proceeding the mother may be called as a witness. The need to conditioning welfare eligibility on cooperation of the custodial parent is thus eliminated as the court has independent authority to call witnesses and take testimony. Should the mother be uncooperative, it would appear that because of the involvement of the protective services worker, considerable evidence would have been obtained from neighbors, friends and associates in order to identify the natural father. However, if following the involvement of the protective services worker, no evidence to determine the identity or location of the natural father was present, the protective services worker should submit to the District Attorney's Office a report setting forth these facts. In those instances, rather than making an effort to establish paternity, an alternative procedure would be followed: to-wit an action to declare nonpaternity. A declaration or finding of the court, of nonpaternity would have the legal effect of terminating the relationship of the natural father to the child, thereby giving to the mother the sole custody of the child, and requiring only her legal consent to place the child for adoption.

The procedure to declare nonpaternity has the legal effect of terminating the parental right of the father, therefore it must satisfy all due process requirements. The Board makes the following suggestions for an action to declare nonpaternity:

FIRST, that there be established with the Vital Statistics Section of the State Department of Health, in addition to the legitimation procedures outlined in the previous section, a procedure by which a natural father may file a notification request for any paternity action, or non-paternity actions which may involve his child. In the event the natural father desires to continue the relationship with the child, or live up to his responsibilities, a procedure is established whereby the natural mother cannot arbitrarily cut off his good faith efforts and rights. It would be the duty of the protective services worker, or the District Attorney's Office to obtain from Vital Statistics an affidavit to the effect that neither a legitimation affidavit nor a notification request had been filed prior to the court making a determination of nonpaternity.

SECOND, a nonpaternity hearing should be held in the same manner as a paternity hearing, at which time the court would be empowered to question the witnesses, review affidavits, and to satisfy itself that, in fact, paternity cannot be established. This may be because of the inability to identify the natural father, or even if identified, the inability to locate the natural father. The court would make a specific finding on this factual matter, and because of the finality of such an order it would be our suggestion that the court, after the initial hearing, make an interlocutory order in which the nonpaternity would be established. This procedure would require a copy of the order to be filed with Vital Statistics, as well as with the local court, and upon the elapse of 60 days, there being no further request for a hearing, or other information coming to the attention of the county agency or court, a final order

would be made upon the request of the District Attorney's Office. The district attorney's affidavit would include a representation that his office had no further information pertaining to the identity or location of the natural father, and that there was no request for notice filed with Vital Statistics. Again, the legal effect of the final order of nonpaternity would be the child for adoption, if the natural mother so desired, or would place with the mother the sole custody of the child.

It is appreciated that there are different points of view as to the benefit to be gained by placing a child in the condition of not having a legal father. However, under present circumstances many illegitimate children, in actuality, have no legal father. Notwithstanding this observation, the Board feels very strongly that the rights of those fathers who, in good faith, desire to involve themselves with their children, should be protected. But, the Board believes that it is in the best interests of the child to sever the rights of the natural father who, after a period of time, has failed to act or to come forward to assist the child in any manner. To continue a meaningless or fictional relationship, which requires difficult legal procedures to terminate, appears to be a questionable social policy. It places the child in an uncertain and ill-defined condition - he is in limbo.

In our opinion, there is much to be said for the certainty of the situation in which all parties know that there is no father. The natural mother, social agencies, and members of the family, fully appreciate that the responsibility of the child is placed clearly upon themselves. That the well-being of the child rests upon the ability and resources of the natural mother, and of the social agencies, not with an illusive and unconcerned father.

Within the first year after the child's birth, certainty as to the child's paternity would have been established. Either paternity has been established, or the alternative - a determination has been made that it is not possible to establish paternity. In any event, this critical question has been crystallized and satisfied. We believe that the best interest of the child will be served by making definite the parental relationship as soon as possible.

The Board is not unaware that the position of a mandatory paternity program in the State of California will impose upon county government additional cost and expenses. Under current law, such a burden cannot be placed upon the county unless the state is willing to provide additional monies to offset increased costs. There is no question that county government will be compelled to expend more monies for increased investigatory interviews and for court procedures, than in the normal child support program. It is recommended that the state provide sufficient monies to the counties to cover these essential expenses. It is further recommended that a financial incentive program be included to encourage counties to effectively carry out these programs. It has been found that such financial incentive programs have worked most successfully in connection with the collection of child support in the State of California. A program similar to the Support Enforcement Incentive Fund is suggested.

Because of the physical size of the State of California, and the fact that it encompasses 20 million people who display a high rate of mobility, it

appears that the need for a state clearing house of information on births is both important and necessary. For this reason we made the recommendation concerning Vital Statistics. The question must be raised, "Is such information open to the entire public?" It is our belief that records pertaining to declarations of nonpaternity, and paternity, should not be open to public inspection and that such records should be available to only those persons in public agencies who are authorized under the law to work with such information. That the information in Vital Statistics would be available to the natural mother, the natural father, or the child, upon presenting to Vital Statistics satisfactory evidence showing their relationship and the reason for their concern.

It is recommended that after the establishment of paternity the court set the amount of child support, and also make a specific determination as to whether visitation rights should exist. Although there is some judicial authority supporting the right of the natural father to visit the child, this right does not appear to be clear in all cases, nor does it appear to be a right which is understood or known by many natural fathers.

Of course, in many cases it would not be appropriate, nor would the father desire to exercise visitation rights. However, in those cases in which the father does disclose an interest and if the court determines that visitation rights of the father are beneficial to the minor child, we believe that such a visitation right and the right to support, should be mutual, rather than independent rights and duties. The Board is well aware that California law has long held that the RIGHT TO SUPPORT, and the RIGHT OF VISITATION, are independent of one another; that the father may be required to pay support but for certain reasons may not be able to visit his child. This has led to many injustices and inequities. Because of the unusual circumstances of paternity action, where the father's ability often to exercise visitation rights is minimal and when the mother attempts to arbitrarily cut off these minimal visitation rights, the consequences are usually that the father becomes delinquent in his support payments and is otherwise disillusioned about the entire relationship.

In any event, the court should make a finding as to the father's visitation rights as it will affect the child. If the relationship between the natural mother and the father has been of some duration, it may well be extremely beneficial to the mother as well as the child, to encourage liberal visitation rights. Obviously, if the father is unable to visit the child, his interest in the child will diminish, and the opportunity for future legitimation proceedings would thereby appear to be precluded.

## VI. REMEDIES AND SOLUTIONS

### A. Introduction

Now that the Board has raised the social problem of illegitimacy and the potentially endangered child to the attention of the public, it is a fair question to ask, "What is to be done about it?" The Board has given considerable thought and attention both to the problem and to the creation of a structured legal system to which the problem can be referred and hopefully resolved.

In the Board's first report on illegitimacy, recommendations were made that the third illegitimate child born to a mother would give rise to a rebuttable presumption that this particular mother was unfit. After a court hearing to determine her fitness, a court could terminate the mother-child relationship if it was in the best interests of the child. It was further recommended that in the case when the mother was under 16 years of age, a rebuttable presumption would also arise to her unfitness to care for and raise the child. The Board did not propose an automatic removal of the child, the fitness of the mother would be the key issue determined by the court.

Admittedly these suggested solutions were severe and carried with them the consequences of an act of finality if the parent-child relationship was terminated. To avoid these harsh consequences the Board is proposing alternative remedies and solutions which rely heavily upon dealing with the problem in a social context by persons trained and operating in the social work discipline. It is our fervent hope the plan we are proposing will be effective so that society will not be forced to demand more extreme measures.

### B. Public Social Services

In making recommendations in the first report the Board impliedly found that social services had not effectively engaged itself in solving problems of illegitimacy. In fact, the Board was critical of persons engaged in the social work discipline because many appeared to be unaware of, or oblivious to, the problem. It has been suggested that this conclusion on our part was reached without taking into consideration the history of public social services.

Unfortunately, the field of social work has been harmed by some of its most ardent supporters. Promises were made and expectations raised as to what social work could accomplish. These promises and expectations have not been met, and we have observed the resultant general discontent and suspicion that such services could not in any way solve our social problems. We believe these attitudes to be an over-reaction to the failure of social work in the 1960's.

It is our observation that the shortcomings of the social work programs were due primarily to the fact that these services were ill-defined, unplanned and nongoal-oriented. The administrative implementation of these programs often rendered them ineffective and was inconsistent with

legislative intent. Another difficulty was that the social worker was trained to be a well-intentioned generalist who acquired little if any specific training to define and accomplish meaningful goals. For example, services to strengthen families has been a well-recognized part of the social services program. Unfortunately this service has never been specifically defined nor have specific programs been developed to attain the overall goal. The schools of social work have been of little assistance as they have failed to adequately train their students to set goals and develop methods of attaining them. There are courses in family dynamics but they are survey courses of general content and are often not even a requirement for a graduate degree. In reality the welfare system gave the appearance of providing services to strengthen family, but was in fact rendering few specific services to attain the goal.

Social workers may claim that they were not provided sufficient tools and resources to obtain significant results. However, when the tools and resources with which they were provided failed to achieve any appreciable result, they were offended by the fact they were held accountable. We submit that they should not be surprised to have lost public confidence when they have largely failed to adapt their knowledge and expertise to problem solving - to the detriment of both the recipient and the taxpayer.

Notwithstanding current inadequacies, the Board firmly believes that unique social problems such as illegitimacy can and must be solved by persons trained and knowledgeable in socially related fields. It is on this note that we embark on the proposed solutions.

#### C. Success in Goal-Oriented Programs

It has been our observation that during the last few years there has been an emergence of new concepts and attitudes in social work. Many social workers are not shrinking from accountability, and less criticism is being given the concept of goal-oriented services. There is a stronger desire by social workers to become service specialists dealing with specific problems, thereby developing identifiable skills based on experience in cause and effect relationships. The identification of the problem and the expression of concern is not enough. Society expects professionals to have the skill, ability and discipline to solve the particular problem.

The Board believes that it has a basis upon which to be optimistic when we observe the performance of social work concepts in a structured and goal-oriented program. To be specific the adoption program in California, a social service program, has been very successful. The primary reason for the success is that the persons involved are skilled and motivated. They are specialists accomplishing a particular goal in a structured and established system. As a result of the success of the program, thousands of children have been placed in good homes in which they have received the benefits of family life.

Another example is the emerging expertise among social workers dealing with foster care and placement programs. The Board has observed excellent programs and able social workers doing an effective job in these areas.



Therefore, it is our conclusion that social workers can be effective once a properly structured system is established and definite, ascertainable goals are developed.

D. Illegitimacy: A Social Problem

The Board recognizes the phenomenon of illegitimacy as primarily a social problem, even though there are substantial legal ramifications as a result of an illegitimate birth. Although the Board has expended considerable time and effort in dealing with the legal aspects of the relationships established by an illegitimate birth, it is the daily societal problems with which we are primarily concerned. We are concerned with the consequences of a child entering our society without the protection of an identifiable father and, in essence, born out of the family context. It is the day-to-day living conditions which create emotional, psychological and economic problems with which society must deal. Although paternity may well be established in most cases, and even legitimation in some, the legal procedures may not of themselves provide the protection which the child requires. In a dissolution of a marriage the court looks into the circumstances of the children while an illegitimate child does not come to the court's attention unless and until a serious problem involving the child has arisen. It is for this reason that the Board has concluded that this problem must be dealt with in the social context.

In the Board's deliberations on the absent parent problem we concluded that the collection of child support was primarily a legal or law enforcement function. Because of this we recommended that the social agencies remove themselves from this activity. In this study we have concluded that illegitimacy is primarily a social problem and that it must be handled by social services except for the legal responsibility of establishing paternity and collecting child support.

E. Development of the Protective Services System

1. Background

In 1965, the California Legislature passed a law relating to protective services for children. This program provided that an appropriate county agency establish protective services for children so that their physical, emotional and moral welfare would be protected. These rights were to be protected by the application of social casework methods consisting of consultation and guidance. Welfare and Institutions Code Section 16502.5 provided that these programs were to be rendered to every child regardless of family income or welfare status. These services were to be voluntary in nature, and it was specifically provided that this program would not in any manner involve law enforcement activities.

The Board is of the impression that the protective services program has been helpful and has provided us with a basic tool with which to solve critical family problems. Emergency services and crisis teams have been developed by which social workers may put their skills to work to solve specific problems.

Because of this experience and the knowledge gained thereby, we are recommending that the protective service unit be the basis for developing a structured program to deal with illegitimacy and related problems. In essence the protective services unit or worker is to be an active, recognizable social resource in the community to respond to the identifiable social problems created by illegitimacy.

## 2. Expansions of Authority of Protective Services

Experts agree that for these services to be effective they must be available to all persons within the community regardless of their income or welfare status. Further, the protective services workers must be able to locate and deal with the social problem when it occurs, not simply when a person requests help. It has been the experience of protective services workers that those most in need of help are often those who fail to request it or refuse to accept it. In this regard the protective services worker would be available to respond to a family or community emergency in much the same manner as a policeman or fireman is requested to respond to an emergency. Therefore, the protective services worker must be authorized to initiate activity upon a request from a reliable source such as an interested agency, family or friends.

The protective services worker must be given specific duties, responsibilities and authority which are similar to those given to probation officers in Welfare and Institutions Code Section 626 et seq. An advisory roll is insufficient to meet the dimensions of this problem.

It is recognized that these suggestions will effect an intrusion by public officials into the private affairs of individuals concerned. This interference we believe is socially desirable when we weigh the rights of the child to be protected against the intrusion. We wish to make clear that such an intrusion by a protective services worker does not involve the creation of a public record or police record. The record and files of the social agency are confidential in nature and are not available for inspection or screening by the public at large or disinterested public agencies.

We, of course, recommend that the protective services worker have no law enforcement powers or authority. Specifically, they should not have the power to detain a person or to interrogate a person against his will. The protective services worker in such circumstances should be charged with the duty to make a referral to a police agency or to the Protective Services Board (to be discussed later). We see the protective services worker as the frontline solver of social problems calling upon other systems of the community only if the magnitude of the problem requires it.

## 3. Protective Services Worker and Illegitimate Child

The Board makes reference to our discussion on paternity set forth in Sections M and N of the Role of the Male. These require the Vital Statistics Section of the State Department of Health to make a direct referral to the protective services unit of the county of birth of

any child born out of wedlock. Therefore in this program the primary and initial referral agency would be the Vital Statistics Section. The responsibility of the protective services worker once the referral is made would be twofold:

- a. To locate and make contact with the natural mother for the purpose of informing her of her duty to initiate paternity proceedings in the District Attorney's Office. The duty is not to be extended to investigate the case to prove paternity. Once the mother has been informed of her responsibility to secure the child's birthrights, the protective services worker must monitor the situation to see that the mother does in fact contact the District Attorney's Office. The protective services worker should cooperate with the District Attorney if requested to do so should the mother fail to contact the District Attorney within six months, the protective services worker is to make a direct referral to the District Attorney's Office and cooperate in the subsequent paternity proceeding to the extent requested.
- b. The protective services worker will investigate the living conditions and circumstances of the infant child and determine whether the child's welfare is threatened. When the conditions, as set forth in Welfare and Institutions Code Section 600 exist, the protective services worker's duty is to make a direct referral to the Protective Services Board. The conditions specified in Welfare and Institutions Code Section 600 are: 1) a child in need of proper and effective parental control; 2) a child who is not provided the necessities of life; 3) a child who is physically dangerous to the public; or 4) a child whose home is unfit because of cruelty, abuse or deprivation.

The Board has made reference to Welfare and Institutions Code Section 600 because the legislative terminology and standards have gained a recognizable meaning in our social agencies and have been interpreted and construed by numerous judicial decisions. In essence what the protective services worker is doing is to determine whether the child is a dependent neglected child.

If in the event the circumstances surrounding the child appear to be satisfactory it is suggested that no referral to any social agency be made, but that the protective services worker from time to time make calls upon the infant and mother to determine if conditions remain the same. The protective services worker should have the affirmative duty to determine the living conditions of any illegitimate child during the first year of the child's life. The Board feels that the State of California owes a special responsibility to children born out of wedlock. The responsibility must include a determination that the child, during its first years, is not an endangered or potentially endangered child.

#### 4. Protective Services Board

It is recommended that there be established in each county a procedure to be known as Child's Protective Service Procedure. The organizational authority of this procedure is to be an administrative Board which

should have quasi-legal authority. The Board should consist of three to five persons who have extensive experience in social, health and family law problems. This Board should receive authority from the Legislature to call hearings, subpoena witnesses, and to issue orders on those matters brought before it; all persons appearing before this Board would have the right to appeal its decision to the Superior Court and the right of appeal which would include the right to request to have a full factual presentation of all issues raised in the Board proceedings. In counties with a population of less than 200,000 no board should be established. In counties of a population less than 200,000, these matters would be referred directly to the Family Court.

It would be this Board to which the protective services worker would refer cases where it appeared that the child required protection that the protective services worker was unable to provide. Because of the infinite variety of circumstances which the protective services worker will undoubtedly find, it would be our hope that this worker would be able to resolve a number of situations without making referrals to the Board. The protective services worker would be authorized to make referrals to other social agencies in the hope that the parties involved would voluntarily follow advice and counsel of the worker. In those cases where there was inability to perform, or noncooperation by the parties, then the protective services worker's remedy would be to make application for a hearing before the Board.

After a hearing the Board would be empowered to make such necessary decisions as to protect the right of the minor child. These would include the power to remove the child from the home for a foster home placement, the power to compel certain actions or to enjoin certain actions by the parents or parent or custodial person, the power to place the case under the continued jurisdiction of the Protective Services Board. This jurisdiction may be continued beyond one year's duration and must be reviewable at least within one year.

It is recognized that the suggested powers for the Protective Services Board are essentially those powers now exercised by our juvenile courts. These are equitable powers which have not traditionally been exercised except by superior courts. Therefore, as a part of this procedure any order which removes the child from the home or places a minor parent in a structured or group home should be automatically reviewed and approved by the Family Law Department of the Superior Court.

Creation of a Protective Services Board is recommended because we are of the opinion that this type of social problem can best be resolved in a nonadvisory proceeding and one in which the informality of the setting would be conducive to a frank and full exchange of views pertaining to the individualized family circumstances.

Hopefully this procedure would be an informative and educational experience for the participants to assist them in better understanding their roles as parents and their responsibilities for the infant child. Encouraging the participants to work out their problems in

cooperation with the protective services workers and Protective Services Board will achieve more positive and lasting results than compelling performance in accordance with court orders.

The primary reason for the Protective Services Board is to protect the basic rights of the child and to develop solutions for the child's best interest. The Board should first ascertain the strengths of both natural parents and the respective grandparents in the hope that these persons can provide an adequate environment to meet the basic physical and emotional needs of the child. The Protective Services Board should determine whether these parties have the ability and motivation to provide the continuity and stability necessary to meet these needs.

**F. Shortcomings of the Juvenile Courts System for the Dependent Neglected Child**

The Board recommends that in lieu of Juvenile Court procedures, those children who are identified as having the conditions and status as set forth in Welfare and Institutions Code 600 be subject to the jurisdiction of the Protective Services Board and a Family Law Court procedure to be described. It is our intent that those children who are dependent and neglected, who have in fact not committed any culpable acts or become involved in any wrongdoing, and are themselves victims, should be treated and their problems resolved in a noncriminal proceeding or a proceeding which has no taint of criminality.

Unfortunately the Juvenile Court as established under our present law as a result of many judicial discussions and practice has in essence become a criminal or quasi-criminal proceeding. It is adversary in nature and the opportunity to engage in informal constructive dialogue appears to be lost.

Our observations and discussions with persons directly associated with Juvenile Court proceedings leads us to the conclusion that because of the heavy caseloads involving crimes and offenses as defined by Welfare and Institutions Code Sections 601 and 602, the dependent neglected child's problems cannot be adequately resolved in this setting.

Long ago the law established separate civil and criminal courts for adults. With juveniles, their problems were placed in one court thereby creating a mixture of civil and criminal issues, procedures, and problems. The problems created by the criminal aspects have overwhelmed the initial civil proceedings of Juvenile Courts. In that the problems of the dependent neglected child are primarily social in nature it is apparent that the Juvenile Court system does not have the ability or time to cope with them.

**G. Creation of the Family Court**

In 1970, the California Legislature enacted the Family Law Act. Its primary purpose was to remove the fault concept from family divorce proceedings thereby attempting to make them nonadversary. At the time it was also



recommended that a family court system be established within the Superior Court of each county which would have the effect of consolidating all those legal matters pertaining to families and children under the jurisdiction of one court. In formulating this plan, considerable effort was put forth by many members of the California State Bar. These proposals have already been submitted to the Legislature but as yet have not received its approval.

Rather than set out in detail a model Family Law Act, the Board recommends a Family Law Court as promulgated by the California State Bar or by the U. S. Department of Health, Education, and Welfare be studied by the State Legislature. The Board is of the opinion that the creation of such a family court would develop stability and continuity in resolving family-related problems which usually have their origins as social problems rather than pure legal disputes.

The Board having completed exhaustive studies of foster care procedures, absent father problems, and this report on unwed parents and their potentially endangered children, concludes that society must establish definite procedures and systems for the settlement of family disputes. Society must devote more of its resources to the solutions of these problems. One of our best resources is our court system and it must be more effectively utilized.

The members of the judiciary who are assigned to the Family Law Court must be men and women who are personally motivated and interested in solving these kinds of difficult problems on a case by case basis. They should be fully aware of the value of their services to society in keeping families together, providing adequate protection and support for children, and terminating the family relationship when necessary in a manner so as to reduce harmful consequences to the parties involved and to society.

It is intended that the Family Law Court Department of the Superior Court would be the supervising court for the Protective Services Board and for all matters affecting dependent and neglected children which are presently heard in our Juvenile Courts.

The Board has developed a flow chart (Appendix 13) for consideration of the Legislature in dealing with these problems. It is appreciated that there will be diversity of opinion on many aspects of our proposed system. However, our recommended system should serve as a starting point for other proposals.

As matters now stand there is no procedure by which problems of the illegitimate child may be handled until he comes to the attention of our social or law enforcement agencies because of abuse or neglect. With the birth of an illegitimate child, there is no marriage to dissolve. Therefore, no opportunity for the custody and welfare of the illegitimate child to be brought to the courts' attention. Furthermore, it is the custom and practice in paternity actions prosecuted by district attorneys in the State of California not to inquire as to the potential endangerment of the child.

This inaction should be contrasted with the action of the dissolution procedure where the court does take jurisdiction of the children and defines the custodial rights, support rights, and visitation privileges. In these dissolution proceedings there is usually a party who is interested in raising to the court's attention serious abuse or neglect if it exists. With the child born out of wedlock there is often no interested person to raise such an issue, nor is there a recognized and available court procedure to do so.

#### H. Conclusion

In conclusion what we have recommended is an intake system for children born out of wedlock which does not now exist. Hopefully the appearance of the protective services worker would resolve many of the problems. At that level the problem is treated strictly as social not involving law enforcement agencies or legal procedures except as to the establishment of paternity. But the system provides adequate back-up authority by the presence of the Protective Services Board and the Family Law Court itself. The existence of such a system, we believe, would compel the parties themselves to attempt to meet their own responsibilities by being given the opportunity to resolve the problem themselves.

## VII. FAMILY PLANNING

Family planning is a generic term encompassing a variety of services, all of which are directly related to child birth. The kinds of services falling within the definition of family planning have expanded over a period of years through an evolutionary process. The process was stimulated and guided by a core group of individuals and organizations whose principal interests were divided between advocacy for planned parenthood and concern about world population growth. The forerunner of family planning until the 1960's was "birth control" which meant, in fact, "conception control". Then in 1968, Planned Parenthood-World Population endorsed abortion as a means of population control.

The timing of this policy change is significant since it coincided with the growing national prominence of the women's "liberation" movement and increased concern about the ability of the world to feed its expanding population. The case for a woman's right to abortion could be predicated on the basis of social expediency because of its relationship to a number of acceptable goals and emerging philosophies; namely, world population control; the ideal of a planned family; the viewpoint that the traditional code of moral conduct was antiquated and restrictive; and, it was necessary if the sexual revolution was to succeed. Thus, the divergent views of medical practitioners and world population activists could converge.

It is the Board's viewpoint that many valid distinctions can be made between the essential components of family planning services and abortion. The most obvious difference is the fact that "birth control" is conception prevention, while abortion is conception termination. Although it may be possible that a good case can be made for each under certain circumstances, they are quite different in basic purpose. It is the Board's position that birth control and abortions should be defined as separate services and rendered separately by different service delivery systems. Both types of services involve serious moral considerations and social impact. It is suggested, however, that the prevention of conception does not involve the kinds of individual and social consequences as the termination of a pregnancy. Even so, among the current practitioners of family planning services and particularly among the young users of these services, there is the clear idea abortion is an easily available "backstop" for ineffective or unused birth control techniques. In keeping with what has been stated earlier, the subjects of birth control and abortion will be treated separately in this and the following section of this report.

### A. Definition of Family Planning

Perhaps as a consequence of the rapid growth of family planning services and the multiplicity of professional and nonprofessional individuals and agencies rendering such service, it is difficult to identify a common definition of these services. However, the following definition is quoted for purposes of reference:

"Family planning is a comprehensive service by which parents and potential parents are helped through the voluntary and purposeful application of knowledge about conception and contraception to regulate fertility in order to conceive only wanted children." State Department of Social Welfare, Regulation 30-452; January 1, 1970.

There can be no argument with the purpose and goal of family planning as defined above. Ideally, every individual and family should have the ability to make a conscious decision about whether or not to have children and to determine the number and spacing of the children based on a careful evaluation of their ability to cope with the additional responsibility and to provide for the child's material needs. A major obstacle in achieving this ideal, however, is the fact that conception does not occur as a result of a mechanical act - the number of physiological and psychological variables involved in conception are still being determined and investigated by the experts, even at this late date.

Another impediment to achieving the ideal of family planning services - every child a 'wanted child' - is the basic, but yet unresolved, questions about the nature and impact of the services themselves. Generally, the issues with which society has not yet coped are not only quite fundamental but also very sensitive. The same dilemmas encountered by parents in discussing sex-related questions with their children are mirrored in the debates leading to the development of a statewide social policy on the same questions. The result is that there is today no consistent and uniform public policy on sex-related issues in California. This problem is illustrated by the conflicts in laws and practices discussed earlier in this document. Essentially, the unresolved questions which are at the heart of the current debate are:

1. Who should provide family planning information (birth control)?
2. How and to whom should the information be provided?

Specifically, what are family planning services? They involve a full range of counseling and other forms of information dissemination about the benefits of a planned family; providing specific details about the relative effectiveness of various types of contraceptive techniques and devices; prescribing and dispensing appropriate contraceptive medication and devices; promoting the acceptance of voluntary sterilization of both men and women under certain circumstances; and abortion counseling.

Understandably, time and resources of family planning agencies are generally directed toward the major problem - in this instance, conception prevention. However, the Board suggests that problems faced by childless couples who desire to have children but cannot, certainly fall within the definition family planning services. The Board proposes that public and private family planning agencies should be involved in this type of family problem.

#### B. The Case for Birth Control Information

Every parent who feels a strong sense of responsibility for protecting his child and providing needed information at an appropriate time in the child's development will recognize the inevitable need to broach or respond to questions about sex. Hopefully, these questions can be handled in a way which recognizes the reality of the sex drive and provides the child with necessary information. It is vitally important that this subject be handled in a way which strengthens the bonds of understanding between parent and child and enhances the family's code of moral behavior.

It is a safe generalization that most parents feel anxious about discussing sex-related matters with their children. Also, there is good reason to believe that many parents do not themselves have sufficient knowledge of the subject to impart to their children. And, finally, how does the parent convey the information the child needs for his protection without seeming to condone unrestrained sexual activity?

Adequate sex education for children is a vitally important factor and should be presented within a conceptual framework which emphasizes ethical and moral behavioral standards. Most important, the information should be conveyed in the context of the relationship between sexuality and love, and between marriage and the responsibility of parenthood. The nature of the material provided and the manner in which it is presented should be based upon a knowledgeable assessment of the child's ability to understand and grasp the broader meaning and implication of sexual behavior and birth control. The parent who is sensitive to his child's development should be able to determine the appropriate time and establish the level of discussion which will be most meaningful.

Generally, there are four dangers associated with sex education and birth control information:

1. The information is inaccurate.
2. Too little information is given.
3. The information is given too late.
4. It is not provided within an ethical and moral framework.

The parent who, out of a feeling of embarrassment or failing to assess the child's need, provides too little or inaccurate information or provides it too late is exposing his child to dangers almost as serious as if no information were provided. The traditional "birds and the bees" approach will not suffice. Parents must not only ensure that they have acquired the needed knowledge to present to their children, but they must initiate discussions at a very early age to offset the misinformation received by the child and confusion which results from his acquiring information from his peers.

The parental responsibilities mentioned above are very difficult to carry out. A surprising fund of knowledge is required. To illustrate this point, reference is made to the following questions which are extracted from a questionnaire developed by Planned Parenthood for the training of their volunteer speakers:

1. How soon can a pregnancy be determined by a urine test or pelvic examination?
2. Why does a female become pregnant when withdrawal is the method of contraception used?
3. Can a female become pregnant if there is no penetration?



4. If a female has been raped, had unexpected intercourse or had a condom break and is fearful of this resulting in pregnancy, what can be done for her?
5. Is it possible for conception to occur during a menstrual period?
6. How soon after delivery, miscarriage or abortion can a new pregnancy occur?
7. Why do some young girls who have had sexual relations for 3 or 4 years after puberty without using any form of birth control find themselves pregnant when they are in their late teens?
8. How does the pill compare in numbers of fatalities to pregnancies?
9. At what age of the mother are birth defects most likely to occur?
10. Name the symptoms of German measles.
11. When does a girl become old enough to have an abortion without her parents' consent?
12. What, if any, responsibilities are involved when a minor fathers a child?
13. At what age can a girl get contraceptives without parental consent if she might become a welfare recipient?

These questions illustrate only a few of the factual and complex points which must be discussed with the child as determined by his age and level of maturity. These are the kinds of questions which pregnancy counselors say, "If the girl had known the answer, she probably wouldn't be pregnant." Even most parents who have overcome their anxiety and shyness about discussing such subjects with their children will admit to answering incorrectly at least one of the above questions - and this is part of the problem.

Exposed to talk among their peers and to sexual bombardment in the media and in advertising, even young children are not the "innocents" as were their parents at a similar age. In view of the external pressures brought to bear on children today, especially in the face of an apparent relaxation of sexual behavior standards, there probably has never been a time of greater need for providing the young with factual information in the context of sound moral and ethical principles of sexual behavior. As Johnson commented, "But the end of innocence is not the same thing as the beginning of wisdom." What Do You Want Your Children to Learn About Sex.

The other point that needs to be faced by parents is the tendency to view their children as "too young" and consequently put off to a later date a frank and meaningful discussion of sex and birth control. This is the other half of the problem - "too little too late". The child's peers do not have the same kind of parental concern about the child's level of maturity or chronological age. He may, in fact, be exposed to sexual talk and relationships some years before his parents believe he is ready to participate in an in-family discussion. The potential of sexual activity among the young is a reality which must be faced by parents and faced early

enough so they can help the child through this difficult phase of development. The following information is presented to counter the argument that "it can't happen in my family":

Number of Live Births to Mothers Age 16 and Under  
by Legitimacy Status - 1971

<u>Age of Mother</u>	<u>Illegitimate</u>	<u>Legitimate</u>
Under 13	13	--
13	91	7
14	528	111
15	1,560	757
16	<u>2,912</u>	<u>2,892</u>
TOTAL	5,104	3,767

The above information reveals that "it did happen" in 8,871 families in the State of California in 1971. There were 5,104 births out-of-wedlock to mothers age 16 years or younger and a total of 3,767 legitimate births within the same age group which, of course, raises the question of how many of these legitimate births took place following "forced marriages".

C. The Providers of Birth Control Information

The same kind of advocacy which brought together those with concerns about planned parenthood, world population growth, and the right to abortion has stimulated the growth of family planning services across the state. The investment of both private monies and public tax funds in a proliferation of programs has, in fact, spawned a new industry in California. The purveyors of family planning services presently include medical doctors, public health nurses, social workers, trained family planning specialists, and, the group of concern to the Board - the relatively untrained. So rapid has been the development of family planning services in the past few years - which now includes abortion counseling - that such services are rendered by certain individuals and groups in very informal store-front offices, particularly in large cities.

Family planning services received its first major governmental support in the mid-1960's when the President frequently mentioned federal responsibility with respect to family planning. A 1965 Supreme Court decision that anticontraceptive laws were unconstitutional further facilitated action by the Federal Government. The 1967 Amendments to the Federal Social Security Act included family planning as a required service. Thus, private donations which had been the primary funding source of family planning clinics were augmented by the availability of federal funds on a 75%-25% matching basis, and further bulwarked by substantial grants from the Federal Office of Economic Opportunity.

Rather typical of this kind of rapid growth of government supported programs, the family planning movement has been marked by a lack of planning and an absence of consensus with respect to a balanced social

policy. The goal of family planning services - in this context, birth control - has not been effectively communicated to the public. This failure has resulted in confusion in the mind of the public as to the distinction between family planning and sex education. The merging of family planning with abortion has added another layer of controversy.

One of the conflicts in laws and practices discussed earlier in this report relates to the availability of birth control information and devices to minors. In connection with this subject, a distinction is made between those who are current, former or potential welfare recipients and those who are not. Welfare and Institutions Code Section 10053.2 (Senate Bill 796 enacted in 1971), provides that family planning services shall be offered to all former, current or potential recipients of child-bearing age (age 15 to 44 inclusive). This section states, "Notwithstanding any other provisions of law, the furnishing of these family planning services shall not require the consent of anyone other than the person who is to receive them." These same public and private family planning clinics are precluded from providing birth control information without parental consent to persons under the age of 18 who are neither current, former, nor potential welfare recipients.

Faced with what they perceive to be their duty, the conflict in law noted above, and a certain level of demand for services, some family planning clinics have adopted the practice of serving nonwelfare-connected children under the age of 18 years regardless of the need for parental consent. In some instances, elaborate subterfuges have been developed to communicate with youthful clients in a way which prevents the parent from having knowledge that the child is being served by a family planning clinic. A young girl who is a student in a San Fernando Valley high school has said:

"Throughout the Los Angeles area there are many free clinics. There are at least three that I know of just in San Fernando Valley. It doesn't matter how old you are, you can go in and stand in line for a long time. What you sign is a consent form which says you are well aware of what you are doing, and that the county, or whatever organization is conducting the clinic, will not assume any responsibility for bad reactions and things like that. Personally, I know people who have been taking birth control pills for up to four years, and their parents don't know it, and their parents probably never will know it. There is no need for parental consent at all, it doesn't matter how old you are."

In addition to proposing and lobbying for legislation favorable to their cause, family planning groups are also seeking means of working around current legal restrictions with respect to providing contraceptives to minors. The following is offered as an example of this attitude:

"The most important barrier to family planning services relates to continuing restrictions on the capacity of minors to consent to medical care related to contraception.

"In view of the importance and currency of this issue in many states, several factors should be emphasized. The general rule of law is that