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DO DIVORCED PARENTS MAKE TRADE-OFFS?

Judith A. Seltzer  
Irwin Garfinkel  
Terri Orbuch

CDE Working Paper 87-25

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May 1987

This research was supported by Contract No. 144W857 between the Wisconsin Department of Health and Social Services and the Institute for Research on Poverty as well as the Center for Demography and Ecology which receives core support for Population Research from the National Institute for Child Health and Human Development (HD-5876). Opinions expressed are the authors'. We are grateful to L. Bumpass, S. McLanahan, I. Rothe, N. C. Schaeffer, and J. Sweet for comments on an earlier draft of this paper. We also thank P. Brown, A. Lewis, and the computing staff of the Center for Demography and Ecology for their technical assistance and E. Uhr for editorial suggestions. Preliminary results from this research were presented at the 1986 meeting of the Association for Public Policy Analysis, Austin, Texas.

## ABSTRACT

This study examines the division of property and child support awards negotiated by parents who obtain divorces. Data from official court records in the state of Wisconsin are used to investigate the number and size of property settlements and the factors that determine how family property is distributed at divorce. The study investigates the degree to which divorce negotiations reflect a trade-off between property settlements and child support awards. It also explores the effects of property settlements upon women's and men's postdivorce economic well-being.

We find that although most divorce cases include some property settlement, such settlements tend to have small monetary value. Nevertheless property settlements can have an important effect on the economic welfare of women and children after divorce. Hypothetical examples show that property settlements provide investment income of between one-third and two-thirds of yearly child and family support awards. Parents, however, do not appear to exchange support awards for a larger share of joint property. In general the value of property awarded to mothers who have sole custody of the children does not depend on whether or not they receive support awards. Property settlements do not appreciably diminish the difference between women's and men's incomes after divorce.

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Recent changes in no-fault divorce laws, marital property reform, and child support legislation highlight social concern with the dissolution of an economic unit as well as the disruption of the emotional bonds of marriage. The economic and emotional disruption of divorce force parents to reorganize their family life. Divorce settlements provide information about how parents redefine their economic and personal relationships as well as call attention to postdivorce parent-child relationships. Little is known about the negotiations in which parents engage as they separate from each other and sometimes from their children. In this paper we investigate one aspect of these negotiations, the relationship between divorcing parents' division of property and child support awards.

PROPERTY SETTLEMENTS AND SUPPORT AWARDS

Property settlements and support agreements provide insight into the economic negotiations in which parents engage at the time of divorce. They also provide information about the relative economic well-being of women and men after divorce. This section elaborates the ways in which knowledge about property settlements can further our understanding of these economic aspects of family life.

Bargaining about Property and Support Awards

Decisions about the division of property and continuing child support awards are outcomes in parents' divorce negotiations. Parents make

economic trade-offs between the immediate benefits of property (or cash) on one hand, and paying (receiving) support payments over the longer run on the other hand. Although negotiations about property and money are ostensibly economic, the bargaining process includes decisions about noneconomic issues as well. Divorcing parents bargain about the reorganization of child care--where their children live, how decisions about the children will be made, and how frequently each parent can spend time with or visit the children. Because decisions about economic and other family matters are made at the same time, each parent has wide latitude for preference maximization. The legal system imposes few specific constraints on parents' negotiations, and usually ratifies whatever agreement parents make outside the courtroom (Mnookin and Kornhauser, 1979).<sup>1</sup> Therefore, wives' and husbands' knowledge of each others' preferences, their emotional attachment to each other and their children, and access to external resources (money, social support, attorneys' advice) affect the strategies each party employs to maximize preferences.<sup>2</sup> In this paper we focus on parents' financial decisions excluding negotiations about where the children will live.

Parents' decisions about support agreements depend to some extent on their expectations about how reliable the noncustodial parent will be in fulfilling payment obligations. If the custodial parent expects her/his former spouse to be unreliable about paying support, the custodial parent has an economic incentive to request a larger share of the couple's property as part of the divorce settlement. Anecdotal evidence supports the idea that mothers, who usually have custody, consciously decide to trade-off continued contact with their former husband and a child support

agreement for more property at the time of separation. Frequently divorce lawyers advise their clients that "a bird in the hand," a large property settlement, is worth considerably more than a hard-to-enforce child support award or an award that can be renegotiated by a return to court (Weitzman, 1981; 1985).

Noncustodial parents, usually fathers, approach the potential trade-off between giving up their share of the property or agreeing to make extended child support payments from the other vantage point. In a judicial environment in which child support obligations frequently go unenforced, it is in the noncustodial parent's economic interest to bargain for a larger share of the couple's joint property in the short run in exchange for agreeing to pay support over the long run. Agreeing to pay support rather than give up their share of the couple's joint property may also be in the noncustodial parent's emotional interest because it provides an economic lever to use in case the custodial parent does not comply with the terms of the couple's visitation agreement. If the custodial parent limits access to the children, the noncustodial parent can threaten to withhold support as a way to remove the barriers to continued contact with his/her children [Mnookin and Kornhauser, 1979].<sup>3</sup>

The discussion thus far assumes that parents negotiate to maximize their own well-being. Parents may also try to arrange a settlement that is best for their children. Noncustodial parents may want to help support children, and provide them with as high a standard of living as possible, regardless of any benefits the former spouse derives from this arrangement. If children's interests are maximized, instead of

trade-offs between property now versus an agreement to make support payments in the future, property settlements will appear to be distributed disproportionately to the custodial parent (as proxy for the children), and mothers who receive larger property settlements will also receive larger child support awards.

Awarding the couple's house to the custodial parent is one way non-custodial parents share wealth with their children. Allowing children to remain in the predivorce family home (with the custodial parent) enables them to maintain an important aspect of their predivorce standard of living.<sup>4</sup> In addition, children in a stable environment are likely to adjust more rapidly and successfully to their parents' divorce than children who must move to a new house, neighborhood, or school at the same time their parents' marriage ends (Wallerstein and Kelly, 1980; Arendell, 1986). Thus, the way parents divide some types of property affects family members' social and psychological well-being as well as their economic welfare.

No systematic attempts have been made to investigate the degree to which parents trade awards for property settlements. Recent Current Population Survey (CPS) estimates show that among divorced mothers living with children who did not get a child support award, less than 4 percent report that they received property instead of an award. Although this is only a small fraction of mothers without support awards, a significantly higher proportion, 30 percent, claimed that they did not receive an award because they did not want one (U.S. Bureau of the Census, 1986: Table 2). Mothers who said that they did not want support might have based their responses, in part, on the understanding that they would receive

property (e.g., the couple's house) if they did not attempt to obtain a support award as well. Because the CPS question only allowed a single response, the reports of property-award trade-offs probably underestimate the extent to which parents negotiate about these aspects of the divorce settlement. The CPS data also underestimate the degree to which divorcing parents exchange property and awards by ignoring the possibility that parents negotiate about property settlements and awards based on the value (magnitude) of the allocations, not just whether or not there will be an award. Thus, mothers may receive a larger share of the property in exchange for a smaller share of fathers' postdivorce income (i.e., a smaller support award).

In sum, divorcing parents face a variety of economic decisions. They must identify and divide their joint property as well as agree about future economic exchanges, primarily for the support of their children. The divorce agreement is a result of each spouse's attempt to act in his/her own short run and longer run interests, as well as achieve more altruistic goals of providing for their children's continued well-being. Parents' decisions have social as well as economic consequences. Knowledge about property settlements and agreements about child support awards provide insight into parents' goals and expectations about their postdivorce family relationships.

#### Relative Economic Well-Being of Women and Men

Studying property settlements also contributes to our general knowledge of women's and men's relative economic well-being. Previous research on sex differences in postdivorce economic welfare documents



that particularly in the first year or two following marital separation, women are economically disadvantaged. Women experience a decline in income relative to their income when they were living with a husband and relative to households not headed by single women. Divorced women's family income is approximately 70 percent of their predivorce income, while men's family income declines slightly immediately following divorce but then increases beyond its predivorce level (Duncan and Hoffman, 1985a). Women's postdivorce income declines even when they receive transfer payments made by the former spouse as maintenance or child support.<sup>5</sup> Lower earnings capacity (i.e., less training and work experience and discrimination), small child support awards, and low public transfers account for women's economic disadvantage (Garfinkel and McLanahan, 1986).

Although most studies adjust income in some way to take into account differences in household composition and other aspects of "need," few studies are able to take into account property and other assets. If, as some men's rights groups argue, women are more likely than men to receive property and cash transfers at the time of separation, studies that only look at income underestimate women's economic welfare after divorce and can overestimate the sex difference in postdivorce economic arrangements. On the other hand, previous research shows that most divorcing couples have few material assets, and the little property they own is not very valuable relative to income (Weitzman, 1981; U.S. Bureau of the Census, 1981). Therefore the property settlements at divorce may have little effect on women's and men's postdivorce economic welfare. This paper investigates the degree to which property settlements offset the decline in women's postdivorce incomes.

## DESCRIPTION OF THE DATA

Data from official court records in the state of Wisconsin were used to investigate the pattern of parents' postdivorce financial arrangements. The court record data come from an ongoing evaluation of the Wisconsin Child Support Assurance System (Garfinkel et al., 1986). Court records of child support eligible cases were sampled in twenty-two counties for the period 1980 through 1985. In this paper we restrict our attention to the subsample of divorce cases in which there were children who were eligible for support, with court dates between July 1980 and October 1984, the date when the first stage of the Wisconsin child support reforms was implemented.

The first part of the analysis describes property settlements in 2978 cases. The second and third parts of the analysis examine the association between property settlements and support awards, using the subsample of approximately 1300 cases in which the family owned some property and sole legal custody was awarded to the mother at the time of divorce. Both parts of the analysis treat the data as a cross-sectional sample of divorce cases sampled over the four-and-a-half-year period. The population estimates reported below use sample weights correcting for variation in the probability of sample selection based on the year the family entered the Wisconsin court system and the number of child support eligible divorce cases in each county.

Case records include information on parents' income, property ownership, division of assets, and support awards obtained from the financial statements that parents file when they petition for divorce as well as data on settlements in temporary orders (initial separation) and

final orders (formal divorce awards). The analysis uses data on property settlements specified in final orders whenever possible; for cases observed before parents had obtained final orders, we substitute information from temporary orders.<sup>6</sup>

The monetary value of parents' assets is defined as the net value of assets once mortgages, liens, and other debts have been taken into account. Couples or individuals who reported negative net worth, experienced either because they owed money to each other or to outside parties, are treated as though they have no assets (i.e., coded 0 on the value of property).<sup>7</sup> The data collection procedures do not enable us to determine the extent to which this assumption of zero net worth overestimates divorced parents' economic well-being. Overestimates of property values may be counterbalanced by underestimates attributable to missing data on property values in cases where couples did not know the value because the property was still for sale at the time of divorce.

The Wisconsin court record data provide more complete information about property settlements at divorce than is available from the Current Population Survey (CPS) data on postdivorce economic arrangements (U.S. Bureau of the Census, 1986). The court record data include information on property awarded to each spouse, while the CPS data are restricted to whether awards were made to the subgroup of women living in households with children. In addition, the court record data include more precise information about child support awards in effect at the time of divorce than is available in the CPS. Not only are the initial terms of support awards included in the court record data, but the data also include detailed information about the value of the property divided and the

amounts awarded to each parent.<sup>8</sup> The CPS, in contrast, only asks if there is an award, not the amount of the award. The availability of information about both property and support arrangements at the time of divorce facilitates a test of the hypothesis that parents exchange support awards for property. The court record data also provide more reliable estimates of cases with property and the division of property because they include information from the time of divorce rather than retrospective reports as obtained in the CPS. The retrospective reports may underestimate the proportion of divorced mothers who received a property settlement. The longer the time since divorce, the more likely respondents are to forget whether or not they received any property.<sup>9</sup>

## RESULTS

Our analysis of the data is presented in three sections. The first section attempts to identify the social and demographic characteristics of families who may engage in property-support negotiations. The second section explores the degree to which property settlements affect the relative economic well-being of women and men after divorce. It also compares the value of property settlements to the size of child support awards as a way of evaluating the potential for gain in property-support negotiations. The last section investigates the degree to which divorce settlements reflect a trade-off between property and support awards. In the second and third sections we focus on the settlements parents arrange when the mother has sole legal custody of the couple's children.

## Description of Divorcing Families with Property

Tables 1 through 3 provide descriptive information on divorce cases which involve property settlements. Table 1 shows the percentage of divorce cases with property settlements by selected social and demographic characteristics of the couple. Most divorcing parents own some property that must be divided at the time of separation. Approximately 84 percent of all cases include a property settlement. There is relatively little variation across social, demographic, and economic characteristics in the percentage of cases with property settlements. With one exception, the percentage of property owners in each socio-demographic category is at least 70 percent. The exception is that among divorcing families in which the father's gross monthly income is less than \$500, only 65 percent own any property. As might be expected, cases in which the father has a higher income are considerably more likely to involve property than cases in which he has a lower income.

Although most parents own at least some property, there are differences in the family characteristics in cases involving settlements. Couples married longer have had more opportunity to accumulate property than those married a short time. Among those in marriages that lasted ten or more years before divorce, over 92 percent own property. The larger proportion of long-time married couples who own property is consistent with the idea that the longer the marriage lasts, the greater the economic and noneconomic investments spouses have made in their marriage.

Table 1 also shows that couples with two minor children are more likely to own property than those with smaller or larger families.

Couples with only one child are likely to have had fewer years in which to accumulate property. Parents of only one child are also likely to be younger, and therefore to earn less and have less savings accumulated at the time of divorce. Those with larger families (3 or more children), on the other hand, must balance the financial costs of childrearing against accumulating property. This results in a somewhat lower proportion of property owners among large families.

Finally, the proportion of property owners varies depending on other characteristics of the divorce case itself. Parents who agree to joint legal custody of their children are more likely to own property than parents who decide that either the mother or father should have legal custody of the children (92 percent compared to 83 and 80 percent, respectively). This is consistent with the pattern of class variation in custody arrangements implied by the research focus on joint custody agreements in upper-middle-class families (Clingempeel and Reppucci, 1982).

The data in Table 1 also show that parents who are represented by attorneys are more likely to own property than those who do not have a legal representative. The association between property ownership and legal representation at a divorce hearing may reflect the fact that divorce cases with property settlements are more complicated, so couples require legal assistance to resolve their negotiations. Alternatively, property owners may be more likely to seek legal assistance as a way to protect their rights to the property.

A higher proportion of parents who include a maintenance, child, or family support award in their divorce agreement own property than among parents who do not have a support agreement. We suspect that the

Table 1

Percentage of Divorce Cases with Property Settlements by  
Selected Socio-Demographic Characteristics,  
Wisconsin, 1980-1984

|                                 |                    |                                      |       |
|---------------------------------|--------------------|--------------------------------------|-------|
| All Cases                       | 84.1% <sup>a</sup> |                                      |       |
| <u>Number of Minor Children</u> |                    | <u>Legal Custody Type</u>            |       |
| 1                               | 81.2               | Mother                               | 82.5% |
| 2                               | 87.0               | Father                               | 79.5  |
| 3                               | 84.4               | Joint                                | 91.9  |
| 4 or more                       | 84.4               |                                      |       |
| <u>Marital Duration</u>         |                    | <u>Mother's Legal Representation</u> |       |
| Less than 5 years               | 74.1               | Has attorney                         | 85.6  |
| 5 - 9 years                     | 79.8               | No attorney                          | 77.8  |
| 10 years or more                | 92.2               |                                      |       |
| <u>Father's Monthly Income</u>  |                    | <u>Father's Legal Representation</u> |       |
| Less than \$500                 | 65.2               | Has attorney                         | 90.4  |
| \$500-\$999                     | 81.8               | No attorney                          | 75.6  |
| \$1000-\$1499                   | 87.8               | <u>Support Award</u>                 |       |
| \$1500-\$1999                   | 93.8               | Award                                | 87.0  |
| \$2000 or more                  | 98.7               | No Award                             | 72.6  |
| Not ascertained                 | 71.2               |                                      |       |

<sup>a</sup>Percentages are based on weighted data. Unweighted number of cases = 2978.

difference between these two groups can be explained by income differences. Parents with higher incomes invest their economic resources in property both for themselves and for their children.

Table 2 shows that despite the high percentage of divorce cases involving property settlements, the value of most people's assets is relatively low. The median dollar value of all property is \$10,000. A quarter of the cases report property valued at \$2400 or less while three-quarters of the cases report values of \$34,000 or less. (Distribution data are not shown in the table.) The low dollar value of the assets primarily reflects the fact that the only asset most people own is a car. The family house is clearly the couple's most valuable asset, with a median net value of approximately \$22,000 for those who have one. Less than one-fifth of divorce cases involving children include more than \$5000 worth of property other than a house or cars.

The division of property at divorce varies considerably depending on the custody arrangements parents negotiate. The first column of Table 3 shows the percentage of the dollar value of property mothers receive as part of the divorce settlement. Mothers receive slightly over half the value of joint property at divorce, 54 percent, regardless of custody arrangements. Mothers with sole legal custody of the children receive a greater share of the property (57 percent) than mothers without custody (23 percent). In cases of joint custody the mothers receive 49 percent. This suggests that couples who, in principle, agree to share childrearing responsibilities equally also agree to share their property equally. Couples who decide that the mother should carry the childrearing responsibilities award the mother more than half the property as a way to share



Table 2

Median Value of Property in Divorce Cases Involving  
Settlements, Wisconsin 1980-1984<sup>a</sup>

|                           | Median Value          | Percentage of Cases<br>Including the Item |
|---------------------------|-----------------------|---|
| Total Property            | \$10,000 <sup>b</sup> | 84%                                       |
| House                     | \$22,000              | 52  |
| First Car                 | \$ 1,000              | 80  |
| Other Assets <sup>c</sup> | \$15,500              | 18  |

<sup>a</sup>Estimates are calculated using weighted data. Unweighted sample sizes vary due to missing data. Unweighted sample size for calculating total property value = 2563.

<sup>b</sup>Median value estimates restricted to the subset of cases who included the property item in their settlement.

<sup>c</sup>These assets are restricted to property valued at more than \$5000.

Table 3

Percentage of Dollar Value of Property Awarded to  
 Mother by Legal Custody Type and Whether the  
 Divorce Settlement Included a Support Award,  
 Wisconsin, 1980-1984<sup>a</sup>

|                                | All Cases     | Award         | No Award     |
|--------------------------------|---------------|---------------|--------------|
| Mother Custody                 | 57%<br>(1326) | 56%<br>(1199) | 67%<br>(127) |
| Father Custody                 | 23<br>(84)    | 22<br>(28)    | 24<br>(56)   |
| Joint Custody                  | 49<br>(364)   | 53<br>(255)   | 40<br>(109)  |
| All Custody Types <sup>b</sup> | 54<br>(1807)  | 55<br>(1506)  | 50<br>(301)  |

<sup>a</sup>Restricted to cases with a property settlement. Estimates reported use weighted data. Unweighted number of cases in parentheses.

<sup>b</sup>Includes cases in which each parent received sole custody of one or more children (split custody) as well as cases in which custody was awarded to someone other than a parent.

the family's wealth with the children. The slightly greater share of property awarded to custodial mothers might also be viewed as part compensation for their work raising the couples' children. The division of property when fathers have sole legal custody vastly favors the fathers. A possible explanation for this pattern is the unusual character of the small number of cases in which fathers are awarded sole legal custody. Because the de facto requirements for fathers to be awarded sole custody are much more stringent than those for mothers, mothers who voluntarily or involuntarily relinquish childrearing responsibilities may not have the power to negotiate for very much of the couple's joint property.

Table 3 also shows that whether or not child or family support is awarded to the custodial parent affects the couples' division of property. For families in which the mother is the sole legal custodian, those who have awards receive approximately 11 percent less of the couple's property than those who do not receive awards. This finding provides some support for the idea that parents negotiate about property settlements and commitments for future support at the same time. The data suggest that mothers bargain to receive property that they will acquire immediately upon divorce in exchange for relinquishing future claims on their spouses' income (i.e., in child or family support awards). Another way to interpret the association between property settlements and support awards is that fathers prefer to transfer property, such as a share in a house, to custodial mothers and children because the property will directly benefit a child. With cash payments it is more difficult to trace the direct benefits to the children.

The next section investigates the impact of property settlements on parents' postdivorce economic welfare and compares the relative magnitude of property settlements and support awards.

#### Women's and Men's Postdivorce Economic Well-Being

In this section we investigate the degree to which property settlements at divorce affect women's and men's postdivorce economic well-being. The evidence we have presented so far indicates that although most divorcing parents own some property, only a minority own economically valuable property. This is consistent with findings from other studies that report that divorcing couples have lower incomes before separating than couples who remain married (Duncan and Hoffman, 1985a). Therefore neither spouse has an opportunity to acquire much wealth as part of the divorce settlement. On the face of it, the data suggest that taking into account the division of property at divorce is likely to have little effect on male-female differences in postdivorce economic well-being. We offer a more precise evaluation of the effects of property settlements on postdivorce economic welfare by considering the value of property settlements relative to estimates of parents' postdivorce income and child support awards.

To consider the effects of property settlements on postdivorce economic welfare we must develop a way to compare property (a stock) to income (a flow). One way to compare the two is to estimate the income spouses would receive if they invested their share of joint property, and compare this investment income or flow of money to other postdivorce

income. The income returns to the property invested, relative to couples' postdivorce annual income, indicates the degree to which property settlements affect the economic welfare of men and women.<sup>10</sup> Let us assume that the assets acquired in property settlements yield an investment income of a simple 10 percent per year. We have already shown that in divorce cases when legal custody of children is awarded to mothers, they receive 57 percent of community property while fathers receive 43 percent. The median value of property awarded in mother-custody cases is \$8200, yielding an investment income of \$820 in this hypothetical case. Mothers receive \$467 of this interest, while fathers receive \$353.

The relative importance of this investment income for mothers and fathers is apparent when we compare it to estimates of women's and men's mean income for the first year after separation or divorce. Although the court record data we use does not provide information about postdivorce income, we are able to calculate estimates of women's and men's postdivorce income using data reported by Duncan and Hoffman (1985b: Table 14A.3). We estimate that mothers who do not remarry in the year after divorce have an average income of \$16,600 the first year after divorce while fathers have an average income of \$24,800.<sup>11</sup>

When we compare the investment income parents would receive from their property settlements to their average postdivorce income, we find that mothers' share of property interest provides an additional 2.8 percent of income ( $467/16,600$ ) while fathers' share provides 1.4 percent of additional income ( $353/24,800$ ). Neither women nor men benefit appreciably by property settlements. Nevertheless, the proportionate increase in women's economic well-being is twice as high as the improvement in men's economic well-being.

Another way to consider the impact of property settlements on women's and men's postdivorce economic well-being is to compare the ratio of women's to men's income in the year after divorce, ignoring property settlements, to the ratio taking into account the investment value of property. This strategy also shows that property settlements have a trivial effect on sex differences in economic welfare. The ratio of women's to men's postdivorce income before property investments are considered is .67. Once property investments are taken into account, women's economic standing improves to .68 of men's postdivorce income.

A third way to evaluate the effects of property settlements on sex differences in economic well-being is to compare the investment value of property settlements to the size of child support awards. This comparison provides some information about the extent to which a trade-off between property settlements and support awards affects children and their custodial parent. If the investment value of property is trivial relative to the size of child support awards, parents are unlikely to negotiate an exchange between support and property. Table 4 presents data comparing the ratio of the hypothetical investment income from custodial mothers' property settlements to noncustodial fathers' support obligations.

The data show that although property settlements on average do not appreciably affect the relative postdivorce economic well-being of women and men, property settlements still offer the potential for a trade-off between property and child support. The mean investment value of mothers' property settlements is equal to nearly 40 percent of the value of fathers' support obligations among families with both a property

Table 4

Comparison of Average Property Settlement Values to  
Average Child Support Awards. Divorce Cases with  
Mother as Sole Legal Custodian,  
Wisconsin 1980-1984<sup>a</sup>

| Gross Annual<br>Family Income<br>Before Divorce | 10% of Total<br>Value of<br>Property<br>to Mother | Annual<br>Child<br>Support<br>Award | Ratio of<br>Property<br>Investment<br>Value to<br>Support | Unweighted<br>Number of<br>Cases |
|---|---|-------------------------------------|---|----------------------------------|
| Less than \$15,000                              | \$ 600  | \$1465                              | .32   | 119                              |
| \$15,000-\$24,999                               | \$ 524  | \$2938                              | .32   | 268                              |
| \$25,000-\$34,999                               | \$1148  | \$3997                              | .33   | 282                              |
| \$35,000-\$44,999                               | \$1612  | \$4245                              | .41   | 144                              |
| \$45,000 or more                                | \$3955  | \$7018                              | .68   | 101                              |
| All   | \$1366  | \$3860                              | .39   | 914                              |

<sup>a</sup>Estimates calculated using weighted data.

<sup>b</sup>Excludes cases without support awards.

settlement and a support award. This ratio underestimates the relative importance of property and support for custodial mothers' income because it treats income from support as the amount of money noncustodial fathers are obligated to pay in child support. The estimates assume that all support obligations are met, although national data show that only one-half of noncustodial fathers fully comply with child support awards (U.S. Bureau of the Census, 1986).

The relative size of invested property values and support awards varies among families of different predivorce income levels. Among families with predivorce annual incomes of less than \$15,000, invested property values are equal to approximately one-third of support obligations, while among families with property and support awards in the highest income categories, property settlements are equal to more than two-thirds of the annual support obligation.

This pattern of income variation in the relative size of property settlements and support awards is consistent with the considerably more valuable assets owned by families in the upper-income categories. Noncustodial fathers are likely to share a larger portion of these assets with their children than they allocate to continuing support awards because the assets represent a secure opportunity to invest in their children's future. Support awards, on the other hand, require fathers to commit more or less uncertain future earnings. Property awards also allow fathers to give something directly to their children while children's access to money from support awards is controlled by their mothers, who may not share as much with them as their fathers prefer (Weiss and Willis, 1985). Consistent with this interpretation, parents



in the highest income category award a somewhat greater share of joint property to the custodial mother and children than parents with lower predivorce incomes. The greater share of property awarded to custodial mothers in high-income families is explained by the higher proportion of property settlements involving houses. (Table not shown.)

#### Division of Property and Support Awards

To assess the effects of support awards on property settlements we restrict our attention to those families in which mothers have sole legal custody. Again, we focus on this subset of cases because our interest here is in parents' decisions about economic aspects of their postdivorce relationship. Custody decisions require a focus on both emotional and economic aspects of family relationships. We plan to investigate parents' negotiations about legal and physical custody in another paper.

To explore the factors that affect the outcome of parents' negotiations about property and support awards, we use ordinary least squares techniques to regress the proportion of the value of the couple's property awarded to the mother on support arrangements and other family and divorce case characteristics. Although decisions about property settlements and support awards are probably made at the same time, we cannot estimate the two-way association between property and support. The data available do not include any information about factors that could reasonably be expected to affect the division of property but not support, or that affect support but not the division of property. For example, the division of property at divorce depends on the type and value of property each spouse brought to the marriage. If child support awards

were set using a uniform standard or formula, we could use information about the standard to identify the model. Because instrumental variables such as these are not available, the simultaneous equations implied by a model of reciprocal causation cannot be identified.<sup>12</sup>

Marital duration (DURATION) and the number of children eligible for child support (KIDS) are indirect indicators of the couple's investment in their marriage. The longer the couple has been together, the more property they have accumulated (see Table 1) and the greater the likelihood that the couple will acknowledge the wife's contributions to their ability to accumulate assets. The wife's contributions could arise either through employment in the paid labor force or in the homemaker role. Noncustodial parents may invest in their children by sharing wealth (property) with them as well as by making child support payments. The transfer of wealth between noncustodial parents and their children would appear in this model as though the transfer had been made to the custodial mother.

Divorce settlements also may reflect parents' access to economic resources outside their relationship. Judges may expect noncustodial fathers with high incomes to share more property and provide more child support (i.e., in absolute dollars) on average than they expect noncustodial fathers with low incomes to share. The models we estimate control for father's gross monthly income (FINCOME). We also control for mother's gross monthly income (MINCOME). This term is included because it provides some information about earnings mothers might have invested in the couple's joint property. Mothers who invested more in joint property are likely to be awarded a larger share of the property at divorce

than mothers who did not invest their own earnings in property. Both income variables include a large number of cases with missing data. To avoid reducing the number of cases in the analysis we recoded missing values to the mean income value for cases in which mothers were awarded sole legal custody. We include dummy variables identifying cases in which income was recoded to the mean for father's income and mother's income, respectively.<sup>13</sup>

In addition to family characteristics, we expect several aspects of the legal environment to affect property settlements. First, legal representation is likely to influence the outcome of parents' divorce negotiations. If the mother was represented by an attorney (MOTHREP), we expect her to obtain a larger proportion of the couple's property than if she did not have a lawyer. Conversely, father's legal representation (FATHREP) is likely to decrease the proportion of property mothers receive.

The judicial and administrative procedures under which a divorce case is decided affect the potential for trade-offs between support awards and property settlements. Because divorce cases in Wisconsin are heard in family courts administered by counties, it is possible to investigate areal variation in the degree to which couples are free to negotiate about their postdivorce economic ties. In preliminary analyses we investigated variation in divorce decisions among the 22 counties included in the sample. The results of our preliminary work suggested that Milwaukee County is the only county that differs significantly from the other counties in the sample on the variables of interest. Milwaukee is substantially more urban than other Wisconsin counties; Milwaukee

County also differs from other counties in the administration of the family court and child support collection system (Danziger and Corbett, 1986). Therefore, the regression models we estimate allow for differences between Milwaukee and other counties in the economic arrangements divorcing parents make.

Finally, we propose that divorcing parents consider two elements when deciding about child support. The first deals with whether or not parents want to maintain economic contact with each other (and their children) at all. In some cases, parents may exchange the promise of future income transfers for material goods in the present. The first decision, then, distinguishes mothers who receive a promise of support from those who do not. AWARD is a dichotomous variable differentiating families in which the mother received any type of award (i.e., child support, family support, or maintenance) from those in which the mother did not receive an award. For those parents who agree to a support award, there is a second element to consider. This is the amount of support the noncustodial parent agrees to pay. The SUPPORT variable represents the amount of support awarded per month, expressed in hundreds of dollars. Table 5 presents the abbreviations for the variables as well as more detailed information about their specification.

Table 6 reports the regression coefficients for models of the trade-off between awards and property. The first column of the table shows the net effect of a child support award on mother's share of the property. The multivariate models show that in most Wisconsin counties, there is no effect of a child support award on mother's share of marital property. Although the sign of the coefficient on the award dummy variable is in

Table 5  
Definitions of Variables

| Abbreviation | Description                                       | Notes on Operationalization                                       |
|--------------|---|---|
| PERM         | Proportion of net property value to mother        | Equals 0 if mother gets no assets                                 |
| AWARD        | Does the family have a support award?             | 1 = child, family, or maintenance award; 0 otherwise              |
| SUPPORT      | Support obligation per month                      | Expressed in hundreds of dollars; equals 0 if there is no award   |
| KIDS         | Number of minor children in the couple's family   | Restricted to children eligible for support in the divorce action |
| DURATION     | Length of marriage in years                       | Calculated as of initial divorce petition date                    |
| FATHREP      | Is the father represented by an attorney?         | 1 = father has an attorney; 0 otherwise                           |
| MOTHREP      | Is the mother represented by an attorney?         | 1 = mother has an attorney; 0 otherwise                           |
| FINCOME      | Father's gross monthly income                     | Expressed in thousands of dollars                                 |
| MINCOME      | Mother's gross monthly income                     | Expressed in thousands of dollars                                 |
| FDUMINC      | Is father's income missing?                       | Equals 1 if yes; 0 otherwise                                      |
| MDUMINC      | Is mother's income missing?                       | Equals 1 if yes; 0 otherwise                                      |
| MILWAUKEE    | County in which divorce was awarded               | 1 = case heard in Milwaukee; 0 otherwise                          |
| MIL*AWARD    | Interaction of AWARD dummy variable and MILWAUKEE |   |
| MIL*SUPPORT  | Interaction of SUPPORT and MILWAUKEE              |   |

Table 6

Regression Coefficients (t-tests) for Predicting  
Proportion of Property Value to Mother. Divorce  
Cases with Mother as Legal Custodian,  
Wisconsin, 1980-1984<sup>a</sup>

|           | (1)              | (2)              | (3)              |
|-----------|------------------|------------------|------------------|
| AWARD     | -.020<br>(-.533) | ---              | ---              |
| SUPPORT   | ---              | .006<br>(1.49)   | .006<br>(1.46)   |
| MOTHREP   | .089<br>(2.51)   | .085<br>(2.39)   | .089<br>(2.53)   |
| FATHREP   | -.044<br>(-2.10) | -.050<br>(-2.42) | -.048<br>(-2.32) |
| DURATION  | .003<br>(2.04)   | .003<br>(1.86)   | .003<br>(1.86)   |
| KIDS      | .017<br>(1.62)   | .014<br>(1.33)   | .014<br>(1.36)   |
| FINCOME   | .003<br>(.493)   | -.002<br>(-.316) | -.003<br>(-.345) |
| FDUMINC   | .131<br>(5.07)   | .146<br>(5.69)   | .147<br>(5.77)   |
| MINCOME   | .059<br>(3.30)   | .063<br>(3.49)   | .063<br>(3.49)   |
| MDUMINC   | .024<br>(.844)   | .022<br>(.746)   | .022<br>(.758)   |
| MILWAUKEE | .094<br>(1.21)   | -.028<br>(-.625) | ---              |
| MIL*AWARD | -.156<br>(-1.86) | ---              | ---              |

Table 6, continued

|                      | (1)  | (2)              | (3)  |
|----------------------|------|------------------|------|
| MIL*SUPPORT          | ---  | -.002<br>(-.206) | ---  |
| Constant             | .391 | .374             | .365 |
| Adjusted<br>R-Square | .050 | .048             | .048 |
| Unweighted N         | 1301 | 1301             | 1301 |

Note: The three models show (1), the net effect of a child support award on mother's share of property; (2), the effect of the size of support awards on property settlements including variables differentiating between cases heard in Milwaukee County and cases heard elsewhere; (3), the effect of the size of support awards on property settlements excluding county identifiers.

<sup>a</sup>Regressions estimated using unweighted data.

the hypothesized direction, its value is close to zero, and it is not statistically significant. However, the data indicate that for divorce cases decided in Milwaukee County, those who receive a support award receive a smaller share of marital property than those who do not receive a support award. In Milwaukee, mothers with an award receive about 17 percent less (-.020 -.156) of the couple's total property value than mothers without an award. We attribute the difference between Milwaukee and other counties to two factors. First, administrative problems of child support enforcement in Milwaukee County probably increase mothers' perception of the benefits of an immediate settlement (Milwaukee Journal, June 27, 1985). Mothers correctly anticipate difficulties in collecting support and so prefer to bargain for a larger property settlement. Second, fathers in highly urbanized areas like Milwaukee may be harder for even the most efficient child support enforcement officers to trace. In both cases, anticipated problems in child support enforcement heighten the trade-off between support awards and property settlements, increasing mothers' preferences for property.

The effects of the other independent variables on mother's share of the property are, for the most part, consistent with our hypotheses. The longer a couple was married, the more property the mother receives. Also, mothers with larger families receive slightly more property than mothers with smaller families, although the effect of number of children is not statistically significant.

Mothers who are represented by an attorney receive a higher proportion of the couple's net assets than mothers who do not have an attorney. Father's legal representation also affects the distribution of property.



When the father has a lawyer, the share of the couple's property awarded to the mother is smaller, other factors held constant. Thus, having a legal representative appears to be one way for parents to protect their property interests.

Contrary to our hypotheses, there is no association between the father's income and the division of property, although in cases without information on father's income, the mother receives a larger share of property. Mother's income also has a positive effect on her share of the couple's property. These findings suggest that fathers do not need to earn more to maintain control of their share of the couple's assets. Mothers, on the other hand, can increase their share of joint property only if they have contributed their earnings to the joint pool.

The second and third columns of Table 6 show the effect of the size of support awards on property settlements with and without variables identifying cases heard in Milwaukee County. These results indicate a positive, but not statistically significant association between the size of the support award and mother's share of joint property. Mothers who receive large support awards also receive a larger share of the couple's property. This suggests that at least some fathers want to share wealth as well as income with their children. Once the size of support awards is taken into account, divorce cases decided in Milwaukee show the same positive effect of size of support awards on mothers' property as can be seen in other Wisconsin counties. [Compare columns (2) and (3) in Table 6.]

The effects of the other independent variables follow the same pattern as in the previous model. The dummy variables for parents' legal

representation at the time of divorce have consistently strong effects on the division of property. Marital duration and mother's income increase the proportion of property awarded to mothers. Number of children involved does not affect the property settlement, nor does father's income. As in the previous model, when the father's income was not reported on the divorce record, a greater share of the couple's property goes to the mother as part of the settlement. Perhaps failure to report income in their financial statements is an indication that fathers do not want future obligations and claims on their income. By "hiding" income information they minimize claims on future earnings. In exchange, fathers provide more property to mothers and children.

#### CONCLUSION AND DISCUSSION

Our results suggest that property settlements at the time of divorce have an important effect on children's (and single mothers') economic welfare after divorce. Although property settlements do not alter the general picture of sex differences in postdivorce income, property settlements can provide investment income of between one- and two-thirds of yearly child and family support awards. Property settlements have the additional advantage of providing for material transfers at the time of divorce. With support awards, future income is merely promised, and these promises are not always kept.

Parents do not appear to exchange support awards for a larger share of joint property. In general, the value of property awarded to mothers does not depend on whether they receive a child support award. Furthermore, mothers who receive larger monthly support awards receive a larger share of property than do mothers with smaller support awards,

other things being equal. Although the positive association between the amount of support awarded and the value of mothers' property settlements is not statistically significant, we see it as evidence suggesting that fathers attempt to enhance their children's economic welfare. Fathers may demonstrate concern for children's well-being and attempt to improve their standard of living by giving property as well as agreeing to larger support awards. Thus, when divorcing parents negotiate economic arrangements they make decisions to protect their children's interests as well as their own interests. This is true for both fathers and mothers. A more accurate model of divorce negotiations requires the incorporation of parent-child relationships as well as parent-parent relationships.

The difficulty of predicting outcomes of divorce negotiations arises from an absence of knowledge about the degree to which parents try to achieve their own goals and the degree to which they focus on children's interests. Not knowing how parents define children's interests or needs poses an additional complication. Nor do we know how parents resolve apparent discrepancies between children's economic needs, on the one hand, and children's social and psychological needs. Suppose it is always better for children to have access to more of their parents' economic resources rather than less of their resources. Even so, it is not clear whether it is better for parents (and courts) to award economic resources to children by giving them more property or by requiring the noncustodial parent to share more future income in the form of child support awards. Property, particularly the family home, has emotional significance as well as economic value, and this emotional importance of property may tip the scales in a potential exchange between property and

support money.<sup>14</sup> On the other hand, children may also obtain emotional security from knowing that they can rely on both of their parents for continuing economic support.

The changing legal context in which divorces are negotiated also affects the ways families divide economic assets. Laws governing the definition and division of community property constrain parents' bargaining from one angle. Reforms in the system of child support awards and collections limit choices from another perspective. We suspect that the effect of child support reforms on divorce negotiations will be greater than the effects of marital property reforms. No-fault divorce laws and community property rulings place a lower limit on the amount of property each parent receives at divorce. However, our data show that when the mother is the custodial parent, she receives slightly more than half of joint property, thereby suggesting that parents divide property in a way that takes into account their children's needs as well as their own rights. This means that the property decision involves three parties--the mother, father, and children (where siblings are assumed to have the same interests). The resulting division of property more than meets the requirements of community property rulings. Nevertheless, the law does not explicitly consider children's interests or rights to share parental property.

Child support reforms, like property reforms, impose a lower limit on the degree to which parents share income with their children. The federal legislation requiring support payments to be withheld automatically from the earnings of noncustodial parents who are delinquent in

payments ensures that more parents will enter the support-property negotiation knowing that the support obligation will be enforced more effectively than has been true in the past. In addition, some states like Wisconsin, are implementing automatic withholding for all noncustodial parents. This provides an even more rigorous environment for ensuring that payments are made regularly.

Federal legislation also requires states to develop uniform standards for determining support obligations. Greater uniformity in standards further diminishes the degree to which parents can negotiate divorce settlements. The Wisconsin standard for determining awards requires that awards be indexed to the noncustodial parent's income. Thus, when the noncustodial parent's income increases, as generally occurs as the worker acquires more work experience and seniority, the support award would increase as well. Consequently, parents obtaining divorces in Wisconsin will enter the court system expecting support obligations to be enforced and anticipating increases in the amount of the obligation over time. A result of these expectations may be that noncustodial parents will attempt to keep more of the couple's joint property than they did previously. That is, they will try to hold back the portion of marital property that we have referred to as the children's share.

Greater equity between parents and across families are stated goals of both marital property and divorce reforms as well as child support legislation. (See for example, Fineman, 1983; Weitzman, 1985; Garfinkel and Uhr, 1984.) To achieve these goals requires accurate information about the distribution of property prior to divorce, the value of the property, and each parent's income. Without information about predivorce

economic status it is impossible to avoid or ameliorate inequities. Court records and the financial statements parents submit as part of their application for divorce frequently exclude key data necessary for evaluating equity. A significant proportion of the cases, about one-third, do not include income data for one or both parents. Nonresponse on this item, obtained from parents' financial statements, may reflect individual uncertainty about earnings at a time of great family instability. Alternatively, omitting income data may be a strategy some custodial parents use to obtain a larger property or support award (i.e., because they have no other means of support) or that noncustodial parents use to avoid continuing economic obligations. The strategy might be something parents devise on their own or something they do on the advice of their attorneys.

Finally divorce judgments are also made without full information about the value of property to be divided. This is particularly true when the parents are trying to sell the property, most commonly a house or business, but the sale is not complete at the time of the final divorce hearing. In such cases, the parents and the court must estimate the potential value of the property to make equitable awards. The actual division of property will be negotiated outside the legal system.

## NOTES

<sup>1</sup>Mnookin and Kornhauser (1979) report estimates showing that only a small proportion of divorces involve disputes resolved in court. Probably fewer than 10 percent of divorce cases involve legal conflict. Weitzman (1981) also points to the relative freedom couples have to negotiate divorce agreements. She asserts that even when the law requires that property be divided equally between spouses, judges can ratify an unequal distribution of property if both parties agree to it.

<sup>2</sup>Although research to date shows mixed evidence of an association between attachment to former spouse and child support payments, inconsistent findings across studies might be explained by the small, purposive samples used in the research (e.g., Wright and Price, 1986; Wallerstein and Corbin, 1986).

<sup>3</sup>Research on children's relationships with noncustodial parents shows a positive association between contact and paying child support (Furstenberg et al., 1983; Chambers, 1979). Frequent contact and regular support payments may both reflect fathers' interest in and affection for their children. If there is a causal relationship between contact and support, the direction of causation is ambiguous. Fathers who see their children regularly may be more aware of the children's material needs, and so pay support regularly. Alternatively, fathers who pay support may seek more contact with their children to ensure that the support money is spent on the children rather than the former spouse.

<sup>4</sup>Custodial parents may be awarded a disproportionate share of the proceeds from selling the family home in cases where both parents move to a new location. The greater share of the house value awarded to the

custodial parent would enable children to live in a better (i.e., more expensive) house than would be possible with an equal division of property.

Weitzman (1981) finds that couples with minor children are no more likely to give the house to the mother than couples without minor children. This finding might be explained by the fact that there are two types of couples without minor children: young couples who have not yet had children and older couples whose children have grown up. In the latter case, the house is likely to be awarded to the mother in recognition of her contributions to childrearing and in lieu of or as supplemental to alimony or maintenance payments. Thus, if couples who have never had children are compared to couples who have children, regardless of the children's ages, we probably would find when there have been children, the house is more likely to be awarded to the wife.

There is also evidence that some types of property are typically awarded to women (e.g., house, furnishings), while other types are awarded to men (e.g., cars, business assets) (Weitzman, 1981).

<sup>5</sup>Once the greater number of dependents in women's than men's households is taken into account, Weitzman (1985) reports that women's standard of living declines by 73 percent the first year after divorce; men's standard of living improves by 42 percent in the same period.

<sup>6</sup>Temporary and final order data were coded from a file of case records in which court actions for each cases were recorded chronologically. By searching each of the first four court actions we identified final or temporary orders for slightly over 95 percent of the divorce cases in the sample. Fifteen percent of the cases only had information



from temporary orders. When a dummy variable indicating whether the data for a case came primarily from a temporary or final order is included in the regression models we report, there is no effect of information source on property settlements. This is consistent with the finding (Melli et al., 1985) that awards in final orders are usually the same as temporary orders.

<sup>7</sup>If couples owed money on a house (i.e., had a negative net worth on the house) but had no outstanding loans on their car, the value of their house was coded as "0" while the value of the car was treated as a positive number.

<sup>8</sup>Since 1979 the CPS has not contained questions on the value of property included in settlements (U.S. Bureau of the Census, 1983).

<sup>9</sup>Published tables allow us to compare the CPS national estimates of the proportion of custodial mothers who receive a property settlement at divorce to estimates from the Wisconsin sample. The comparison suggests that the CPS probably underestimates the proportion of mothers with property settlements. According to the CPS, 41 percent of divorced mothers living with their children received a property settlement at the time of divorce (U.S. Bureau of the Census, 1986: Table 13). This compares to approximately 66 percent for Wisconsin mothers who have legal custody of their children. Although the smaller proportion with property awards estimated from the CPS can be explained by recall error, other factors may be involved as well. For instance, the CPS includes women whose divorce occurred as long as twenty years ago. If a smaller proportion of couples who divorced in the 1960s owned property at the time of divorce, this would also explain the differences between the CPS and court record

sample estimates. Differences in the proportion of property owners would be consistent with other findings demonstrating that today the formerly married have higher levels of educational attainment, one measure of social class, than was true in the 1960s (Sweet and Bumpass, in press).

<sup>10</sup>Women's predivorce income may underestimate their postdivorce income because women's labor force participation increases after divorce (Duncan and Hoffman, 1985a).

<sup>11</sup>We probably overestimate mothers' postdivorce income by basing our calculations on Duncan and Hoffman's (1985b) estimates of postdivorce income decline for all women. This is because mothers have more constraints on their labor force participation and so can work fewer hours than women without childrearing responsibilities. On the other hand, our estimates of postdivorce income are somewhat higher than the actual postdivorce incomes Duncan and Hoffman report (\$14,781 for women; \$21,488 for men). This is because the Panel Study of Income Dynamics (PSID) data they analyze include information about the pre- and post-separation incomes of more lower socioeconomic status couples than in the sample we use. The PSID data include couples who do not own property as well as couples who are informally separated but have not legalized the separation by going to court.

<sup>12</sup>Specifying the dependent variable as a proportion entails two problems for ordinary least squares (OLS) regression: floor and ceiling effects on the dependent variable (i.e., it has a lower bound of "0" and an upper bound of "1.0") and heteroskedasticity (i.e., unequal error variances) (Hanushek and Jackson, 1977). Although the text reports the OLS estimates for property settlements measured as a proportion for ease

of discussion, our results are essentially the same for alternate specifications of the dependent variable.

We reestimated the models reported in Table 6 using the logit transformation of the dependent variable, recoding "0" to ".01" and "1.0" to ".99." We also included a correction for heteroskedasticity by weighting the data by:

$$n \sqrt{p_i(1 - p_i)} / \sum \sqrt{p_i(1 - p_i)}$$

where  $p_i$  indicates the proportion of the property settlement awarded to the mother for the  $i$ th case and  $n$  is the number of observations. This construction effectively gives the weighted and unweighted analyses the same number of cases for calculating t-tests. When we respecify the dependent variable and correct for heteroskedasticity our substantive conclusions about potential trade-offs between awards and property are the same. As anticipated, there are minor changes in the statistical significance of coefficients for a few of the variables. Whether or not the father has an attorney and marital duration no longer have a statistically significant effect on mother's property settlements, although the coefficients remain the same across model specifications.

<sup>13</sup>The results reported below are generally stable and do not depend on the inclusion of the dummy variables identifying cases with missing income information.

<sup>14</sup>Elder (1974) shows the emotional importance of residential stability for middle-class families' psychological adjustment to economic hardships in the Depression.

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Mailing Address:

Center for Demography and Ecology  
University of Wisconsin  
1180 Observatory Drive  
Madison, Wisconsin 53706-1393  
U.S.A.