

Taking Care of the District's Children

The Need to Reform DC's Child Support System



August 2007

A Report by:
DC Appleseed Center for Law and Justice
Crowell & Moring LLP
Kilpatrick Stockton LLP

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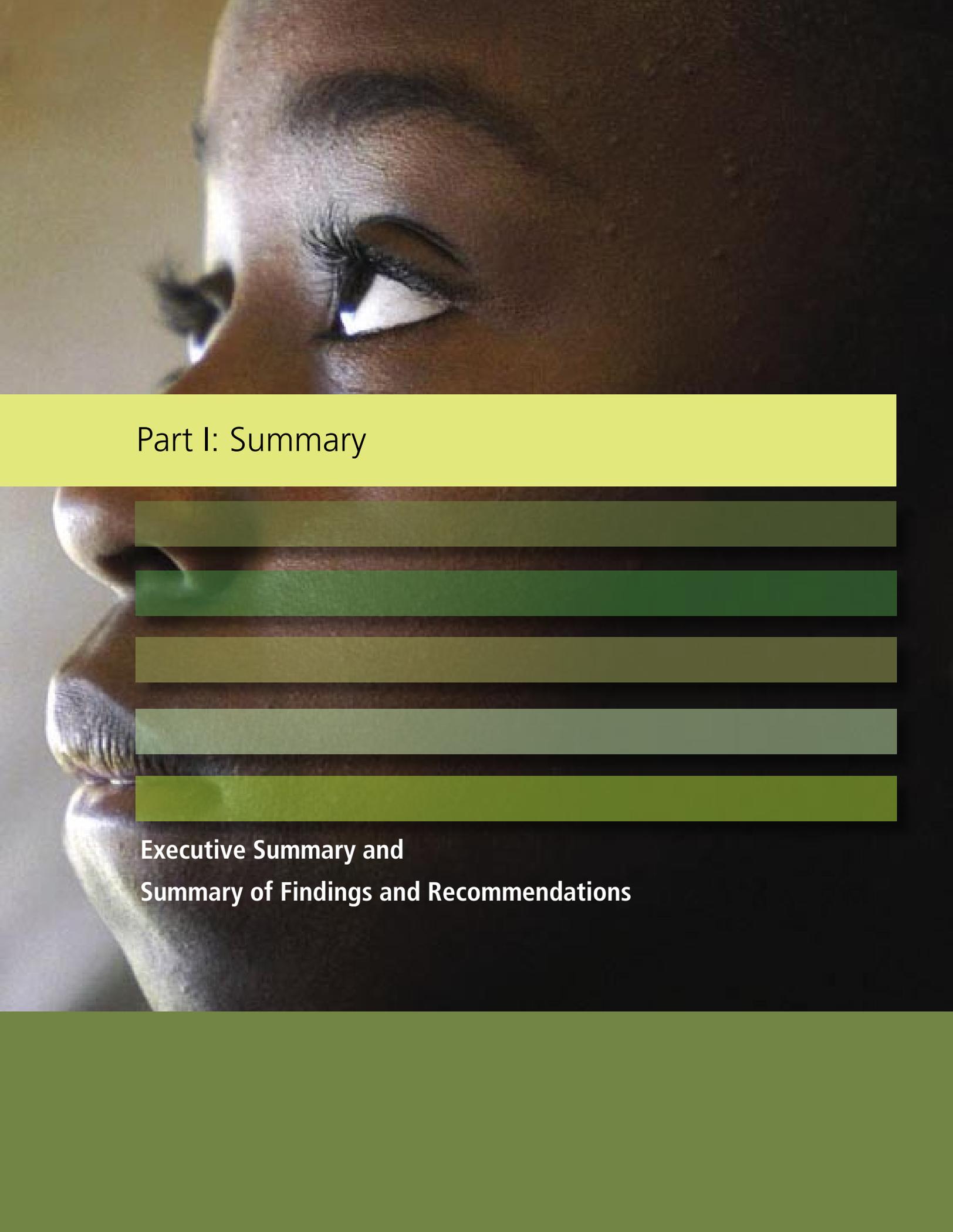
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Part I: Summary

**Executive Summary and
Summary of Findings and Recommendations**



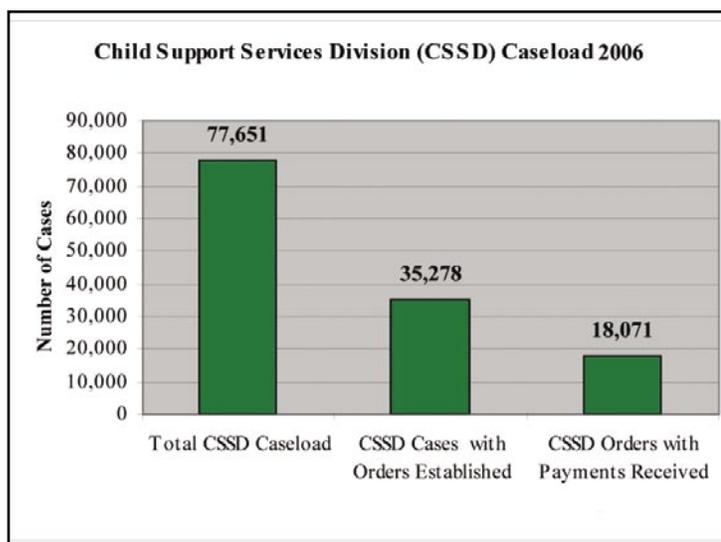
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Executive Summary

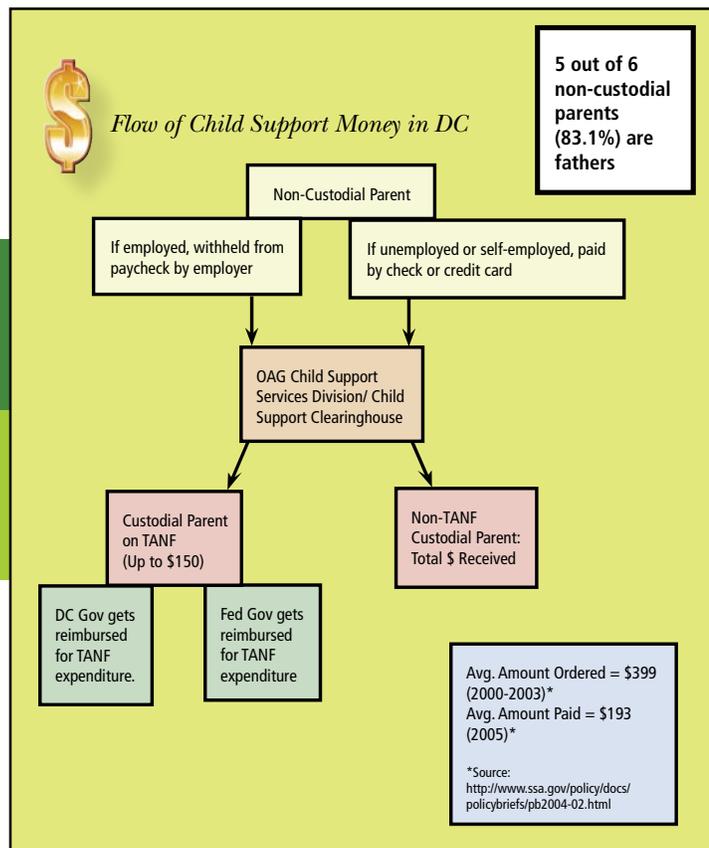
Introduction

The District of Columbia is failing its children, especially children from low-income families. Because this failure is most visible in the case of the public schools, the District government has made school reform its number-one priority. There is of course good reason for this. As the Washington Post recently reported, the District's public school system is among the worst performing in the nation, and the poor performance of DC's schools hurts children from poor families the most.¹

While the District government is surely right to focus considerable attention on the educational needs of children, children from poor District families are also being hurt by another failure - one that is equally pressing, one that impacts their school performance, but one that has not received the critical attention it deserves: the need of these children for parental support. A crucial element of that support is the responsibility of the District's child support system which serves 65 percent – over 76,000 – of the District's children. And yet today, the District's child support system is failing to live up to its promise for three out of four children on its caseload. That failure, and the recommended response to it, is the subject of this report.



The District's Child Support System



The District's child support system is required by law to ensure that a parent who is not living with his or her child provides an appropriate amount of financial support for the child.

The responsibility for making this happen lies primarily with the Child Support Services Division of the Office of the DC Attorney General. That office is focusing considerable attention on this responsibility and had made significant progress in recent years.

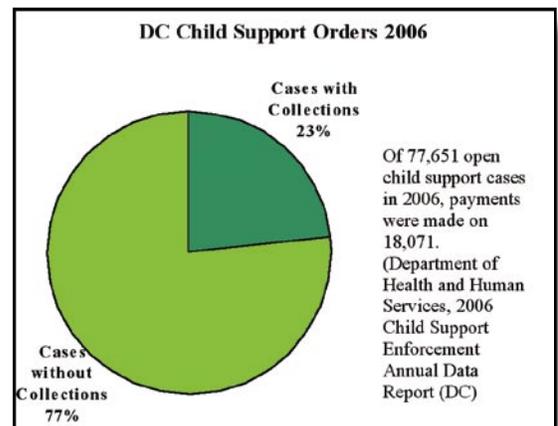
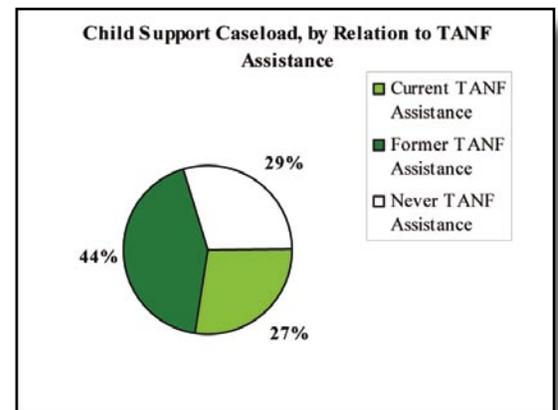
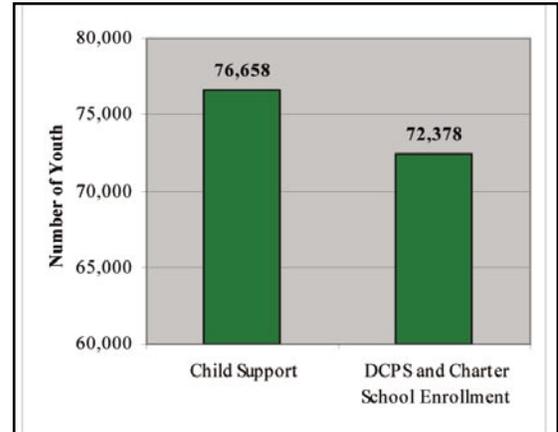
However, by every important measure, the system is failing the District's children – and the consequences of that failure are devastating.

There are more children enrolled in the District's child support system than in District of Columbia Public and Charter Schools *combined*.² All these children deserve and need monetary support from their non-custodial parents; and yet fewer than 1 in 4 of these children – only 18,000 of 76,000 – received *any payment at all* from their absent parent in 2006.

And yet, *fewer than one-fifth* of the poorest children received *any* of the child support to which they were entitled last year.

This failing hits African-American families in the District particularly hard. These families already suffer disproportionately from poverty, unemployment, crime, incarceration, failing schools, low academic achievement, teen pregnancy, and a host of other socio-economic challenges. They are also disproportionately represented in the child support system which, in the District, serves mostly never-married parents. In Wards 7 and 8, where approximately 95% of residents are African-American, over 80% of children are born to a single woman. Over half of all the District's children live in households headed by a single woman, and half of these have incomes below the federal poverty level.³

Not surprisingly, the District's failure to ensure child support for three quarters of the children entitled to it, *i.e.*, 58,000 District children, is reflected on every important measure by which the federal government assesses child support systems in this country. Though much improved, and for the first time no longer subject



to federal penalties, the District falls significantly below the national average on: rates of establishing child support orders; collecting on current child support orders; collecting on arrears (past-due child support); establishing paternity (the pre-requisite for establishing a child support obligation); and cost effectiveness.

These serious shortcomings in the District’s child support system harm District children in three important ways. First, as noted, they deprive children living in poor families of much-needed income. At the lower end of the economic spectrum, child support orders typically range from \$100 to \$300 per month.⁴

Second, the failure to locate and successfully involve as many as 50,000 parents in their children’s lives harms those children in ways that go beyond the loss of monetary payments. Research has repeatedly shown that the receipt

of child support benefits children not only financially, but also emotionally and cognitively. In other words, by securing support from absent parents, effective child-support systems improve children’s academic performance and increase the chance they will finish high school and go on to college.⁵

And third, because there is substantial overlap between the students being poorly served by the public schools and those being served by the child support system, efforts to improve the District schools will be in part dependent upon the District addressing shortcomings in its child support system. It will not be enough simply to improve the schools - because the District’s children are unlikely to meet their potential in the classroom unless they receive the support they need from their parents. The District must therefore address both programs at once if these children are to be given the best opportunity to succeed.



Improving the District's Child Support System



To its credit, the Office of the Attorney General recognized that its system was not serving children as it should. The Office, therefore, invited DC Appleaseed to examine the workings of the system and to determine whether best practices in other jurisdictions addressing comparable problems and serving comparable populations should be adopted in the District. The central question posed by our undertaking was: why are so few fathers paying child support in the District? Or, put another way, why is the child support system shortchanging over 50,000 children?

There is, of course, no single answer to this question. But DC Appleaseed's two-year investigation of the District's system and analysis of other, better-performing systems concludes that the District's model is primarily a punitive one designed to identify and sanction "deadbeat dads" when, based on the demographics of the District, it needs to

be a constructive model designed to assist "dead broke dads" to fulfill their financial and other parental obligations.

The fact is that the overwhelming majority of absent parents in the District of Columbia are low-income, undereducated, and tenuously connected to the workforce. They face barriers to employment and therefore barriers to paying child support. Many have had negative experiences with the courts and with District government agencies. In order to reach the children of *these* parents – again, the majority of non-custodial fathers in DC – the child support system in the District must recognize and address these barriers, *but it is not now doing so*.

Significantly, efforts to treat fathers as part of the solution rather than as part of the problem have been successful in jurisdictions like San Francisco and Denver, large cities that face many of

the same challenges as the District. In these places, child support agencies have successfully shown that most fathers will participate in the system if given the opportunity, information, and support in doing so. These jurisdictions’ efforts to address barriers to payment – like providing mediation services, parental education, and links to employment services – have also proven effective. Such undertakings have not only increased payments, but they have also increased fathers’ commitment to being part of their children’s lives. Although the District’s child support system has taken some steps in these directions, we believe it can and should go much further. We also believe that it needs significant support from other District government entities in doing so.

Our recommendations about further steps to be taken fall into three areas – improving services to parents (in particular, unemployed and other low-income parents who face barriers to paying support); improving the role of the courts; and improving the administration of the child support system in the Office of the Attorney General. These recommendations are summarized below and are explored in greater detail in the chapters that follow. The main thrust of these recommendations is that the child support system should make better use of opportunities to communicate with non-custodial parents and use the leverage it has to help these parents overcome the barriers they face to

paying support, whether the barriers are related to employment, criminal justice involvement, immigration, or family relationships.

Ultimately, children will benefit when the child support system provides better service to low-income parents. Helping the District provide that service is the purpose of the recommendations in this Report. We recognize, of course, that improving child support alone will not guarantee the well-being or success of DC’s low-income children. But it will have a significant positive impact on the home and community environments in which they live. We and the many community organizations we have



consulted with are therefore willing to work with the District to implement these recommendations and to better the lives of the District’s children. It is a goal that deserves the District’s immediate attention.

Summary of Findings and Recommendations

The Findings and Recommendations in this Report, and the brief summary included here, are broken into the following three sections:

- Improvements needed in the services that are provided to parents involved in the child support system.
- Improvements needed in the role played by the court, and the relationship and coordination between the District's child support agency and the court.
- Improvements needed in the administration of the Child Support Services Division (CSSD) of the Office of the Attorney General (OAG) for the District of Columbia.

All of the recommendations are designed to help the District better serve children.

Improving Services to Parents

The child support enforcement system in the District primarily serves low-income parents, many of whom face obstacles to establishing or complying with child support orders. The system could improve services to these parents in three ways: (i) increasing outreach and early intervention to improve relationships between the system and all parents; (ii) focusing particular attention on unemployed and underemployed non-custodial parents, incarcerated parents and ex-offenders, teen parents, and immigrants; and (iii) improving management of child support debt.

Outreach and Early Intervention

In order to better support children, the District should provide services to *families*, including both custodial and non-custodial

parents. The Mayor, the DC Council and the Office of the Attorney General Child Support Services Division (CSSD) should work together to provide funding to establish a non-custodial parent services unit at CSSD. The purpose of this unit would be to provide information, referrals, and proactive customer services to non-custodial parents to help prevent, address, and eliminate barriers to child support compliance. The unit would recommend and implement changes in the ways that CSSD contacts and informs non-custodial parents about their child support obligations and their legal rights. Staff from the unit would conduct outreach to non-custodial parents and community-based groups that serve the non-custodial parent population. CSSD should staff the unit with individuals who have experience with the challenges faced by low-income obligors, and especially by those who face barriers to employment (such as a criminal history or substance abuse problems).

CSSD should also hire more staff to engage in community outreach and make efforts to change its image in the community from sometimes being an inflexible and punitive agency to one that is a resource for children and families. Using media efforts in English and Spanish, and working with other government and community-based agencies, CSSD should actively disseminate messages that stress the benefits of child support to children, the consequences to both non-custodial parents and children from non-payment, and services available to assist all family members.

Unemployed and Underemployed Non-Custodial Parents

Because so many of the parents involved with the child support system are unemployed or underemployed, CSSD should collaborate with the Workforce Investment Council, the Department of Employment Services (DOES), non-profit employment support programs like STRIVE, and the Department of Human Services' DC Fatherhood Initiative to identify effective workforce

development programs that would welcome systematic referrals of parents from the child support system. Among the work support strategies that should be considered are court-ordered participation in employment training as well as literacy and/or other work readiness programs, temporary child support order modification to support this investment in future economic growth, and “debt leveraging” opportunities (for example, reducing the amount of debt owed to the District by non-custodial parents in exchange for their participation in approved programs). Protocols for referrals and monitoring should be developed to ensure consistency and appropriate use of available resources.

In addition, the Paternity and Child Support Branch of the Family Court should develop a range of options for non-custodial parents who are unemployed – beyond the current approach which is typically an order that they return to court with evidence of ten job searches per week. CSSD should request contempt of court orders more frequently for those who fail either to comply with the court's employment-related orders or to report earnings, and a range of punitive options should be developed and implemented, including electronic monitoring and weekend incarceration (which would allow continued employment-related activity). Finally, recipients of DC Fatherhood Initiative grant funds should be required to work in partnership with CSSD (and CSSD should work in partnership with them) in order to bring economic and emotional stability to non-custodial fathers.



Incarcerated Parents and Ex-Offenders

CSSD has recently received a grant to help eligible incarcerated felony offenders modify their child support orders to prevent the accrual of child support debt during incarceration. To build on this, CSSD should also work closely with the District Department of Corrections and the DC Jail to assist non-custodial parents who are imprisoned repeatedly for short periods. Ensuring that these non-custodial parents receive information about the child support process and how to modify an order will contribute to their willingness upon release to secure lawful employment and achieve stability in the community.

In addition, offenders returning to their home communities following a period of incarceration face a variety of challenges to establishing stable, law-abiding lives. While the District seeks to help this population through several agencies, it lacks the kind of integrated “wrap-around system” that such a population needs. The District should establish a comprehensive prisoner re-entry program, which, among other things, would help newly released non-custodial parents address their child support issues, including their existing child support debt, and help repair family relationships that may have suffered during the separation. Such a comprehensive program requires collaboration among many agencies to establish reliable data on existing needs, an understanding of existing resources, and a willingness to share both success and accountability.

Minor Parents and Immigrants

CSSD should work with its paternity program contractor, Policy Studies, Inc., to design an effective approach for reaching teen parents eligible for the hospital-based paternity acknowledgement program. The agency should collaborate with hospital staff and prenatal clinics to educate teen parents on the importance of paternity establishment and, because so many teen parents experience relationship abuse, on the legal protections built into the family court and child support systems for teens who are victims of abuse. Teens should be given the option to undergo free genetic testing rather than automatically signing acknowledgements of paternity. DC Council should pass legislation that protects the rights of teens who sign voluntary acknowledgements of paternity, such as extending the rescission period to 60 days beyond the father’s eighteenth birthday. Judges and CSSD attorneys, using the latitude provided in the new DC Child Support Guideline, should work with teen non-custodial parents to establish payment habits, even if minimal, and help them work toward a secure economic future, even if that means lower payments for the short term.

In addition, to properly serve the District’s increasing Latino population, many of whom face the other service barriers addressed in this Report, CSSD should hire additional Spanish-speaking staff. CSSD also should prepare brochures and other informational materials in Spanish, hold community meetings and run public service announcements, and consult regularly

with Latino community leaders to ensure that these efforts address the concerns of Latino families.

Management of Child Support Arrears

The impact of high arrears on the compliance behavior and family relationships of child support-involved families is too great to manage the problem on an ad hoc basis or within the limits of a small intensive program. CSSD needs to establish an arrears policy that includes prevention, collection, and forgiveness—when appropriate and when designed to leverage debt into better outcomes for custodial parents and children. As further data are generated to identify in greater detail the characteristics of the arrears-carrying population, the policy should be adapted accordingly. For now, programmatic efforts should be undertaken according to current best practices for working with low-income obligors.

The court and CSSD should work together to design a quicker and more easily accessible order modification process. At the very least, the process should be the same for custodial and non-custodial parents, and equally likely to produce upward or downward modifications. Information about the circumstances under which an order might be eligible for modification and the process for initiating a modification request should be clearly spelled out in written materials targeting both custodial and non-custodial parents, and on the court's and CSSD's websites.

CSSD has indicated that it is in the beginning stage of developing a debt leveraging program. We applaud this step and recommend that the program

should be developed as one means of managing arrears. The program should strive to balance the competing interests inherent in such a policy: it should not reward past non-compliance but should eliminate obstacles to current and future compliance.

Improving the Role of the Court

The Office of the Attorney General operates the child support system in conjunction with the DC Superior Court Family Court, Paternity and Child Support Division. Better coordination between them and a redefining of their roles would significantly improve child support outcomes.

The system first needs an increase in the range of options available to judges when a non-custodial parent is unemployed, including education, training, substance abuse treatment when necessary, and sanctions for non-compliance. These expanded options should help the system in identifying non-custodial parents who claim unemployment but who are active in the underground cash economy. To better implement this change, the DC Council should pass legislation authorizing judges to order employment and/or job training for non-custodial parents before arrears accrue or a contempt motion has been filed. The judiciary should consult with the Department of Corrections on any protocols that involve increasing use of the jail for child support cases, such as weekend incarceration.

Federal law confers certain administrative authority on child support agencies, including ordering genetic testing, issuing subpoenas for financial information, increasing monthly payment obligations when support is overdue,

and ordering wage withholding, among others. Notwithstanding this grant of administrative authority, the court and CSSD do not appear to agree on the scope or appropriate implementation of CSSD's administrative authority. DC therefore needs legislation to clarify the scope of CSSD's administrative authority, particularly in terms of the authority to establish orders. CSSD also should be given limited authority to enter modifications to orders if the case (i) involves medical support only, or (ii) where the non-custodial parent receives federal benefits (such as social security disability) that will pay the full amount of child support directly.

Procedures for CSSD's increased use of its administrative authority - developed in full partnership with the court - should increase parental buy-in and satisfaction with the process, and make better use of the respective resources of the courts and CSSD. The procedures must be designed and implemented to ensure that (i) custodial and non-custodial parents are receiving sufficient information to make sound decisions about child support matters, and (ii) parents are encouraged to participate in any activities that will increase the likelihood of successful co-parenting and regular payment of support, including mediation, parenting programming, employment and training activities, and substance abuse treatment.

Disputes over access to children and parenting styles can interfere with payment of child support. DC's child support system should make better use of available mediation services and alternative dispute resolution (ADR) when parental relationships are interfering with compliance, and should establish a set of referral protocols that

can be used by the court, by CSSD, and by community-based service providers. While regulations prohibit the expedited child support court from making custody-related decisions, child support systems are encouraged to make referrals to access and visitation services. An effective dispute resolution process leads to greater compliance, less congested court dockets, and increased customer satisfaction.⁶ The resources of the Court's Multi-Door Dispute Resolution Division should be fully explored for help in designing and implementing appropriate programs and referral protocols.



The court and CSSD need to agree on improvements to the modification process for child support orders. Downward modifications, when necessary and appropriate, serve everyone's interest, including the custodial parent who benefits from the regular payment of child support, even if the amount is less.

Improving Administration of CSSD

The District's children would be better served through improvement of CSSD agency administration in three areas: (i) general management of child support cases; (ii) the "locate/service function," which is a key step in establishing child support orders; and (iii) medical

support. Through these improvements, CSSD can better adapt its policies and practices to the specific needs and challenges faced by DC’s service population, including the unemployed, formerly incarcerated, immigrant, and others who do not fit the profile around whom the child support system was originally conceived and designed.

Managing Child Support Cases

As an initial matter, CSSD should increase its effort to obtain data better tailored to its constituent population.



Currently, CSSD reports only those data elements that are required by the federal government, none of which provides any substantive information about the District’s actual service population

(except whether the case was initiated through the public assistance system). For example, there is no information readily available about who owes child support debt in the District, and how much is owed the District versus how much is owed to custodial parents. Without good data, resources will be targeted inefficiently - if not altogether inappropriately.

CSSD should also design a meaningful case-sorting strategy based on DC’s population and the challenges presented by the child support caseload. A case sorting strategy that recognizes the diversity of the caseload

would enable CSSD to maximize its capacity and target its expertise to serving families that face particular social and economic barriers. Lack of data on the caseload is a substantial obstacle to this goal. Cases could be sorted according to multiple-case obligors (*i.e.*, fathers with children by more than one mother) or obligors with unverified employment, thereby separating out potential problem cases and encouraging specialized approaches.⁷ Alternatively, cases could be sorted by their relationship to the receipt of public benefits under Temporary Assistance to Needy Families (TANF). This would allow TANF, former TANF and especially transitioning TANF cases to get increased attention.⁸ These improvements in the case sorting process would encourage CSSD staff to develop and employ problem-solving techniques that can result in higher rates of order establishment and collection.

CSSD should continue to partner with the District’s Income Maintenance Administration (IMA) to eliminate barriers to custodial parent cooperation. When a custodial parent applies for TANF or Medicaid, for example, she is required to cooperate with the child support system by providing information about the identity and location of the child’s father. She must also assign to the District any rights to money collected on her behalf. Federal law has linked these two programs to enable states to recover costs incurred providing financial and medical benefits to children in single-parent homes. Currently, CSSD considers *over 80 percent* of its public-benefits referrals to be uncooperative. In other words, more

than 80 percent of TANF applicants have not provided full information about the identity of their child's father, have not responded to requests for meetings or additional information, or otherwise have not assisted in advancing the child support case.

Both CSSD and IMA appear to understand that custodial parents often have legitimate reasons for not pursuing child support and, while complying with the federal mandates, both agencies want to give custodial parents as much flexibility as possible to make their own choices. The agencies need to ensure, therefore, that custodial parents have accurate and sufficient information about child support that would allow them the flexibility to make those choices.

In order to engage more of these custodial parents, CSSD should develop strategies for engaging non-custodial parents in the process and ensuring that they benefit from participating. If child support appears as only an unrelenting grab for a non-existent paycheck, many low-income custodial and non-custodial parents will resist involvement in the system. Both agencies should work to diffuse any antagonism that either parent currently feels toward the system.

Locating and Serving Process on Non-Custodial Parents

There are increasing numbers of resources available for locating non-custodial parents, including a variety of internet-based services. To locate people efficiently, however, the District needs computer systems that can match a list of non-custodial parents being sought with an available internet or other database. To enable CSSD to efficiently

and effectively locate DC's non-custodial parents, the District should invest in reliable inter-system compatibility, with particular focus on other District agencies - Department of Corrections, Department of Human Services, Office of Tax and Revenue, Department of Employment Services (unemployment records), and Department of Motor Vehicles. This inter-system compatibility also should be as close to real-time as possible.

To establish a child support order, DC must serve a non-custodial parent with proper notice. Only about 50 percent of non-custodial parents who are located are served on time, and many are served, but fail to appear in court. In all, the court typically schedules about twice as many cases per day (30-50) as the judge actually expects to hear. CSSD should work with the courts and others to conduct a cost-benefit analysis to explore if delivery confirmation service or certified mail can be implemented on a trial basis in the District. Concerns have been expressed about the unwillingness of judges to issue bench warrants for court no-shows based on service by mail, but no data exist to indicate how effective bench warrants are relative to the expense of personal service. Philadelphia and Prince George's County, Maryland, both utilize service by certified mail and share many characteristics with the District's population. Both jurisdictions have indicated good response rates with this alternative method. Personal service resources could be reserved for those who do not respond to service by mail.

Service of process should be treated as an opportunity to enhance CSSD's relationship with non-custodial parents. For many non-custodial parents, the

introduction to the child support system takes place through service of process. CSSD should use this opportunity to encourage a positive relationship with non-custodial parents by including informational materials with the legal notice, and encouraging non-custodial parents to contact CSSD with questions. This can be done whether service is in person or by mail. For in-person service, other jurisdictions have trained process servers as “ambassadors” in the community, so that the contact they have with non-custodial parents advances the goals and messages of the child support system.⁹ Any such effort to encourage participation by non-custodial parents, especially early in the process, will benefit children through increased compliance.

Medical Support

While child support orders increasingly include the provision of medical support (indicating which parent will provide health insurance coverage, how it will be paid for, and by whom), in practice health insurance is adequately provided as ordered in *only 16 percent* of child support cases.¹⁰ CSSD should conduct systematic follow up with custodial and non-custodial parent employers to ensure that children are being enrolled in employer-based health care programs when available. CSSD also should continue to develop and “clean up” its database of employers so it can be used to create a strong National Medical Support Notice (NMSN) program with adequate follow-up. Under such a program, employers can efficiently comply with their obligations, and CSSD can monitor changes in case status and respond appropriately. Finally, CSSD should educate employers about their liability for failing to enroll a child as

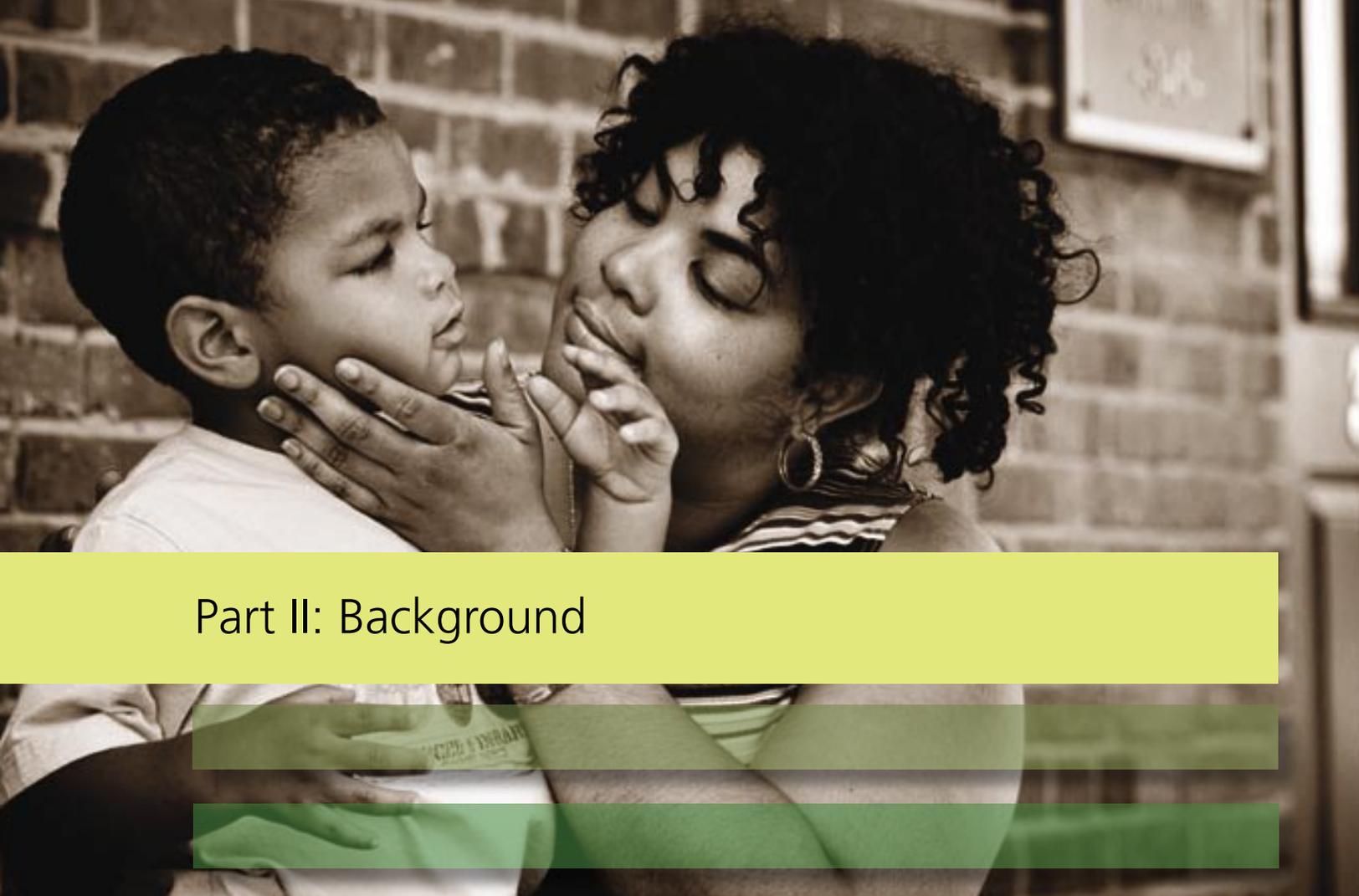
ordered and CSSD should file contempt charges and issue fines when employers fail to fulfill their responsibilities.

Many of the recommendations in this Report involve collaboration among District and sometimes federal agencies. To facilitate the needed collaboration, the Mayor should convene a multidisciplinary Child Support Task Force. It should be chaired by the Attorney General and Chief Judge of the DC Superior Court Family Court and charged with implementing the recommendations proposed in this report.

Conclusion

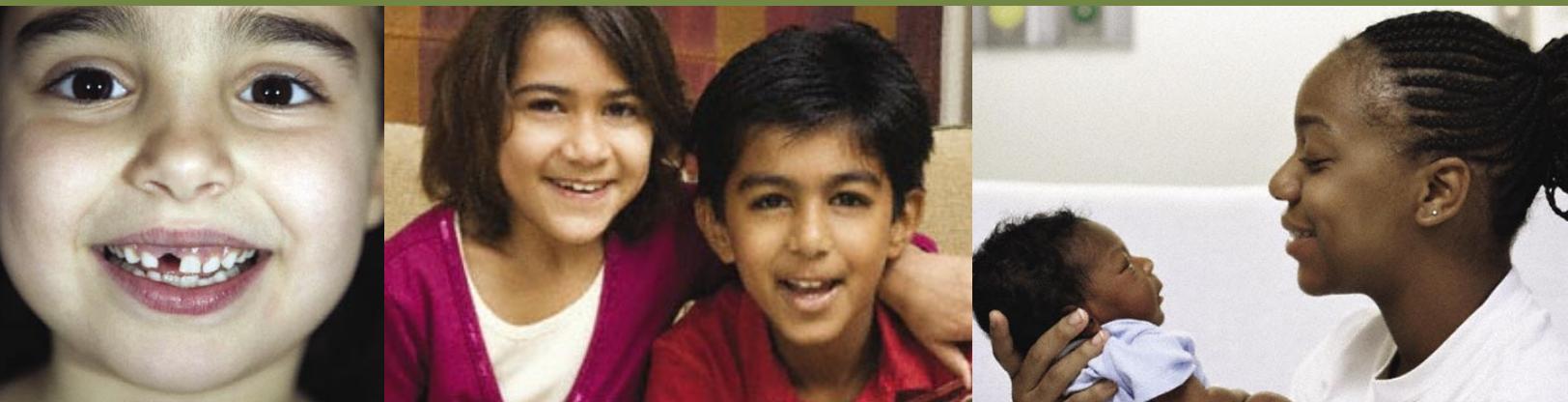
The District will succeed in reforming its public school system, only if it addresses the crisis that District schoolchildren face at home. The crisis results in part from the fact that the vast majority of DC’s poor children grow up in homes where they lack financial and other kinds of support from their fathers. The child support system should be delivering that needed support. However, in three-quarters of its cases, it is not now doing so.

The experience of other jurisdictions strongly supports the conclusion that changes in the District’s services to non-custodial parents, changes in the role of the courts, and changes in the administrative processes of the Office of the Attorney General could dramatically improve support to these children. The recommendations in this Report are designed to bring about the needed changes. We look forward to working with the District to make those changes happen.



Part II: Background

This part of the Report first explains the methodology in preparing this Report and how the Project team hopes it will be used. Next, is a description of how the Report is structured. Finally, we offer background information on the history and statutory framework of the child support system.



DC Appleseed

Methodology

DC Appleseed, an advocacy organization that works on issues affecting the daily lives of those who live and work in the District of Columbia area, organized a Project Team to research and analyze the District of Columbia's child support system and prepare this Report. The Report was prepared in cooperation with District officials responsible for administering the child support system – in particular the Child Support Services Division of the Office of the Attorney General. The Project team is grateful for that cooperation.

Project Team

A team of *pro bono* lawyers at the law firms of Crowell & Moring LLP and Kilpatrick Stockton LLP partnered with DC Appleseed to perform the research for and writing of this Report. A lawyer from the firm of Bryan Cave LLP also provided *pro bono* services to research a topic outside of the expertise of the Project Team. DC Appleseed staff, board, and Advisory Council members participated on the Project team.

Advisory Panel

DC Appleseed assembled a special *pro bono* Advisory Panel to advise the Project Team in conducting the research and formulating recommendations. The members of the Advisory Panel are Eric Angel of DC Legal Aid Society, Curt Child, formerly of the National Center for Youth Law and now with the California Assembly Human Services Committee, Chris Hart-Wright of STRIVE DC, Jeff Johnson of the National

Partnership for Community Leadership, Angela Jones of DC Action for Children, Su Sie Ju of Bread for the City, David Pate of the Center for Family Policy and Practice, Paula Roberts, formerly of the Center for Law and Social Policy (CLASP), Judith Sandalow of the Children's Law Center, and Priscilla Skillman of the Council for Court Excellence.

Interviews and Focus Groups

The DC Appleseed Child Support Project Team interviewed approximately 170 individuals, including former Attorney General Robert Spagnoletti, CSSD Director Benidia Rice and unit managers at CSSD. Among the 170 interviewees were many nationally-recognized experts on child support policy and government officials managing child support systems in other jurisdictions. Unfortunately, due to our inability to overcome objections by their union, the Project Team was unable to interview CSSD line staff workers.

The Project Team also conducted approximately 21 court observations in a little over one year. Proceedings were observed for each magistrate judge assigned to the child support calendar, including paternity, establishment, and contempt cases. During many of these visits, Project Team members interviewed non-custodial and custodial parents. This was done with the assurance of anonymity. In addition, the Project Team held meetings with several magistrate judges to further clarify the court's role and obtain perspective on child support matters.

Custodial and non-custodial parents were also contacted through local community service providers. The Project Team interviewed them to learn about their experiences with and impressions of the child support system.

Lastly, Project Team members attended an array of informative meetings, including: national child support enforcement conferences, locally held training sessions by government agencies and community service providers, and meetings of local non-profit groups working with populations impacted by child support and related issues (such as employment and training). The Project Team was also instrumental in convening meetings of local community service providers to learn about their perspectives on the child support system.

Document Review

The Project Team reviewed a substantial number of documents, reports, legislation, budgets, policies, and meeting minutes. Some relevant documents were not available until very late in our research process, and still others were not received as requested. The Project Team regrets any limitations of our analysis based on the unavailability of some of these materials.



Best Practices

Throughout, this Report refers to “best practices” from jurisdictions around the country. These best practices are derived from the U.S. Department of Health and Human Services Office of Child Support Enforcement publications, interviews with child support officials in other jurisdictions and academic scholars, and attendance at two National Child Support Enforcement training conferences. In addition, our review of grant reports, policy memoranda, and program evaluations contributed to our selection of best practices for the various topics addressed in this Report. In all cases, we strongly considered their applicability to the District and the District’s population.

Review of the Report

DC Appleseed received comments on drafts of this Report from numerous individuals, including members of the Project Team, the Advisory Panel, the DC Appleseed Board of Directors, District government officials, District magistrate judges, and other interested individuals and organizations. The content of the final Report reflects feedback from these individuals, but any errors are our responsibility alone.

Endnotes

The endnotes in this Report refer to interviews by category of interviewee and not by name of individuals in order to protect confidentiality. The Project Team makes an exception where we refer to national experts and government officials from elsewhere in the country. All interview notes are on file at DC Appleseed.

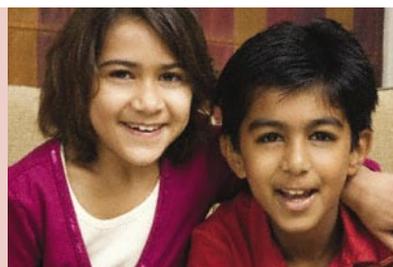
Terminology

This Report often uses ‘father’ to refer to non-custodial parents because five of every six non-custodial parents are fathers (83.1 percent) and only one in six are mothers (16.9 percent).¹¹ This is not a comment on whether fathers are treated fairly in terms of custody assignments, but rather is a reflection of the current state of child custody and the challenges facing the child support system. The Project Team hopes that any efforts to improve services for non-custodial parents benefits fathers as well as mothers, both those who have custody of their children and those who do not.

outside the scope of this project that may warrant additional attention. The Project Team chose to focus on those areas most directly related to the system’s case management practices and the impact of policies and practices on the District’s low-income families. The Project Team did not investigate the interstate system – how the system responds to requests from other states to establish or enforce orders bearing on non-custodial parents under District jurisdiction, or how it serves custodial parents whose obligors are located outside the District’s jurisdiction. The Project Team did not look at the new child support collection and distribution process, now

Glossary

Attached as an Appendix to this Report is a glossary that defines terms and acronyms used herein.



Intended Use of the Report

Our primary purpose in preparing this Report was to investigate and, when appropriate, recommend changes in the District’s child support system – with the hope of improving the circumstances of thousands of District children. Our secondary purpose was to assemble in a single account a description of how the child support system works in the District for use as a resource by the public and by those who are served by the system, work in the system, and make decisions about the system.

managed for the District by a contractor. By all accounts, the new process represents an improvement and, while there is always more that can be done, this issue would seem to lend itself better to an auditing process rather than the kind of research that we are best equipped to contribute. And, while The Project Team considered many implications of the new child support guideline, enacted last year and implemented in April 2007, The Project Team did not undertake a complete review since such a review was recently completed.¹² The team hopes that the next review will take place as required within four years, and that as previously, an appropriately constituted commission will be charged with the task.

Scope of the Report

While this Report is extensive, it is not exhaustive, and there are several areas

Report Structure

The Report is divided into four parts: (1) Summary, (2) Background, (3) Description of the District’s Child Support System, and (4) Findings and Recommendations Concerning Improvements to the District’s Child Support System. Briefly, the elements of these four parts follow.

Part I: Summary

- **Executive Summary.** Explains the major challenges facing the child support system in the District and why the system urgently needs to be reformed.
- **Summary of the Recommendations.** Provides a summary of the key findings and recommendations in the Report.

Part II: Background

- **Chapter 1: Methodology.** Describes how the Report was developed.
- **Chapter 2: Report Structure.** Describes the parts of the Report.
- **Chapter 3: History and Statutory Framework of the Child Support System.** Provides context for the DC child support system through an overview of the development of federal laws governing child support enforcement.

Part III: Description of the District’s Child Support System

- **Chapter 1: Introduction to the District’s Child Support System.** Provides a thematic introduction to the dynamics and challenges of child support enforcement in the District.
- **Chapter 2: Who is Served by Child Support in DC?** Examines the child support system’s target population in DC and how child support relates to federal and state government anti-poverty efforts.
- **Chapter 3: The Child Support Process in DC.** Describes how child support orders in DC are established, modified, and enforced.
- **Chapter 4: How is the District Doing?** Describes how DC’s child support performance is measured, and how well the system is performing.

Part IV: Findings and Recommendations Concerning Improvements to the District’s Child Support System

Part IV is divided into three Sections: improving services to parents, clarifying roles and improving relations between CSSD and the court, and improving administration of CSSD. Each Section contains one to five Chapters. Each Chapter describes the background for findings, lists the particular challenges facing the District, discusses best practices, and then presents our recommendations.

- **Section A: Improving Services to Parents.** Parents are the “customers” of the child support system. How parents are treated by this system impacts how they respond to the demands the system places on them. The Chapters in Section A examine the “customers” of the DC child support system and the services they need to best fulfill their child support obligations. Section A addresses general strategies that will help create better working relationships with parents, and particular strategies for working with unemployed or under-employed non-custodial parents, incarcerated or formerly incarcerated non-custodial parents, minor parents, and immigrant families. Section A also includes a Chapter on helping parents manage child support arrears.
 - Chapter 1: Outreach and Early Intervention
 - Chapter 2: Unemployed and Underemployed Non-custodial Parents
 - Chapter 3: Incarcerated Parents and Ex-Offenders
 - Chapter 4: Minor Parents and Immigrants
 - Chapter 5: Management of Child Support Arrears
- **Section B: Improving the Role of the Court.** The District’s child support system is based on a judicial model, and requires a cooperative relationship between CSSD and the court. Section B explains the current roles and responsibilities of each of these two agencies, and ways in which practices can be improved to increase the efficiency and effectiveness of the child support system.
- **Section C: Improving Administration of CSSD.** The three Chapters in Section C consider how CSSD manages its caseload of over 76,000 cases. Chapter 1 looks at the case management structures in place at CSSD. Chapters 2 and 3 provide recommendations for improving the strategies used to locate and serve process on non-custodial parents, and improving the establishment and enforcement of medical support.
 - Chapter 1: Management of Child Support Cases
 - Chapter 2: Locating and Serving Process on Non-custodial Parents
 - Chapter 3: Medical Support

Taken together, the recommendations in Part IV are presented in the hope that support for the District’s children can be significantly improved.

Appendices

Appendix A: Glossary of Terms. This Glossary contains specialized terms and acronyms associated with the child support system.

Appendix B: Child Support Data. Data describing DC’s child support performance for 2004, 2005, and 2006.

Appendix C: Organizational Structure of CSSD. A brief description of the current organizational structure of CSSD.

History and Statutory Framework of the Child Support System

Introduction

The United States has had some form of child support system since its inception. Based on English “poor laws,” early American communities supported single women and children – typically made them work – and were permitted to try to recover costs for this support from the women’s and children’s relatives.¹³ In the nineteenth century, norms were shifting away from women and children as laborers toward a view of women and children as dependents in need of support. By the end of the nineteenth century, several states had both civil and criminal laws concerning desertion and non-support of women and children.¹⁴ In the twentieth century, the Social Security Act of 1935 created a relationship between the federal government and the states to support families with children who met certain criteria, including having an absent parent not providing support.¹⁵ The following is a brief summary of this partnership and the evolution of the federal role in child support law.

Overview

In 1935, the federal government created a welfare entitlement program that eventually was called Aid to Families with Dependent Children (AFDC).¹⁶ This cash-assistance program supported families with only one parent due to the death of or abandonment by the other parent. The creation of AFDC during the Depression aided an increasing number of widows and single mothers.¹⁷ As the number of divorced mothers using AFDC increased, public support

for the program decreased. In 1950, the first federal act passed requiring state welfare agencies to notify law enforcement officials when providing public assistance to a child abandoned or deserted by a parent, creating a closer link between the administration of public assistance and the collection of child support.¹⁸ Such a practice continues today, demonstrating the valued link between assisting underprivileged children and child support enforcement.

A negative sentiment towards government assistance for mothers when the father was alive and available influenced subsequent federal reform of the system. The Child Support Enforcement and Paternity Establishment Act (CSEPEA) of 1975 addressed the population of men intentionally avoiding their responsibility to support their children.¹⁹ CSEPEA required custodial parents



who received welfare to sign over to the state the right to sue the father of the child and receive child support payments on the custodial parents’

behalf.²⁰ This “cost recovery” provision allowed the government to recover the cost of benefits provided for children, thus shifting the burden of supporting children in single parent-families from the public to the parents.²¹ Later legislation served to strengthen this shift and, even today, applications for welfare or Medicaid benefits automatically initiate a child support case.

Beginning in the mid-1970s, the increasing number of unmarried, divorced, or separated mothers, along with an increasing number of children in poverty, encouraged the federal government to pass additional legislation focused on paternity establishment and child support enforcement. In 1974, Social Security Amendments²² added Part D to Title IV of the Social Security Act. The new Part D mandated federal matching payments to states for child support enforcement for AFDC cases and created a new unit within the U.S. Department of Health, Education, and Welfare (now Department of Health and Human Services) to establish standards and assist state programs.²³ In 1975, federal regulations regarding the child support system were adopted. Through the 1970s, the federal child support program dedicated its efforts to children receiving welfare, and it was not until 1980 that the federal government began to offer financial rewards to states for providing enforcement services for non-welfare cases.²⁴

Paternity Establishment

Legislation enacted during the 1980s focused mainly on increasing determinations of paternity so that orders could be established for children who were

Child Support Legislation		
Year	Name	Acronym
1935	Social Security Act	
1950	Uniform Reciprocal Enforcement of Support Act	URSEA
1974	Social Security Act, Title IV, Part D established the Child Support Enforcement (CSE) program and created the Office of Child Support Enforcement (OCSE)	
1975	Child Support Enforcement and Paternity Establishment Act	CSEPEA
1977	Medicare-Medicaid Anti-fraud & Abuse Amendment	
1984	Child Support Enforcement Act (Child Support Amendments)	CSE Amendments
1986	Bradley Amendment	
1992	Uniform Interstate Family Support Act	UIFSA
1993	Omnibus Reconciliation Act	
1996	Personal Responsibility and Work Opportunity Reconciliation Act	PRWORA
1997	Balanced Budget Act	
1988	Family Support Act	FSA
1998	Deadbeat Parents Punishment Act	
1998	Child Support Performance and Incentive Act of 1998	CSPIA
2005	Deficit Reduction Act	DRA

entitled to child support payments. The Child Support Amendment of 1984, also called the Child Support Enforcement Act, required states to enact laws that permitted paternity to be established until a child's eighteenth birthday.²⁵ A 1988 law established a civil procedure in contested cases that required states to provide genetic testing upon request and provided federal funds to pay 90 percent of laboratory costs for processing genetic testing in public assistance cases.²⁶ The Omnibus Budget Reconciliation Act of 1993 required hospital-based programs independent from the child support agency for voluntary acknowledgement of paternity immediately before or after birth.²⁷ Such programs were designed to increase paternity establishment early and thereby lay the groundwork for seeking a support order without the need for additional legal proceedings.

The 1988 Family Support Act revised the 1993 reform by strengthening mandatory paternity establishment standards, and including financial penalties on states linked with TANF for failure to achieve such standards. These new standards required that 90 percent of children born out of wedlock in the state have paternity acknowledged or established, up from a previous standard of 75 percent, to avoid the financial penalties. The Act also included provisions to streamline the process to make a higher rate possible.²⁸ These reforms were intended to increase benefits to the child, not punish the father, by imposing sanctions on states that failed to establish sufficient numbers of paternities.

Enforcement & Collection

The mandates governing enforcement and collection reflect a shift in focus to stricter enforcement and stronger collection mechanisms. The 1984 Amendment also required states to establish improved enforcement methods, particularly an expedited process for establishing orders and collecting support.²⁹ Of particular note was that these services had to be equally available to welfare- and non-welfare-recipient families, and states were required to implement mandatory wage withholding for delinquent cases.³⁰ Along with the additional paternity establishment requirements from the Family Support Act, the focus on enforcement was designed to further strengthen efforts to collect on established orders. The Amendment also required that each state develop a guideline to determine the amount of support to be paid by non-custodial parents [in order to increase the fairness and uniformity of orders].³¹ States established their own complex mathematical formulas and procedures for enforcement of a guideline. Some formulas took into account the incomes of both parents, some accounted for only the non-custodial parent's income, and still others were based on a combination of ability to pay and shared parenting arrangements.³² Judges are required to provide justification for any deviation from the state guideline.³³

To address the ever-increasing numbers of cases, the federal government took steps to improve service and enforcement. In 1988, the Family Support Act again strengthened enforcement of AFDC child support

cases with regulations requiring triennial reviews of the guidelines used to set orders, ordered states to require paternity testing in contested cases upon request of any party, and encouraged non-criminal procedures for enforcement.³⁴ The Family Support Act also altered previous legislation by requiring immediate wage withholding for all new and modified orders, not just delinquent cases, and the use of automated statewide tracking and monitoring systems.³⁵

The beginning of the 1990s saw a series of federal legislative activities that continued the focus on stricter enforcement measures. The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) authorized states to receive block grants under Temporary Assistance for Needy Families (TANF) if the state child support programs met federal mandates.³⁶ Efforts to strengthen income withholding, paternity establishment, enforcement of orders, and use of central registries were all included.³⁷ In cases of willful failure to pay child support, criminal penalties were placed on overdue obligations³⁸ and stricter enforcement consequences were put in place for missed payments - such as suspension of driver's licenses, reporting unpaid child support to credit agencies, and the ability to seize and force sales of property.³⁹

The 1996 welfare reform aimed at maximizing the efficiency of the system.⁴⁰ This included improving the Federal Parent Locator Service (FPLS) - a computer matching system that locates non-custodial parents primarily for child support purposes.⁴¹

This system, operated by the U.S. Department of Health and Human Services Office of Child Support Enforcement (OCSE), assists state child support agencies to enforce and modify orders as well as locate non-custodial parents. In some special cases, the FPLS is used to enforce child custody or visitation orders. Welfare Reform expanded the FPLS to include the National Directory of New Hires (NDNH), a central repository of employment, unemployment insurance, and wage data, and the Federal Case Registry (FCR), a national database containing information on individuals in child support cases and child support orders.⁴² These databases aid state child support agencies through automatic locate functions and allow for confidentiality of information.

Legislation also continued to focus on stricter enforcement mechanisms. The passage of the Deadbeat Parents Punishment Act of 1998 created federal criminal penalties for willful failure to pay past-due child support.⁴³ The Deadbeat Parents Punishment Act established two new categories of federal felonies with penalties of up to two years in prison, thereby involving the courts in enforcement of child support delinquencies.

Interstate Enforcement & Collection

Enforcing child support orders when the non-custodial parent and child live in different states creates distinct obstacles for child support agencies. The Uniform Reciprocal Enforcement of Support Act (URESA), created

in 1950 and revised in 1952, 1958, and 1968, provides a system for interstate enforcement in which the support orders can be enforced without requiring the custodial parent to go to the state in which the non-custodial parent resides.⁴⁴ By virtue of long-arm statutes, a non-custodial parent can be subject to another jurisdiction by committing an act in that jurisdiction, such as non-compliance with a child support order.⁴⁵ States are mandated to aid each other in child support enforcement. Interestingly, while federal law requires a state to enforce another state's order with interstate income withholding, no federal mandate exists to ensure that interstate income

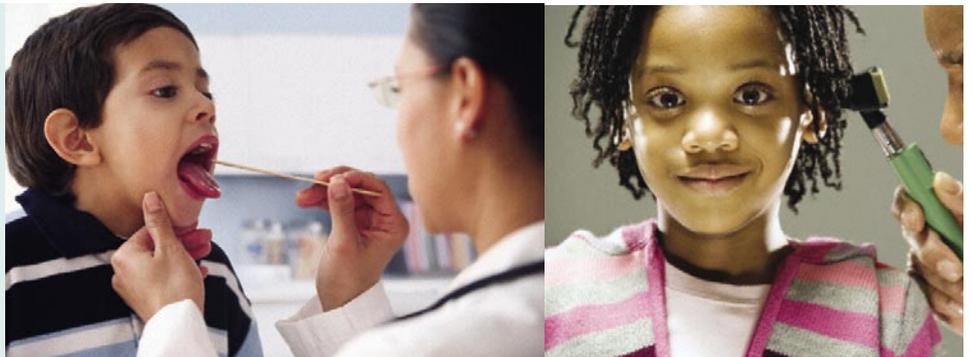
withholding procedures are uniform.⁴⁶ A lack of a federal mandate can create problems with proper income withholding across state lines. The 1984 Child Support Enforcement (CSE) Amendment allowed for new funding

to support the development of automated systems to aid efforts such as interstate enforcement.

The Uniform Interstate Family Support Act (UIFSA), enacted in 1992 and revised in 1996 and 2001, was designed to deal with desertion and non-support by creating uniform laws across all states and the District. By effectively tracking interstate cases using the long-arm statute, UIFSA eliminated interstate jurisdictional disputes and increased interstate collections. The 1996 revision of UIFSA, under PRWORA, required child support agencies to enforce UIFSA, including a provision called DCO (Determining the Controlling Order) which eliminates multiple child support orders in interstate cases.⁴⁷ Perhaps most

significant in PRWORA was the creation of the Federal Case Registry and National Directory of New Hires; these help track delinquent parents across states lines, support the establishment of paternity, and facilitate the establishment, modification, and enforcement of orders across states.⁴⁸ In the 1997 Balanced Budget Act, Congress gave State child support agencies access to new sources for obtaining Social Security numbers, thereby improving available enforcement techniques and increasing collection opportunities.⁴⁹

Medical Support



The inclusion of medical support as part of child support began during the 1970s with the establishment of a medical support enforcement program under the Medicare-Medicaid Antifraud & Abuse Amendment of 1977.⁵⁰ Medical support refers to provisions in child support orders that address which parent will enroll the child in and/or pay for public or private health insurance. States can require Medicaid applicants to assign to the states the applicants' right to medical child support,⁵¹ and IV-D agencies and Medicaid agencies can enter into cooperative agreements to pursue medical child support to collect reimbursements. Further legislation required all child support cases to include orders for health insurance in the most feasible manner, though these efforts met

with only limited success. Under the 1996 welfare reform law, child support agencies are now required to include a provision for health care coverage either through private health insurance coverage or through payments towards public health insurance, as long as the cost does not impede the non-custodial parent's ability to pay child support.⁵² The Omnibus Budget Reconciliation Act of 1993 had already made employers legally responsible for health insurance for children, even if the child was not living with the employee.⁵³ Further federal legislation (the Balanced Budget Act of 1997) aimed to increase health benefits to children

U.S. Department of Health and Human Services and the U.S. Department of Labor work jointly to develop the mechanism by which states could enforce medical support orders. Now, when a medical support order is established, the NMSN is sent to the obligated parent's employer who must either indicate why insurance is not available, or complete the process of enrolling the child in the health plan. The NMSN also requires employers to notify the child support agency if the employee is terminated.⁵⁵

Arrears and Modification of Orders



When a non-custodial parent fails to meet his child support obligations, arrearages accrue on the child support case. In 1975, Congress authorized the

receiving child support by establishing the State Child Health Insurance Program (SCHIP). SCHIP authorized payments to states to initiate and expand the provisions of child health assistance to a larger number of uninsured low-income children.⁵⁴ This also allowed for coordination with other sources of health benefits coverage for children.

More recently, the National Medical Support Notice (NMSN) was introduced to provide uniformity to the process of procuring employer-based health insurance coverage for children. The NMSN was established as part of the Child Support Performance and Incentive Act of 1998 (CSPIA). CSPIA required that the

Internal Revenue Service (IRS) to collect child support arrearages if obligors were delinquent on federal taxes, but only if the IRS could feasibly recover the money and the delinquency was at least \$750.⁵⁶ In other cases, the collection of arrears fell to the states, which could use available enforcement tools such as withholding, restricting, or suspending licenses of all types, as well as reporting information to credit bureaus. Agencies were required to have an employee designated to perform such actions.⁵⁷

The 1986 Bradley Amendment prohibits state courts from retroactively reducing child support obligations.⁵⁸ Non-expiring liens are automatically triggered whenever

a child support payment becomes past due, and overrides the state's statute of limitations or any discretion on the part of judges.⁵⁹ The Amendment also requires payment regardless of the capability of the non-custodial parent to pay. The Amendment was intended to disallow non-custodial parents from running up large arrearages and then finding a sympathetic judge to dismiss the debt.⁶⁰ While this change may have succeeded in forcing some wealthy debtors to pay off their arrearages, it caused hardship among low-income non-custodial parents. Insurmountable child support debt can interfere with their willingness and ability to pay current support.

The Bradley Amendment has had other unintended consequences. For example, a released war hostage was arrested upon release for arrearages that accrued during the time he was a hostage, and another man was required to pay retroactive support despite DNA evidence that he was not the father. These cases demonstrate the negative affect law changes can have by limiting the authority of agencies to conduct individual case management.⁶¹ While these are more extreme situations, they reveal a disconnect between the stated CSE objective of promoting family self-sufficiency and the ability of agencies to account for the needs of individual families.

Interagency Collaboration

To enable IV-D agencies to collect from working obligors, the Family Support Act of 1988 (FSA) expanded wage withholding to all state-enforced

new and modified orders.⁶² The intent was to prevent the build-up of large arrearages. The Federal Consumer Credit Protection Act limits the garnishment of wages to 50 percent of disposable earnings for non-custodial parents who are supporting other dependents or spouses and 60 percent for non-custodial parents who are not supporting a second family.⁶³ This increases by five percentage points when payments are more than twelve weeks overdue. The use of the percentages places a larger burden on low-income obligors whose earnings can be reduced to below subsistence level. An Amendment in 1984 requires states to notify employers of their liabilities and rights regarding wage withholding.⁶⁴ There are exceptions to the requirement



of withholding, including a written agreement signed by both parents.⁶⁵

The 1984 Amendment was also intended to increase collections by authorizing withholding of an obligor's state income tax refunds up to the amount of overdue support.⁶⁶

This required cooperation between state departments of revenue and child support agencies, with child support agencies responsible for giving notice to the non-custodial parent of the impending offset and his ability to contest the action. The 1984 Amendment also required states to enact laws and implement procedures to initiate liens against real property for the amount of overdue support owed to a custodial parent who resides in the same state or who owns property in the state.⁶⁷ It also obligated states to establish procedures for non-custodial parents to post security, bonds, or some other guarantee to secure payment for overdue child support.⁶⁸ Additionally, the Omnibus Budget Reconciliation Act of 1981 required states to review unemployment compensation rolls to identify those who owed child support.⁶⁹ These requirements attempted to aid child support collection rates, but without regard for the non-custodial parent's ability to pay.

State Flexibility with Federal Regulations

The Bradley Amendment does not provide states flexibility in retroactively changing orders, though states do have discretion in other areas. PRWORA provided states some flexibility in paternity establishment procedures. While federal law mandates that no state may allow a man's name and signature to appear on a birth certificate unless he signs a paternity acknowledgement form, states can create their own

acknowledgement forms to establish paternity.⁷⁰ Federal law also requires that those signing the form have their rights and responsibilities explained to them, both orally and in writing, before signing.⁷¹ Each state determines how best to fulfill this mandate.

The Family Support Act of 1988 required states to pass legislation making the state child support guideline a "rebuttable presumption" in any judicial or administrative proceeding to establish the order amount.⁷² This offered more authority to child support agencies to set procedures that would optimize their efficiency. The state guideline, required to be reviewed every four years, focuses on increasing adequacy, consistency, predictability, perceived fairness, and ease of administration of child support awards.⁷³ The 1984 Child Support Amendment permits states to limit the role of courts by implementing an administrative or judicial expedited process. States have discretion to design the process to maximize effectiveness and meet federally mandated time standards.⁷⁴ Federal regulations require that 90 percent of cases are processed within 3 months, 98 percent of cases within 6 months, and 100 percent of cases within 12 months.⁷⁵ Agencies can order genetic testing, issue subpoenas, and obtain access to vital statistics (such as tax records) without an order from an administrative agency or judicial tribunal. The 1996 reform added modification of support orders to this list of procedures.⁷⁶ Taking advantage of this authority can greatly increase an agency's rate of setting and processing orders.

Several provisions govern assignment and distribution of child support collections on a federal and state level. These provisions determine distribution of money paid by the non-custodial parents.⁷⁷ The 1996 Welfare Reform Act required states to “pass-through” to the family the first fifty dollars of child support collected on behalf of orders to TANF-recipient families.⁷⁸ This was later repealed and states can instead decide how much to pass through directly to families receiving TANF and whether and how much to disregard any child support the family receives when determining TANF eligibility.⁷⁹

Title VII of the Deficit Reduction Act of 2005 (DRA), the most recent federal child support legislation, requires the federal government to pay 66 percent of the basic costs of a state’s child support program.⁸⁰ States must provide the rest of the funding and, as of October 2007, may no longer use incentive funding (a performance-based bonus provided to states discussed in Chapter 4 of Part III) as part of this 34 percent. This new law may create financial difficulties for states that currently rely heavily on federal incentive money. Identical bills have been introduced in both the House and Senate (The Child Support Protection Act of 2007⁸¹) to repeal this provision of the DRA. Additionally, Congress has retained high performance standards for paternity establishment rates but now limits the eligibility pool from which to meet those standards.⁸² Thus, before passage of the DRA, states could count toward their Paternity Establishment Program (PEP) rates of all children in the state born out-of-wedlock up until the time they reached eighteen. In some states, this led to PEP rates over 100 percent. Now states can count only those paternities

established for children who enter the child support system. This may not be realistic for many states to accomplish, and therefore federal-incentive money based on this standard may be increasingly harder to earn.

Automation

Automation of child support systems has received substantial federal funding. In 1980, Congress authorized a 90 percent funding match for states to design and implement automated data systems.⁸³ These systems were supposed to control, account for, and monitor all aspects of enforcement, collection, and paternity determination processes. In 1984, Congress made the 90 percent match available to pay for computer hardware and necessary software to support the automated systems.⁸⁴ States were also authorized to use federal matching funds for development and improvement of their income withholding procedures.⁸⁵

While automation does increase available staff time to focus on more difficult cases, it has limitations. Some state technology systems are not automated and are therefore unable to share information with the automated federal technology.⁸⁶ Additionally, non-automated states can gain information from the federal system, but might not be able to access information within the state due to lack of automation or compatibility. In 1988, Congress required states without an ample statewide automated system to submit a system planning document to OCSE for certification.⁸⁷ There was difficulty approving states’ plans as they struggled to produce functioning systems. Systems were directed to produce the requisite

data for federal reporting, calculating the state's performance, and controlling completeness of data.

The 1996 welfare reform law allowed state child support agencies to operate a centralized, automated unit for collection and distribution of child support payments.⁸⁸ The Child Support Performance and Incentive Act of 1998 provided the Secretary of Health and Human Services with the authority to refrain from imposing a 100 percent penalty on states that failed to comply with automated system requirements if they were making a good faith effort to comply and had submitted a “corrective action plan” demonstrating how they would achieve compliance.⁸⁹ Both of these rulings provided states with more leeway in developing their automated systems than the original legislation offered. However, two state systems have still not been certified by OCSE. The District was initially certified in 2000.⁹⁰

Strategic Plan

Indicative of a continuing evolution of the child support system, the latest strategic plan from the OCSE addresses the agency's desire to move towards more family-friendly practices. The previous strategic plan expressed a desire to “crack down on those parents who can but refuse to support their children,” while the current plan takes a much more flexible tone.⁹¹ The plan for 2005-2009 focuses on being a “family-first program, intended to ensure families' self-sufficiency by making child support a more reliable source of income.”⁹² These guiding principles align with OCSE's overall mission to “enhance the well-being of children by assuring

... assistance in obtaining support....”⁹³ Distinguishing it from other strategic plans, the four central tenets of the current strategic plan are that (1) child support should be a reliable source of income for families, (2) children should receive meaningful medical support, (3) early intervention should be used to prevent the build-up of unpaid support, and (4) state agencies should be accountable to meet the standards set out.⁹⁴

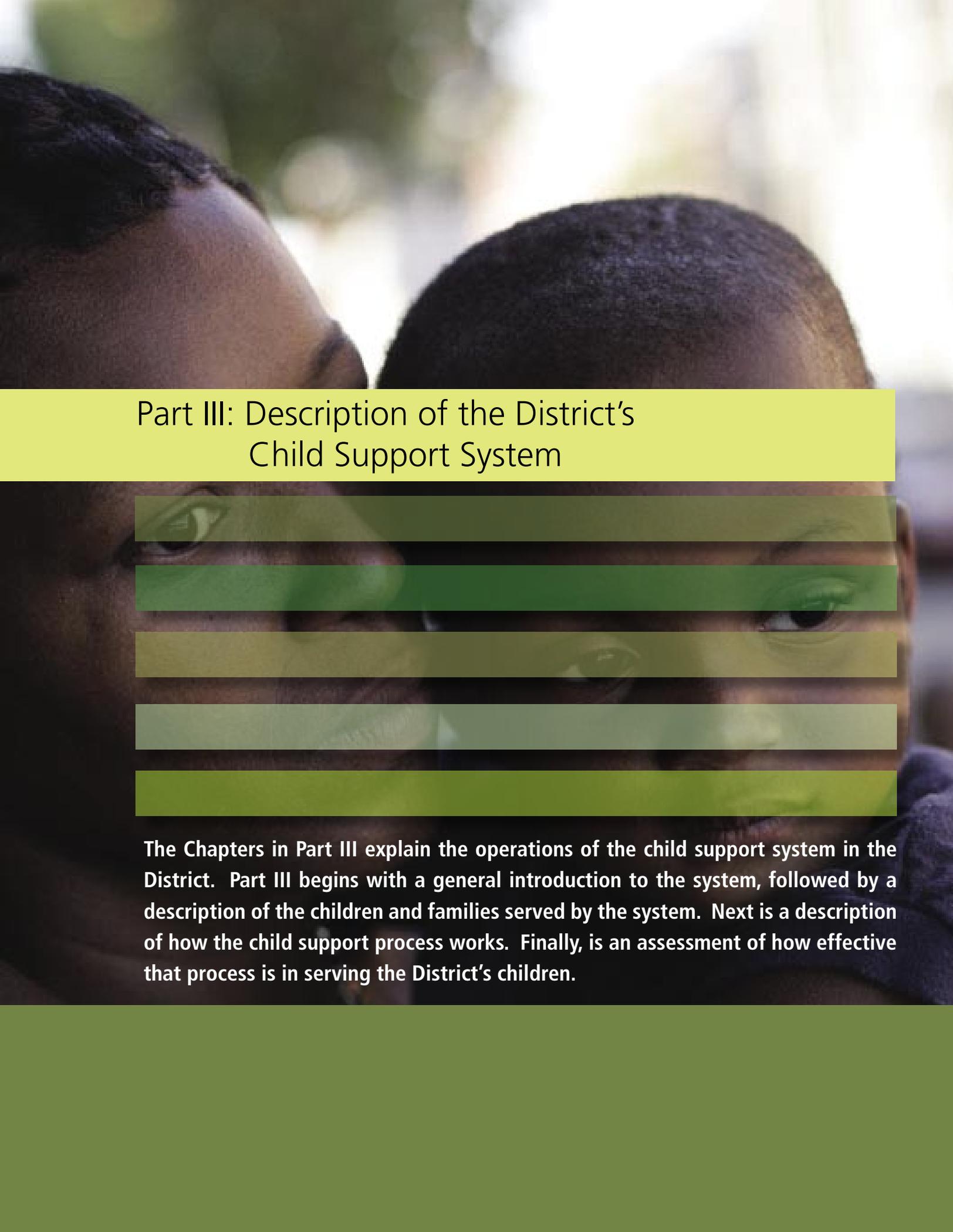
The strategic plan identifies some key approaches for accomplishing its objectives. It emphasizes prevention and early intervention, such as taking prompt steps for missed payments, working with parents to resume payments, and providing information and education to parents about the impact of marriage and single parenting on the financial security of children.⁹⁵ Additionally, it encourages proactively managing cases and communicating consistently with parents to ensure reliable payments, establishing appropriate orders and closing cases when necessary, and using debt-leveraging.⁹⁶ Other measures stressed are simplifying distribution of collections in order to pay parents promptly, ensuring health care, eliminating multi-state case barriers, using collaboration protocols with other agencies for data exchange and specific customer service for TANF clients, and developing more effective locate procedures, service of process, and order establishment tools, while also improving enforcement and collection tools.⁹⁷

Implementation of these requirements at the state level will require increased resources. In 1984, Congress voted to make Section 1115(a) demonstration grants⁹⁸ available to encourage and

fund pilot programs to test innovative approaches in child support. This funding has begun to wane and many of the pilot programs have failed to produce successful results. Total funding for each project is divided between the grant award (29 percent), regular Title IV-D federal matching funds (66 percent), and the state share (at least 5 percent).⁹⁹ Only one million dollars has been allocated over the next two years, enough for only eight new projects nationwide.¹⁰⁰ The limited funding opportunities

for child support agencies restrict improvements in many jurisdictions and impede satisfactory performance on updated federal standards. Beyond limited grant money, no increase in funding or administrative support was made available to states to accompany the new objectives covered in the strategic plan for 2005-2009. In fact, the funding cuts in the DRA have been estimated at \$4.9 billion over the next ten years, or \$1.6 billion over five years.¹⁰¹





Part III: Description of the District's Child Support System

The Chapters in Part III explain the operations of the child support system in the District. Part III begins with a general introduction to the system, followed by a description of the children and families served by the system. Next is a description of how the child support process works. Finally, is an assessment of how effective that process is in serving the District's children.



DC Appleseed

1. Introduction to Child Support in DC

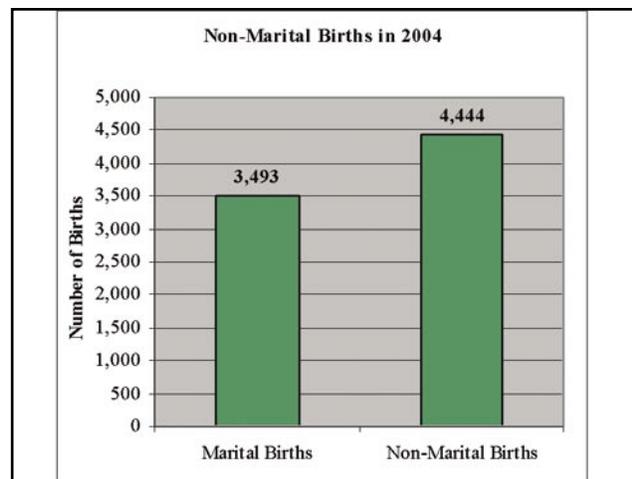
The child support enforcement system in the District serves children whose parents do not reside together. The system is designed to enforce the legal obligation of non-custodial parents to contribute to their children's financial and health-care related needs, regardless of the current relationship between those parents. This support is particularly important in the District where the vast majority of children in the child support system live in a low-income household headed by a single mother.

In DC, the vast majority of children with cases in the child support system are born to never-married parents. Many divorced or separated parents opt to make their own payment arrangements as part of their separation or divorce agreements, and avoid the formal child support enforcement system as long as the informal arrangements are working. While never-married women can make their own formal or informal child support arrangements, never-married women with children are among the most likely District residents to live in poverty¹⁰² and to become involved in the child support system through application for public benefits.

In fact, 70 percent of DC's child support caseload consists of current or former welfare recipients – over 53,000 children out of the 76,000 on the child support caseload. The child support system represents a potential pathway out of poverty for these children. Yet, *less than*

one-fifth received *any* child support in the last year. The resulting increase in child poverty is a scourge that the District cannot afford. Children who live in poverty are at great risk of a host of social problems, and those problems follow them into all of the institutions, including schools, courts, prisons, welfare programs, and future families.

The reach of the child support system in the District is vast. With over 76,658



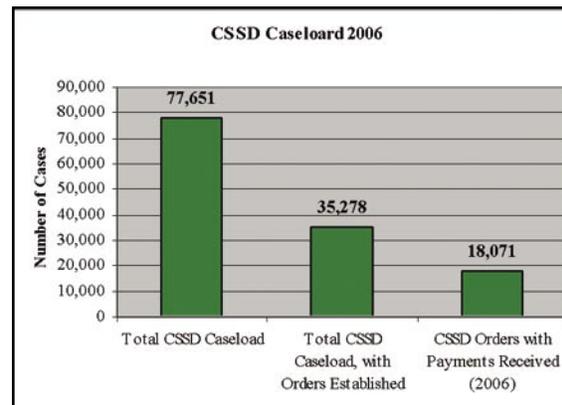
children in its child support caseload,¹⁰³ the Office of the Attorney General (OAG) Child Support Services Division (CSSD) is responsible for the welfare of as many children as DC Public school and Public Charter Schools combined. While no data was available to track the specific children that these two systems have in common, we know that the demographics are remarkably similar: largely African-American, and a substantial majority living in households with annual income 200 percent below

the poverty line.¹⁰⁴ For children in these low-income households, child support, if paid would constitute an average of *30 percent of the family's income*. Furthermore, schoolchildren who receive the child support to which they are entitled are more likely to finish high school and go to college than children who are entitled to support but do not receive it. Significantly, this positive educational effect is independent of the amount of support received. Regardless of the dollar amount, the very fact of receiving child support from an absent parent, in practice, helps a child do better in school.

This latter fact illustrates the importance of child support as a form of father-involvement. Father involvement is not limited to residing with a child, but applies to virtually all forms of regular contact between fathers and their children. Research has demonstrated the importance of father involvement to children's well-being. According to Stephen Baskerville of Howard University, "Virtually every major social pathology has been linked to fatherlessness: violent crime, drug and alcohol abuse, truancy, teen pregnancy, suicide – all correlate more strongly to fatherlessness than to any other single factor."¹⁰⁵ In *Turning the Corner on Father Absence in Black America*, The Morehouse Conference on African American Fathers notes that, "compared to children with both parents at home, children who live apart from their fathers are five times

as likely to be poor, and ... are also much more likely to do poorly in school and twice as likely to drop out of school."¹⁰⁶ Similarly, a 2002 study from Oxford University in England found that the benefits of father involvement in a child's upbringing include better educational attainment, a decreased likelihood of trouble with police, and decreased likelihood of homelessness.¹⁰⁷

Although an effective child support system may be as important to the District's children as an effective school system, it is quite clear that our child support system is not as effective as it should be and therefore not properly



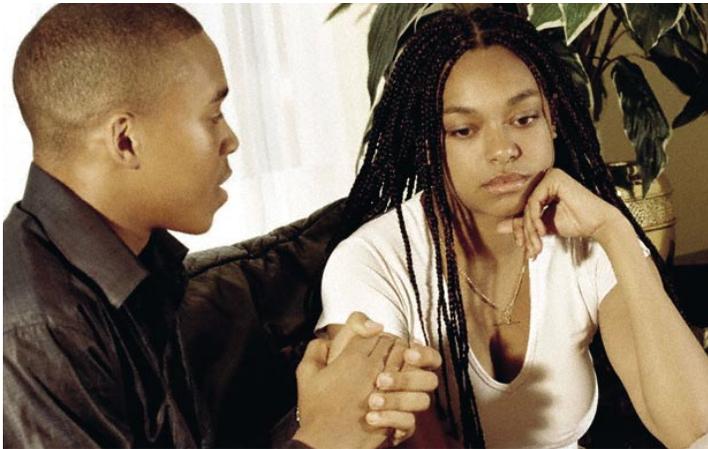
serving the District's children. As Chapter 4 of Part III will detail, DC is *well below the national average on all federal performance measures*. For example, the District's success rate in establishing support orders for eligible children is only 45 percent, compared to 70 percent nationwide. Of the 45 percent of absent parents issued an order, only half actually made payments on order. When compared to other medium-sized cities, DC does not perform as well.

From 2000-2002 (the latest years for which this data is available) DC provided child support to 10 percent fewer custodial families than other medium-sized cities.¹⁰⁸

Although this Report examines several explanations for such unfavorable statistics, the primary explanation is that the District essentially approaches all absent fathers as deadbeats to be punished rather than as parents to be sought out and involved with their children. As a result, the District fails

to take the steps that other jurisdictions take to bring these non-custodial parents into the system.

The District's child support system must do a better job of serving District children by reaching low-income non-custodial parents and creating a bridge to responsible parenthood. While progress has been made in improving the District's system, its performance remains unacceptable in light of the crucial role that child support plays in children's lives.



2. Who is Served by Child Support in DC?

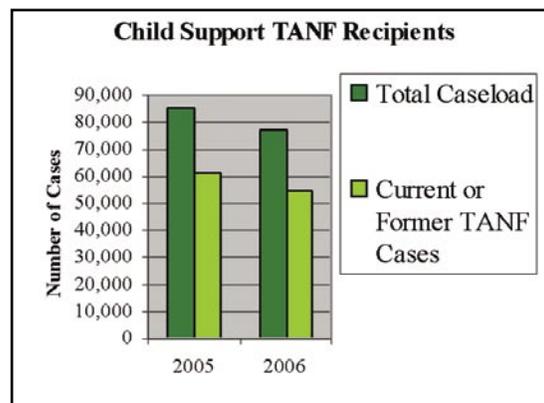
Even though the DC child support system does not report specific demographic or income data on its service population, we are able to describe that population based on available data. From the local and national welfare system, as well as other data concerning DC's population.

CSSD receives about 70 percent of its referrals of children in need of child support through the Income Maintenance Administration (IMA) of the District Department of Human Services, the local administrator of Temporary Assistance for Needy Families (TANF). Both of CSSD and IMA are creations of Title IV of the Social Security Act, and are often referred to by their titles and section numbers: child support agencies are known as IV-D agencies, and welfare agencies are IV-A agencies.

In 2005, 61,498 cases, 72.2 percent of CSSD's 85,177 cases, involved current or former recipients of public assistance. These 61,498 cases include 29.5 percent who are current TANF recipients which is almost twice the national average of 15 percent.¹⁰⁹ In 2006, the child support caseload dropped to 77,651, including 27.2 percent current TANF recipients, 43.3 percent former TANF recipients, and only 29.4 percent that never received TANF.

In DC, these TANF and former TANF recipients are very low income individuals, with one-third living below 50 percent of the poverty line.¹¹⁰ TANF and former TANF recipients are a group of custodial parents with multiple barriers to employment, including nearly 38

percent who have no high school diploma or GED.¹¹¹ The low-skilled, low-income population has even greater employment challenges in DC than elsewhere in the country. The District's share of jobs requiring post-high school graduate education is more than triple the national average (9.9 percent compared to 3.3 percent) nationwide, while jobs requiring entry-level high school skills are a significantly smaller share of District



employment than the nation as a whole (41 percent compared to 55.21 percent). Only 23.1 percent of District job growth is forecasted in high school graduate entry-level categories versus 47.9 percent for the nation and 48.5 percent for the region.¹¹²

TANF recipients are not evenly spread throughout the District. Wards 7 and 8 have the highest concentrations of TANF, Food Stamps, and Medicaid eligibility, as well as the highest rates of births to single mothers. This makes residents of these Wards significantly more likely to be involved in the child support system. Single mothers represent 78 percent and 76 percent, respectively, of the births in

Wards 7 and 8, compared to the District average of 54 percent and the District low of 6 percent in Ward 3. Wards 7 and 8 are also among the with the highest unemployment. In 2005, the District's unemployment rate was 6.5 percent, exceeding both the national and regional unemployment rates (5.1 percent and 3.4 percent respectively).¹¹³ Yet, the highest levels of unemployment were concentrated in Wards 5, 6, 7, and 8, with Ward 8 having the highest unemployment rate at 15.3 percent.¹¹⁴ Though specific data is available, CSSD staff suggest that most of their caseload come from Wards 7 and 8, which is consistent with the concentration of TANF recipients and out-of-wedlock births in those Wards. This demographic analysis strongly indicates that the population being served by CSSD is a low-income, undereducated and under-skilled black population.¹¹⁵ In the District, 97 percent of TANF recipients are African American and 82 percent of births to single mothers in the District were to non-Hispanic black women.¹¹⁶ Overall, the unemployment rate for male and female African Americans in DC is 14.5 percent.¹¹⁷ This is a population very different from the middle class population of divorced mothers and "deadbeat dads" for whom the

child support enforcement system was optimally designed. Married couples, as a population, tend to be wealthier and better educated, and divorced fathers are more likely than never-married fathers to remain involved with their children for longer periods of time.¹¹⁸ Thus, CSSD's population of non-custodial parents is more likely to be "dead broke" than deadbeat. Furthermore, many of these "dead broke" men are or have been involved with the criminal justice system. This impacts not only their ability to stay current on child support payments, but has implications for future employment and stability in the community as well.

The increased likelihood that many non-custodial parents in DC have been involved with the criminal justice system is supported by research from the Sentencing Project, a national research and advocacy organization that focuses on criminal justice system reform.

	Ward 7	Ward 8	City Average	City Low	City High
Population, Black, Non-Hispanic, 2000	97.0%	93.0%	61.0%	6.2%	97.0%
Poverty Rate, 2000	25.0%	36.0%	20.0%	7.5%	36.0%
Unemployment Rate, 2000	14.0%	22.0%	11.0%	6.6%	22.0%
Persons without HS diploma, 2000	29.0%	34.0%	22.0%	4.0%	34.0%
Female-headed families with children, 2000	67.0%	68.0%	52.0%	12.0%	68.0%
Children in poverty, 2000	37.0%	47.0%	32.0%	2.9%	47.0%
Births to Teen Mothers, 2000	18.0%	16.0%	11.0%	0.9%	18.0%
Change in Avg. Family Income, 1990-2000	-4.2%	-4.8%	9.7%	-4.8%	21.0%
Reported Violent Crimes, 2005 (per 1,000 pop.)	18.0	20.0	14.0	1.8	20.0

According to the Sentencing Project's research, African Americans in DC are 29 times more likely to face incarceration than whites.¹¹⁹ Further, according to the US Department of Justice Bureau of Justice Statistics, nearly one in three (32 percent) of African American men will enter State or Federal prison during their lifetimes.¹²⁰ Accordingly, CSSD estimates that one in four of the African American men in the CSSD caseload are or have been incarcerated.¹²¹

It is not only the demographics of the population served by the child support system that needs to be considered. The structure of the relationship between the child support system and its customers is equally important. The District is often in the position of pursuing child support against the wishes of the parent with custody. This plays out in several ways.

First, a custodial parent who applies for TANF benefits is required to provide identity and contact information for the father or "alleged father" (if legal paternity has not been established) of the child. The custodial parent must also assign rights to the state to any support collected from the father on the child's behalf. A custodial parent who is required to cooperate with CSSD to be eligible for welfare benefits is not a customer who is pursuing child support by choice. While some TANF recipients may be ignorant about their right to support, many have actively decided against pursuing an order on their own. It can be difficult to get paternity information from these unwilling customers.

There are several reasons for this unwillingness. For example, a custodial parent may not pursue support because

she knows that the father is not working and will be unable to pay. Or, she may already receive support informally whether monetary, in-kind, or both. In that case, she would rather not jeopardize her relationship with or existing support from the father by bringing the formal system into their arrangement. Alternatively, she may be afraid that, if she pursues child support through formal channels, she or her children will suffer harm from the father.¹²² She may want no further relationship with the father and is worried that, if required to pay child support, he will then be entitled to visitation. She would rather forego the income than allow the father access to the child. It is also possible that a custodial parent may have



no information about the father, though anecdotally such instances appear in the minority.

Second, the custodial parent may not be aware that the public assistance and child support systems are linked. By applying for TANF or Medicaid the custodial parent automatically opens a child support case. She also may not be aware of the nature of the linkage – or that information that is shared between the systems. The Project team heard from custodial parents whose

former partners were surprised and angry when they received notice of the child support case, not realizing that, when the custodial parent applied for public assistance, a child support case would be initiated. The team has also been told of instances where the mother denied any knowledge of the father to the child support intake worker when, in fact, there was a Voluntary Acknowledgement of Paternity on file with the District Office of Vital Records, to which the child support system has ready access.

Finally, since TANF recipients ordinarily do not expect to see any benefit directly from child support (and may even be afraid of harm), they are not invested in helping the system function well. The system is built around the idea that custodial parents benefit and therefore want to collect child support, as most separated and divorced parents do. In DC, however, where most cases involve never-married parents and 70 percent of the total caseload is initiated through mandatory referrals, this notion does not ordinarily apply. Until recently, TANF recipients received *no* child support money since the money was collected by the District as reimbursement for benefits. A \$150 “pass-through” was enacted for FY06 allowing the first \$150 collected each month in child support to be passed to the child’s household.¹²³ If the custodial parent receives any assistance from the father informally or wishes to avoid him entirely, she could, in fact, prevent the formal system from successfully functioning.



Without the assistance of custodial parents who may be the only ones who know for sure the paternity of their child, pursuing child support can be very difficult indeed. Yet CSSD reports that *83 percent* of TANF applicants do not cooperate with the child support system in identifying and locating the father, establishing paternity, or collecting support. The idea that this system is supposed to be providing a helpful and family-supportive service runs counter to the experience of custodial parents who are forced to participate in the system against their will.

The system’s structure is not conducive to optimal performance. At the same time, though, the children living in families that receive TANF benefits are among the most vulnerable of District youth and the most in need of the financial and other benefits of child support. While all children deserve to receive the support of both parents, TANF recipients are among the poorest women and children in the District. Children of TANF recipients are likely to suffer the worst consequences of growing up without a father since they are also facing the challenges associated with family and neighborhood poverty such as substandard housing, poor nutrition, lack of access to health care, inadequate schools, violence, and teen parenthood. It is incumbent upon the District government to find ways to make the child support system work for these children.

3. The Child Support Process in DC

Process Overview

Administrative and Judicial Systems

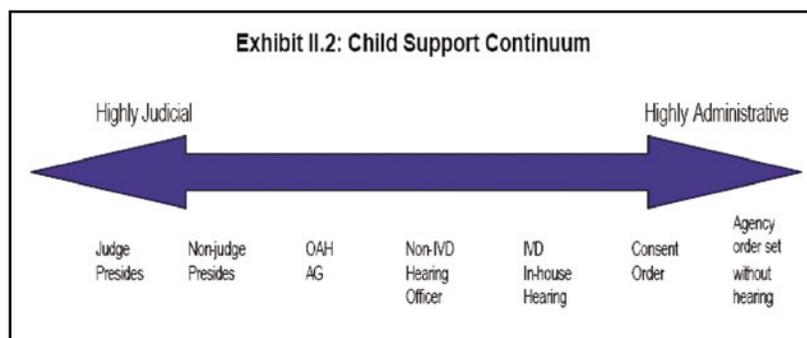
According to a 2002 report by the Lewin Group,¹²⁴ child support programs operate in what can be best understood as a continuum from administrative to judicial practices. Some programs are highly administrative - minimal involvement of the court, minimal involvement of attorneys, and the use of administrative hearings for contested cases. Other programs are highly judicial – substantial involvement of the courts, an order establishment process based on the court calendar, substantial involvement of attorneys, and routine court hearings for both contested and non-contested cases. Another group, which the Lewin Group Report refers to as “quasi-judicial,” borrows some elements of each.

Most states tend towards the judicial, with 24 states scoring 14 or above on a scale of 4 (highly administrative) to 16 (highly judicial), and only 7 States scoring 6 or below. DC has a score of 16, making it one of the most highly judicial jurisdictions. The Lewin Group research concludes that either type of system, if implemented well, is acceptable. Some experts have pointed out that judicial procedures tend to be slower, which can impact their child support agency’s success rate,¹²⁵ especially in a population that lacks stable employment and financial security (the location and financial situation

of the parties can change before an order is ever put in place). CSSD has recently begun to describe its practices as administrative; in a questionnaire made available on the Office of Child Support Enforcement website to facilitate interstate transactions, CSSD describes the system as “judicial with administrative consent process.”¹²⁶ This description means that orders reached by consent of the parties can be established administratively but still need judicial approval. Whether this accurately describes the process is not clear, since judges typically require hearings even when the judges are presented with consent orders. The question of the extent and effective use of CSSD’s administrative authority is addressed in Part IV, Section B of this Report.

Case Initiation

DC child support cases originate in one of three ways. The first is a direct referral from the Income Maintenance Administration (IMA) of the Department of Human Services,



Source: *Administrative and Judicial Processes for Establishing Child Support Orders*, Lewin Group, June 2002.

the agency that administers public benefits programs like TANF, Food Stamps, and Medicaid. The referral occurs through an automated data sharing system between IMA and CSSD whenever a custodial parent initiates a TANF or Medicaid case. The second is self-referral; applications for services are accepted from any DC resident. For a nominal fee, CSSD will provide paternity establishment, locate and service of process, order establishment, order enforcement, or any combination of these services. The third is by request from another state via the Uniform Interstate Family Support Act (UIFSA), which requires states to cooperate in establishing and enforcing orders that originate in other jurisdictions if the originating state can establish personal jurisdiction over the out-of-state parent.¹²⁷

Upon receiving a referral or application for services, CSSD first locates the non-custodial parent using the Federal Parent Locator Service (FPLS) or other automated and non-automated information sources, and files a motion with the court to establish paternity (if necessary) or a child support order. The court calendars the case and issues a Notice of Hearing and Order Directing Appearance (NOHODA), which CSSD is then responsible for serving on the non-custodial parent. (In TANF cases, because the custodial parent is a witness and not technically a party to the case, she is not ordered to appear.) In court, if paternity has not been legally established, the non-custodial parent will be given an opportunity to sign a voluntary acknowledgement or the judge will order genetic testing. If paternity

is not in question, CSSD attorneys or paralegals meet with the non-custodial parent prior to entering the courtroom to review documentation of income, apply the guidelines to calculate the amount of support required (which is based on both parents' aggregate incomes), and present the court their recommendation for a child support order.

Establishing an Order

DC Superior Court Family Court has an Expedited Child Support Division which consists of three magistrate judges whose caseload consists entirely of paternity and child support cases. In the courtroom, the judge will review the recommendation made by CSSD, concur or raise questions depending upon what is presented, and sign the order. If the non-custodial parent is unemployed or lacks documentation of income, the judge will typically sign a temporary child support order and require the non-custodial parent to return to court in a few months time with additional paperwork, including proof of job - search activity if appropriate.

Once an order has been signed, and if the non-custodial parent is employed, CSSD follows up by sending wage withholding orders to the employer of the non-custodial parent's. If the non-custodial parent is ordered to provide health insurance through his employer, the employer will also receive a National Medical Support Notice (NMSN). CSSD is responsible for providing copies of the order to the custodial parent, and/or advising them whether additional court appearances

will be necessary. In addition, CSSD is responsible for maintaining case records and safeguarding information to ensure accuracy and integrity. CSSD contracted out their responsibility to manage the collection and disbursement of funds to Systems and Methods, Incorporated, beginning in late 2004.

Enforcement – Court and CSSD Roles

For court-ordered child support, CSSD is responsible for identifying cases of non-payment and filing motions for contempt. CSSD may file motion for either civil or criminal contempt,¹²⁸ though, according to CSSD staff, CSSD is significantly more likely to use the civil option than the criminal option.¹²⁹ Each judge has a weekly contempt calendar in which the judge hears these non-compliance cases on both “first appearance” and review bases. CSSD must provide evidence of non-payment, a calculation of the arrearage amount, and is typically asked to recommend a course of action. Specifically, CSSD is asked to recommend whether the motion for contempt should be held in abeyance to give the father an opportunity to comply with an agreed upon payment plan, or if incarceration or other intervention is warranted. CSSD is working to implement by the end of the current fiscal year an automated case screening process to refer cases for contempt when appropriate, without the need for the custodial parent to request this action. Additionally, CSSD plans to incorporate as a part of the new contempt process a final attempt to invite the non-custodial parent to CSSD office to create a payment plan prior to the hearing.

In summary, CSSD is responsible for conducting intake with the custodial parent, locating and serving the non-custodial parent, verifying income for both parties, writing and filing motions to establish or modify orders, or charging delinquent non-custodial parents with contempt, conferencing with the non-custodial parent about the order amount, representing the District in court,¹³⁰ and communicating with the custodial parent. CSSD is also responsible for conducting triennial reviews of the public assistance caseload, and moving for upward or downward modification of orders as appropriate.

The court’s role is to calendar the cases, adjudicate paternity if not yet established, evaluate and establish orders (whether based on the child support guideline, agreement by the parties or recommended by CSSD) and determine when sufficient information is available for an order to be made permanent, for an ex-parte order to be issued, and/or a bench warrant issued for failure to appear. The court also determines responses to contempt filings. In addition to these judicial responsibilities, the court has also entered into a Memorandum of Understanding with CSSD governing the use of conferencing space, availability of office space and computers, and other logistical matters.

Although the court is involved in adjudicating contempt hearings and to some extent in regularly reviewing temporary orders,¹³¹ enforcement is exclusively managed by CSSD. The division of responsibilities within CSSD is not well understood by parents. For example, at the resolution of a contempt

case, a non-custodial parent whose driver's license has been revoked will frequently seek the court's help in having it re-issued, only to be told that the process is handled at CSSD's office and the court has no role in the license revocation.

Representation

In order to resolve potential conflicts of interest stemming from the complexity of family relationships in its cases, CSSD determined to stop representing parents in child support matters. Instead, CSSD now represents the District in its "interest in ensuring that children are adequately supported."¹³² Under this policy, custodial parents are no longer considered "clients" entitled to the confidentiality and other privileges of attorney-client relationships. Custodial parents instead became "customers." In practice, this change in policy often has little practical effect, especially because the interests of the custodial parent often align closely with CSSD, *i.e.*, requiring the non-custodial parent to pay child support.

Child Support Guidelines

A key factor in child support matters is the child support guideline. These state-legislated guidelines are used in establishing just orders, and were required by federal law in order to limit the discretion of the courts in determining the amount of support owed by non-custodial parents.¹³³ The guideline is a numerical statement of child support policy articulating, among other things, how income should be calculated and what kinds of costs are included in parents'

financial obligations to their children.

The federal Family Support Act of 1998 requires states to review their child support guideline every four years.¹³⁴ Child support guidelines were initially adopted by the DC Council in 1990.¹³⁵ A Child Support Guideline Commission was created in 2003 to review the guideline and make recommendations to the Mayor for changes based on, among other things, the changing demographic of the District and changes in federal law. Chaired by the Interim Administrator of the Youth Services Administration of the Department of Human Services, the Commission included judges, representatives of the DC Council Judiciary Committee, the private bar, community-based social services, and legal services organizations, several with experience working directly for the child support system. CSSD offered comments and assistance to the Guideline Commission. From 2003-2004, the Guideline Commission worked to review the 1990 Guideline, with the following goals in mind:

- Address the needs of children and ability of parents to pay.
- Provide more consistency and predictability in child support orders.
- Propose a new Guideline that would appear to be fair.
- Ease the administration required of child support cases in establishing and modifying orders.¹³⁶

After a series of public feedback opportunities and commentary on proposed changes, the final recommendations of the Guideline Commission were released in July 2004.

These recommendations were enacted (with slight variations) by the DC Council as the Child Support Guideline Revision Act of 2006 (New Guideline), and went into effect on April 1, 2007.

The New Guideline provides a formula which is applied to both parents' income. The New Guideline attempts to better address the realities of low-income non-custodial parents and account for non-custodial parents with incomes above \$75,000.¹³⁷ For example, the 1990 Guideline was silent on whether means-tested public assistance counted as income while the New Guideline explicitly excludes this income. The New Guideline includes a "self-support reserve" for non-custodial parents so that the lowest-income non-custodial parent can maintain at least a minimum income. The New Guideline gives judges leeway to vary from the guidelines (down to \$0) if the non-custodial parent's income is less than 133 percent of poverty.¹³⁸ It also limits the total amount of income that can be withheld to pay child support. The federal Consumer Credit Protection Act (CCPA) limits the percentage of aggregate disposable earnings that can be withheld from an individual for child support to between 50 to 60 percent. The Commission recommended and the DC Council adopt a cap on child and medical support payments at 35 percent of the non-custodial parent's gross income, which is roughly equivalent to the 50 percent CCPA net income threshold.¹³⁹ Unlike the 1990 Guideline, which calculated a presumptive amount along with a high and low variation, the New Guideline provides a dollar figure and a number of factors that judges are permitted to consider in varying from the New Guideline amount.

While the New Guideline is an essential component of child support policy and practice, the Project team did not separately analyze its substance in this Report. The Project team believes that the Guideline Commission did a commendable job in developing its recommendations, and the Mayor and the DC Council did their part in turning the recommendations into legislation. There was some dissension in the community concerning whether the Commission recommendations were sufficiently attentive to the needs of low-income custodial parents (who, for example, do not have the option of setting aside a self-support reserve before considering the needs of their children). This is an important concern. It remains to be seen how the New Guideline will be implemented, and whether it will result in fairer orders. As policy, however, it represents a dramatic improvement over the 1990 Guideline insofar as it takes better account of economic realities for low-income families as well as providing better guidance for upper-income families.

Pass-Through

In a step very much supported by child and poverty advocates, the District recently enacted a \$150 child support pass-through, making it the first jurisdiction in the Nation to increase its pass-through and income disregard above \$50 a month since the enactment of the Deficit Reduction Act of 2005.¹⁴⁰ Under this enactment, the first \$150 per month collected by the District on behalf of a TANF recipient goes directly to the family instead of to the District to reimburse it and the federal government for TANF and Medicaid expenditures. Any

amount above the \$150 is still withheld by the District for that purpose. The pass-through went into effect April 1, 2006, and was retroactive to October, 2005. The fiscal analysis of the bill putting the cost of the program at \$1.47 million suggests that this pass-through would affect approximately 700 to 1,000 families out of the 21,000 currently receiving TANF.¹⁴¹ This pass-through is significant not only because it potentially provides more resources to this small number of single-parent families, but also because it can change the dynamic between the child support system and the compelled customer population.¹⁴² While CSSD intake staff report that implementation of the pass-through has not had much impact on the cooperation of those who want nothing to do with the formal system or who expect that the formal system will not work, it may help CSSD keep better track of custodial parents so that they can receive their full payments

directly upon leaving TANF.¹⁴³ It may also encourage payment by non-custodial parents who resent being compelled to make child support payments that never reach their child's household.

The pass-through policy and the self-support reserve instituted by the New Guideline put DC in the forefront of progressive policy on child support. There have also been changes at the Office of the Attorney General that have raised the internal profile of the Child Support Services Division and suggest a shift in focus. These include elevating the status of CSSD to a division of its own; another was to rename the agency. Instead of Child Support Enforcement Division (CSED), the agency became the Child Support Services Division. Substituting "services" for "enforcement" is part of an effort to reframe the CSSD's role and align it with the direction of the federal OCSE.



4. How is the District Doing?

As mentioned above, child support enforcement agencies like CSSD are evaluated against federal standards to be eligible for funding incentives or subject to financial penalties. The federal performance standards cover five areas, three of which can result in either incentive payment or penalty, and two which are incentive-based only. The performance target areas follow:

- Paternity establishment (which can be measured either among all children of non-marital births, or among children within the child support caseload).
- Percentage of open child support cases with support orders established.
- Percentage of current collections on open orders relative to the amount owed.
- Percentage of cases with collections on arrearages (incentive only).
- Cost effectiveness (dollars collected relative to dollars spent) (incentive only).¹⁴⁴

States undergo regular audits to ensure reliability of the data on which these incentives and penalties are based.

There are plans underway to add a sixth standard related to provision of medical support.

Incentive payments are related to three indicators: (1) performance, *i.e.*, better performance results in higher payment as long as a minimum performance is attained; (2) the state's "collection base" (a calculation based on state collections and weighted toward current and former assistance cases); and (3) the designated "incentive pool" allocated by Congress. In order to receive incentive payments

on the standards, states must achieve the following minimums.

- Paternity establishment: 50 percent
- Order establishment: 50 percent
- Current Collections: 40 percent
- Arrearage Collections: 40 percent
- Cost effectiveness: 2.00+ (*i.e.*, at least \$2.00 collected for every \$1.00 spent)

In addition, in order to avoid penalties for the first three standards, states must demonstrate improvement. For example, to avoid being penalized for paternity establishment, a state that had a previous rate of between 50 percent and 74 percent must improve its performance by 3 percent over the previous year; states with performances between 45 percent and 49 percent must increase 4 percent, *etc.*

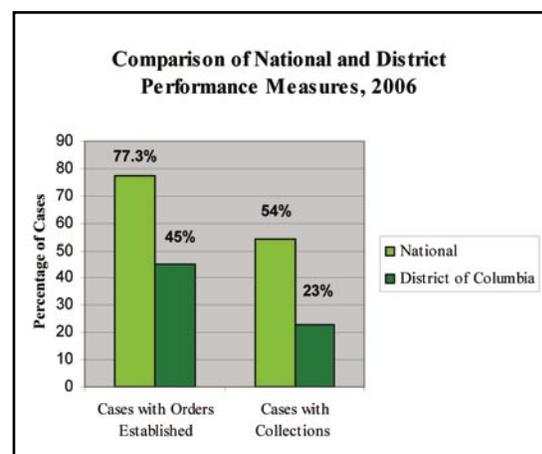
Federal child support law is unique in this close interface with states and the strict standards by which states are evaluated and compensated for their performance. This structure has placed the District at a disadvantage. Rather than being compared to and held to standards appropriate for large urban jurisdictions, DC is measured against entire states, with their blend of urban, suburban, and rural geographies. Given the demographics and high levels of non-marital births that occur in the nation's medium to large cities, urban areas around the country typically represent the poorer-performing jurisdictions within their respective states.¹⁴⁵ But the rural and suburban and smaller urban

areas of states ordinarily create a balance that raises the statewide performance. DC has no such rural or suburban areas to provide balance.

In addition, as in many arenas governed by federal, state, and local law, DC must perform the functions of both local and state jurisdictions. Most states operate with a local or regionally-based network of child support service agencies, with some states granting more autonomy to such networks than others to administer or operate the programs. State offices, however, whether they are the operators or administrators, typically have much greater capacity than their local counterparts to write and manage grants, run and evaluate demonstration projects, study best practices and engage in other functions that serve to enhance and improve overall performance. The current CSSD Director has commented on how time-consuming and difficult it is to apply for and manage federal grants. With a system struggling to meet performance goals in even the most basic procedural operations, the inability to pursue additional resources only further diminishes long-term performance capacity.

DC has made some significant improvements in the stated federal measures. DC is no longer subject to penalties for its paternity establishment rate, which has gone from 64 percent in 2004 to 78 percent in 2006. Even so, this percentage is much lower than the national average, which in 2006 was 97.87 percent.¹⁴⁶ The Paternity Establishment Program in DC has been contracted to Policy Studies, Inc., a Denver-based organization, since 2005.

DC has also improved its order establishment rate to 45 percent, up from 34.9 percent in 2004 and 39.6 percent in 2005.¹⁴⁷ Again, though, this is well below the national average, which in 2005 was 75.87 percent. The District will avoid a penalty this year because of the 5.4 percent improvement in its establishment rate, but will not receive an incentive payment because the rate is below 50 percent. It should also be noted that approximately four percent of the increase can be attributed to a reduction in caseload through case closures. In addition, the 45 percent average includes significant variation among the different service populations. The order establishment rate is 30 percent for current TANF cases, 44 percent for former TANF cases, and 61 percent for cases in which the custodial parent has never received TANF. This suggests that performance is worse where the need is greater.



Other performance markers have stagnated. The collection rate has gone from 51.22 percent in 2004, to 52.89 percent in 2005, to 52.5 percent in 2006, though this masks the fact that only 23

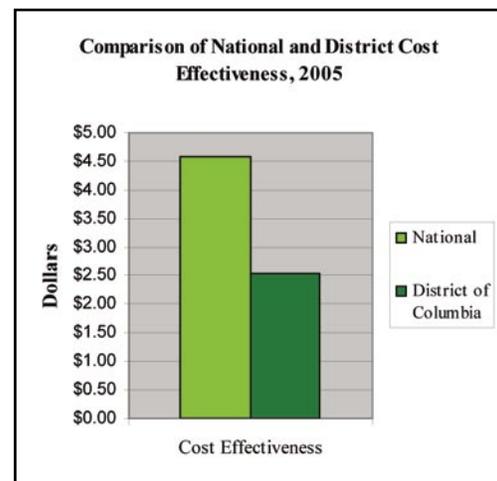
percent of cases received *any* form of payment, suggesting that a small number of orders account for a significant portion of the collections. The national average collection rate for states in 2006 was 60.35 percent.

Arrears collections for the District have gone from 42.33 percent in 2004, to 43.68 percent in 2005, but then fell to 41.7 percent in 2006. For all states in 2006, the average was 60.07 percent. And cost effectiveness declined from \$3.14 in 2004 to \$2.53 in 2006, similar to the performance rates earlier in the decade. The national average for cost effectiveness in 2006 was approximately \$4.58 collected for every dollar spent. It might be expected that the cost effectiveness number would go down as investments are made to improve the system, but then that number should go back up.

The child support performance evaluation system guides the system to a significant extent. As in all evaluation systems, what gets counted gets done. What seems to be missing here, however, is recognition of the link between the measures. If the District is raising the order establishment rate, but not raising the collection rate, then, in the end, children are not being sufficiently served. While some of the remedy for this lies in assessing and improving basic functions, like locating non-custodial parents and serving them with process, there is more to be gained in paying better attention to who is not paying and why. Removing barriers to compliance for non-custodial parents will not only bring up the District's numbers, it will genuinely help families and children.

It is true that DC tends to suffer unfairly by comparison to states, and this comparison

indirectly impacts the financial viability of DC's child support system based on the system of federal incentives and penalties. The point of this Report, however, is not to call upon CSSD to better serve the federal standards which are based on expectations of a diverse statewide population. The point is to better serve the child support caseload in the District, in particular those most in need of a well-functioning child support system – low-income African-American families facing high unemployment, high incarceration rates, and a high cost of living, as well as a poorly coordinated workforce development system, and inadequate reentry support



system. The clear message from the District's inferior performance on these federal measures is that far too many children in this population are not being well served. In fact, as earlier noted, over 50,000 children in the child support system are receiving no payments at all. Our analysis of this performance – presented in Part IV of this Report – is that the District can and must do much better in serving these children.

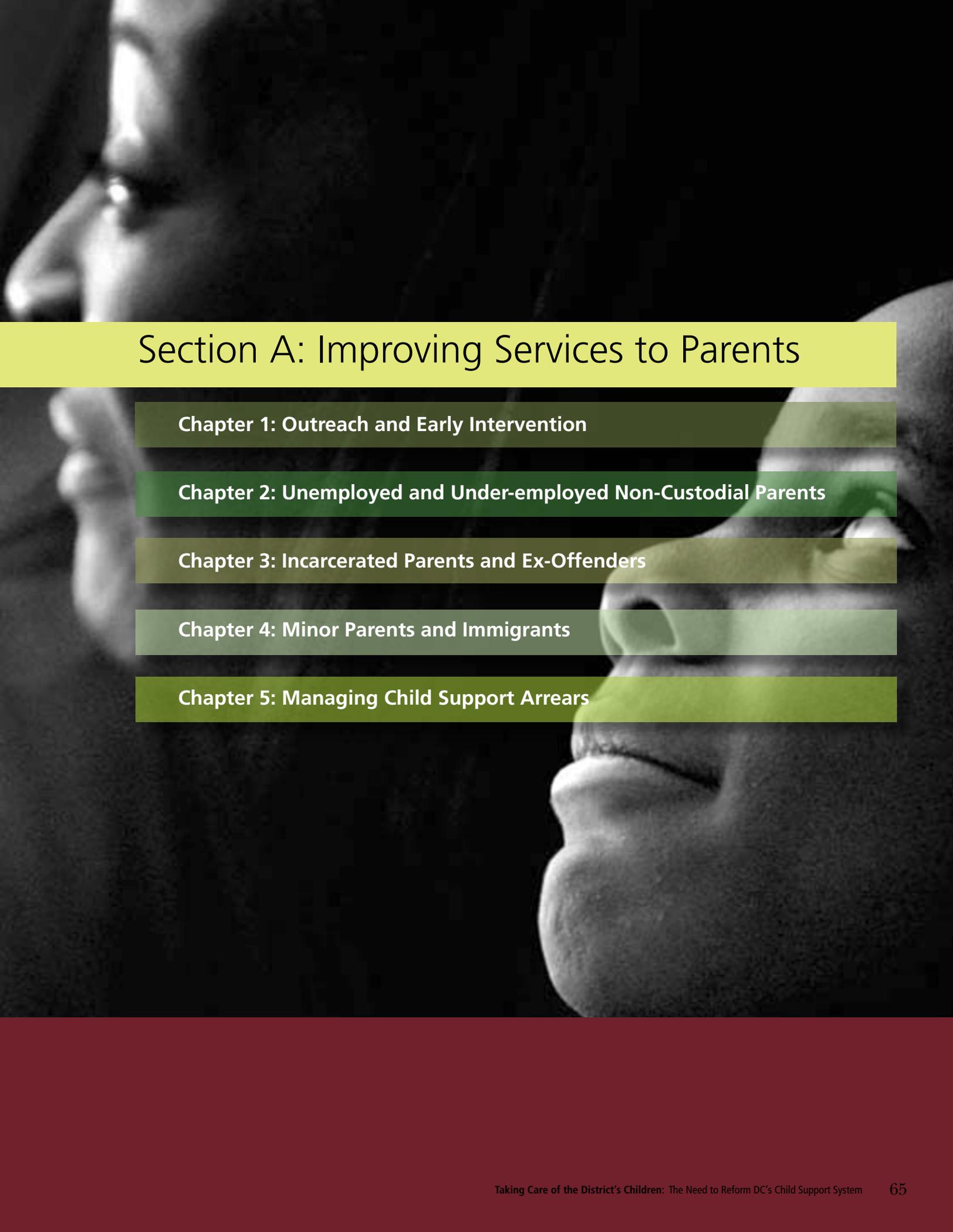


Part IV: Findings and Recommendations to Improve the District’s Child Support System

Part IV of the Report contains our specific findings and recommendations for improving child support outcomes in the District of Columbia. Chapters are broken down according to general categories: relations between the child support system and parents, relations between CSSD and the courts, and issues that are internal to CSSD. Although there is overlap, these areas are addressed separately.



DC Appleseed



Section A: Improving Services to Parents

Chapter 1: Outreach and Early Intervention

Chapter 2: Unemployed and Under-employed Non-Custodial Parents

Chapter 3: Incarcerated Parents and Ex-Offenders

Chapter 4: Minor Parents and Immigrants

Chapter 5: Managing Child Support Arrears

1. Outreach and Early Intervention

Introduction

One of the most powerful myths operating in the child support system in the District of Columbia is that all non-custodial parents want to evade their obligation to pay child support. Belief in this myth largely determines how the non-custodial parent is initially approached and treated by the child support system. This belief also leads CSSD to impose the child support obligation as forcefully as possible, using the “strong arm of the law” to gain cooperation, and a variety of “after-the-fact” enforcement mechanisms to gain compliance from delinquent obligors. The problem with this approach is that, while it works well in some cases, in many cases it works *against* building the kind of relationship that can encourage the consistent, reliable child support payments that custodial parents want and that children need. It also nundertrads the benefits that contact with the non-custodial parent can have for the child. Experience in other jurisdictions has helped to dispel this myth, providing evidence that many, if not most, non-custodial parents will approach their child support obligation willingly, if invited and supported in doing so.¹⁴⁸ And the converse is true: when non-custodial parents are not approached in this supportive way, they are often lost to the system and the children are the losers.

The idea of conducting outreach, providing information, and using early

intervention to promote better child support compliance is, as even CSSD acknowledges, a work in progress, not only because of time pressure, limited resources, and case management structure but because of the lingering effects of the historic belief that CSSD principally serves custodial parents and is adverse to non-custodial parents. This belief has its origins in the adversarial justice system in which CSSD is situated, a system that has never been the most appropriate place to manage family matters which are rarely as simple as “us” vs. “them.” To further complicate matters, the DC Superior Court Family Court has been reluctant to trust CSSD to engage non-custodial parents outside of a judicial setting, citing concern that the interaction might be perceived as coercive. Missing from this perspective is the recognition that assisting non-custodial parents actually serves children and custodial parents, and vice-versa, and the failure to assist non-custodial parents constitutes a disservice to children and custodial parents. While CSSD does not currently have the resources to provide intensive case management services to non-custodial parents who are unemployed and facing multiple barriers to employment and stability, it can and should provide friendly, informative services specific to the child support process and referrals to related services.

Successful child support agencies in other jurisdictions have adopted an outreach and early intervention approach,¹⁴⁹ and although CSSD has

made strides in this regard, including creating a Paternity and Outreach Section in 2005, significant room for improvement remains. Other more successful agencies try and engage non-custodial parents early in their child support payment cycle to help them become familiar with the expectations of the system, as well as alerting them to their options should their circumstances change. Since most child support is recouped through wage withholding, many non-custodial parents never actually write a check to a child support agency, or do it only once or twice before wage withholding goes into effect. Therefore, getting non-custodial parents to comply with child support orders requires a deeper understanding of the obstacles to

enforcement tools to the individual obligor, the employability of the non-custodial parent. Many child support agencies in other jurisdictions are beginning to address these issues, focusing their efforts on the front-end of the process through which the orders are established and *the relationship between the agency and the non-custodial parent*. By doing so, these other child support agencies have frequently secured more consistent, reliable child support payments for the custodial parent and child.

Challenges in the District

Outreach

With minimal guidance from federal law, the District has discretion to determine the value it places on outreach and any early intervention activity that is not explicitly part of “enforcement.” Thus far, CSSD has made limited but not nearly sufficient investment in these areas. For example, the agency has only two employees working in its Paternity and Community Outreach Section which has primary responsibility for overseeing the Paternity Establishment Program contract.

Our research indicates that the absence of a deliberate and well-funded outreach strategy has left the child support system

Recent Newspaper Headlines:
“Deadbeat Parent Sweep Yields 20 Arrests” WYFF4.com, SC, May 4, 2007.
“Child Support Deadbeats Nabbed” Lake County News-Sun, IL, February 14, 2007.
“Man sentenced on 18 charges of criminal non support” Bedford Bulletin, VA, February 14, 2007.
“Arrests orders for parents owing support” Patriot-News, PA, July 3, 2007.
“Deadbeat Parent? Take the Bus” KCPW, UT, January 18, 2007.
“Find a Way to Make Deadbeat Parents Pay” Morning Sentinel, ME, June 18, 2007.
“Deadbeat Dads Arrested on Father’s Day” Heartland News, Cook County, IL, June 18, 2007.
“Ad Nabs 2 Child Support Debtors” Philadelphia Daily News, PA, June 8, 2007.
“Deadbeat Dad Gets Prison on Child Support Charges” North Country Gazette, NY, April 21, 2007.
“Deadbeats Feature Monthly” The Enquirer, OH, May 22, 2007.

compliance for non-custodial parents. The issues that can and do interfere with the regular payment of child support include, without limitation the following: how the order was established, how the amount of the order was determined, the relationship between the custodial and non-custodial parent, the relationship between the non-custodial parent and the child, the appropriateness of the child support

with a poor reputation among both custodial and non-custodial parents. It is generally perceived as being unfair to fathers and ineffective for mothers.¹⁵⁴

These impressions are, in part, a public relations issue insofar as CSSD has not taken charge of the message it should be communicating to its DC audience; in fact, one staff member of OAG indicated that CSSD relies on news coverage of “deadbeat dad roundups” in other local communities to communicate its message.

But CSSD’s community reputation is also partly a result of well-known systemic problems at CSSD. These include a very low collection and disbursement rate among public assistance cases, a low rate of successful process service, and an approach to non-custodial parents that, at least in the eyes of the community, focuses almost exclusively on punitive enforcement measures.

Treatment of Non-Custodial Parents

At CSSD, beyond areas related to paternity establishment, there are virtually no systemic services available for non-custodial parents. The initial contact that non-custodial parents have with the child support system is often via service of process which includes the admonition that failure to appear can result in a warrant for arrest. CSSD thus misses an opportunity to provide non-custodial parents with supplemental materials at the point that they are the most receptive to the information¹⁵⁵ and instead provides them additional information after the order has been established.¹⁵⁶ As a result, non-custodial parents are unlikely to reach out to the system to ask questions until their first appearance in court. Recently, CSSD

began an initiative to invite non-custodial parents to receive process in its office and to have questions answered, but the initiative’s success is yet to be evaluated.

When they do come to court, non-custodial parents, who are not usually represented by counsel, meet only briefly with a CSSD attorney or paralegal who calculates the order amount according to a strict application of the Child Support Guideline, leaving minimal room (or time) for discussion or negotiation. Non-custodial parents are not entitled to counsel and are generally uninformed about child support, about how the guidelines work, or about their rights and options.¹⁵⁷ Because CSSD is not seen as an ally by non-custodial parents, when those parents need help, they frequently do not contact CSSD.

In fact, non-custodial parents report feeling that they are being “interrogated” and “bullied” by CSSD staff, particularly by the attorneys.¹⁵⁸ According to community service providers, the attitude at CSSD is even worse with respect to Spanish-speaking clients.¹⁵⁹ Given that many members of the service population do not have positive experiences with the legal system or with public benefits systems in general,¹⁶⁰ they are likely to perceive the child support experience negatively unless the system takes affirmative steps to address these perceptions.

Although CSSD expends substantial time and effort in the establishment process (intake, locate, service, hearing), it typically is uninvolved following order establishment unless the non-custodial parent misses multiple payments.¹⁶¹ In those cases, the non-custodial parent is warned that, unless payment is made immediately, his

driver's license will be revoked. If the revocation is in error, it is incumbent upon the obligor to prove the mistake. Such actions naturally create an antagonistic relationship from the outset.¹⁶² Even non-custodial parents who have been completely compliant are advised in court that, if they fail to appear for their next court date, a warrant may be issued for their arrest. As required by federal law, CSSD sends an annual letter to all obligors, regardless of their payment history, advising them of the various enforcement techniques that CSSD has at its disposal. These heavy-handed punitive approaches can have the effect of making even paying non-custodial parents feel like criminals.

While non-custodial parents have limited contact with the system before or even after their time in court, they are likely to have contact with peers who are not necessarily well-informed. One non-custodial parent, for example, was told by his friends that he should "give up his rights" (*i.e.*, terminate parental rights) so that he would not have to pay child support. This particular father was actively involved with his children despite the fact that he paid little in monetary support. Unlike other states and cities, CSSD currently does not partner broadly or effectively with community-based organizations, job service groups, faith-based or non-profit agencies that could provide child support information in a non-threatening way to parents who need it. As explained in subsequent chapters, there are significant opportunities for CSSD to improve its outreach in ways that have worked effectively in other jurisdictions. CSSD has recently begun efforts to increase contact and provide additional information to non-custodial parents, but these communications

must be bolstered by positive customer experience in order to change public perceptions. The point here is not that the District needs to improve its services and relationships with non-custodial parents for the sake of the parents, but rather because doing so will benefit those parents' children.

Customer Service

This is not to say that there have been no efforts to improve services to non-custodial parents. OAG, like all District agencies under former Mayor Williams' administration, put substantial efforts into improving its customer service. CSSD's efforts include the recent transition of the customer service unit out of "Operations" (which includes the intake, locate/ service, and establishment units) so that its management would be more focused on bridging internal and external affairs, and ensuring that the office waiting area is clean and comfortable. CSSD has also recently committed to a new customer service initiative called the "Customer Liaison Unit." The Customer Liaison Unit staff will be assigned to the office waiting room to address the needs of walk-in customers and will be assigned according to customer last name to increase continuity of service. The local attention to customer service complements a focus on improved customer service by the U.S. Health and Human Services' Office of Child Support Enforcement (OSCE) through the implementation of the Government Performance and Results Act (GPRA).¹⁶³ One of the key purposes of the GPRA is to promote a new focus on results, service quality and customer satisfaction.¹⁶⁴

Despite these efforts, problems continue. The CSSD general office number voicemail system was never updated to reflect either the name change at OAG (it still refers to the Office of Corporation Counsel) or the division (it still refers to the Child Support Enforcement Division although CSSD points with pride to the name change to Child Support Services Division as symbolic of a new service orientation). This inaccuracy is potentially confusing and raises questions about the accuracy of other information provided through the automated service. Customers complain of difficulty in reaching a staff person, and some customers report giving up entirely.¹⁶⁵ This is particularly likely when the call is not especially urgent to the caller, such as when the purpose of the call is only to provide a change of address. CSSD recognizes the need for a new Automated Voice Response System and has apparently secured funds to make the necessary enhancements to the system. Procurement, however, is “running its course” and, in the meantime, inaccuracies persist.

To improve the likelihood that non-custodial parents would appear in court, CSSD has proposed drafting a friendly notice letter and implementing a telephone contact process to advise the non-custodial parent about any court dates. While the court has expressed some concern that these contacts might be perceived as coercive, and there are some privacy concerns, other jurisdictions have implemented such practices effectively, and we fully support CSSD going forward with them. To do so, however, would require particular attention to both the tone and content of written materials and spoken messages. The script provided to the team for the phone contact did not include

any variations based on who answered the phone or whether an answering machine identified the individual.

The concerns of custodial parents are somewhat different. They complain that they are not kept sufficiently informed about case activity. Months or even years will go by without custodial parents being advised about the status of their case.¹⁶⁶ Without a specific contact person, custodial parents feel that they do not have an advocate for their case and frequently are not informed about court dates and other important events. For example, one parent was never informed that his/her child’s non-custodial parent was arrested on a bench warrant. CSSD appears to expect that custodial parents will be proactive in seeking information. Custodial parents, in contrast, generally expect that CSSD will proactively establish and enforce orders and keep them informed. This contributes to CSSD’s reputation in some quarters as an agency that keeps records but otherwise, as one parent said to us, “doesn’t do anything.” CSSD maintains that custodial parents are sent courtesy copies of petitions for paternity and/or support and are therefore kept informed.

Outreach Materials

Until very recently, CSSD had few brochures or other written materials explaining the child support system in any detail. Materials directed towards non-custodial parents were not available at CSSD or elsewhere in the community.¹⁶⁷ Community advocates have serious concerns about the ability of non-custodial parents to understand the system and what is required of them. While CSSD has

recently compiled a Customer Survival Kit, the materials in the kit appear to have been designed primarily for custodial parents (many implicitly address themselves to a custodial parent audience) and tend to be difficult to read. None of the materials address the meaning of responsible fatherhood or the benefits of participating in the child support system. And only limited materials are available in Spanish and none are available in any language other than Spanish or English. CSSD recognizes the benefit of survival kits targeted to non-custodial parents but cites lack of resources to produce them. Given the relatively modest cost of such pamphlets (CSSD suggests \$7000) and their benefit to educating non-custodial parents who currently feel ignored and uninformed, providing such several kits would prove to be a worthwhile expenditure. Given the high levels of illiteracy in DC, particularly among the low-income population that the child support system needs to reach, complex materials combined with a lack of legal representation are a near guarantee for non-custodial parents to feel overwhelmed and uninformed. CSSD's recent efforts are a good first step, but they need to be better adapted to the population to be served.

CSSD's webpage is equally non-user friendly. The District of Columbia government home page does not contain a direct link. While the site is more easily accessed from the Office of the Attorney General's (OAG) webpage, CSSD's location within OAG is not self-evident to the target population. The site is poorly designed and contains what can only be described as a hodgepodge of seemingly random information. For example, while it does contain brief descriptions

of the means CSSD uses to enforce child support payments, the section is addressed to custodial parents¹⁶⁸ and contains insufficient detail to be of use to non-custodial parents. Reports of broken links which are not quickly fixed are also commonplace.

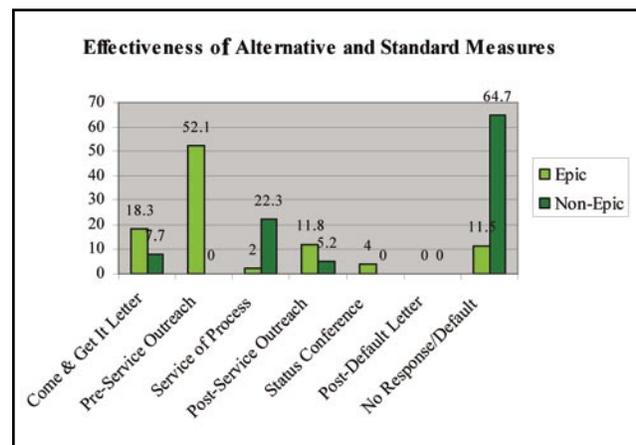
The poor organization of information on the website is illustrated by the following: the link for Paternity leads to a webpage¹⁶⁹ that begins with text on "Establishing Support Orders," followed by "Why is it important to my child to establish paternity," followed by a table that charts the percentage of income owed per child, according to the child support guideline. While all of this information is potentially helpful, it is basically hidden. For example, there is no link to "How the Guideline Works," which is where one might expect to find the above referenced table. Nor does the site directly address any of the basic procedural questions that users might be expected to ask (such as, how do I get a paternity test and who pays?). The menu is alphabetical rather than chronological in relation to the procedures, or organized by audience (for example, what custodial parents need to know, what non-custodial parents need to know). One of the few highlights is the "tips" section, which is akin to a Frequently Asked Questions link, but again, there is no way to know what information will be found there. Another is the Online Child Support Packet, which parents can fill in online and print out. While these observations may sound hyper-technical and overly critical, it must be remembered that the population to be served is unlikely to be sophisticated in internet skills and is in need of clear, basic information.

CSSD has proposed upgrading its website to create greater functionality and the capacity for more interactivity. We fully support this and encourage input from the different audiences that are likely to access it - including custodial parents and non-custodial parents (and their allies or representatives), employers, and other court or government workers. While many in the CSSD service population do not have personal computers, they do have access to libraries and other sites where computers are available. Community service providers and the Superior Court's Family Law Self-Help Center could make use of it to help clients, if individual case information were accessible using Social Security numbers, a personal identification number (PIN), or other unique identifier. While the District has been recognized for its award-winning web portal, greater attention needs to be paid to the quality of individual pages and the unique needs of those being served.

Best Practices

A variety of practices have been established in other jurisdictions that can serve as a model to assist CSSD in establishing a more customer-friendly environment for non-custodial parents and fostering better relationships with them. These practices involve an investment of resources at the front end of the process (e.g., prior to establishing an order or shortly thereafter) that results in more accurate orders and better collection rates. These results occur because non-custodial parents are better informed, less antagonistic, and perceive greater fairness in the child support process.

Pre-service Outreach. San Francisco County's Enhanced Parental Involvement Collaboration (EPIC) was an eighteen-month program during 2005 and early 2006 that focused on altering the approach the child support service agency uses with clients.¹⁷⁰ EPIC's goals were to reduce default orders and increase the likelihood of payment. This more client-friendly, customer-service-oriented focus included re-drafting documents to use simpler and less aggressive language, and use of process servers who received specialized training



Karen M Roye, *Enhanced Parental Involvement Collaboration (EPIC) Project Final Report, (2005-2006) (Oct. 13, 2006).*

in customer service such as the agency's receptionists receive.¹⁷¹ *Source:*

The role of the process server is essentially to say "don't ignore it – this stuff won't go away. Just give a call and they'll help you out."¹⁷² Even before service of process, the agency contacts the non-custodial parent and requests that they try to resolve the matter. *Less than 30 percent* of non-custodial parents have required service of process using this approach.¹⁷³ These informational sessions are often followed by informal hearings. The agency found it very important to take advantage of early opportunities when they have the

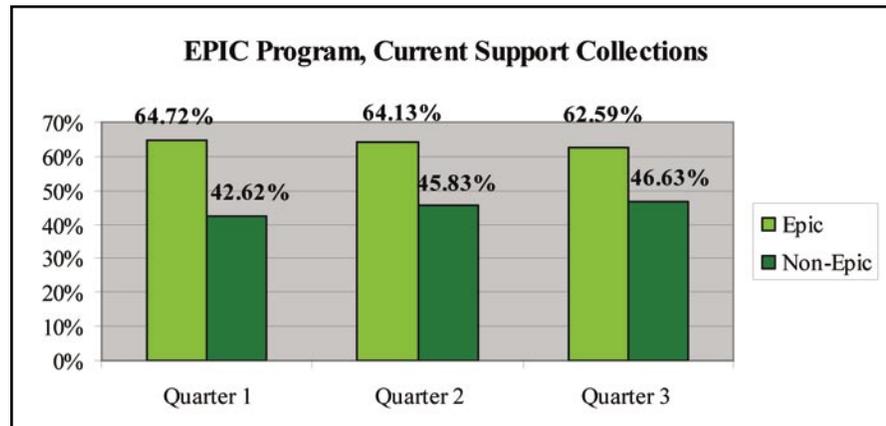
full attention of non-custodial parents to communicate information and establish a good relationship.¹⁷⁴

The success of the EPIC program was impressive. Using a variety of pre-service outreach efforts, the San Francisco Department of Child Support (DCSS) obtained a 70 percent response rate prior to formal process service, and 88.5 percent of those contacted through all methods participated in the establishment process. The EPIC default rate was only 11.5 percent compared to 64.7 percent for the control group.¹⁷⁵

Among EPIC cases, collections were 15.96 percent higher, collections on cases with arrears were 13.55 percent higher and support distributed to custodial parents was 5.32 percent higher.¹⁷⁶ DCSS, recognizing the success of the EPIC program, created a fulltime EPIC team, and all new cases requiring establishment orders use the EPIC process.¹⁷⁷

Reducing Default Orders by Increasing Outreach. Colorado's Department of Human Services Child Support Enforcement Program (CSE) also wanted to decrease the rate at which orders were being issued by default, *i.e.*, without input or participation by the non-custodial parent. The goal for CSE was to base more of its orders on accurate and current information, as well as to improve its image and relationship with non-custodial parents.

Colorado recently used a demonstration grant to test its efforts in Denver and Jefferson County, a large suburban county. Like the District of Columbia, Colorado has a high percentage of low-income non-custodial parents,¹⁷⁸ and Denver County is highly urbanized with a large population of currently or formerly incarcerated men.¹⁷⁹ CSE enhanced its locate efforts, including asking custodial parents for non-custodial parents' cell phone numbers and using Accurant, an electronic locate system.¹⁸⁰ CSE also increased efforts to contact non-custodial parents prior to the initial



Source: Karen M Roye, *Enhanced Parental Involvement Collaboration (EPIC) Project Final Report, (2005-2006) (Oct. 13, 2006)*.

conference via telephone calls and first class mail.¹⁸¹ CSE translated its documents into Spanish and set up a Spanish language version of its customer service voicemail system.¹⁸² Agency officials were surprised to learn how frequently the Spanish version was requested and presume that many bilingual individuals, while competent in English, prefer to get their information in their native language.¹⁸³ While other changes to CSE's voicemail system included setting up an automated notification system, the benefits of these changes remains unclear.¹⁸⁴ CSE also added incentives to encourage appearance

in court, such as waiving fees and not pursuing retroactive support on TANF cases.¹⁸⁵ Colorado attempted to address the poor perception that parents had about CSE through education, making changes to its website, making referrals to employment training, and establishing a Work and Family Center to help parents manage their child support obligations.¹⁸⁶

CSE's efforts have resulted in the reduction of default orders by more than half, from 33 percent to 14 percent.¹⁸⁷ CSE discovered that most alleged fathers were responsive when contacted informally and seemed to appreciate the personal contact.¹⁸⁸ Anecdotal evidence indicated that there was some increase in payments from non-custodial parents contacted in this manner, though hard data has not yet been made available.¹⁸⁹ In light of the similarities between Colorado's CSE and the District's CSSD, especially in Denver, some of the lessons learned there can be applied in the District of Columbia.

Changing Public and Client Perceptions.

Several years ago, the Child Support Division of the Texas Attorney General's Office (CSD) revised its intake and outreach processes in order to improve the likelihood that parents would feel that CSD is a partner and not an adversary.¹⁹⁰ Former Deputy Attorney General for Child Support, Cynthia Bryant, strongly stressed the importance of using intensive outreach and information in order to change public and client perceptions of the agency.¹⁹¹ In her view, the system is not about establishing orders, but *obtaining regular payments from non-custodial parents*. She believes this is most easily accomplished through a change in an agency approach which address the root causes of problems with non-custodial parents.¹⁹²

Texas has therefore conducted broad outreach efforts; using public service announcements, newspapers and brochures to communicate the concept that child support benefits both parents.¹⁹³ CSD trains its staff to view non-custodial parents as part of the solution rather than the problem. CSD has partnered with community-based organizations that work with low-income families and non-custodial parents.¹⁹⁴ As discussed earlier in the context of alternative dispute resolution, Texas has initiated a "collaborative negotiations" process in order to attempt to achieve agreement on orders prior to court proceedings. Critical to this collaborative process is intensive staff training and customer education.¹⁹⁵ Ms. Bryant stressed that devoting 30 minutes to one hour with parents is critical to ensuring that they understand the process and are



willing to cooperate and comply with any agreements.¹⁹⁶ Texas' view of these changes is long-term in nature, since changing the public image of a child support agency takes time and requires it to focus on the root causes of its problems.¹⁹⁷ Preliminary results, however, are good. Customer satisfaction in Texas has increased from a rate of 51 percent to 63 percent, with an overall improvement of 24 percent.¹⁹⁸

Providing non-custodial parent-specific services within the child support agency.

In Cook (Chicago) and St. Clair (East St. Louis) Counties, Illinois, non-custodial parents with children receiving TANF who are unable to pay child support due to unemployment may utilize services provided by the Non-Custodial Parent Services Units (NCPSU) to prepare them for employment.¹⁹⁹ Participants may be referred by the Court, by an Administrative Hearing Officer, or through a self-referral process (although services may be limited for this category). Each individual is given an employability assessment to determine eligibility. Once eligibility has been established, each participant is given an individualized service plan and assigned a Service Coordinator. Based on the participant's level of eligibility, the non-custodial parent may engage in employment-related services such as Earnfare, a supervised job search, referrals to community-based organizations for employment and training (Cook County only), or referrals to contracted Welfare-to-Work program providers. All participants, regardless of eligibility, receive information regarding child support and other related programs.

Early follow up to increase payments.

Nebraska's Health and Human Support System (NHHSS) conducted a controlled experiment at its statewide customer service call center regarding whether providing information to non-custodial parents within 30 to 60 days after entry of a support order had an impact on payment.²⁰⁰ Though NHHSS had no contact with the control group, NHHSS sent to one of the experimental groups brochures and other materials with information about responsibilities and how and where to get additional support.

NHHSS sent these same mailings and also used scripted phone contact to communicate with a second experimental group.²⁰¹ The results indicated that the non-custodial parents in the experimental groups performed better on payments, including reduced arrears and higher payments for accumulated debt. The data supported the conclusion that intervention had to be early, because after 90 days had elapsed contact was less successful due to changed phone numbers, and because non-custodial parents had become generally less interested in the child support process.²⁰²

Recommendations

The research and best practices from other jurisdictions suggest that a customer service model that squarely addresses issues of importance to non-custodial parents, does so early, and encourages voluntary compliance is most effective.²⁰³ It also suggests that a service delivery model is more effective than an enforcement model.²⁰⁴ Improvements in customer service may lead to "increased information sharing, improved relationships with the agency, and increased trust."²⁰⁵ It is also of critical importance that the agency be properly and effectively trained to implement any new models, as well as re-trained on portions of existing models that are retained.²⁰⁶

i. Create a non-custodial parent services unit within CSSD.

In order to support children, CSSD should focus more on providing services to families, and that includes both custodial and non-custodial parents. The Mayor, DC Council, and CSSD should work together to provide funding to establish

a non-custodial parent services unit at CSSD. The purpose of this unit would be to provide information, referrals, and proactive customer services to non-custodial parents. This new unit should be empowered to recommend and implement changes in the ways that CSSD contacts and informs non-custodial parents about their child support obligations, as well as their rights under the law. Staff from the unit should work with the Paternity and Outreach Section to conduct outreach to non-custodial parents and community-based services that serve the non-custodial parent population. Staff from the unit should attend court to receive immediate referrals from CSSD legal staff and/or judges and provide, at least, some personalized referrals based on identified need. We recommend that CSSD seek to staff the unit with individuals who have experience working constructively with those who face barriers to employment such as a criminal history or substance abuse problems. This unit would be expected to assist non-custodial parents in addressing barriers to child support compliance.

ii. Improve case sorting.

CSSD should review and consider revising the separation and treatment of cases in order to target enforcement techniques and services based on different types of non-custodial parents. Low-income, unemployed parents, or those with sporadic work histories, might require more intensive resources early in their case history in order to establish a more regular pattern of payment. *For further discussion, see Part IV, Section C, Chapter 1, Improving Management of Child Support Cases.*

iii. Significantly improve functionality of CSSD's website.

The Office of the Chief Technology Officer (OCTO) needs to work with CSSD to make urgently needed improvements to its website. Some can be easily implemented. For example, CSSD's primary address can be changed to an address which is likely to attract more "hits" than its current address, www.cssd.dc.gov. Additionally, having a direct link on the DC Government's homepage is an easy way for the DC Government to demonstrate the importance of the child support system. CSSD should also bring broken links to the attention of OCTO to fix them quickly.

OCTO and CSSD can also make substantive changes to the website, including adding links to all brochures, forms and other materials in English, Spanish and possibly other languages. The current site should be reorganized, with informative menu options and links that address what they purport to address. There should be individual pages dedicated to non-custodial parents and custodial parents, as well as employers. Future changes should include making individual case information and management available online (payment histories, change of employment and change of address, and requests for modifications), as well as a quicker more efficient link with employers to address the pace of wage withholding.

iv. Encourage non-custodial parents to make initial payments shortly after orders are entered.

CSSD should devote substantial efforts to making sure that non-custodial parents

are current from the time payment orders are entered. CSSD should implement a process like that used in Nebraska for following up with non-custodial parents and for providing information. CSSD currently assigns enforcement staff to contact non-custodial parents 60 days after a late payment. No information was made available about what proportion of delinquent obligors are contacted or how the contact is received by them. In addition to these enforcement measures, CSSD should assign staff from the non-custodial parent unit to monitor new cases, to contact them the first time they miss a payment in order to prevent an obligor from falling behind, and to assist with appropriate procedures. CSSD should also use any contact opportunities to ensure that non-custodial parents, understand the order modification process and encourage them to use it when appropriate.

v. Improve written materials.

CSSD should develop improved written materials to be distributed with process service, at community sites, in the court, and at CSSD. These materials should clearly address the issues affecting parents and CSSD should ensure that brochures and other information are disseminated to non-custodial parents in their native tongue, using easily understandable language at a reading difficulty level no higher than sixth grade.

vi. Create videos to supplement the written materials.

CSSD should create and provide informational videos about the child support process, ideally ones that promote the central role of the child.

These videos can be shown in CSSD's waiting room, as opposed to showing regular television programming. Informational videos can also be shown during information sessions for parties whose cases are due to be heard in court. Finally, DVDs can be inexpensively copied and distributed to clients on an as needed basis.

vii. Expand community outreach.

CSSD should hire more staff to engage in community outreach. Using media efforts in both English and Spanish, CSSD should disseminate its message about the services it provides and the benefits of child support for the individuals as well as for the community. CSSD needs to work with other agencies to support a pro-child support message, including disseminating information regarding the benefits to children and the consequences to both non-custodial parents and children from non-payment.

viii. Improve customer service for custodial and non-custodial parents.

CSSD should take steps to ensure that custodial and non-custodial parents are informed of all court dates, including those that do not concern required appearances. CSSD should also periodically advise all parents of the status of their cases, provide parents with access to case updates and attempt to dispel CSSD's image as a record keeper that "doesn't do anything" by explaining such processes as the automated locate mode, which runs quarterly matches with the Federal Parent Locator System.

2. Unemployed and Underemployed Non-Custodial Parents

“The current system requires less-educated men to meet their child-support obligations without enabling them to do so, and that is unreasonable. That doesn’t mean we should lower those requirements. However, we should provide reasonable supports so that these young men can live up to that responsibility. With the same level of persistence with which we pursued welfare reform, we should develop effective jobs programs for less-educated men.”²⁰⁷

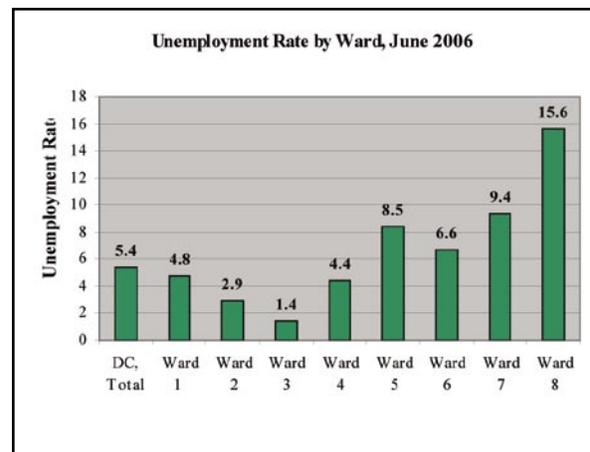
Introduction

Despite increases in paternity establishment rates, black children are less likely to receive the child support payments due to them than their white counterparts. Economist Ronald Mincy has studied this discrepancy and determined that racial differences in child support payment and receipt can be fully accounted for by differences in job stability. Nationwide, young less-educated black men experience the highest levels of job instability.²⁰⁸ This is highly significant to the District’s child support system where the child support caseload consists predominantly of black families.

Unfortunately, despite well-intentioned policies like First Source²⁰⁹ and a network of one-stop career centers,²¹⁰ DC has not been particularly effective at moving DC residents, especially individuals with barriers to employment, into the workforce. Even with a growing District economy, the unemployment rate in DC runs as high as 15.3 percent in Ward 8 (compared to only 2.3 percent in Ward 3).²¹¹ The number of jobs in DC has grown steadily in recent years from a 1998 low of 613,400 to 691,000 in June 2006. At the same time, the number of employed DC residents has fallen from a high of 292,000 in 2000 down to 277,000 in 2005.²¹² Low-skilled workers face particular challenges in DC. In 2000, employees with a Bachelor’s degree or higher held

54 percent of District jobs compared with only 28 percent nationally.²¹³ Nearly half of DC’s children live in households where no parent has full-time, year-round employment.²¹⁴

While it is certainly not the primary role of the child support system to engage in workforce development or job readiness and training activities, the deficits in these areas clearly affect the ability of the child support system to perform optimally. And that effect is felt on a daily basis as unemployed non-custodial parents appear in court and their cases are continued while they are ordered to search for employment. This occurs in as many as *one-third* of the cases for which hearings are held.²¹⁵ In addition, it is not known how



many non-custodial parents fail to appear in court because they know they lack the means to support their children. Nor is it known how many custodial parents fail to follow through in establishing an order because they know the non-custodial

parent lacks the means to pay. There is no question that helping non-custodial parents acquire stable, legitimate employment will increase child support collections. As a result, the federal rules governing child support allow for state spending in this area.²¹⁶ At the same time, helping to “smoke out” non-custodial parents with cash income would also benefit custodial parents and children.²¹⁷ In cases where arrears are owed for children who receive or have recently received public benefits, parents can be ordered to pay or participate in work-related activities.²¹⁸ Nevertheless, given the clear relationship between steady increased employment and increased child support, the District should focus on the former to improve the latter. Jurisdictions around the country, with and without financial support from the federal Office of Child Support Enforcement (OCSE), have experimented with linkages to job training and employment services, as well as to ancillary services like case management and services to address barriers to employment like literacy programs and substance abuse treatment.²¹⁹ This Chapter addresses the impact of unemployment and underemployment on the child support system, and ways in which the stakeholders in the child support system – including, but not limited to, CSSD – can and should address it.

Federal Mandates

The federal child support system recognizes the important link between employment and child support but stops short of requiring that all parents pay or work. States are allowed to order a parent whose child receives Temporary Assistance

for Needy Families (TANF) benefits to participate “in such work activities...as the court...or the State agency administering the state [IV-D] program ...deems appropriate” if the parent has fallen behind in his payments.²²⁰ “Work activities” are defined according to the rules under TANF and include a limited amount of education and training as well as subsidized and unsubsidized employment.²²¹ The link to employment is further articulated through a variety of federally-mandated mechanisms, the most significant perhaps being mandatory wage-withholding in most circumstances.²²² Federal law also mandates creation of State Directories of New Hires which feed into the National Directory of New Hires,²²³ which, in turn, is part of the Federal Parent Locator Service (FPLS).²²⁴ FPLS is a composite locator resource available to states that includes all state new hire and child support registries, as well as address and asset information available through several federal agencies. (Medical support is also intrinsically linked to employment. The National Medical Support Notice was designed specifically to secure employment-based health care coverage for children from non-custodial parents who have such benefits.²²⁵ *(See discussion of this issue in Part IV, Section C, Chapter 3: Medical Support.)*)

In addition, OCSE has long recognized the importance of linking Title IV-A Welfare-to-Work initiatives with Title IV-D child support initiatives. OCSE Action Transmittal AT-00-08 states, in part, as follows

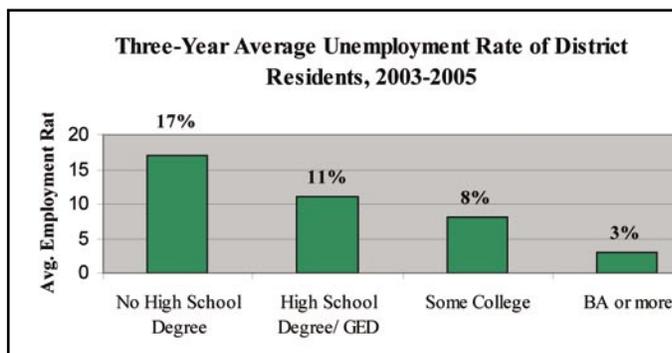
“Many non-custodial parents are unemployed or have low-wage, intermittent

employment. Helping these parents find and keep jobs and increase their earnings is *critical to the well-being of their children.*²²⁶

Challenges in the District

Workforce Development

Whatever individual challenges the under- and unemployed population faces in our community are exacerbated by the state of the District's employment services system. In "Red Tape Ties Up D.C.'s Unemployed," published on February 13, 2006, *Washington Post* reporter Neil Irwin described the District's job programs, which then-City Administrator Robert C. Bobb characterized as "beyond shameful." Irwin reported that 61 government programs administered by 24 federal and



Source: Brookings Institute, Reducing Poverty in Washington, DC and Rebuilding the Middle Class from Within, 2007; Tabulation of 2005 American Community Survey PUMS

District's agencies are intended to assist District residents to prepare for and find a job, but that the overall job assistance program is plagued by poor management, a dysfunctional bureaucracy, a lack of coordination, and little if anything in the way of information management systems. The article also described difficulties

experienced by District residents in obtaining training through the eight One-Stop Career Centers.²²⁷

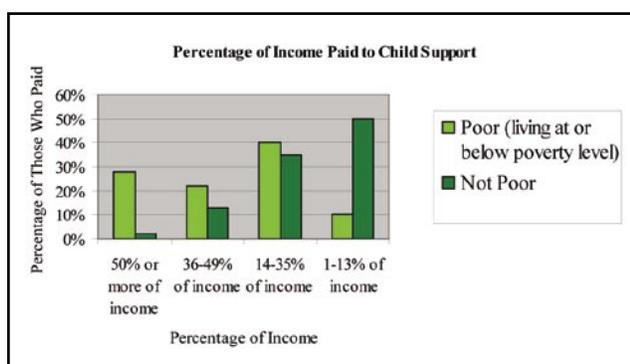
Further complicating the problem for under- and unemployed parents is the District's labor market, which includes a significant demand for highly-skilled and well-educated individuals and minimal demand for low- and unskilled workers. Furthermore, job creation in the outer suburbs has outpaced District job development.²²⁸ The Brookings Institute recently reported that the District does not have a city-wide "strategy to increase the skills, job readiness, employment and earnings of less-skilled, un/under-employed residents" that would be geared toward the region's growth occupations.²²⁹ The report also noted the lack of education and training in the District, a serious problem in light of the fact that the "vast

majority" of District residents have no education beyond a high school diploma.²³⁰ Even more problematic, the report points out that "[l]ess than 10 percent of DC jobs in occupations that are most accessible to the least skilled (food preparation and building and grounds cleaning maintenance) pay wages . . . sufficient to put a single mother with two children above the low-income threshold" of \$31,470 per year.²³¹ CSSD has indicated that it would enthusiastically partner with a service-intensive employment program if one existed in the District.²³²

The lack of an obvious nexus for these two systems represents a significant failure on the part of the District to provide for low-income families.

Welfare and Child Support

Studies have shown that poor children – *i.e.*, children eligible for assistance under the Temporary Assistance to Needy Families (TANF) program – typically have fathers with below-average earnings and unstable employment histories.²³³ Not surprisingly, non-residential fathers with a high income are more likely to provide child support than those with lower



incomes, and *the most important factor* in determining whether non-custodial parents will pay child support is the number of weeks per year the non-custodial parent works. For example, a recent US Department of Health and Human Services study reported that non-custodial parents who worked between 40 and 51 weeks in a year were 7 percent less likely to pay child support than those employed for a full year, and non-custodial parents who did not work at all were 33 percent less likely to pay child support.²³⁴

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA - the legislation that created TANF) did away with some of the anti-father, anti-marriage policy implicit in its predecessor,

Aid to Families with Dependent Children, but stopped well short of providing equivalent services to custodial and non-custodial parents. Unlike AFDC recipients, TANF recipients are not automatically disqualified by having a two-parent family, and funding is available to states through TANF to provide limited services to non-custodial parents. The Welfare to Work (WtW) program, authorized under the Balanced Budget Act of 1997, was enacted to complement PRWORA and help the hardest to employ TANF recipients as well as non-custodial parents to get employment, training, and support services.²³⁵ WtW did not serve nearly as many men as women.²³⁶ Ten years later, the issues that led to the development of the TANF and WtW programs with their emphasis on employment are now being raised specifically in terms of men, especially in the context of the current administration’s Promoting Responsible Fatherhood Initiative with its emphasis on “healthy marriage.” A recent op-ed piece in the *Washington Post* calls for “Welfare Reform for Men,” a similar combination of “help and hassle” or subsidies and demands that helped significantly reduce the welfare rolls for women.²³⁷ Whether or not support takes the form of a federal government benefits program, the point is that under-achieving men – and especially those who face barriers of discrimination based

TABLE 1

Family Size	Monthly TANF Benefits	Monthly Poverty Line	TANF as Percent of Poverty
2	\$298	1,069	28%
3	\$379	1,341	28%
4	\$463	1,613	29%

Source: *Not Enough to Live On: DC's TANF Benefits Are Among the Least Adequate in the Nation*, DC Fiscal Policy, March 14, 2006.

on race and/or criminal history - need assistance to become the family providers that the child support system expects them to be. And providing that assistance will in turn benefit their children.

The District recently received funding from DHHS's Promoting Responsible Fatherhood Community Access Program to expand the DC Fatherhood Initiative (DCFI). That initiative is now in its third year of providing services. (The first year of funding was dedicated to planning.) From the outset, the DCFI has had some internal conflict around the issue of child support. Because the service providers were focused on the fathers and needed to gain their trust, they did not want to act in overt concert with the child support system that the fathers feared and resented.²³⁸ Many of the service recipients are ex-offenders who have large arrears and who fear further incarceration for non-payment of support. From the federal and local governmental perspectives, however, the program was conceived and funded to help fathers meet their financial as well as emotional obligations to their children. At the same time, the programs were structured around abstract program goals and not fathers' specific needs. Men are required to attend a series of general classes on fatherhood before they can be assisted with housing, employment, and other basic needs. Service providers find that many men are not willing to wait that long to get those basic needs met.²³⁹

The child support system has a large impact on DCFI, both service providers and recipients. For example, a program designed to help men establish savings and a credit history failed because the men did not want to put money in the bank where the child support system might seize it. Service providers make the point that the

men avoid legitimate employment because so much of their income is garnished that they do not take home enough to make it worthwhile.²⁴⁰ Most of the service providers had minimal information or negative attitudes about child support, leaving the fathers to get system information through informal channels, which also tend to emphasize the negative. Service providers and their clients may not be aware, for example, that the new DC Child Support Guideline includes a "self-support reserve" or that an Earned Income Tax Credit (EITC) is available to help offset child support payments for employed non-custodial parents who stay current on payments. The "self-support reserve" is a provision of the New Guideline that provides judges the option of departing from the Guideline formula when a non-custodial parent's income is below 133 percent of poverty. The Paternity and Outreach Section at CSSD has made some inroads in the responsible fatherhood area, but more structured and deliberate efforts are needed.

Rather than coordinating their efforts in support of their common goals, TANF, child support, and DCFI are often functioning implicitly at odds. Women will sometimes not report to TANF that their boyfriend/partner is living with them because they do not want to have to disclose the additional income, or they do not want to reveal that they are involved with someone who has a criminal background involving drugs (either of which could affect the family's eligibility for TANF benefits). It is also possible that, though not cohabitating, they are receiving informal support that they do not want to jeopardize. Child support officials are required to file paternity and/or child support actions against these fathers, which

can result in the custodial household losing this informal support. This undermines the purpose of child support, which is intended to make low-income families more stable and less reliant on public benefits. DCFI does not encourage fathers to deal directly with the child support system to address arrears or other problems because, in its experience, CSSD lacks the ability and/or the interest to help negotiate workable solutions for these struggling men. CSSD's solution is to actively pursue support more aggressively for those custodial parents who are truly interested in cooperating – a practical approach that may implicitly address some of this conflict, but that does little to help a struggling family become financially independent or help a custodial parent who has been coerced into non-cooperation by her child's father.

Best Practices

Court partnership with an employment program. In Wake County, North Carolina, Judge Kristin Ruth uses a problem-solving court model to address chronic non-payment of child support. The principal components of the model, used alone or in combination depending upon the circumstances of each case, include the following:

- Electronic Monitoring/House Arrest – sanctions that serve as an alternative to incarceration for non-payment cases that allow the non-custodial parent to continue working or searching for work while subject to curfews and other restrictions on activity and movement.
- Working For Kids – an employment program for non-custodial parents that

provides case management services and helps non-custodial parents overcome barriers to employment. The program is also ordered as a second phase for non-custodial parents who need to complete substance abuse treatment.

- Mediation – referrals to mediation to help parents work out custody and visitation challenges that might be interfering with motivation to work and/or make support payments.

Compliance with child support payment obligations in Wake County has *nearly tripled* since the use of electronic monitoring. Use of this model has also resulted in an increase in “purge payments” made to avoid incarceration or release from or avoidance of electronic monitoring, with the attendant significant savings in costs associated with incarceration.

Wake County is still waiting for specific data on the results of the employment component. In an interview, Judge Ruth said she believes that work programs are essential in dealing with child support enforcement because the non-custodial parents do not know where to begin. Under her program, caseworkers are in the courtroom to help those parents begin the process immediately. Judge Ruth also believes it essential to use all available community services to aid in improving literacy, increasing levels of education, and finding shelter for non-custodial parents. Judge Ruth makes the decision as to when incarcerated non-custodial parents are ready to enter the work program.

Identifying and addressing barriers to child support compliance. Virginia’s “Barriers Project” is a federal Office of Child Support Enforcement-supported initiative that uses oversight and case management efforts to focus on nonresidential parents and their irregular or non-payment of child support. Non-custodial parents referred to the Project are those who are ordered to appear in court for failure to make child support payments. While there is a perception that the majority of non-payers are “deadbeat dads”, the Project found that some non-custodial parents need assistance to overcome their “barriers” to paying support. These parents can generally be characterized as “willing, but unable, to pay.” Staff from the Department of Child Support Enforcement’s (DCSE) Fredericksburg District Office and the family courts in that jurisdiction (Spotsylvania and Westmoreland Juvenile and Domestic Relations Courts) initially identified five common barriers facing nonresidential parents: visitation, conflict between parents, vocational issues, size

fatherhood through a community partners’ network. This network includes groups or organizations that provide parent education, mediation, conflict resolution, training of incarcerated individuals, technical training and other educational opportunities. In February 2006, DCSE issued an evaluation and final report on the Barriers Project.²⁴¹ A significant finding was that non-custodial parents who entered the program made payments that were *106 percent greater* in the six months after entering the Project compared to the six months before entering it.²⁴² In the final period of the Project, there was a remarkable *823 percent improvement* in payments constituting an additional \$96,262.²⁴³ Finally, for each \$1 of the cost if the Project had been continued, the net annual benefit would have been \$3.37 in additional payments.²⁴⁴

Targeting intensive resources for low-income non-payers. The Parents’ Fair Share Demonstration was a national demonstration project designed by the Manpower Demonstration Research Corporation to test strategies for working with non-custodial parents of children receiving welfare who cannot meet child support obligations.²⁴⁵ Parents’ Fair Share sought to increase the likelihood of compliance with child support orders by providing employment, training, and supportive services. Among the questions tested through their experimental design model was whether the financial benefits would be sufficient to justify the resource-intensive programming.

Parent’s Fair Share involved seven medium-to large-sized cities in seven different states. Enforcement efforts were targeted towards fathers who were employed and had resources; job readiness and responsible

of arrearage relative to income, and institutional status as a “DCSE customer.”

While the impetus for the Barriers Project was to bring ability to pay into focus, by providing selected services to non-custodial parents, DCSE is also advancing

**NCP Payments Before/After Entering Barriers Program (BP)
March 1, 2000 – June 30, 2003**

Date	Number NCPs Enter. BP	Cases Enter. BP	\$ payments within quarter							
			Prior to BP		After admittance in BP					
			2 nd	1 st	2 nd	3 rd	4 th	5 th	6 th	
2000 ¹	52	88	21,795	32,519	36,535	35,893	49,654	32,961	32,691	35,818
2001	44	68	16,995	27,982	24,119	27,579	34,073	22,373	33,526	19,358
2002	66	114	21,594	36,993	69,414	39,969	72,612	41,364	41,557	45,122
2003	41	66	11,901	12,848	25,360	25,783	53,638	32,492	28,366	27,836
Jan.- June										
Total	203	336	72,285	110,342	155,428	129,224	209,977	129,190	136,140	128,134

Notes:

¹The actual sum of this column is larger since deductions were made for atypical payments made by 28 NCPs in advance of their “show cause” appearance before a judge.

²March 1 through December 31, 2000.

fatherhood programs were provided to unemployed fathers. These fathers were identified through a variety of strategies including case-by-case reviews of case records, efforts to match child support dockets with individuals about to exhaust unemployment benefits, and Medicaid-supported births in local hospitals. The referred fathers divided relatively equally among the unemployed; employed and able to pay support; living with children; disabled or incarcerated; had grown children (should not be paying); or could not be found.

Results of Parent's Fair Share varied significantly from city to city and provided some important lessons. One site found that personal contact (staff going out into the community to hand-deliver reminders of upcoming hearings) substantially improved appearance rates²⁴⁶ and provided insight into the value of using personal connections to reach low-income non-custodial parents. An additional and unexpected positive result was that fathers who had unreported employment were forced to report it, since they could not remain employed and participate in the program.²⁴⁷ This resulted in improved collection. Another lesson learned is that the child support agency should be responsible for partnering and providing referrals for fatherhood programs to non-custodial parents identified by their income levels and payment behaviors. The project found that providing intensive case management services to targeted cases can be an effective strategy, particularly for low-income non-custodial parents like those who make up the majority of CSSD's caseload. Not surprisingly, the project found that fathers referred to the Parents' Fair Share paid more child support than fathers in the control group.

Comprehensive statewide system using technical colleges. The Georgia Fatherhood Program (GFP) provides education, training, and job placement for non-custodial parents with court-ordered child support. In the first year of the program, 80% of the 450 obligors who completed job skills training were employed and paying child support.²⁴⁸ GFP offers a statewide systematic delivery of services that enables participants to contribute to the economic well-being of their children and the workforce development of the State of Georgia. GFP is a comprehensive program of services which includes assessment, workshops, and skills training concurrent with employment. Participants are required to attend Life Management Skills training and workshops. Adult literacy, GED preparation, and short-term training ("TCC") courses are also available from the state technical college. Fast Track to Jobs is also a component of GFP which was developed in 1998.²⁴⁹ This effort is a summer program which serves non-custodial, non-supporting fathers between the ages of 16 and 21. The six-week residential program of vocational exploration and summer work experience seeks to help participants in developing self-esteem, responsibility, and pride. The young fathers are required to attend school, obtain a high school diploma or GED, participate in parenting and money management classes, perform community service, and cooperate with Child Support Enforcement.

The largest service provider, the Department of Adult and Technical Education, established a fatherhood program on each of the technical college campuses throughout the State. Case managers are an essential component of the fatherhood programs and provide

a wide range of services and referrals to non-custodial parents. Those parents can be in the program from three months to two years depending on training needs. Most participants spend an average of four to six months in the program. During that time, they are required to satisfy at least 50 percent of their current child support obligation. Case managers track participants monthly to determine employment retention for 120 days following completion of the program. Fourteen child support enforcement regional fatherhood coordinators coordinate between CSE enforcement and GFP services. The coordinators provide case agents with constant updates of participant progress through documentation on the CSE database. Of the GFP participants, approximately half found employment and are paying child support. The program has been funded through TANF funds and special funding provided by the Georgia legislature. While DC lacks a comprehensive community college program, the model contains some important lessons for structuring child support employment programming.

Direct link from child support to subsidized employment programming.

Child Support offices in Cook (Chicago) and St. Clair (East St. Louis) Counties, Illinois, both have a Non-Custodial Parent Services Unit (NCPSU) for unemployed non-custodial parents whose children receive TANF.²⁵⁰ Participants are assessed, given an individualized service plan and assigned a Service Coordinator. Depending upon the assessment, participants can be assigned to a number of different employment and training programs, including Earnfare.

Earnfare is a 6-month program of training

for persons with little or no work record.²⁵¹ Jobs are based on individual skill levels, interests, and location. Earnfare participation is restricted to non-custodial parents who have children receiving TANF or individuals receiving food stamps who volunteer for the program. Earnfare employers are encouraged to provide permanent employment for participants. Participants who receive food stamps work up to a maximum of 80 hours per month. The first \$50 goes to the custodial parent as child support. After working the hours needed to cover the value of the monthly food stamps (up to 26 hours), workers receive \$5.15 per hour for additional hours and can earn up to \$244 a month. Participants who do not receive food stamps work up to a maximum of 57 hours a month. The first \$50 goes to the custodial parent as child support. Workers then receive \$5.15 per hour for additional hours and can receive up to \$244 per month. The funding for the NCPSU is a combination of State funds and TANF dollars. State funds are utilized for the Earnfare program.

Employment program as alternative to prosecution. “Support Has A Rewarding Effect” (SHARE) was a pilot program jointly implemented in Washington state by the Tri-County Workforce Development Council (WDC), Yakima and Kittitas County Prosecuting Attorneys (PA), and the Yakima Office Division of Child Support (DSC) to assist unemployed or under-employed non-custodial parents in securing and retaining employment. SHARE offered three options to non-custodial parents whose minor, dependent children were receiving TANF and who were in arrears on their support obligations: (1) start paying support, (2) enroll in a Welfare-to-Work (WtW)

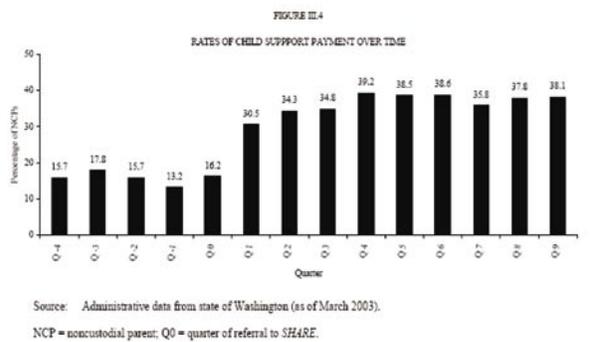
program, or (3) face possible incarceration. SHARE targeted non-custodial parents who had current orders of child support and were delinquent in their payments.

The Division of Child Support (DCS) identified parents who had not paid child support during the past 60 days or longer, and who appeared eligible for WtW services because they had a child receiving TANF. These non-custodial parents were referred to the Yakima County Prosecuting Attorney (YCPA) for initiation of contempt proceedings. YCPA set a hearing date and attempted to serve the non-custodial parent with a notice to appear in court. If he failed to appear, he was considered in contempt of court, and a bench warrant was issued for his arrest. When a non-custodial parent appeared in court, YCPA staff explained the SHARE program. The non-custodial parent had to meet the terms of his support order (or orders) by paying child support, or be held in contempt and possibly jailed. Non-custodial parents who were unemployed or who believed they might have difficulty meeting their child support obligations could participate in WtW services to avoid contempt and the possibility of jail.

The non-custodial parents who agreed to participate in WtW services were referred to one of the Tri-County Workforce Development Corporation's WtW service providers. There, the referred non-custodial parents had access to the same employment services as other WtW-eligible clients. After non-custodial parents were engaged in SHARE, YCPA staff continued to obtain progress reports from the WtW providers and monitor their child support payments. YCPA staff held review hearings with the non-custodial parents every 30 to 45 days, or less frequently if the non-

custodial parent was making progress toward employment and making minimal child support payments.

When non-custodial parents became engaged in the initiative, YCPA staff worked with them to modify their existing



child support orders to ensure that payment requirements were reasonable. In particular, DCS allowed for (1) establishment of temporarily-reduced payment agreements, (2) reestablishment of payment agreements for default orders that originally were incorrect, and (3) the possibility of waiving arrears. Support orders could be modified further based on WtW provider reports and review hearings.²⁵²

Father Court. DC Superior Court has announced a pilot Father Court program. Father Court is based on and has been developed in consultation with the National Center for Fathering's program in Kansas City, Missouri. Kansas City's Fathering Court is a deferred prosecution program for fathers who are in arrears on their child support payments. The DC program is designed differently, because most non-payment cases are not charged criminally. It will function largely as a reentry court for men who are on

probation or parole who have built up child support arrearages.

Most of the initial 45 non-custodial fathers who will participate in DC's program will be referred through the Court Services and Offender Supervision Agency (CSOSA). Participants, who will be accountable to the court, will receive job training, counseling, mediation, and personal financial management training.²⁵³ Individuals are expected to be involved in the program for approximately two years.

The Father Court initiative is a small but important first step by CSSD and the court to address the problem of under- and unemployed non-custodial parents. The program should make a significant contribution and signifies a willingness to collaborate to help this population become supportive, reliable fathers. In and of itself, however, the Father Court program is not sufficient to address this widespread and growing problem.

Recommendations

i. Collect data and develop responses accordingly.

As a first step in developing a response to this issue, CSSD should develop reliable data on the number of underemployed and unemployed non-custodial parents with open child support cases. Our estimates are based exclusively on those parents who appeared in court for hearings and self-reported that they were unemployed. The problem is likely significantly larger, since those who are not working in the legitimate economy are among the hardest to locate and serve, and would not likely be among those who were scheduled for hearings.

ii. Increase and strengthen both formal and informal collaborative relationships with community services related to employment, parenting, and responsible fatherhood.

CSSD should increase and strengthen its collaborations with the Workforce Investment Council, DOES, non-profit employment support programs like STRIVE, and the Department of Human Services' DC Fatherhood Initiative to identify programs that would welcome referrals from the child support system. CSSD should work with these programs to identify supportive services and linkages that CSSD and the court could provide that could improve child support outcomes for participants. Among the approaches to consider are court-ordered participation, temporary child support order modification, debt leveraging opportunities, and referrals to mediation services to resolve family conflict over visitation and custody. Protocols for referrals and for monitoring cases should be developed to ensure consistency and appropriate use of available resources.

The Department of Human Services needs to actively encourage recipients of fatherhood grant funds to work in partnership with the child support system, and the child support system should be expected to listen to and work with these service providers and assist them in their efforts in bringing economic and emotional stability to non-custodial fathers. The interests of these two systems are fundamentally the same – to help men become more responsible fathers to their children, and more responsible partners to the mothers of their children.

iii. Develop other problem-solving

approaches for use by the court.

As discussed further in the Chapter on Legal Representation and Collaboration with the Court (*Part IV, Section B*), the judiciary should have a range of options available for non-custodial parents who present themselves as unemployed beyond the order that they return to court with evidence of 10 job searches per week. The courts' efforts need to be focused on moving unemployed fathers toward long-term job stability. Contempt of court orders should be requested for those who neither comply with the court's orders nor report earnings, and a range of punitive options should be considered and used as well, including electronic monitoring and weekend incarceration. These efforts should be continually monitored and (formally or informally) evaluated to ensure they are meeting the needs of judges and families.

iv. Conduct outreach about employment services to custodial and non-custodial parents.

Information about job training programs should be included in every outreach to non-custodial parents, including initial service of process; this information should include messages about the importance of work and financially supporting a child, and how regular child support payments – even small ones – have emotional and cognitive benefits for children.²⁵⁴ Non-custodial parents should be given an up-to-date annotated list of job training and placement resources and a contact number at CSSD – ideally a non-custodial parent services specialist who has been trained to provide this type of service – if they need assistance in identifying an appropriate referral. There should be no strings attached for making this

information request in order to encourage non-custodial parents to ask for help. Custodial parents should also receive this information since many of them have ongoing relationships with the non-custodial parent, and may be in a position of influence.

v. CSSD should recognize its role as a stakeholder in the workforce development system.

The workforce development system in DC should be a primary target of the Fenty administration. As the system undergoes evaluation, serious consideration should be given to prioritizing non-custodial parents with child support orders in available programs. The child support system should be represented in every major employment and training initiative undertaken by the District. Its role as a stakeholder in this system, and as a voice for children, should be widely recognized and respected.



3. Incarcerated Parents and Ex-Offenders

Introduction

It is widely reported that, compared to other youth, children of currently and formerly incarcerated parents are at higher risk of failing out of school and becoming involved in the criminal justice system themselves.²⁵⁵ While no study addresses the specific effect of child support receipt on these children, receipt of child support in general has been shown to have a positive effect on academic performance of youth and the likelihood that they will stay in school. Addressing the particular needs of the offender and ex-offender population within the child support system may be important, therefore, for the protection of these children.

Prisoners and ex-offenders with child support obligations are both a specific problem group for the child support enforcement (CSE) system and a microcosm of broader issues in the CSE system. Research centers at Princeton and Columbia summarized this point in a 2003 report.

“That incarceration is so common among non-resident fathers and ... incarcerated fathers are so much less likely to pay child support suggests that less support for children may be an important negative side effect of widespread incarceration.”²⁵⁶

Similarly, because most inmates are parents, many of whom have child support obligations that far exceed their capacity to pay both prior to and during their incarceration, child support arrears

grow significantly while parents are in prison.²⁵⁷ It may be difficult to identify and communicate with incarcerated parents about their child support obligations and options, especially if they are not addressed during sentencing. This can cause many paroled and released offenders to face substantial child support obligations and stiff enforcement actions that may affect successful re-entry into society. Additionally, the review and adjustment process is cumbersome, and responses to inmate requests are highly variable.

In addressing these issues, a recent Maryland study had two recommendations:

1. Because of the significant proportion of child support obligors with an incarceration history, their child support care characteristics, and their disproportionate share of arrears, governments should pay specific attention to child support obligations of the incarcerated.
2. Sustained collaborative efforts between child support program officials and public safety officials should be undertaken to identify currently incarcerated non-custodial parents and to develop appropriate methods to educate and engage them in establishing and/or modifying support orders and in understanding the importance of providing financial support for their children upon release.²⁵⁸

Viewed more broadly, the issues posed by the prisoner and ex-prisoner populations are the same general issues confronting the CSE system as a whole – service of process, establishment of orders,

modification of orders, treatment of arrears, and appreciation for “fatherhood.” Accordingly, focus on child support best practices for prisoners and ex-prisoners can also prove helpful in looking at best practices for the broader population.

There is, however, a unique “political” issue confronting attempts to develop procedures to assist the prisoner population since incarcerated non-custodial parents are an unlikely constituency to be viewed sympathetically by many policy makers and the greater population. As noted in a study on this very issue, “rival concerns and public policy debates raised by incarcerated [child support] obligors” provide “a host of practical barriers” to the implementation of programs for the incarcerated population.²⁵⁹ Locally, the negative impact of politics was evident in the Maryland Senate’s recent failure to pass a debt leveraging plan to address arrears that build up during incarceration, despite widespread support from many community groups.²⁶⁰ In short, considerable resolve will be necessary to implement a meaningful program focused on the prisoner population, though as is the case with nearly all the recommendations in this report, focusing on the impact on children can serve as a unifying and elevating political platform.

Federal Mandates

There are not many federal mandates specifically addressing how a child support agency should handle child support cases with incarcerated parents. Federal rules allow cases to be closed for non-custodial parents who are incarcerated

for the duration of the child’s minority if the state determines that no income or assets are available to pay a support order.²⁶¹ The federal Office of Child Support Enforcement (OCSE) also encourages states regularly to inform non-custodial parents of their right to modify their orders should they experience a significant change in circumstance, such as incarceration.²⁶²

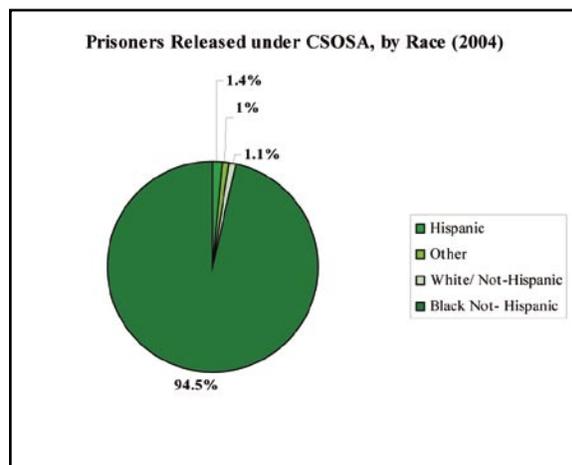
OCSE issues grants specifically focused on developing procedures and programming to deal with currently or formerly incarcerated non-custodial parents. DC applied for and received one such demonstration grant to improve its handling of cases involving non-custodial parents about to be sentenced or currently incarcerated. This is a positive step, but it is only a start. Overall, OCSE recognizes that a large number of parents with child support orders have a criminal background and many parents in a prison setting are, in fact, receptive to outreach efforts. OCSE also understands the impact the incarcerated population has on performance measures and encourages state agencies to develop policies that address the particular needs of these parents. While the District does not have statistics on the exact number of cases from their caseload involved in the criminal justice system, it is believed to be a significant portion. Therefore, special attention is warranted for this large and particularly difficult population within CSSD’s purview.

Challenges in the District

To its credit, the District of Columbia has attempted to address some of the challenges raised by the large number

of non-custodial parents in DC who are currently or have been incarcerated. The District's New Child Support Guideline addresses the modification of orders for incarcerated non-custodial parents.²⁶³ When CSSD receives notice that a parent is incarcerated, it is directed to review the circumstances of both parents to determine if modification of the existing order is appropriate.²⁶⁴ Where modification is found to be appropriate, CSSD can file a motion with the court. Because it has not yet developed effective data-sharing protocols, however, CSSD is often uninformed about a non-custodial parent's incarceration. In the past, information submitted to CSSD by non-custodial parents has not led to formal action because non-custodial parents are directed to file motions for modification directly with the court.

The challenges in DC have been exacerbated by the large population



Source: Caterina Gouwis Roman, Michael J. Kane, and Rukmini Giridharadas, *The Housing Landscape for Returning Prisoners in the District of Columbia*, The Urban Institute (2006).

of non-custodial parents involved with the criminal justice system. As noted by CSSD in its Proposal Under Priority

Area 1 Modifying Order for the District of Columbia (Proposal), the District of Columbia is approximately two-thirds African-American. In the District, half of the African-American males between the ages of 18 and 35 are estimated to be under the control of the criminal justice system - either incarcerated, on probation or parole, out on bond, or being sought under a warrant.²⁶⁵ According to CSSD, given the District's incarceration rates, one in four of the African American men in their caseload are or have been incarcerated.²⁶⁶

Moreover, as noted in the Proposal, because Congress transferred responsibility of District inmates to the Federal Bureau of Prisons (BOP) in 1997 and the District closed its Lorton Correctional Facility in 2001, many of DC's inmates are dispersed throughout the federal prison system. This arrangement has created a bureaucratic maze of federal, independent, and District agencies that deal with DC offenders.²⁶⁷

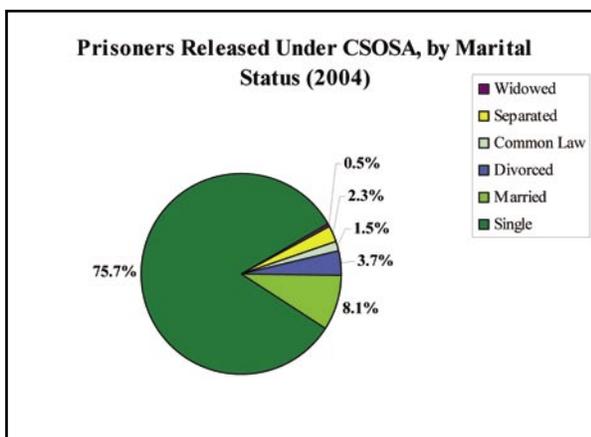
The system includes four District agencies, three federally-funded independent agencies, and six federal agencies, some of which are part of the Department of Justice and some of which are independent.²⁶⁸

The District has created the Criminal Justice Coordinating Council (CJCC) to coordinate the activities of these agencies. The CJCC is currently focused on ex-offender re-entry,²⁶⁹ though reports suggest that District efforts in this area are hampered by turf issues and a general lack of capacity in terms of collaboration and team work.²⁷⁰

One of the federal agencies, Court Services and Offender Supervision Agency (CSOSA), provides probation and parole supervision for offenders sentenced in DC.

CSOSA supervises approximately 19,000 offenders through the jail and court and receives an additional 2,500 parolees from BOP each year.²⁷¹ The problems presented by these statistics for DC's child support system are considerable.

- Most non-custodial parents fail to seek a modification of child support prior to or while incarcerated.
- The absence of income while incarcerated results in accumulation of substantial arrears.²⁷²
- There is no grace period upon release to allow for non-custodial parents to gain stability following a period of incarceration.
- There is no mechanism for forgiving virtually unpayable arrearages that accumulate while a non-custodial parent is incarcerated.²⁷³
- The existence of arrearages results in the revocation of an estimated 20-30 percent of ex-offenders' driver's licenses which often leads to revocation of probation or parole (return to incarceration) for driving on an expired license.
- The difficulty of finding employment after release from prison creates an additional barrier to the payment of child support.²⁷⁴



Source: Caterina Gouwis Roman, Michael J. Kane, and Rukmini Giridharadas, *The Housing Landscape for Returning Prisoners in the District of Columbia*, *The Urban Institute* (2006).

Like many child support agencies, CSSD lacks a programmatic response to supporting parents who are re-entering the community following a period of incarceration. In addition, because DC prisoners are sent to prisons outside of the jurisdiction, the re-entry problems they face are often exacerbated. For example, because they are far away and telephone contact can be expensive, non-custodial parents may have little contact with the child or the custodial parent while incarcerated. As a result, relationships may become a source of conflict upon return, and the non-custodial parent may have a harder time readjusting to the community.²⁷⁵

CSOSA also believes that child support arrearages strain personal relations between offenders and the mothers of their children, sometimes leading to domestic violence and often leading mothers to deny fathers access to their children. CSOSA believes that if CSSD can encourage offenders to pay child support or offer modifications earlier on, it will reduce strife in custodial parent/non-custodial parent relationships.²⁷⁶

Historically, the relationship between CSSD and CSOSA has been strained. In CSOSA's view, CSSD wanted access to CSOSA's records to track down formerly incarcerated non-custodial parents and aggressively seek payment.²⁷⁷ CSOSA recognizes that many of its clients owe child support and that failure to pay can interfere with their successful integration in the community. Like other local agencies that work with low-income non-custodial parents, CSOSA is interested in finding non-punitive ways to assist parents in managing these problems. For several

years, CSSD and CSOSA were unable to overcome their differences. However, CSOSA and CSSD have recently negotiated a draft Memorandum of Understanding (MOU) that provides for data-matching and a limited grace period from enforcement for re-entering offenders who meet certain requirements.²⁷⁸ The data obtained pursuant to the MOU will help CSSD track incarcerated non-custodial parents re-entering the community. Six months after the parents' return to the community, CSSD will seek to modify the child support order according to the MOU. The challenge, of course, is that after six months CSSD may not be able to locate these non-custodial parents, even if they are directed to be under the supervision of CSOSA.²⁷⁹

Notwithstanding the MOU, which undeniably is a positive accomplishment, CSOSA remains concerned about CSSD's lack of responsiveness to its population's needs on arrearages, and order modifications/ suspensions.²⁸⁰ CSSD provided CSOSA a written set of CSSD policies and procedures indicating the conditions under which it would refrain from revoking driver's licenses. The conditions include exiting jail within the past 180 days, participating in an employment training program, and being unemployed (if they have documentation from the DC Department of Employment Services). However, these policies and procedures do not address arrearages. For CSOSA, the success of the collaboration with CSSD will depend on how flexible CSSD case managers are in working with them. CSSD wants to run a daily check to identify new offenders with cases, and wants CSOSA to develop a system to flag the supervisors who have offenders on their caseload who are carrying arrears. CSOSA

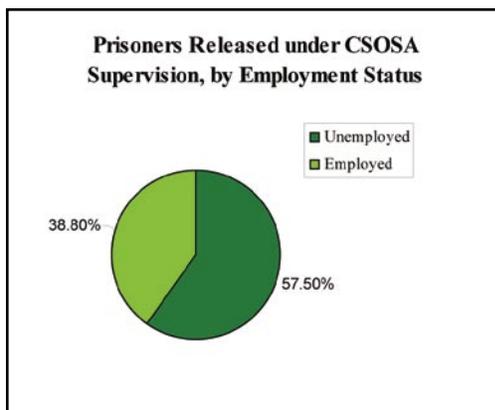
is concerned that CSSD will not have the staffing to deal individually with these cases.²⁸¹

Because of privacy and other legal issues related to CSOSA's federal status, the two agencies have not been able successfully to negotiate the data-sharing agreement, but have signed a cooperative agreement.²⁸² The current agreement provides that discretion governing minimum payments, modifications of payments, and reinstatement of driver's licenses will be extended by CSSD to offenders who fall within certain extenuating circumstances. According to the agreement, CSOSA will strongly encourage full compliance with outstanding child support orders.²⁸³

To its credit, the District government and CSSD have recognized some of the problems faced by incarcerated and recently released parents, and have taken steps to address them. The Ex-Offender Self Sufficiency Act of 2004 requires judges to inquire whether a person being sentenced to more than 30 days imprisonment has a child support order in place. The judge must then offer that individual an opportunity to seek modification or suspension of the order.²⁸⁴ This approach, however, relies on the non-custodial parent self-reporting at sentencing, and in practice the approach has not worked well.²⁸⁵ Accordingly, CSSD applied for and received a federal grant under which it and the Urban Institute will evaluate the process for modifying child support orders for newly sentenced parents and change modification procedures accordingly. CSSD also plans to obtain information from the court on inmates who are scheduled for sentencing on felony charges. CSSD will determine

which of these offenders have outstanding child support orders, and provide this information to the sentencing judge²⁸⁶ who can then take appropriate action in the courtroom. There has been a form *pro se* pleading provided to judges for the purpose of facilitating the modification process.²⁸⁷ CSSD reports that it will “continue to look at other ways to meet... [newly incarcerated parents’] needs,” including by becoming involved in the intake and release process at DC Jail.²⁸⁸

There can be no doubt that the burden of child support is particularly hard on ex-offenders given how difficult it can be for them to find and retain employment. For example, in the District, 45 percent of the offender population is unemployed, and 44 percent do not have high school diplomas.²⁸⁹ Without meaningful job training and job placement assistance, returning prisoners cannot stabilize in the community and cannot participate



Source: Caterina Gowis Roman, Michael J. Kane, and Rukmini Giridharadas, *The Housing Landscape for Returning Prisoners in the District of Columbia*, The Urban Institute (2006).

consistently and reliably in the child support system.

The District does offer a bond program that essentially pays companies to hire ex-

offenders, though few employers and ex-offenders are aware of this program²⁹⁰ and the child support system currently does not play a role in linking non-custodial parents to this opportunity.

Therefore, the 24-month pilot program for which CSSD received grant funds from OCSE is essential and timely. This program, conducted in collaboration with the Urban Institute, has four goals

- Develop a better approach to implementing the order modification law for newly sentenced offenders..
- Review orders of obligors already in prison to reduce the backlog of cases needing modifications.
- Develop a better approach for reinstating orders once inmates are released from prison.
- Develop better communications with District criminal justice agencies.²⁹¹

In addition, the Proposal contains an elaborate plan for reaching out to sentenced non-custodial parents, which includes mailings, contacting prisoners still in the DC jail, and traveling to certain federal prisons with higher concentrations of DC prisoners. The Proposal does not offer much explanation of how it will achieve the last two goals. Nonetheless, the goals clearly represent movement in the right direction, and we applaud the initiative and the decision to partner with the Urban Institute to implement and evaluate the work.

Best Practices

There have been many studies of and papers written about the interrelationship

of child support and incarceration. Most recently, the U.S. Department of Health and Human Services (HHS) published a summary of ten demonstration projects addressing this issue.²⁹² The HHS report recognizes unresolved questions regarding the prisoner re-entry process, and notes that the cost-benefit analysis of certain programs needs to be further developed. However, even with these outstanding issues, HHS concludes that “there is sufficient evidence to indicate that by incorporating a number of specific steps into their program, [CSE] agencies can construct an effective child support approach to working with this population.”²⁹³ The recommendations presented later in this section are consistent with the “specific steps” cited in the HHS report.

Suspending existing orders before incarceration. The 2005 report of the Re-Entry Policy Council, sponsored by the U.S. Departments of Justice, Labor, and Health and Human Services, specifically recommends that intake staff at prisons identify new inmates with support obligations and encourage inmates to initiate an order modification process.²⁹⁴ Though not specifically addressed in that report, the same should be done in jails. The District’s policy of advising offenders who face sentences of more than 30 days that they have a right to request modification and providing the necessary documents to do so is considered a promising practice in this area. As noted, however, the District’s approach relies on the non-custodial parent self-reporting at sentencing and that approach has not worked.²⁹⁵ CSSD and Urban Institute plan to study this problem in order to improve implementation. Stakeholders have suggested a number of potential

causes for the failure of this policy to deliver its intended effects, including the need for privacy to discuss a paternity or child support matter, the state of mind of someone facing sentencing and the relative unimportance of child support at that time, ignorance about child support case details, and the failure of judges and defense attorneys to provide adequate information and support.

Providing child support information during incarceration. Recognizing that not all non-custodial parents will move to suspend their child support orders prior to incarceration, child support agencies in Colorado, Illinois, Massachusetts, New York, Texas, and Washington use automation to match their caseloads with the records of prison authorities to identify prisoners with either general or specific child support issues.²⁹⁶ At a minimum, automated matching assists child support agencies in locating non-custodial parents who have not otherwise been located for the purpose of establishing paternity or a support order.²⁹⁷ Prisoners who have child support orders can be notified of their right to seek modification. Regular presentations about child support in these same states are reportedly well-received by the facility staff and incarcerated parents.²⁹⁸ To the extent individual prisons will cooperate, corrections personnel can be trained on child support issues and provided with education tools and forms to distribute to inmates who are parents. Colorado, Illinois, Massachusetts, and Texas have taken this approach with promising success.²⁹⁹

Experience in Los Angeles County, California, Illinois, Massachusetts, Hennepin County (Minneapolis), Minnesota, Washington State, and Milwaukee County, Wisconsin, suggests that

communication with incarcerated non-custodial parents improves with simpler, more user-friendly response tools.³⁰⁰ The goal should be to permit incarcerated non-custodial parents to establish or petition for modification of an order by checking a box and returning a form in a self-addressed, pre-stamped envelope. The more passive the process is, the higher its chances of success.³⁰¹

One unique difficulty DC faces is that incarcerated non-custodial parents from DC are scattered throughout the country in the federal prison system. Child support regulations are determined by the jurisdiction in which the federal prison is located, and federal prisoners are often moved from facility to facility, making it difficult to keep track of prisoner addresses. Recognizing this, CSSD's grant proposal includes funding for mailings and visits to prisons with high concentrations of DC residents.³⁰² Using this approach, CSSD estimates that it will obtain order modifications for over 1,200 incarcerated non-custodial parents over the next two years.³⁰³ This will be a particularly noteworthy accomplishment especially if it can be sustained without future grant funding. CSSD should be looking at strategies, like video conferencing, that can be sustained over time and reach more offenders at less cost than staff travel.

DC Jail intake managers have expressed a willingness to make child support a part of their intake process by advising new inmates about the child support process and their right to petition for modification.³⁰⁴ CSSD has not yet availed itself of this opportunity. The jail population is often overlooked in discussions of re-entry, and is largely

overlooked in CSSD's grant, because jail stays are often short and many re-entry issues are not as severe. With its primary focus on felony offenders, CSSD may miss a substantial number of offenders who would be eligible for modification under the Ex-Offender Self-Sufficiency Act of 2004 but whose crime will result in a sentence in jail instead of prison. While these offenders will not likely accrue the same level of arrearages as offenders in prison, they are equally likely to be poor, marginally attached to the workforce, and in danger of falling far behind in their child support payments. The opportunity to communicate with them should not be overlooked as CSSD indicates in its stated aspiration to "become involved in the intake and release process at the DC Jail."

Modifying the expedited order process.

An effective child support policy for incarcerated non-custodial parents must provide both an accessible process for prisoners to seek modifications of their support orders and timely responses to inmates' requests for review and order modifications.³⁰⁵ In Milwaukee, after the non-custodial parent signs and returns a modification request, and after the custodial parent is notified, the child support agency submits the request to the court for approval. In order to qualify for a modification, the non-custodial parent must have a sentence that does not exceed six months, must not have any substantial earnings or assets, or be convicted of a crime against the custodial parent or child or for non-payment of support.³⁰⁶ A court hearing occurs only if the custodial parent objects. Milwaukee found that, while not everyone accepted the new procedure, the participants wanted to understand the child support process.³⁰⁷ Milwaukee issued 1,000 modifications and increased

its collection percentage by 0.5 percent, but it struggles to track non-custodial parents after release. Similarly, Los Angeles County uses a “passive format” requiring an objection from either party to stop the modification of the order of an incarcerated non-custodial parent. As in Milwaukee, if the custodial parent objects to the suggested modification, the case goes to a court hearing. In the absence of an objection, the case is entered into an expedited court calendar for automatic approval.³⁰⁸ In only 18 months, Los Angeles reviewed about 80,000 cases and modified 30,000. Five percent of those modified were for incarcerated parents, and many of these orders were modified to \$0.³⁰⁹ While these numbers appear small, along with other steps’ they can help bring about substantial improvements.

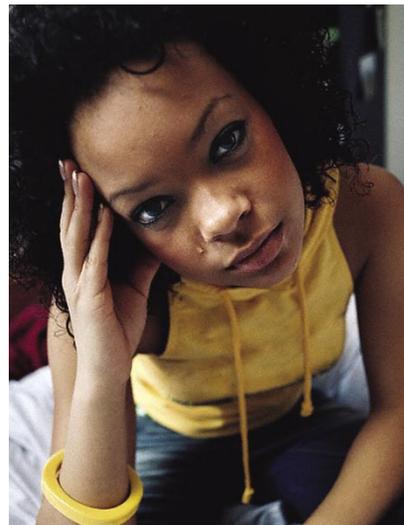
Establishing comprehensive re-entry programs to aid non-custodial parents.

Without meaningful job training and job placement assistance, very few returning prisoners can become productive members of society or be able to participate in the child support system. The District should establish a comprehensive prisoner re-entry program, one component of which would be helping newly released non-custodial parents address their child support issues.

A number of jurisdictions have comprehensive re-entry programs that include, among a host of other services, assistance in dealing with CSE agencies. In Washington State, the Corrections Clearinghouse works with ex-prisoners and the child support agency to develop manageable payment plans for child support arrears. The goals of this project are to modify child support orders to fit the ability to pay, increase the employment

rate of ex-offenders, and use appropriate enforcement interventions that lead to employment rather than recidivism.³¹⁰ In Colorado, the Inman Work and Family Center (WFC), a multi-agency collaboration, offered employment assistance along with services for child support and family reintegration. An evaluation of WFC notes that rates of employment and child support payments rose for those who visited WFC. Non-custodial parents in WFC programs paid 39 percent of what they owed in child support, compared to 17.5 percent before they participated in WFC, and those paying no child support dropped from 60 percent to 25 percent.³¹¹ Despite its success, WFC has been discontinued due to a lack of funding.

The Fatherhood Reintegration Project of Illinois also built a collaboration between the state CSE agency and the Department



of Corrections to provide child support assistance, responsible fatherhood classes, and case management services including order modification, to 187 inmates in two Chicago-based adult transition

centers.³¹² Child support staff regularly made presentations during orientation sessions to incoming inmates at the jail and state prison facilities.³¹³ This is important since modifications have the most impact when implemented at the beginning of a sentence.

The District needs to look no further than Baltimore to find a model comprehensive re-entry program. In response to a report issued by the Baltimore City-wide Ex-offender Task Force, Baltimore created a one-stop re-entry center approximately one year ago. This center was funded by the Mayor's Office, private foundations, and the Maryland Departments of Justice and Labor and served as a career services center for released inmates.³¹⁴ The Task Force identified child support as one issue that often impeded re-entry. Accordingly, Baltimore's one-stop center includes a question regarding child support on its intake form, and a child support case manager is available to help released prisoners navigate their child support obligations. Legal Aid lawyers are available to help clients file for order modifications in court, and in some cases will represent them in court. Because most participants in the one-stop center are on probation or parole, they often want to resolve their child support obligations as part of their probation/parole responsibilities.³¹⁵ The center provides job readiness and employment training as well as job search and placement assistance, services needed by many recently released inmates. Baltimore's Reentry Center opened in July 2005, and has not yet been formally evaluated.³¹⁶ By offering assistance in employment, housing, education, and child support obligations, such a model to help re-integrate prisoners into society is

a valuable tool to combat recidivism and to assist a large number of at-risk people deal better with their family and other obligations.³¹⁷

Other states are also in various stages of establishing collaborative approaches to child support/incarceration issues. Texas is in the early stages of implementing a Comprehensive Resource Center to serve fathers leaving prisons with child support obligations, and Michigan's Kent County has formed a Diagonal Working Group to implement a family mentoring program for incarcerated parents.³¹⁸ Such innovations highlight the importance of building collaborations to effectively support the population of incarcerated non-custodial parents, and remove barriers to their successful re-entry.

Reducing the negative impact of large arrearages through debt leveraging and arrears forgiveness. Beyond notifying prisoners that they may modify their child support orders while they are incarcerated, there is no doubt that “[c]hild support obligations compound the employment and financial problems that incarcerated parents face.”³¹⁹ The Parental Responsibility and Work Opportunity Reconciliations Act of 1996 specifies many aggressive enforcement actions that can be used against parents who fail to pay child support, including wage garnishment, suspension of driver's licenses, or seizure of assets. Some prisoner advocates and re-entry program personnel fear that those policies may drive paroled and released parents away from their families and legitimate employment.³²⁰ Because payment of supervision fees and other financial obligations including child support can be part of the conditions of

supervision for many probationers and parolees, financial problems can lead to revocation and a non-custodial parent's return to prison. [See *Part IV, Section A, Chapter 5: Management of Child Support Arrears.*] The Washington State CSE agency, the Washington Department of Corrections, and Corrections Clearinghouse, a re-entry program, all work collaboratively with former prisoners to develop realistic payment plans for child support and arrears.³²¹ Although there is no independent evaluation of the child support aspect of Washington's re-entry program, the overall approach was evaluated favorably by the National Institute of Justice and highlights the importance of addressing arrears, particularly for the formerly incarcerated.³²² At least one jurisdiction, Massachusetts, is following the Washington State model by developing a flexible policy regarding settlement of arrears for ex-offenders.³²³

Recommendations

CSSD has made efforts to improve its handling of cases involving currently or formerly incarcerated non-custodial parents including, most notably, obtaining the federal grant that should result in a more efficient process for modifying orders for sentenced felony offenders. Still, because this community of parents represents a sizable portion of CSSD's caseload with particularly difficult obstacles to overcome, and because children of criminal-justice-involved parents are especially vulnerable, further work remains to be done.

i. Consider the needs of all incarcerated offenders.

CSSD needs to turn its aspiration into action by working closely with the DC Jail and focusing attention on modifying orders and providing assistance to non-custodial parents who may be repeatedly imprisoned for short periods. It is important to devote resources to short-term jail inmates and assist them while they are a "captive audience." Given recidivism rates, this population is likely to be in and out of jail and prison. Ensuring that they receive information about the child support process and modifying orders may contribute to their willingness to secure lawful employment and achieve stability in the community. Working with corrections staff will enable CSSD to better address the needs of this population. Such non-custodial parents stand to benefit greatly from such efforts both in their ability to stay current on their orders and in finding stable, legitimate employment.

ii. Provide informational materials to all sentenced offenders.

Building on lessons learned under its federal grant, CSSD should work with the court to assure that its new informational pamphlet (part of the "Customer Service Survival Kit") is provided to every person sentenced to more than 30 days imprisonment. CSSD should actively seek alternative ways to provide the information in the brochure to prisoners before they are sentenced in case they are unable to read it due to illiteracy or language barriers. The information should be made available in Spanish, in video or audio versions, and via personal interview when necessary.

iii. Develop user friendly modification materials and procedures.

CSSD should develop communication tools and order-establishment and modification kits that are “user friendly” for incarcerated non-custodial parents. The goal should be to permit incarcerated non-custodial parents to easily establish or petition for modification of an order by checking a box and returning a form in a self-addressed, pre-stamped envelope. The process should be as passive as possible on the part of the non-custodial parent. CSSD and the courts should also develop an expedited process to approve modification requests from incarcerated non-custodial parents. One approach would be to implement a rebuttable presumption like Oregon’s that incarcerated parents with less than \$200/monthly income can afford no child support, and provide easy means for prisoners to modify their orders to stop the build-up of unpayable arrears.³²⁴

iv. Increase institutional capacity to serve this population.

CSSD should train prison and jail intake personnel, provide them with an appropriate “script” and/or audio-visual informational materials, and provide them the forms that inmates will need to file for modification.³²⁵

v. Educate the judges.

At a minimum, CSSD should consider meeting with the Chief Judge and collectively devising a program to educate judges on their duty to advise prisoners about their child support modification options.

vi. Create sustainable procedures for working with inmates at Bureau of Prison facilities.

CSSD should use its grant funding to institute a sustainable system for working with the BOP facilities with the highest concentrations of DC inmates. While traveling to the facilities may be optimal, it seems unlikely that funding will always be available for that purpose and it limits access to inmates in a small number of prisons. Video conferencing or other technology may be more useful in the long term.

vii. Implement a debt leveraging program.

CSSD should implement a debt leveraging program for qualified non-custodial parents that offers arrears relief and provides a possible path forward for this population. Arrears interfere with family relationships and successful re-entry. *(For further discussion of this issue, see Part IV, Section A, Chapter 5: Management of Child Support Arrears.)*

viii. Challenge turf issues and create a comprehensive re-entry strategy.

The District should establish an empirically-designed comprehensive prisoner re-entry program, one component of which would be helping newly released non-custodial parents address their child support issues. The establishment of a comprehensive program for ex-offenders requires collaboration among many agencies, willingness to share both success and accountability, and a strong political will to develop an effective approach to helping a population with little political power. Taking this step for ex-offenders will benefit the children of this group of non-custodial parents.

4. Minor Parents and Immigrants

Introduction

Child support is a potentially important issue for all single parent families, especially those with low incomes. There are, however, two further groups whose needs and experience warrant particular attention by the child support system in order to mitigate the challenges they face: immigrants, especially those for whom English is a foreign language, and minor parents.

In addition to the language barriers many immigrants face trying to access public services, immigrants also face a variety of cultural and informational barriers that prevent them from benefiting from child support services. Both legal and illegal immigrants often want to understand the implications that use of the service will have on their immigration status, and on the status of the other members of their families. This is a very complicated issue and is frequently in flux. While it is relatively clear, both in immigration law and OCSE policy statements, that immigrants can use child support services without fear that it will result in deportation or other adverse immigration consequences,³²⁶ many immigrants share an intrinsic fear of government agencies. They avoid the child support system much as they avoid contact with the police or other government services. In many other countries, the government does not provide supportive services, so this concept can be difficult for many immigrants to grasp.³²⁷ Many immigrants also have a cultural aversion to government involvement in family matters.

Teen parents raise a different but equally important set of concerns. The Paternity Establishment Program currently makes no

specific outreach efforts to teen mothers and their partners, despite the fact that less than 20 percent of these mothers are likely to marry their child's father, and teen marriages are twice as likely to fail. Three-quarters of these mothers are likely to be on welfare within five years and will be compelled to participate in the child support system if they are not already involved.³²⁸ The more time that passes after the child's birth, the less likely the unmarried father is to be actively involved in parenting, and the more difficult it can be to locate him. This makes establishing paternity a particularly pressing issue at the time a teen mother gives birth. In addition, the children of teen mothers are more likely to face a range of social, economic and health problems, including, among sons, a higher likelihood of going to prison and, among daughters, of becoming teen mothers themselves.³²⁹ Involvement of fathers in the lives of these particularly vulnerable youth should be a priority issue on the District's youth agenda, and ensuring that teen mothers receive the child support they need is a singularly important element of that involvement.

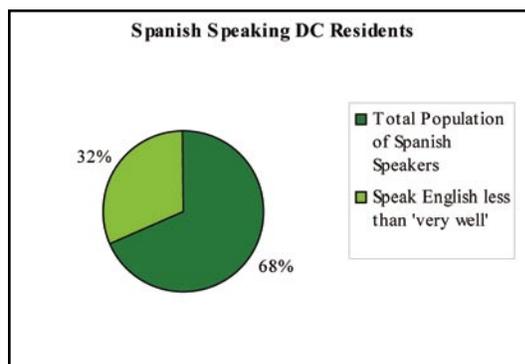
Federal Mandates

There are currently no federal mandates regarding an immigrant's ability to receive child support. However, Congress is considering legislation that would deny visas and/or admission to foreigners who have not paid on a US child support order.³³⁰ Outreach to this community is therefore especially important, since lack of trust is often a fundamental barrier to immigrants' use of governmental services. Reliable information about policy and potential changes in policy should be made available to the immigrant community.

Additionally, there are no federal mandates specifying variations in how paternity and child support should be managed for minor parents. States have complete latitude in determining whether and how such policies should be implemented. If any variations do apply, states are required to provide the information to teens as part of the voluntary paternity process.³³¹

Challenges in the District

Immigrants constitute approximately 13 percent of the District's population, with the largest portion coming from predominantly Spanish-speaking countries. Of those DC residents who speak a

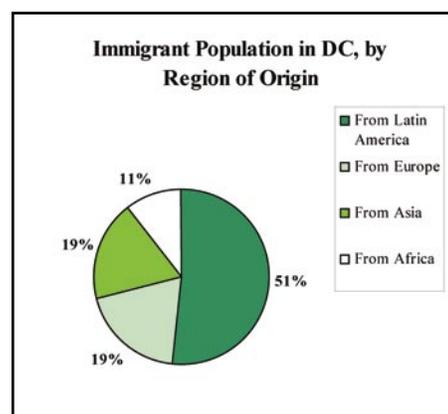


Source: 2005 American Community Survey

language other than English at home (including 52 percent who speak Spanish), 25 percent speak English poorly or not at all. In addition, 41 percent of Hispanic adults in DC (which includes both immigrant and native-born individuals) have no high school degree, and another 19 percent have only a high school degree or Graduate Equivalency Diploma (GED). In other words, the immigrant population includes a large group of individuals who face barriers both to using the child support system because of language, and

to paying child support because of limited educational and job opportunities.

CSSD's Paternity and Outreach Unit has made efforts to recruit Spanish-speaking staff, and has planned to conduct public service announcements on Spanish-language media. Certain issues, however, are too complex to be adequately addressed through public service announcements. According to community service providers, CSSD is not willing to confront complicated cases, such as where the child lives abroad.³³² CSSD routinely closes cases where the non-custodial parent lives in a country that does not have official child support reciprocity status, despite the fact that no Spanish-speaking African or Asian countries (from which the largest portion of DC immigrants come) are on the list of Foreign Reciprocating Countries, and the fact that OCSE and the State Department are prepared to assist agencies with such cases.³³³ Immigrant families' lives are often "complicated" and do not fit neatly into the profile of cases that CSSD typically handles. Additionally, CSSD does not schedule certified court translators for the brief pre-hearing interview with non-English speakers in advance.³³⁴ Without prior notice, CSSD requests for translators receive the lowest



Source: 2005 American Community Survey

priority. Cases with Non-English speakers must then wait for a translator to become available prior to having their cases heard. Given the technicalities of the legal system, family members and other non-certified translators are not qualified to ensure that parents' rights are being protected and children's needs are being adequately addressed, especially in the absence of legal counsel. If CSSD has prior knowledge of a translation need, it must adequately communicate with the court in order to avoid penalizing non-English clients by delaying their case progress. Further, like many who face employment challenges, immigrant families are frequently face great distacks in identifying and locating individuals and their income and resources. Unless these issues are recognized and addressed, encouraging immigrant families to use child support services will result in discouragement and distrust of the system.

The minor parent population in DC presents another set of challenges. Teen mothers are less likely to seek regular prenatal care and are more likely to have babies with low-birth-weight and other health problems, which can render legal issues like paternity establishment a lower priority. CSSD has contracted with Policy Studies, Inc. (PSI), a Virginia corporation, to administer hospital-based services related to establishing voluntary paternity. Overall, the program is less successful than it could be, due to the overburdened, "burnt out" staff at many of the seven District of Columbia hospitals that work with PSI.³³⁵ Hospitals often provide notaries only during standard business hours. Mothers giving birth during the weekend may not have notary services available at all. Given the short length of most maternity stays, a very short window

of time exists for contacting patients regarding paternity.³³⁶ When coupled with the resistance that some hospitals, especially Sibley Hospital, have regarding this contact, valuable opportunities may be lost where paternity could be established shortly after birth.

These challenges for teen mothers should be addressed. The Paternity Establishment Program requires hospitals to provide information about and an opportunity to execute a Voluntary Acknowledgement of Paternity Affidavit to all unwed parents.³³⁷ The information currently provided to all unwed parents is identical, despite the developmental and socio-economic differences among them. For instance, eight out of ten teen pregnancies are unplanned.³³⁸ More teen than adult mothers experience violence at the hands of their partners,³³⁹ and most have little experience or understanding of the legal rights and responsibilities of parenthood. Consequently, these mothers and fathers must be provided with sufficient information and support to make decisions about their future. Further, and perhaps more importantly, DC law is silent on the issue of minors signing voluntary paternity acknowledgements, which are legally binding contracts. The New Child Support Guideline gives judges latitude to depart from the guidelines when dealing with minor parents, but, of course, not all teen mothers have partners who are equally young and not all teen parents enter the child support system while still teens.

CSSD has responded positively to requests by local teen prenatal care providers and other service providers for more information about paternity acknowledgement policies and practices. These efforts to date, however, have been

essentially reactive rather than proactive, and cannot be considered an affirmative effort to provide essential information and services to teen parents. More recently, CSSD has created a Paternity Establishment Work Group, which is “aware of the issues that paternity acknowledgement raises when either parent is a minor.”³⁴⁰ Research suggests that these issues should be addressed explicitly in the law. Setting effective policy and working effectively with teen parents will be essential to ensuring that DC’s most vulnerable children are receive a more promising start.

Best Practices

Making Spanish-language information easily available. As part of Colorado’s effort to increase contact with non-custodial parents,³⁴¹ a child support agency translated its documents into Spanish and established a Spanish-language version of its customer service voicemail system.³⁴² Agency officials were surprised at how frequently the Spanish version was requested and concluded that many bilingual individuals, while competent in English, prefer to obtain information in their native language.³⁴³

New Mexico has a policy requiring that all program literature be available in Spanish and English.³⁴⁴ New York City similarly has made all printed child support information available in both languages and includes both English and Spanish versions in all mailings, including monthly statements, as well as all due process notifications.³⁴⁵

Increasing the pool of available translators. Texas created a Child Support Volunteer Program in which it recruited bilingual volunteers to provide translation services

for child support customers. The state partnered with its workforce development system and local business schools and universities to train volunteers as professional translators.³⁴⁶

Conducting outreach through programs that serve immigrant communities. Also in Texas, Spanish-language presentations were made at a variety of community service sites that serve the potential child support service population, including Head Start, and Women Infants Children (WIC) program sites. Texas child support services also encouraged outreach to business leaders and others with influence in the Latino community.³⁴⁷

Extending the time period to rescind paternity acknowledgement for minor parents.

All paternity acknowledgement procedures allow a rescission period, after which the contract is binding and can be rescinded only for a very limited set of reasons, such as fraud. Many states, such as Delaware and California, allow those who sign paternity establishments as minors to extend the rescission period to 60 days after they turn 18, rather than 60 days after signing the document. Illinois allows minors six months after they reach majority or are emancipated before their paternity acknowledgement becomes binding. These options allow the jurisdiction to take full advantage of hospital-based paternity programming, while still recognizing the minors’ unique legal status and vulnerability. Presumption of paternity can still be assumed using a paternity acknowledgement document if it is needed for any civil matter. In order to remove any disincentives to signing, California prohibits the use of voluntary acknowledgements in criminal matters (*i.e.*,

the paternity acknowledgement cannot be used as evidence of statutory rape).

Recommendations

i. CSSD and the Courts should hire additional Spanish-speaking staff and translators.

There are currently eight Spanish-speaking staff at CSSD, including two attorneys and six operations staff. CSSD intends to hire two more Spanish-speaking staff as part of a new customer service initiative for walk-in clients. To properly serve the District's increasing Latino population, CSSD should hire additional Spanish-speaking intake and other staff. When such staff are not available, or when a Spanish-speaking person appears in court, translators should be readily available. The courts should assess their need to increase translator capacity so that non-English speakers are not unduly inconvenienced by long waits or subject to the problems inherent in informal translation services provided by family or friends. CSSD should work with the court to document whether there is greater need than is currently serviceable.

ii. Make all written materials available in Spanish and English.

The largest language minority in the District consists of Spanish speakers. Therefore, CSSD and the courts should develop a plan to prioritize the translation of essential documents into Spanish. This would include both descriptive and informational materials as well as due process materials. CSSD should draft brochures and other pertinent documents in Spanish and should consult with Latino community leaders to ensure these informational documents address the

concerns of Latino families. Documents should be translated into additional languages as feasible, and as immigrant populations change.

iii. Conduct outreach to the Spanish-speaking community.

CSSD representatives should attend community meetings and run public service announcements directed to the Latino community. CSSD should ensure before doing so that it is prepared to address the needs and concerns of the community in appropriate and resourceful ways, and should integrate the concerns of the immigrant community into its work with low-income and unemployed non-custodial parents.

iv. DC's Paternity Establishment Program should address the specific needs of teen parents.

CSSD, its paternity program contractor, and the Paternity Establishment Work Group need to design an effective approach for reaching teen parents, and work with hospital staff and prenatal clinics to appropriately educate teen parents on the importance of paternity acknowledgement, as well as the protections available to teens who are victims of abuse. Information about paternity acknowledgement and child support should be made available at a variety of community locations where teens gather or receive services.

v. Make genetic testing readily available for teen parents.

Teens should be encouraged to undergo free genetic testing rather than signing acknowledgements of paternity. If the voluntary acknowledgement process is intended to be safe and meaningful for teen parents, teens should be educated

about alternative means of establishing paternity and discouraged from interpreting the genetic test process as a challenge to the integrity of either parent.

vi. DC Council should pass legislation that speaks to the rights of teens who sign voluntary acknowledgements of paternity.

The District should pass legislation that addresses both the specific programmatic variations that should be put in place in the Paternity Establishment Program, as well as procedural protections. We recommend that free genetic testing be made available when the mother or father is a minor, and that the rescission period for voluntary acknowledgements be extended to 60 days beyond the mother's or father's eighteenth birthday. We disfavor mandatory involvement of the teens' parents, such as requiring parental approval or cosignature to validate a voluntary acknowledgement. Further, we recommend excluding the use of

voluntary acknowledgements of paternity in criminal actions for statutory rape. (For a model statute, see California Family Code §7577.)

vii. Invest in the relationships and future earning potential of teen parents.

Judges and CSSD attorneys, using the latitude provided in the new guidelines, should work with teen non-custodial parents to establish payment habits, even if minimal, and to work toward a secure economic future, even if it means lower payments for the short term. They should also ensure that teen mothers and fathers understand the fundamentals of good co-parenting, and should make referrals to counseling and mediation as necessary to ensure that teens can work together for the benefit of their children.

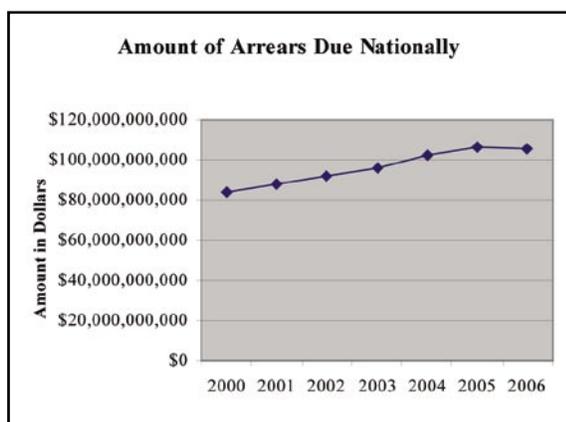


5. Management of Child Support Arrears

Introduction

“Child support arrearages have become an issue of increasing public policy concern. This concern reflects the magnitude of such arrears, the growing awareness of the complex factors that contribute to arrears accumulation, and the possibility that arrears may have detrimental impacts on child support agencies, non-custodial parents, and custodial parents and children.”³⁴⁸

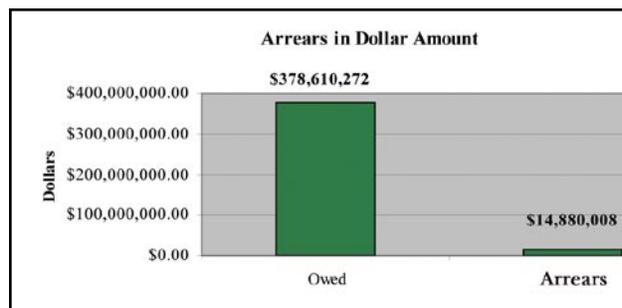
Every jurisdiction struggles with the problem of child support arrears. They have been the focus of considerable expert analysis and a number of noteworthy projects in jurisdictions other than the District. In the United States in 2005, non-custodial parents owed over \$106



billion in past due child support (and interest).³⁴⁹ Contrary to the popular image of the “deadbeat dad” who avoids paying his support despite sufficient income, the obligors of child support arrears are overwhelmingly low-income fathers.

Another popular assumption is that child support arrears are owed primarily to the custodial parent’s household. In fact, states vary in the amount of debt owed to the custodial parents, from a low of 25 percent to a high of 90 percent, with the remainder

owed to the government as reimbursement for public benefits.³⁵⁰ On average, about half of all arrears are owed to families and half to the government.³⁵¹ CSSD has not provided data to indicate what percentage of DC’s \$378.6 million in arrears is owed to the District and what percentage is owed to households.



Arrears directly affect the key performance indicators for child support programs given that states are evaluated based on the percentage of arrears cases that are paying toward those arrears.³⁵² In addition, there is growing concern over the “unintended consequences” of large state-owed arrears balances – “obligors may be discouraged or deterred from paying any support at all, may disappear from the legitimate economy, and may disappear from their children’s lives as well.”³⁵³ Even though the Project team did not have specific data on the characteristics of the District’s

child support debtors,³⁵⁴ reference to recent studies in other jurisdictions may be instructive. One national study shows that 70 percent of child support debt is owed by non-custodial parents earning less than \$10,000, and a California study found the comparable figure in California to be 60 percent.³⁵⁵ Both these studies suggest that most child support debt is uncollectible. This finding undoubtedly holds true for the District, where *only four percent of arrears* were collected in 2005.³⁵⁶

Federal Mandates

Based on the 1986 Bradley Amendment to the Social Security Act - which was further modified in 1996 under the Personal Responsibility and Work Opportunity Reconciliation Act or PRWORA (42 U.S.C. §666(a)(9) - states may not retroactively modify child support orders. Intended to prevent state courts from unilaterally reducing the amount an obligor owed to the custodial parent for child support, this provision requires that child support debt be treated as a judgment by operation of law and be subject to all state laws concerning judgments. One implication of this provision is that child support debt can be forgiven, reduced or cancelled only by the person or entity to whom the debt is owed.

The distinction between retroactive modification (prohibited) and debt forgiveness or reduction (allowed) has been clarified by the Office of Child Support Enforcement in a number of Policy Interpretation Questions or PIQs. PIQ- 99-03, for example, states:

[A] State could accept less than the full payment of arrearages assigned to the State on the same grounds that exist for compromise and

settlement of any other judgment in the State.... We encourage caution not to confuse compromising arrearages with the statutory prohibition against retroactive modification of arrearages.... Retroactive modification of arrearages occurs when a court or administrative body takes actions to erase or reduce arrearages that have accrued under a court or administrative order for support. In effect, retroactive modification of arrearages alters the obligor's obligation without the concurrence of the obligee (or the State assignee) and is expressly prohibited by section 466(a)(9)(C) of the Act and 45 CFR 303.106.³⁵⁷

Federal policy encourages the prevention of debt in the first place, but recognizes arrears forgiveness as an integral part of an effective approach to working with low-income non-custodial parents. PIQ-00-03, September 14, 2000, addressing State IV-D Program Flexibility with Respect to Low Income Obligor, recommends that states examine their policies to determine whether they contribute to nonpayment.

- States can have minimum orders but they must be rebuttable.
- States are not required to establish retroactive support obligations in public assistance cases.
- States can take steps to reduce the number of cases in which income is imputed.
- States can adopt policies that facilitate rapid review and modification when appropriate.
- States have discretion to compromise child support arrears, penalties and interest owed to the state.

Debt leveraging – the strategic use of debt forgiveness to encourage compliance with a *current order* - received particular support from former OCSE Commissioner Sherri Heller in a 2004 speech to the National Child Support Enforcement Association. Commissioner Heller noted that most child support debtors are low-income individuals and that “even the most creative automation tools can’t find money that’s not there.”³⁵⁸ She called debt leveraging “just one example of this larger theme I’m trying to get across, about ensuring that all of our customers feel that the system is just and sensible.”³⁵⁹

Challenges in the District

Although the District has some practices that tend to prevent unpaid arrears, as well as certain mechanisms to manage arrears, the District has not yet adopted a comprehensive policy towards arrears management. Specifically, the District does not gather or analyze arrears data on the characteristics of child support debtors in order to support a strategy that would identify the most collectible arrears; and, with the exception of a one-time amnesty program due to be repeated in 2007, the District has relied almost exclusively on punitive arrears enforcement, rather than tying payment of owed support to positive behavior, such as participation in family and job training programs (“debt leveraging”). In other words, the District has employed a “stick” approach in trying to collect largely uncollectible child support debt, and has ignored the “carrot,” which could result in a societal benefit and have the advantage of getting arrears off the District’s books. Recently, CSSD announced plans for a program called ‘Fresh Start’ to provide debt-forgiveness in

exchange for lump sum payments toward arrears, though details are not available.

Prevention: Initial Orders and Modifications

Significantly, DC does not engage in some of the practices known to produce high arrears.³⁶⁰ In the District, few default orders are used,³⁶¹ and retroactive support is not ordered in TANF cases; they are ordered only on a very limited basis in non-TANF cases, and rarely beyond five years (though support is always retroactive to the date of filing).³⁶² Further, retroactive support was recently limited to two years with limited exceptions.³⁶³ Also, use of the New Guideline (including the new self-support reserve), and a relatively low minimum order of \$50, generally assist in establishing reasonable initial support orders.³⁶⁴ The District is also one of several states that does not charge interest



on arrears, which keeps arrears from mounting further, but which, according to some experts, creates its own disincentive to paying support obligations on a timely basis.³⁶⁵

The District fails to use modification of

child support orders sufficiently as a tool for preventing arrears. Upon request, CSSD provided data only on upward modification requests. Accordingly, there is no clear picture of how many downward modifications are requested based on changes in non-custodial parent circumstances. According to CSSD, during the month of March 2007, the court heard 247 requests for modification, 57% of which involved a reduction in support, either due to downward modification, suspension, termination, or dismissal. Because of how these data are aggregated, it is unclear how many reductions are related to changes in employment versus incarceration, emancipation of a child, or other case changes. Requests for downward modification by the non-custodial parent need to be filed through the court, whereas custodial parents can make such requests directly to CSSD. Non-custodial parents who communicate their circumstances directly to CSSD can be disappointed to learn that the notice they provided had no actual impact on their case. In general terms, modification of child support orders is an underutilized option, particularly by low income obligors.³⁶⁶

According to some observers, CSSD routinely challenges any request for downward modification no matter how reasonable. CSSD claims that it files oppositions to downward modification motions in order to preserve the government's right to a hearing and to ensure that the non-custodial parent provides appropriate evidence.³⁶⁷ A recent law intended to facilitate the modification process for criminal offenders sentenced to 30 days or more has not resulted in nearly as many modification requests

as anticipated, and CSSD has recently received a grant from OCSE to design and implement improvements in those procedures. As discussed elsewhere in this report (*see Part IV, Section A, Chapter 3: Incarcerated Parents and Ex-Offenders*), to the extent that incarcerated individuals account for a substantial portion of accumulated arrears – something the Project Team suspects but cannot confirm given the absence of data provided during our study – we support the District's and CSSD's efforts to ensure the suspension and/or modification of support orders during incarceration and for some period of time after release as this fragile population reenters the community, the workforce, and their children's lives. For all low-income obligors, however, and especially those whose employment status tends to change frequently, a quick and user-friendly modification process is essential to keeping arrears from accumulating. The current system is significantly less friendly to non-custodial parents.³⁶⁸ CSSD should do more to promote and support downward modifications when filed and when appropriate.

Arrears Management

When, despite prevention efforts, arrears do accumulate, it is important to have a strategy to address them. Federal regulations provide a variety of mechanisms for this. The District currently allows for enforcement of support orders through several means:

- Liens against real and personal property;
- Interception of lottery prizes;
- Denial of issuance or renewal of car registration, driver's license,

- professional or business licenses;
- Suspension of passports;
- Collection from state and federal income tax refunds;
- Reporting to consumer credit reporting agencies of overdue support of \$1,000 or more;
- Publishing information “using any media” about an obligor’s support obligation of overdue support of \$2,000 or more;
- Attachment of the following assets: unemployment and worker’s compensation payments, judgments and settlements, assets held in financial institutions, and public and private retirement funds, and;
- Criminal and civil contempt.

Under the heading of “enforcement/collection methods,” CSSD’s website cautions that failure to pay child support can result in many of the punitive consequences listed above. CSSD has also published separate pamphlets entitled “Passport Denial” and “Administrative Offset and Tax Refund Offset.” And in its “Client Roadmap” materials, CSSD indicates that child support enforcement is “automatic” when arrears reach a certain amount: “the automated system will initiate enforcement actions – license revocation, referrals for tax refund intercept programs, reporting to credit bureaus, and passport denials.”

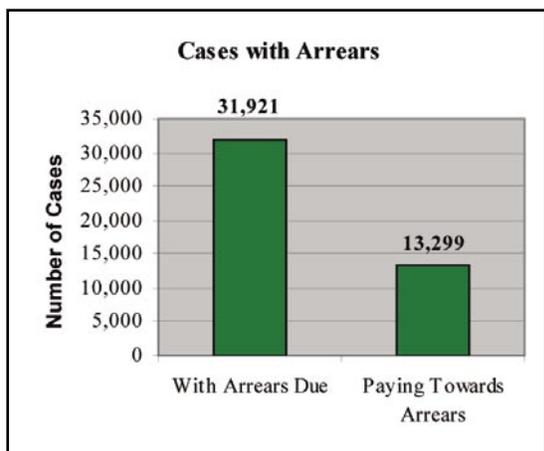
Obligors who have fallen behind in their support payments are unlikely to be encouraged by these materials to meet with CSSD to pursue a satisfactory resolution, short of payment of the full arrears amount. Indeed, they may fear contact with an agency that has the power to suspend their driver’s license or take other punitive action. The same fears, whether well-founded or not, may cause the non-

custodial parent to avoid contact with the custodial parent and, by consequence, the children, or to pursue “off the books” employment, further leading to low paying jobs and little job security.

Forgiveness of arrears by CSSD has been ad hoc, that is, not based on any particular published criteria and not apparently tied to specific objective criteria or programs that would serve either to reduce arrears in the future or to further other public policy goals, such as job training and strengthening family bonds. CSSD’s reasons for not offering debt forgiveness was that forgiveness rewards non-payers, and that non-custodial parents may hold out on child support in the hope of getting a better deal in the future. The premise of such a concern, however, is that obligors are *unwilling* rather than *unable* to pay, which is not always true. Much if not most of the debt is simply uncollectible, and debt forgiveness can be targeted to the lowest income obligors. As noted, debt forgiveness can also be “leveraged” to a “cost” such as attending job training to enhance future economic capacity.

CSSD now reports that it is in the final stages of developing a debt-leveraging program called Fresh Start.³⁶⁹ The program will aim to collect lump-sum payments toward non-TANF arrears (money owed to the custodial parent) in exchange for forgiveness of TANF arrears (money owed to the District). Lump-sum payment programs, however, favor those with some substantial income or resources, which does little to assuage those who consider debt-forgiveness a reward for past non-compliance. For those unable to make lump-sum payments, Fresh Start proposes debt reduction in exchange for consistent payment histories. No further details

were made available, including how many obligors would be eligible or what criteria would be used, but such a program would



prove a substantial improvement over past practice, which involved ad hoc decisions by CSSD's Director regarding whether some or all of an obligor's state-owed arrears should be forgiven.

In addition to the proposed debt-leveraging program, the District has participated in a child support amnesty program with Virginia and Maryland, offering assurance of non-prosecution and deferral of other enforcement measures during the two-week amnesty period. The program, which ran for two weeks in 2005, netted approximately \$200,000 in arrears from among 1,600 non-custodial parents who participated in the program, or on average \$125 per obligor. This program did not include arrears forgiveness or debt leveraging. There are plans to hold another amnesty program in 2007.

As noted earlier, the District regularly falls below the national norm in terms of both the average support collection rate and the number of cases where some support was paid by all obligors. The District's five

fiscal year average from 2000-2004 was 48.31 percent for support collections versus a national average rate of 56.88 percent; and while the national average for cases in which some support was paid was 69.16 percent, the District average was only 51.20 percent.³⁷⁰ It does not appear that the District has data available on why the District's non-custodial parents have such a high percentage of arrears, except perhaps the low-skill levels and high levels of job instability among the IV-D population. Nor were any data made available on whether any enforcement tools have been used with greater success than others.

We do not know, for example, the following:

- How much of the arrears debt is owed by incarcerated individuals whose support obligations should have been suspended.
- How much "old debt" is represented in the overall arrears figure – the California Collectibility Study posits that older debt is less likely to be collected than recent debt, and that collectibility dropped "significantly" after the first year.³⁷¹
- What percentage of arrears is held by what percentage of debtors – the California Collectibility Study showed that 28 percent of the debtors owed 72 percent of the overall debt.³⁷²
- The percentage owed by non-residents. The California Collectibility Study found that it is generally more difficult to collect from individuals who live in another state.³⁷³
- Whether suspension of licenses or any other enforcement tool results in payment of arrears or encourages keeping current with support

obligations. (License suspensions can impact an obligor's ability to work, and we suspect that many of those whose licenses are targeted may not have valid licenses to begin with.)³⁷⁴

Without data showing what works and what does not work among the population of obligors in arrears, the District can have little confidence that any of the existing enforcement methods will yield better results in the future.

Best Practices

Federal law gives states flexibility in devising policies to prevent the accumulation of arrears and to enforce support orders.³⁷⁵ Several jurisdictions, most notably Colorado, Maryland, and Minnesota, have instituted pilot programs designed to address both the prevention of child support arrears and the management and compromise of existing state-owed debts. Studies have identified several strategies to prevent arrears, including (i) minimizing default orders, (ii) developing easily accessible and understood materials, (iii) making orders realistic through better Guidelines for low income obligors, (iv) limiting retroactive support orders, (v) monitoring cases and addressing quickly emerging non-payment matters, (vi) strengthening enforcement, and (vii) increasing review and modification of orders.³⁷⁶

These are all worthy strategies, many of them addressed elsewhere in this Report, *e.g.*, *Part IV, Section C, Chapter 1: Case Management, Part IV, Section A, Chapter 3: Incarcerated Parents and Ex-offenders*. However, special attention should be paid

to the Colorado, Maryland, and Minnesota pilot programs for the management of the existing arrears because they address today's immediate problem – the \$100+ billion in existing debt that may well have the perverse effect of *driving low income obligors away from the child support system*, away from steady employment, and away from their children.

Debt forgiveness in exchange for 10 consecutive current payments.³⁷⁷ The Colorado project permitted forgiveness of child support arrears after 10 consecutive monthly payments toward current support and/or negotiated arrears payment. Individual counties established their own detailed programs, including the amount of arrears that could be forgiven. The evaluators of the Colorado Program concluded that the pilot program may not have changed the behavior of non-paying participants, but that increased earnings and employment were better predictors of participation and success. They therefore recommended that debt forgiveness be tied to employment and training opportunities.

Debt forgiveness in exchange for 12 consecutive payments.³⁷⁸ Under the Minnesota program, state-owed arrears could be entirely forgiven upon the making of 12 consecutive regular child support payments. The program was evaluated to have a 24 percent success rate (*i.e.*, about one in four participants successfully completed the program). The evaluation also found, *inter alia*, that “[t]hree factors . . . predict[ed] the success or failure of a participating non-custodial parent. The higher a non-custodial parent’s income, the more likely he/she is to succeed. The higher the amount of arrears that can

be forgiven . . . , the more likely . . . [a non-custodial parent] is to succeed. The lower the required monthly child support payment, the more likely a non-custodial parent is to succeed.”³⁷⁹

Incremental forgiveness to targeted low income obligors.³⁸⁰ The Maryland program offered selected non-custodial parents with State-owed arrears the opportunity to have their arrears forgiven if they participated in job training and employment programs. One-quarter of an individual’s State-owed arrears were forgiven after completion of the job training/employment program; then, one-quarter of the remaining arrears were forgiven for each six-month period of timely support payments, with a maximum of five years to achieve the four periods of payment. The evaluation of the Maryland program concluded that payment of child support may be more dependent on income and employment than the incentive of having arrears forgiven, but it emphasized that “participants did work more, earn more, and pay more in current support than was forgiven in arrears.”³⁸¹



Recommendations

i. Develop and implement an arrears management policy that is consistent

with what is known about the DC arrears-carrying population.

The impact of high arrears on the compliance behavior and family relationships of child support-involved families is too great to manage the problem on an ad hoc basis or within the limits of an arrears-specific program. CSSD needs to establish an arrears policy that includes prevention, collection, and forgiveness when appropriate and when designed to leverage debt into better outcomes for custodial parents and children. As further data are generated to identify in greater detail the characteristics of the arrears population, the policy should be adapted accordingly. For now, programmatic efforts should be undertaken according to current best procedures about working with low-income obligors.

ii. Review and modify the order modification process.

The court and CSSD should work together to design a quicker and more easily accessible order modification process. At the very least, the process should be the same for custodial and non-custodial parents, and equally likely to produce upward or downward modifications. Information about the circumstances under which an order might be eligible for modification and the process for initiating a modification request should be clearly spelled out in written materials targeting both custodial and non-custodial parents, and on the court’s and CSSD’s websites.

iii. Create a debt-leveraging program.

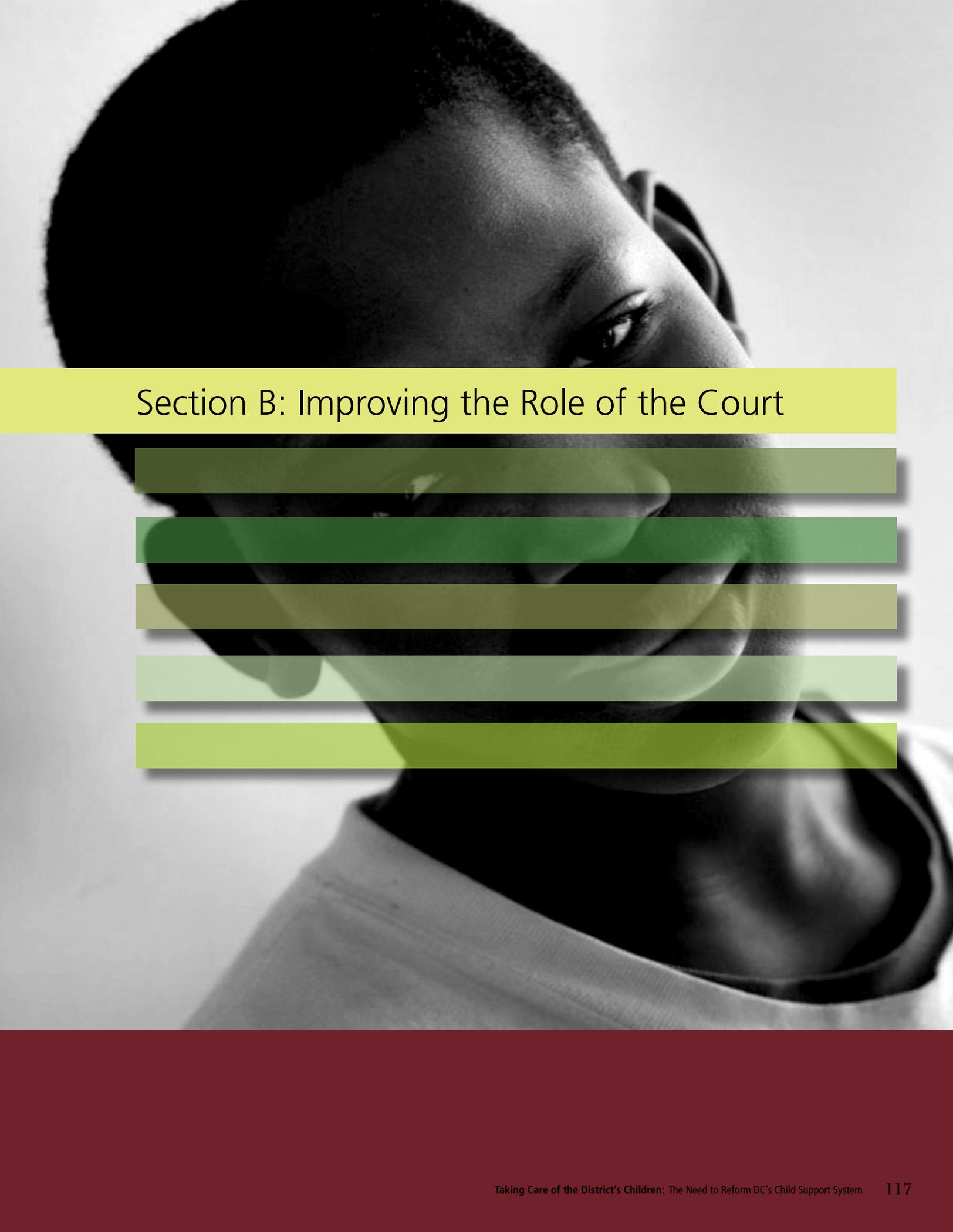
CSSD has indicated that it is in the early stage of developing a debt leveraging program. We applaud this step and recommend that the program be developed as one means of managing

arrears. The program should strive to balance the competing interests inherent in such a policy: rewarding past non-compliance versus eliminating obstacles to current future compliance. The features of the program should take into account the three pilot programs mentioned above. Those programs led to specific recommendations, which, although stated differently in each evaluation report, are remarkably similar. We recommend that the Fresh Start program include the following components:

- Inclusion of job training and employment services, and possibly other social services such as fatherhood classes, as part of the arrears forgiveness program.
- Close collaboration, cooperation and mutual buy-in of all participating agencies, *i.e.*, the child support agency, the training/employment programs, the court, etc.
- Close monitoring of the obligors, and perhaps assigning specific child support staff to the arrears forgiveness program. Staff sensitivity to a population that is undereducated and underemployed is important.
- Development of well-considered and clearly stated eligibility rules and enrollment forms.³⁸² Income and assets should be investigated to ensure that only qualified non-custodial parents are enrolled.
- Consideration of the impact of enforcement actions, *e.g.*, driver license revocation, tax intercepts, etc., on the ability of the participants to succeed in the forgiveness program, and elimination of any unnecessary obstacles to success.

Stated differently, participants would need to receive a guarantee that other enforcement mechanisms would be deferred, if not altogether extinguished, for those who are successful participants in the debt leveraging program.

- Inclusion of an evaluation process. . This should include a determination as whether debt forgiveness is offset over time by collections, and which elements of the program would appear to be offering the greatest benefit in terms of future compliant behavior.
- Tying eligibility criteria to an objective income measure, such as current income as percentage of poverty. This would ensure that the program targets those with the greatest difficulty in making regular child support payments, and stands the chance of offering benefits to some of the lowest income families. Programs that rely on lump sum payments are not well adapted to low-income populations.
- Advising custodial parents when a non-custodial parent has been identified for the program, and giving them a right to object to the non-custodial parent's participation and/or provide information about the non-custodial parent's assets, employment status or other conditions that could affect eligibility.
- Expanding the Father Court to include more low-income non-custodial parents. At present, the Father Court proposes to serve only 45 parents over the next two years.³⁸³



Section B: Improving the Role of the Court

Improving the Role of the Court



Introduction

Federal law closely guides certain aspects of child support programs, but leaves the question of administrative structure almost entirely up to each state. In general, as long as the designated state agency has an expedited system to establish and enforce support orders, states have significant flexibility in how they administer child support.

As described in a report by the Lewin Group,³⁸⁴ child support programs across the country operate in what can be best understood as a continuum from wholly administrative to wholly judicial practices. Some programs are highly administrative – with minimal involvement of the courts and attorneys, and the use of administrative hearings for contested cases. Other programs are highly judicial – with substantial involvement of the courts and attorneys, an order establishment process based on the court calendar, and routine court hearings for both contested and non-contested cases. Another group, which the report refers to as “quasi-judicial,” borrows

some elements of each. Most states favor the judicial programs, with 24 states scoring 14 or above on a scale of 4 (highly administrative) to 16 (highly judicial), and only 7 scoring 6 or below. DC has a score of 16, making it one of the most highly judicial jurisdictions.

The research concludes that either type of system, if implemented well, is acceptable. Some experts have pointed out that judicial procedures tend to be slower, which can impact their success rate,³⁸⁵ especially in a population that lacks stable employment and financial security (the location and financial situation of the parties can change before an order is ever put in place). Neither type of system is inherently superior, but there are clear strengths and limitations to both.

In DC, however, we believe the current system does not take sufficient advantage of the strengths nor does it adequately address the limitations of involving the judiciary so heavily, which ultimately hurts both CSSD and the court as well as child support system customers. At 45.4

percent, DC's order establishment rate is substantially below the national average of 70 percent,³⁸⁶ and DC has a successful process service rate of only 50 percent.³⁸⁷ At the end of FY 2006, the District reported only 42 percent of cases with arrears paying.³⁸⁸ Nationally, approximately 60 percent of obligors owing arrears paid towards their debt in FY 2005.³⁸⁹ This performance can be improved by making adjustments to the current "judicial system," as well as by making the system friendlier to customers who are ordinarily unrepresented by counsel.

Federal Mandates

There are no federal mandates stating whether a judicial or administrative process must be used. Federal mandates do require that states use an expedited process, either administrative or judicial or both, to increase effectiveness and meet the processing times specified.³⁹⁰ For child support cases needing support orders, regardless of whether paternity has been established, action to establish support orders must be completed within six months of service of process for 75 percent of the cases and within 12 months for 90 percent of the cases.³⁹¹ DC Code § 11-1101 grants the DC Superior Court Family Court control over matters of child support.

Challenges in the District

Roles and Responsibilities

Structuring the child support process through the judiciary implies some very basic assumptions about the process. The first is that the child support process is

likely to be adversarial, so there is a need for a neutral third party to decide between opposing positions. The second is that the parties have rights that need to be protected and the issues at stake are of sufficient consequence that the court's involvement is essential to ensuring a fair outcome. The third is that the authority of the court is necessary to compel compliance with the order.

The problem is that these assumptions are only *sometimes* true. For example, the use of judicial resources for hearings seems unnecessary when the non-custodial parent is on disability and his children receive benefits through that program. Judicial hearings also seem unnecessary simply to provide in an order that the parent currently providing health insurance will continue to do so, or to develop a payment schedule. DC currently has neither means to identify cases that genuinely require judicial involvement nor any alternative procedure for those that do not.

Admittedly, determining whether cases require judicial involvement is not always an easy task. Currently, most non-custodial parents are unrepresented by counsel. Many have problems with literacy or have had prior involvement with the courts on criminal matters. Their understanding of the system, their rights, and their obligations is not always clear. And, when they agree to a child support amount or a payment plan, it is sometimes unclear if they are agreeing to appear compliant, because they do not know they have the right to object, because they do not understand, or because they fully agree that they should, and will, pay the required amount.

Additionally, judges rightly may be hesitant to trust that a non-custodial parent has been informed of his essential right to contest an order amount, or perhaps more importantly, his paternity. The information that is affirmatively provided to non-custodial parents - typically in a 10-15 minute interview with CSSD Legal Section staff (attorney or paralegal) prior to the hearing – may be considered sufficiently unreliable that judges compensate by hearing *all* cases and re-confirming information with non-custodial parents even when there is a report of consent. As a result, therefore, uncontested child support hearings largely consist of judges affirming with the non-custodial parent that he understands the order, agrees with the order amount, understands his right to request a modification of the order should his circumstances change, and affirming that the order itself contains all the necessary information.

Indeed, Project team members witnessed several hearings in which non-custodial parents were not provided with essential information, such as financial information from the custodial parent in order to run the guidelines accurately. Cases were observed in which, in response to a judge's questioning, a non-custodial parent would indicate a clear disagreement with a so-called consent order, and would be encouraged by the judge to return to conference to get clarification. The Project team also witnessed judges correcting orders which had been submitted for signature without including medical support or arrears charges, even though judges should not be necessary to affirm what the child support professionals should do as part of a routine process, or review documents for correctness. The system can and should work more efficiently than this

and better serve the families it is intended to serve.

Representation

The lack of representation for District families in the child support system is a particularly complex problem. According to CSSD policy as of January 2001, CSSD does not represent individual parents, including those who apply for services independently of the public benefits system.³⁹² Instead, CSSD represents the District, and the District is a party to child support cases to protect its interest in ensuring that District children are adequately supported. In addition, the District has an interest in pursuing child support funds assigned to the District by TANF and Medicaid recipients. This means that, technically, with no private counsel present, neither the custodial parent nor the non-custodial parent is represented in most child support matters. Nevertheless, CSSD, while perhaps careful to avoid an attorney-client relationship with custodial parents, manifests a much stronger commitment to providing them with information and support. The new "Customer Survival Kit," for example – a folder of brochures, Frequently Asked Questions, and a "Roadmap" of the child support system – was designed to be given to custodial parents at the earliest possible opportunity, but to non-custodial parents only in court after an order has been established.³⁹³ This ambivalence has not been lost on the court, which has been observed referring to custodial parents as the "client" of the "government." One judge commented that she makes sure non-custodial parents know all the options, possibilities, and consequences of the actions being taken since they "don't have an attorney."³⁹⁴ Such a perception indicates

both confusion regarding the issue of representation and a seeming disparity by CSSD in treatment of parents. Regardless of written policy, CSSD often practices as if it would have a conflict of interest if it provided certain services to non-custodial parents.

At the same time, custodial parents are themselves frequently uninformed about court hearings concerning their child(ren). Decisions are then made at those hearings based on inaccurate and unverified information, or are postponed until the custodial parent can be contacted and/or brought in as the government's witness. While some of the custodial parents interviewed by the Project team accepted responsibility for not informing CSSD of changes of address that would have allowed them to receive notice, others indicated that they heard about court dates through family or direct contact with the non-custodial parent. Custodial parents should not be unnecessarily requested to come to court, since this would mean missing work or being otherwise inconvenienced, but they should also be kept consistently informed of what action is being taken, and what information they would be allowed or encouraged to contribute.

Several judges who were interviewed for this Report expressed concern over the lack of representation for non-custodial parents. None suggested that *custodial* parents need representation, which is consistent with the ongoing perception that CSSD provides necessary services even if not formal representation to custodial parents. Some judges also indicated that law schools and private pro bono attorneys were not likely to be interested in establishing services for non-custodial parents because of the association of non-

custodial parents with “deadbeat dads.” The District of Columbia Bar Foundation estimates that, as a general proposition, no more than “ten percent of the need for civil legal assistance [needed by the low-income community] is being met.”³⁹⁵ And in child support cases, it appears that significantly fewer than ten percent of non-custodial parents have representation. Thus, the District has a judicial system with no resources available to ensure that all parties to the action have access to counsel or even to basic information about the process. Furthermore, federal law prohibits federal child support funds from being spent on counsel for indigent non-custodial parents or guardians ad litem.³⁹⁶

Monitoring and Enforcement

The court does not technically have a role in monitoring or enforcing child support orders except when CSSD chooses



to pursue a contempt charge. In those cases, which are virtually all filed under civil rather than criminal contempt, non-custodial parents are summoned to court and CSSD (and the custodial parent in non-TANF cases) will typically attempt to negotiate an agreeable payment plan. If an agreement can be reached, CSSD will recommend to the court that the

contempt charge be held in abeyance while the obligor has an opportunity to comply.³⁹⁷ The obligor is expected to return to court for a contempt review (typically about three months later). Even in cases where contempt is found, the sentence is stayed while the obligor is given a chance to comply. Upon return to court for a subsequent review (a more variable period depending on the expectations set by the court) the stay will be lifted or continued. Using the consequences of a contempt charge (jail, fine, or both) as leverage to encourage compliance with an order that has been violated appears to be an appropriate use of the court's resources. Some believe that the court is not aggressive enough in its use of available sanctions.

The court, however, is also using review hearings as a de facto modification process for unemployed and underemployed non-custodial parents. As many as one-third of the establishment and financial review cases heard by the court involve a non-custodial parent claiming to be either unemployed or insecurely employed (meaning part-time, temporary, seasonal, or otherwise tenuously connected to the labor force).³⁹⁸ The current process involves setting a "temporary order" based on the available financial information, and scheduling a review hearing for approximately three months later. Non-custodial parents are routinely advised to bring proof of a job search to the follow-up hearing which typically requires 10 inquiries or applications per week. They are given a form to complete, but additional evidence of the job search can be required, including oral testimony, copies of applications, or other evidence CSSD and/or the court are willing to accept.

Orders sometimes remain "temporary" for years. Once they are made permanent, they can be modified only according to regulations that require a substantial change in circumstances and a variation of 15 percent from the current order amount (with the exception of adding a medical support order).³⁹⁹ The court uses the temporary status to modify the orders according to current financial circumstance of the non-custodial parent at each court appearance.

Overall, judges are not satisfied with the limited options available to them to encourage non-custodial parents to find work, but are reluctant to create permanent orders under conditions highly susceptible to change. Judges wish to keep whatever leverage they have to induce non-custodial parents to take full responsibility and do not want to set permanent orders that are artificially low; at the same time, judges express frustration at their inability to fully motivate non-custodial parents to obtain jobs.

Judges are also reluctant to impute income in these circumstances since income imputation tends to lead to high arrearages.⁴⁰⁰ (*See Part IV, Section A, Chapter 5: Management of Child Support Arrearages.*) Of course, some of these non-custodial parents are avoiding legitimate work. They may work inconsistently in a cash economy and fail to report their income, or they may be qualified to work but avoid jobs that would subject them to wage withholding. In these cases, income imputation may be appropriate and a custodial parent could petition for a permanent order based on the imputed amount. However, many of these non-custodial parents have legitimate barriers to employment and are not simply avoiding work.

In both of the described areas – lack of parent representation and monitoring and enforcement– the court is spending significant time filling a role that either 1) more appropriately belongs elsewhere or 2) needs to be formalized and improved. Of course it is appropriate for the court to use its authority to encourage non-custodial parents to fulfill their parental responsibilities. But the options available to the court are so limited that the court is using precious time and judicial resources unproductively while failing to fully serve the needs of custodial parents and children. In our view, there are better alternatives to this system.

CSSD's Administrative Authority

Both the court and CSSD would like to see CSSD make better use of its administrative authority, but they do not agree on what this entails. Judges and other court employees assert that CSSD requires non-custodial parents to file motions for matters that could and should be handled administratively, such as getting an account audit completed so the non-custodial parent can review CSSD's account of his payment history. CSSD, on the other hand, claims that the court routinely orders them to perform audits even though CSSD has developed an administrative process for non-custodial parents to request audits and has tried to inform the court that a court order is not necessary. Some also believe that if a non-custodial parent is claiming disability (*e.g.*, the parent receives Social Security Disability Insurance (SSDI), is in the process of applying for it, or needs to initiate the process of applying), then CSSD should assist that non-custodial parent to initiate or process the claim.⁴⁰¹ This would both secure benefits for the

child and avoid unnecessary court hearings - which can be very difficult for disabled individuals to attend.

CSSD, on the other hand, would like to be able to establish consent orders without hearings and simply forward completed orders to the court for signature and filing. It would also like to complete uncontested modifications without hearings, such as noting on an order that a custodial parent is currently providing medical support and wishes to continue. For reasons previously discussed, it seems unlikely under the present circumstances that the court would agree to approve orders without hearings. From the court's perspective, the lack of representation and unbalanced treatment of non-custodial parents suggests that judicial oversight of the current process is necessary. If a change in the process were to occur, the court would of course need to have a voice in setting the conditions under which it would be willing to approve administratively established orders. We believe a shift to a process that relies on administratively established or modified orders in at least some circumstances is called for, and its development will require a collaborative effort between CSSD and the court to address all legal and procedural concerns. Fortunately, other jurisdictions have addressed these concerns thereby providing guidance for a path forward.

Best Practices

Collaboration. The National Judicial/ Child Support Enforcement Task Force, convened in 2004 by the Office of Child Support Enforcement (OCSE), developed a Model Strategic Plan in March 2006 designed to serve as a roadmap for jurisdictions. One of the Plan's

recommendations is that jurisdictions commit to a collaborative approach to the judicial/administrative relationship.⁴⁰² Truly effective collaboration requires ongoing commitment and trust between the parties involved. There is not necessarily a great deal of trust between the court and CSSD, particularly in terms of serving the needs of non-custodial parents, but there are approaches that both the court and CSSD can undertake to help increase the system's effectiveness.

Most important is that CSSD and the court come to an understanding of what each needs from the other in order to move through cases as quickly and fairly as possible. In other jurisdictions, courts and IV-D agencies have collaborated to develop the forms and documents that are used to process child support requests and communicate with custodial and non-custodial parents; determine best use of child access and visitation grant funds; improve data sharing and exchangeability; develop implementation strategies for new initiatives such as those that deal with incarcerated non-custodial parents, and more. California's State child support agency, for example, requires regular meetings between local courts and local child support agencies.⁴⁰³ That state made clear to the courts that increased funding to the child support program for meeting performance standards also meant more funding for the courts.

“Problem-Solving Courts.” Problem-solving courts (sometimes known as collaborative justice or therapeutic jurisprudence) have been implemented in many US jurisdictions. They are most commonly used to handle drug offenders, but also deal with domestic violence cases, child welfare (family treatment) and offenders with mental illness. These courts

help to address the problems underlying the individual's or family's appearance in court, and thus reduce “revolving door justice” where the same individuals and families cycle in and out for similar or related problems. These courts apply a range of intermediate sanctions in response to varying degrees of client non-compliance. For example, a drug offender who relapses while on probation may have testing requirements increased rather than having the probation automatically revoked and returning to jail. This approach maximizes appropriate use of resources, reserving the most punitive and costly sanctions for the most significant or tenacious problems, while still responding promptly and consistently to less egregious offenses.

Increasingly, “problem-solving” is being viewed as an approach to jurisprudence rather than as an isolated program. Wake County (Raleigh), North Carolina, has



been at the forefront of applying problem solving techniques to child support enforcement.⁴⁰⁴ Judge Kristin Ruth uses a combination of house arrest/electronic monitoring, job training programming with case management, and incarceration to encourage compliance with child

support orders among chronic non-payers. The research thus far suggests that electronic monitoring – electronic offender surveillance that serves as an alternative to incarceration and allows non-custodial parents to continue to work, engage in training, or seek work – has significantly increased collections of both current support and arrears. Collections in the six months following electronic monitoring were two to three times the collections in the months prior. Research also found that non-custodial parents were more likely to find employment as the sanctions increased. The project continues to be evaluated in collaboration with faculty from Meredith College to determine the impact of each component, but in the meantime, other North Carolina counties are adopting electronic monitoring to alleviate jail overcrowding and save money, while also allowing obligors to continue to work or seek employment.

The National Center for Fathering has developed another problem-solving court model around the issue of non-payment of child support. The model serves as an alternative to prosecution or incarceration for fathers with significant arrearages.⁴⁰⁵ In Jackson County (Kansas City), Missouri, where non-payment of child support is a criminal offense, non-custodial parents with significant arrearages are offered Fathering Court as an alternative-to-incarceration program (non-completion can result in probation or incarceration.) The program involves a 13-week fathering course, designed to help men understand their importance to their child(ren) and help them be better co-parents with their child(ren)'s mother. It also involves case management to help men find employment or improve their earning capacity and, for many, it serves as a bridge to substance abuse treatment.

In operation since 1998, the program has served over 400 men (though graduating significantly fewer) and has resulted in over \$2 million in child support collections.⁴⁰⁶ Program evaluations find that men who complete the program report significantly more contact with their child, increased interaction with their child's mother about their child's development, and increased payment of their child support.⁴⁰⁷ DC is in the process of developing a Fathering Court based on the National Center for Fathering court model, which is an important step in the problem-solving direction.

Increased Use of Administrative Procedures. Several jurisdictions have supplemented their judicial child support processes with agency administrative processes to increase overall efficiency and to relieve the caseload pressures on judges and caseworkers. Although replacing a predominantly judicial process with a predominantly administrative one would involve major legislation in DC, there are lesser steps that could be taken to improve DC's current system.

Alternative Dispute Resolution (ADR) Process. Alternative Dispute Resolution refers to a wide range of processes, such as negotiation, mediation, or arbitration, to settle disputes outside of the traditional judicial framework. In 2000, Texas implemented such a process which is regarded as particularly effective. Child Support Review Process ("CSRP") aims to resolve child support legal issues in the child support office rather than the courthouse, with judges approving orders to make them legally binding.⁴⁰⁸ Each new case that needs an order or paternity establishment is first reviewed to determine if it is appropriate for administrative process through CSRP.⁴⁰⁹ The governing

criteria include that it cannot be an interstate case, must have confirmed addresses for both the custodial parent and the non-custodial parent/alleged father, both must be over 18 years of age, and there must not be an indicator of family violence or a history of custodial parent non-cooperation.⁴¹⁰ Cases requiring enforcement may also go through CSRP if there is a confirmed address and employer information.

If a case meets the criteria, a computer sends (by mail) a simple notice to both parents that explains the advantages of using the administrative process, sometimes followed up by reminder phone calls. Conferences are conducted by CSE caseworkers trained in mediation. If both parents attend the conference and agree to an order, they sign a proposed order and waive their right to service. Both parties have the right to be represented by an attorney at the conference. The proposed orders are reviewed by a CSE attorney, and are signed and sent to the court for review and signature before any pleading is filed at court.⁴¹¹ If neither parent appears, or if they appear but do not agree to an order, the caseworker can prepare a “non-agreed order” which is reviewed and signed by a CSE attorney and then sent to the court to be served on the parents. Parents have 20 days to request a court hearing to object to a non-agreed order.⁴¹² The non-agreed order covers everything an agreed CSRP order would cover. This method produced 40,503 agreed orders and 7,816 non-agreed orders for Texas in FY 2006.⁴¹³

According to researchers Roberts and Sorensen, the Texas approach has resulted in a “[t]remendous cultural change” that is “customer friendly” and

encourages contact with and education of both parents.⁴¹⁴ They also state that over half of all CSE orders in Texas are now established administratively. Of the cases handled through CSRP, Texas reports that 20 percent made their first payment 30 days after establishment, compared to only five percent of cases judicially handled.⁴¹⁵ Additionally, approximately 83 percent of cases handled through CSRP made their first payment 120 days after establishment, compared to only 50 percent of judicially processed cases. This program has improved Texas’ ability to meet federal timeframes and the needs of its growing caseload, has given it better case information, has freed up litigation staff, court masters, judges, and county personnel to deal with more complicated cases, and has allowed parents to meet in a less threatening environment than a courtroom. Overall, for both establishment and enforcement cases, CSRP was utilized for 60 percent of the caseload and 60 percent of those cases paid during FY 2006, compared to 44 percent of cases referred during the same time period that were handled judicially.⁴¹⁶

Mediation as a component of case management. Mediation has also proven to be a valuable component of case management, primarily when incorporated into an administrative process to take full advantage of its benefits. In Delaware, after a petition for child support is filed with the DC Superior Court Family Court, both parties are notified to attend a mediation conference with Family Court mediator staff. Delaware sends a packet of information on the mediation process to the parties to familiarize them with the goal of the process and what will occur.⁴¹⁷ Other jurisdictions, such as Colorado,

have independent mediators not affiliated with the court or with the child support agency to make the parents comfortable that they are receiving fair treatment in the negotiation conferences. Incorporating mediation necessitates the training of mediators in legal and administrative issues that are important to the child support system, while mediators bring to the issue their training in neutrality and process management that allows all parties to feel heard and respected. Offering mediation as a way of managing child support in DC would likely lead to a more effective system.

Recommendations

i. CSSD and the courts should develop protocols and procedures to increase use of mediation.

Disputes over many issues, *e.g.*, access to children and parenting styles, can interfere with payment of child support. DC's child support system should make better use of mediation services when parental relationships are clearly interfering with compliance and should establish a set of referral protocols that can be used by the court, CSSD, and community-based service providers. Mediation and Alternative Dispute Resolution should be considered among the tools available to solve problems facing families in the child support system. Regulations preclude child support courts from getting involved in custody decisions, but do not prohibit courts and child support agencies from referring parties to mediation to address custody and visitation issues and, in fact, encourage them to do so. Many believe that the alternative dispute resolution process leads to greater compliance, less congested court dockets, and increased customer satisfaction.⁴¹⁸

The resources of the Court's Multi-Door Dispute Resolution division should be fully explored for its potential to help design and implement appropriate programs and referral protocols.

ii. CSSD and the courts should collaborate to simplify procedures for order modifications.

Downward modifications, when necessary and appropriate, serve everyone's interest, including the custodial parent who is better off knowing that although less money will come, it will come regularly. DC is not unique in the underutilization of the modification process by low income non-custodial parents and should take steps to make the process more accessible. Procedures to request review and modification should be made uniform for both custodial and non-custodial parents. Requests for upward and downward modifications should be handled identically. Informational materials and motions should be reviewed to make the process accessible to individuals with lower literacy.

iii. The District should increase the range of options available to judges when a non-custodial parent is unemployed.

Judges should have a range of options available to respond to non-custodial parents who are unemployed, including opportunities for education, training, substance abuse treatment when necessary, and as well as sanctions for non-compliance. These options would help the system in "smoking out" non-custodial parents who claim unemployment but are active in the underground cash economy. To implement this recommendation, the DC Council would need to authorize

judges to order employment and/or job training for non-custodial parents before arrears accrue or a contempt motion has been filed. Judges should be provided a handbook or “bench card” that outlines all options available to them. The District Department of Corrections should be consulted on any protocols that involve increasing use of the jail or correctional resources for child support cases, such as weekend incarceration, or electronic monitoring/house arrest.

iv. Increase the use of administrative procedures to enhance parental “buy-in” and increase system efficiency.

Both the court and CSSD managers agree that CSSD could make better use of the administrative authority that it has. They do not appear to agree, however, on what these uses should be or how to best implement them. These issues should be clarified through a collaborative process, and legislation introduced where necessary to authorize additional CSSD administrative powers.

If CSSD is going to increase use of its administrative authority, it should do so not only to increase efficiency but also to increase parental buy-in and satisfaction with the process. (*See further discussion in Part IV, Section C.*) The procedures should be designed and implemented to ensure that both custodial and non-custodial parents are receiving sufficient information to make sound decisions. These procedures should be undertaken with a “full-service” approach such that parents are encouraged to participate in any activities that will increase the likelihood of successful co-parenting and regular payment of support, including mediation, parenting programming,

employment and training activities, substance abuse treatment, etc. The court should be a full partner in designing these procedures. Because the two agencies work so closely together, they should work together to design a process that ensures the informational needs of both custodial and non-custodial parents are fully satisfied.

In our view, at a minimum, DC needs legislation to clarify the issue of CSSD’s administrative authority, particularly in terms of the authority to establish orders. The legislation should be crafted in such a way that the judiciary has a direct review of the administrative procedures, since the court should continue to be expected to approve all child support orders. CSSD should also be given limited authority to prepare modifications for cases involving medical support only, and cases where the non-custodial parent receives sufficient federal benefits (such as social security disability) that will pay the full amount of child support directly. In all these circumstances, the procedures need to be designed so that the court will have confidence in the proposed order and can sign it without holding a hearing.

v. Increase outreach to non-custodial parents.

CSSD must make a commitment to providing additional and better information and services to non-custodial parents prior and subsequent to their appearance in court, including the following.

- A “survival kit” should be designed specifically for non-custodial parents, addressing

their concerns and needs, and written in language at a sixth grade reading level so it will be broadly understood. It should be delivered to non-custodial parents with their order to appear in court and include information about job training and employment services available for unemployed non-custodial parents. (*The latter points are further discussed in Part IV, Section A, Chapters 1 and 2.*)

- A non-custodial parent unit should be established within CSSD to answer questions, respond to concerns, and make referrals to services, including legal services, for non-custodial parents. It should be able to provide resources to assist in making custody and visitation arrangements, finding jobs, directing disabled non-custodial parents concerning applying for disability, as well as matters specific to the child support process. The unit should be trained by service providers with experience working with low-income fathers.
- CSSD should work with the court to identify options for showing videos and/or providing informational services specific to child support located in or near the court. These materials and services should be non-custodial-parent-friendly and use language that assumes good faith on the part of the non-custodial parent.
- CSSD should be dedicated to providing as much and as

high quality information to non-custodial parents as to custodial parents. Because CSSD represents the interests of children, the agency should recognize the importance of having *both* parents fully informed and committed. The informational services CSSD provides should be sufficiently thorough and even-handed that judges will trust that a consent order is agreeable to all.

- The DC Bar can assist in educating the community of family law attorneys and law students about the needs of “dead-broke” non-custodial parents.

vi. Improve CSSD case management and contact with custodial parents.

CSSD should continue to improve its management of cases within the legal services unit such that cases do not come to court unless they are ready and unless a court appearance is necessary. CSSD, with the assistance of the courts, needs to improve its systems for following up on judicial requests and for keeping custodial parents informed of case activities, including whether or not service has been completed. The goal should be to have no parent, custodial or non-custodial, brought into court or kept at the court unnecessarily. The court can help by specifying circumstances under which it would be willing to allow witnesses to leave before cases are called. By increasing its use of administrative process, CSSD could reduce its court

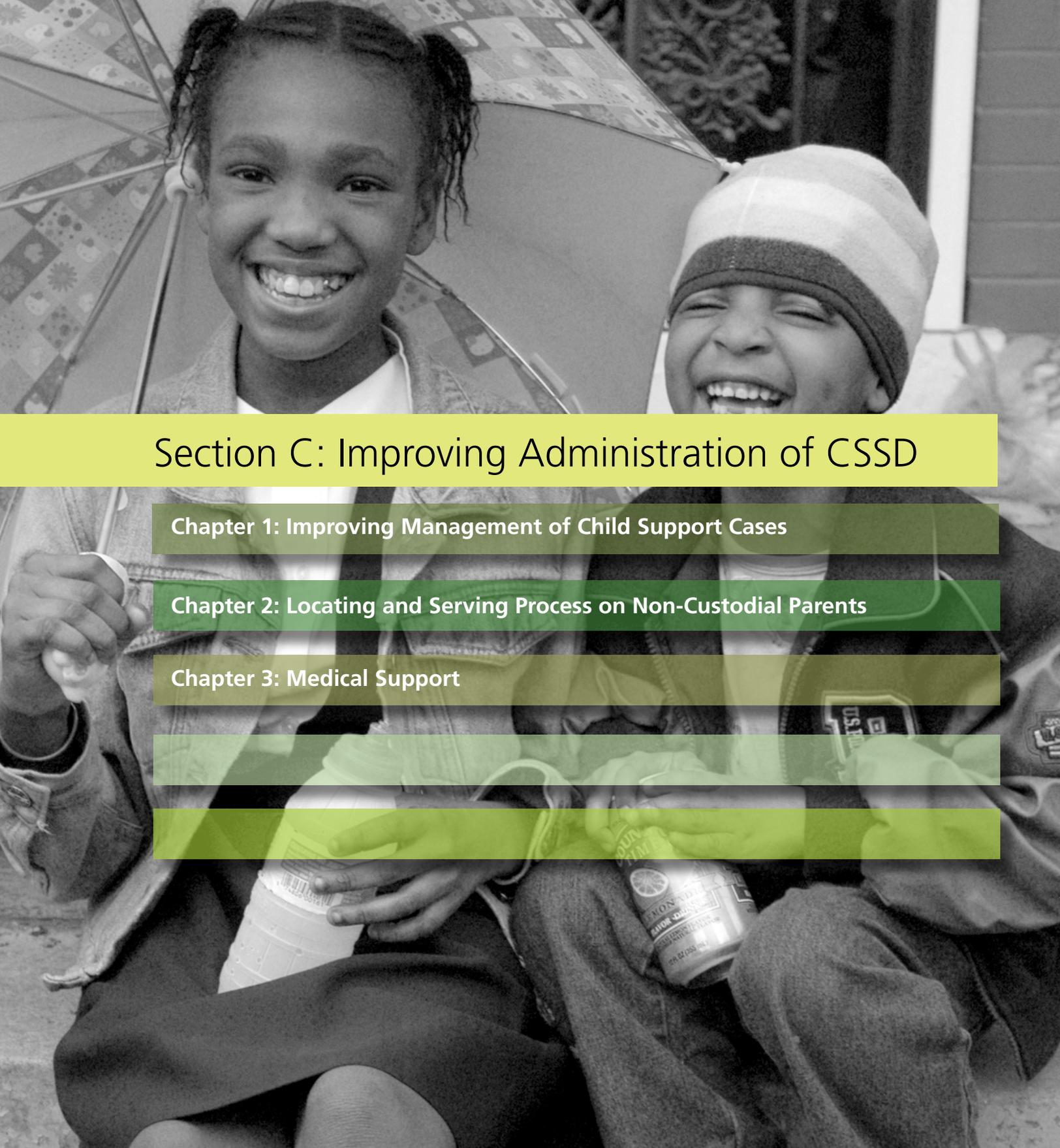
appearances and more efficiently handle its volume of cases. (*See further discussion in Part IV, Section C.*)

vii. The Mayor should authorize the Child Support Task Force to manage the collaborative process required to make necessary changes in the child support system, and to implement the recommendations in this report.

Many of the recommendations in this Chapter and in this Report require collaboration across a broad cross section of stakeholders. There is an

existing Child Support Task Force that involves child support judges, court personnel, advocacy groups and CSSD. This recommendation builds on what exists by recommending involvement at the highest levels of the DC Government, including the Attorney General and Chief Judge of the Superior Court, greater involvement of CSSD, and includes the specific goal of implementing the recommendations in this report and addressing tensions that exist between CSSD and the courts which adversely affect reform initiatives between these partners.





Section C: Improving Administration of CSSD

Chapter 1: Improving Management of Child Support Cases

Chapter 2: Locating and Serving Process on Non-Custodial Parents

Chapter 3: Medical Support

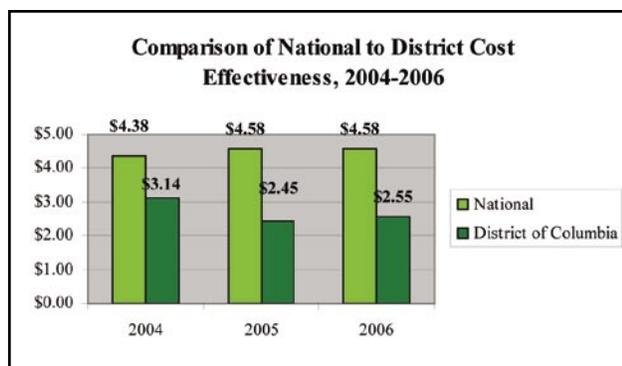
1. Improving Management of Child Support Cases

Introduction

Within the automation and schedule requirements established by federal law and regulation, states have full latitude to determine their child support case management practices. All states are measured against the same federal standards for order establishment (orders established relative to cases opened) and cost-effectiveness (dollars collected relative to dollars spent). It is clear that investment in child support results in more effective systems. According to a study by the Center for Law and Social Policy:

States with higher cost and staffing ratios tended to have higher collection rates, while states with lower cost and staffing ratios tended to have lower collection rates. None of the states with the lowest cost and staffing ratios exceeded the national collection rate average. Conversely, all but one state having the highest cost and staffing ratios also had the top collection rates.⁴¹⁹

DC's cost effectiveness rate is only about half the national average. As noted, one challenge facing DC is that the majority



of families in the child support system do not match the profile of the family for which the federal child support system was inherently designed, *i.e.*, families of divorce with solid ties to the legitimate economy including jobs, bank accounts, and income tax filings. Instead, DC's caseload leans much more heavily toward low-income, never-married families for whom the existing procedures and automated enforcement mechanisms are far less effective.⁴²⁰ How DC chooses to adapt its system to meet the demographics of the population it serves will determine whether it will barely meet or substantially exceed minimum federal standards – and better serve children. Chapter 1 will look at DC's case management system, recent changes at the Office of the Attorney General's Child Support Services Division (CSSD), strategies used by other jurisdictions to provide more effective and efficient child support case management, and make recommendations for improvement.

Federal Mandates

Federal law is concerned with the pace and efficiency of child support order establishment. It provides detailed timelines for the processing of cases and mandates that an expedited administrative or judicial process be in place to manage child support establishment, monitoring and enforcement.⁴²¹ It also requires that all states have a computerized child support enforcement system that performs certain functions.⁴²² Financial support and technical guidance are available from the US Department of Health and Human Services Office of Child Support Enforcement (OCSE) to help states comply with this requirement.⁴²³

IV-D agencies (agencies designated to provide federally-mandated child support services under title IV-D of the Social Security Act) are required to move 75 percent of cases from service of process to an established order within six months, and 90 percent within 12 months.⁴²⁴ Agencies have discretion about how to count cases that have not been successfully served. Some states return cases to “locate” status after service of process has failed, which resets a 75-day clock to once again search all available resources for current address and asset information. Other states make several service attempts before reclassifying the case back to locate.⁴²⁵ If a parent is not located (and therefore not servable) within 75 days, the case can remain open for one to three years depending on whether a social security number is available and can be placed in an automatic search mode.⁴²⁶ If the search process achieves a “hit” – that is, a match with the Federal Parent Locator System or other database - and an address is found, the case will move forward on the 90-day calendar. If it reaches the one or three year deadline, the case can be closed.⁴²⁷

Once an order has been established, IV-D agencies have administrative authority to initiate wage withholding.⁴²⁸ This is mandatory for all cases, not just those that have a history of non-payment.⁴²⁹ Agencies have two days from the date an order is established and/or they are made aware of the employment status of an obligor to send the withholding request to the employer.⁴³⁰ Agencies are required to monitor cases for compliance, and to take action within 30 days of a delinquency or other non-compliance.⁴³¹ If enforcement efforts

are unsuccessful, agencies are required to determine the reason why the attempt failed and when it would be appropriate to take any additional enforcement actions.⁴³²

Failure to locate is one of twelve federal criteria for case closure.⁴³³ States are allowed, but not required, to close cases that meet any of the criteria. Four of the twelve criteria cannot be applied to cases in which the custodial parent is on TANF. Nine of the twelve criteria require 60-day notification to the recipient of the agency’s intent to close the case unless new information is brought forward that would change the status.⁴³⁴ Some of the other criteria include the following

- There is no current support order and arrears are under \$500 or are unenforceable under state law.
- The obligated parent is deceased and no action against the estate is possible;
- Paternity cannot be established under state law.
- The obligated parent is unable to pay support for the duration of the child’s minority due to incarceration, institutionalization, or permanent and total disability.⁴³⁵

Case closure is an important element of case management since (1) all open cases count in evaluating the agency’s performance and eligibility for incentive payments, (2) resources are wasted sending routine materials to parties whose cases are no longer active, and (3) closing cases allows workers to focus on cases that can benefit from attention. By issuing reports such as “Automated Systems for Child Support Enforcement:

A Guide for Automating Case Closure,”⁴³⁶ OCSE has made efforts to encourage states to institute regular case-closing policies.

Challenges in the District

CSSD manages over 76,000 child support cases. As required, many of its basic case management operations are automated: referrals from the DHS Income Maintenance Administration (IMA), locate functions, employment and wage information collection, and identifying cases for penalties (*i.e.*, license revocation, passport denial). However CSSD’s computer system – DC Child Support Enforcement System (DCCSES) – is a code-based, pre-windows computer system that is cumbersome and slow. It does little to contribute to CSSD’s effort to improve its case management.

CSSD is in the process of digitizing its documents to make them available by computer, but the current management system still relies heavily on paper files. To date, CSSD has scanned less than one quarter of the existing files and is either still working on or has only very recently installed programs that would allow staff to access the digitized files. The agency has also undertaken a review of all steps in its business processes in order to identify sources of delay. Some of the changes made as a result – such as eliminating the requirement that custodial parents have application documents notarized - have improved their ability to move cases forward. Because the Project team was not given access to the details of the business reengineering process⁴³⁷, however, we are evaluating the case management practices primarily through

their outcomes, such as the impact on customers.

Because of its basis in the judicial system, case management at CSSD essentially involves two separate processes.

Administrative processes are used to prepare cases for legal processing, and to conduct basic collection and enforcement. Preparation includes collecting intake information, opening a case in the computer system, searching for any open cases involving the same non-custodial parent and for any available information on his employment or earnings, and locating the parent if the custodial parent did not provide current location information. Legal processes (filing of motions, representing the city at hearings) are used to establish orders, establish paternity if not already done by voluntary acknowledgment or other administrative procedure, modify orders when necessary, and enforce and monitor cases that have triggered contempt filings because of the non-custodial parent’s persistent failure to make payments. The legal section staff is also responsible for meeting with the non-custodial parent on the day of the hearing, advising him of the terms of the prepared order, and seeking his consent to those terms. The legal procedures are more labor intensive than the administrative ones, involving paper documentation and personal appearances in court. Automated interface between the court’s computer system and DCCSES is not available, apparently due to the inability of the court and CSSD to agree on a Memorandum of Understanding to accomplish CSSD’s access to the court’s system.

Against this backdrop, case management is difficult both in concept and practice. Cases are handled by a variety of agencies and individuals. While some cases are efficiently transferred from the intake section to the legal section, many are passed back and forth between intake, locate and establishment before arriving in the legal section. Custodial parents have indicated that this part of the process can seem like a black box where they are given no information about what is happening with their case and do not understand the source of any delays. Once an order has been established, the enforcement unit takes over, except for cases that require additional court appearances, at which point the legal unit gets involved.

For customers, this process is impersonal. Despite the very personal nature of the issue, and its basis in complex, intimate relationships, the process is bureaucratic and, in the words of one non-custodial parent, “cookie cutter.” There is also a perceived lack of continuity and accountability. Customers complain that they never know whom they will speak to, and are expected to work with different attorneys each time they appear in court. Some community service providers find the agency unreceptive to their concerns on behalf of clients and they do not have relationships with case workers who potentially could help them work through the bureaucracy. CSSD reports that it is “in the process” of taking steps to ensure greater caseworker and customer service continuity. Although we applaud all such efforts in this regard, we cannot comment on their scope or effectiveness because of their formative nature.

Legal Process

Because the District’s child support system is based on the judicial system, CSSD’s legal section is typically the face and the voice of the system. Even recognizing the difficulty of managing the heavy caseload, as earlier discussed, the approach to managing the legal process does not lend itself to effective or efficient use of the court. Judges complain that cases are brought to hearing that have not been sufficiently checked for accuracy or even for appropriateness of the motions. Cases are called for which follow-up from the previous hearing has not yet been accomplished. Judges use their time essentially proofreading orders rather than problem-solving with families.

This situation is exacerbated by the high attorney turnover at CSSD. Several attorneys with experience both within and outside the Office of the Attorney General have suggested that new attorneys use child support as a “training ground” to gain courtroom experience. According to CSSD staff, about half of CSSD’s attorneys remain only six months to a year, which is a drain on resources as well as a set-up for poor showings in court. Paralegals, in contrast, tend to commit to CSSD for much longer periods of time. When fully staffed, CSSD has 13 attorneys and 7 paralegals.⁴³⁸ CSSD’s staffing rate has remained essentially unchanged in the past two years.

In January 2007, CSSD implemented a new case management plan for the legal section - the Vertical Prosecution Plan (VPP) or “team approach” - which replaced the previous system in which individual attorneys handled whatever

case was before the court on their assigned day.⁴³⁹ According to the VPP, each team consists of two or three attorneys, two paralegals, and one support staff. The teams are designed to work together to handle a case from beginning to end with the intention of providing improved continuity and consistency.⁴⁴⁰ CSSD hopes this new model will help impose appropriate enforcement sanctions through the staff's increased familiarity with the non-custodial parent's underlying situation. The team approach also means that a customer may still have to interact with several different team members throughout the course of a case and in court, but there will at least be "team" continuity. However, while teams will be kept "relatively stable," rotation will occur every six months "when staffing permits such rotation."⁴⁴¹ It is not clear what impact this will have on continuity for customers.

The VPP clearly articulates the tasks to be accomplished by the attorney, paralegal, and support staff team members. Attorneys are responsible for a range of tasks, including contacting customers when the case is assigned, inquiring for additional information, ensuring that the information on the file is complete and up-to-date, and drafting and filing necessary motions, oppositions, or other legal documents in a timely manner.⁴⁴² Even though some support staff may specifically handle form motions that require no research or analytical processing, the attorneys are still responsible for reviewing and signing each motion.

Some of the procedural changes attempt to increase contact between clients

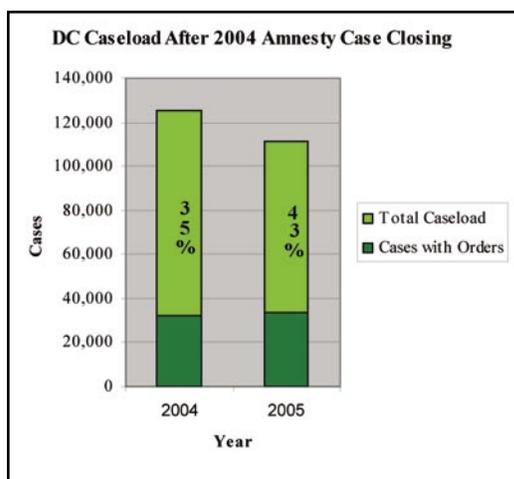
and attorneys, such as the requirement that attorneys "contact the customer to inform him/her that the case has been assigned and to answer any questions he/she may have."⁴⁴³ Such a procedure could increase the trust between clients and attorneys, but the question remains whether attorneys will have adequate time to make such exploratory phone calls, and/or how they will prioritize the cases to determine which ones warrant extra contact.

While the VPP represents a potentially significant improvement in case management, there remains from the old system a lack of case sorting, or case differentiation, except in cases of domestic violence or the limited number of cases that will be assigned to the Father Court. Case management teams are assigned to cases by courtroom. They handle any case assigned to the judge in that courtroom by the court's schedulers and cases appear to be assigned to courtrooms without reference to their content. Thus the VPP teams are assigned cases as randomly as the individual attorneys were assigned under the previous case management system. Given that CSSD cannot control the scheduling process and needs to assign its attorneys to courtrooms for efficiency, and, significantly, recognizes that case sorting is a necessary tool to assure proper allocation of resources, the teams should be designed to conduct an internal sorting in order to bring specialized services to particular categories of cases (paying/non-paying, employed/unemployed, current assistance/former assistance/never assistance). Given the large caseload, prioritization is essential, but it appears that even under the new

system cases are prioritized in part by the “squeaky wheel” method, which is that custodial parents who actively pursue establishment and enforcement are more likely to get it.

Relationship with DHS Income Maintenance Administration

CSSD has made significant improvements in its intake process by eliminating barriers to getting cases “court ready.” These have included eliminating requirements that custodial parents appear in person following a referral from IMA, that application documents be notarized, and conducting basic locate functions within the intake process rather than referring cases to the Locate Unit. CSSD also initiated a co-location program with IMA so that custodial parents applying for TANF could be interviewed regarding child support at the same time. This initiative was funded by a grant from OCSE and is continuing beyond the



termination of the grant funds.

The co-location project ran from September 2004 through February 2007.

CSSD staff was placed at IMA’s Anacostia Intake Center with a plan to conduct joint intake interviews with TANF clients.⁴⁴⁴ In practice, it proved too difficult to incorporate CSSD workers into the IMA interviews, but eventually a more successful system was developed in which the interview with the CSSD worker occurred while the client was waiting the 15 to 30 minutes for her IMA interview. For CSSD workers, the project provided a better understanding of IMA’s work process and it improved past communication issues with IMA that stemmed principally from the agencies having different goals.

In spring 2003, Professor Stacy Brustin from Catholic University’s Columbus School of Law documented some significant shortcomings in the management of cases shared by CSSD and IMA.⁴⁴⁶ Among her concerns was the delayed distribution of funds to custodial parents leaving TANF and the lack of coordination between IMA and CSSD to address the parents’ information needs.⁴⁴⁷ In FY 06, CSSD managed 33,657 former assistance cases, approximately 43 percent of their total caseload.⁴⁴⁸ More recently, community advocates have indicated that the poor communications between the agencies leads to months of delay between the last TANF payment and the receipt of child support. This issue needs to be reexamined in light of the new \$150 pass-through policy (*see Part III, Chapter 3: The Child Support Process in DC*), since TANF recipients who have orders with collections should be receiving child support payments from the outset and TANF termination will no longer change their child support payment status (though it may change

the amount they receive). Data suggests that approximately 57 percent of TANF families who closed their TANF cases in FY 06 received some child support during the month the case was closed. For those orders without collections, however, the need to step-up efforts to collect remains. Brustin recommended that CSSD dedicate staff to the population of child support customers who would soon be leaving TANF. The DC Council initially provided some minimal funding and staff was assigned. It appears that that effort has been abandoned.

Effective collaboration between CSSD and IMA is essential to the well-being of the District's poorest families. In the future, CSSD will make an effort to continue the collaboration with IMA and keep workers at their Anacostia office. One additional benefit to CSSD, now that the grant period is over, is that it can serve any client who comes in, and is not limited to new intakes. Whereas the grant limited CSSD's communications to clients initiating a TANF case, CSSD can now answer questions and otherwise assist public benefits recipients with existing cases, such as those coming in for TANF recertification.

Case Closure/Automation

Child support caseloads can be reduced by either increasing staff or reducing cases. A one-time effort by CSSD in 2004 led to the closure of nearly 33,000 cases.⁴⁴⁹ This alone effectively raised DC's order establishment rate by more than ten percent.⁴⁵⁰ According to CSSD, DCCSES has "logic" to close cases for two reasons out of the twelve allowed by

the federal regulations: emancipation of the youngest minor child, inability to locate the non-custodial parent. All other case closures require substantial manual input by staff. Unfortunately there is either a lack of resources to compensate for the computer system's limited support in automating case closure or a lack of personnel to devote to an ongoing case closure policy, or both. We hope that a new computer system, expected to be installed by 2009, will include better mechanisms and processes for case sorting and closure.

Best Practices

CSSD's latest case management plan demonstrates a commitment to improve procedures. Other jurisdictions have implemented procedures that address areas in which CSSD could further improve case management practices and, by extension, outcomes.

Case sorting by specific criteria to determine the treatment of the case.

Case sorting is the "separation and treatment of cases based on selected criteria. It allows child support agencies to target enforcement techniques and services more effectively toward different types of non-custodial parents."⁴⁵¹ An essential aspect of many of these case-sorting models is based on behavioral characteristics (degree of willingness to pay) and financial characteristics (degree of ability to pay). Depending on the particular characteristics, referrals can be made to employment and training programs, public health, responsible fatherhood, or domestic violence programs, and marriage and relationship skills training.

The Minnesota State CSE agency has developed a “case segmentation” model that sorts non-custodial parents into categories based on their willingness and ability to pay, and then applies different and targeted strategies to each category. Minnesota’s sorting categories are: willing to pay, lack of information, unable to pay, reluctant to pay, and actively evading payment.⁴⁵² Those who are unable to pay, for example, can be referred to job readiness and training services while those who are actively evading payment can be pursued for any assets or charged with contempt. This model was recommended for the state of Arizona’s Department of Economic Security, Division of Child Support Enforcement when it was seeking new ways to reach non-payers⁴⁵³ and was described as “well received by other states” by independent child support policy experts.⁴⁵⁴

Hennepin County (Minneapolis), Minnesota, segments its enforcement cases for management according to payment history, classifying the cases as payers and non-payers. According to Elaine Beckman of the U.S. Department of Health and Human Services, “paying cases receive an automatic notice if a payment has not been made in the last 30 days. Caseworkers then contact the non-custodial parents by phone to find out why the payment was missed,” which returns the case to paying status more quickly.⁴⁵⁵ When caseworkers are overloaded with so many cases, this case segmentation enables them to receive notice as soon as a payment is missed. Hennepin County workers find that phone contact is most effective, and that fast, personal contacts lead to better payments. They have also

developed special outreach brochures aimed at each identified category of non-custodial parent. Hennepin County staff has found that the system allows them to monitor changing situations more quickly, to become more expert in specific activities, and to be more proactive in their case management.⁴⁵⁶ CSSD has a system by which cases are identified as early as 60 days after a payment is missed (at which point an employed obligor would be potentially subject to driver’s license revocation), and assigned to workers to contact the obligor by phone. We have no information on whether this applies to all or only select delinquencies, whether the threat of license revocation is the ostensible basis for the call, or how effective it has been.⁴⁵⁷

Broad enforcement through case sorting. Massachusetts’ enforcement strategy also focuses on a case sorting model. One of the first states to use automatic wage withholding, Massachusetts has used a system of “mass enforcement of IV-D cases” since 1992, using a combination of case sorting and administrative liens.⁴⁵⁸ Massachusetts’ approach is based on three main elements: (1) cases with similar characteristics are grouped together; (2) decision rules determine what types of action occur for particular groups of cases; and (3) computer searches automatically take the appropriate enforcement action. In the first year or so of this approach, Massachusetts issued 70,000 administrative liens, collected \$200,000 in response to these liens, and drastically reduced staff. The Massachusetts example demonstrates how case differentiation and automation can work together to increase efficiency. The goal

in DC, which is already understaffed, would not be to eliminate staff but to streamline disposition of routine cases and free staff to focus on cases requiring more intensive personnel resources.

Case ownership. Massachusetts has recently instituted a more radical version of the District's new VPP plan, and now assigns cases to case workers on a "case ownership model." The Massachusetts child support office recently switched to this model to address problems with customer service and duplication of effort. This model differs from the District's Vertical Prosecution Plan in that cases are assigned to individual workers, and assignments occur both within and outside the legal process.

Case ownership in Massachusetts is based on an alphabetical model, *i.e.*, cases are assigned according to the first initial of the non-custodial parent's last name. Ownership shifts only once from an order-establishment case worker to an enforcement or interstate case worker, depending on whether the case is preobligated (order has not yet been established) or obligated and whether both parties reside in Massachusetts. Litigators are considered "process owners" rather than "case owners" because they handle the case only for that portion of the process. However, each unit/team uses an alphabetical sort, so workers are "teamed up" with other members of other teams within the region. For example, the intake or case-create worker will always work with the same establishment worker, who will always work with the same attorney and enforcement worker.

Administrators in Massachusetts report that the change has had a very positive impact

on the agency, reducing call volumes at Customer Service as most customers have learned by now who owns their case and will usually call them directly.⁴⁵⁹ According to one administrator, "it is a more efficient process of handling the workload and it holds staff accountable. There are fewer 'hand offs' or 'not my function or case.' Someone owns that case, it stops right there."⁴⁶⁰

Case Closing

The final step in an effective case management/case differentiation strategy is identifying and closing eligible cases. The federal guidelines allow jurisdictions to close appropriate cases significantly aiding their case load and federal reporting numbers, allowing caseworkers to concentrate on fewer cases.

Case closure through an automated system. On a monthly basis, Florida's Department of Revenue Child Support Enforcement Office identifies case eligibility for automated closures based on: (1) failure to locate after three years; (2) lack of support order (if children are more than 18 years old, paternity is not an issue, and there are no arrears, or if children are more than 18 years old, paternity is an issue, there is no open activity to resolve paternity, and arrears are less than \$500); (3) all obligations are paid, or (4) all children are emancipated (if all accounts are closed with no arrears).⁴⁶¹

The first run on this process identified 27,000 cases for closure. The automated process is estimated to have saved \$275,000 (over a manual process). Further, the implementation of this automated process (which included notice to custodial

parents) enhanced the productivity of caseworkers by allowing them to focus on management of live cases. This project was funded by federal matching funds.

In 1999, Arizona developed an automated closure program that assesses cases against federal closure criteria. Depending on the criteria met, the system automatically initiates notifications to custodial parents that their cases will be closed unless additional information is provided (including locate-related data). The system also generates a work list for caseworkers, specifying action needed to achieve closure on cases. During FY 1999, this program closed an estimated 16,000 cases.⁴⁶²

Case closure through assessment of case information. In October 1998, Montgomery County, Maryland, began a case management/closure initiative designed to improve the completeness and accuracy of data in its automated CSE system, and to identify cases eligible for closure under federal guidelines. As a result of this project, 1,300 cases were closed due to insufficient locate information, and 1,300 cases were closed because the custodial parent no longer wanted to pursue child support. The cost of this project was \$15,000, which came from State and regular matching funds. The County's advice based on this project is noteworthy: "The project is simple to administer and can be completed with little disruption to regular staff routines. States with high numbers of former TANF cases will see the greatest results. The modest costs of performing this initiative can be recovered through increased federal incentives earned by the state."⁴⁶³ Because CSSD serves a predominantly current and former TANF population, this approach may be appropriate here.⁴⁶⁴

Recommendations

Based on the Project team's understanding of the new Vertical Prosecution Plan (VPP) and the successful strategies used by other jurisdictions, we offer these recommendations to improve the District's case management.

i. Address staffing levels, job vacancies, and job retention.

Data show a direct correlation between increased staffing levels and improved program performance, allowing staff to devote more personalized attention to a smaller number of cases⁴⁶⁵ and improve establishment and collection rates. CSSD needs to fill job vacancies promptly, and the Office of the Attorney General needs to strategize to improve and reward retention. CSSD is currently designing a worker certification program which should help increase the skill level and retention of some employees, although it is unclear if and how this will impact the attorneys in the Legal Section. Improved results on federal performance measures can bring additional federal incentive money which can be used to further reduce caseloads. The implementation of the VPP may encourage CSSD attorneys to remain in the agency longer by cultivating a sense of ownership for cases. OAG needs to further invest in attorney retention if the VPP is to have its desired effects on CSSD customers.

ii. Design a meaningful case sorting strategy based on caseload.

Recognizing the diversity of the caseload and organizing its operations accordingly would help CSSD maximize its capacity to serve families and, as CSSD recognizes, would permit CSSD to allocate its resources more effectively, targeting services to non-custodial parents who cannot pay and

enforcement mechanisms to those who can pay and do not. Lack of analytical data on the caseload is a substantial obstacle to this process, but in the short term, VPP teams can develop internal sorting strategies for cases including sorting by multiple case obligors or non-verified employment, for example, to tease out potential problem cases.⁴⁶⁶ Alternatively, cases could be sorted by their relationship to public benefits so that the TANF, former TANF and, especially, transitioning TANF cases get increased attention.⁴⁶⁷ Case sorting strategies would encourage CSSD staff to develop and employ problem-solving techniques that can result in higher rates of establishment and collection. For the longer term, the current method of assigning cases to courtrooms on a random basis does not lend itself to an optimal case management system for CSSD. We believe the potential benefits of case sorting are compelling enough to warrant a serious and thoughtful review by the court of the way it calendars child support cases to determine if other strategies might better support CSSD in a case differentiation management strategy.

Case sorting would provide the opportunity to implement realistic and flexible practices that encourage rather than dissuade the regular payment of child support by low-income non-custodial parents. For example, research has found that personal contact can substantially improve appearance rates⁴⁶⁸ and using personal connections to reach low-income non-custodial parents is also valuable.

iii. Develop relationships with community service providers to support

families seeking long-term gains in exchange for short term relief.

Given the large low-income caseload, the District needs child support policies that support temporary adjustments for obligors who are taking action to improve their circumstances. Community service providers should be encouraged to discuss available resources with CSSD case workers who, in turn, should demonstrate a willingness to support these positive efforts. It will be easier to reach service providers than parents with this message of willingness to help, but successes in this area will filter down and reach the audience of custodial and non-custodial parents who are most likely to benefit. The Paternity and Outreach Section staff has begun to make inroads in this area. Casework staff need to follow up with supportive and receptive responses.

iv. Continue to partner with IMA and find ways to eliminate barriers to customer cooperation.

Both CSSD and IMA should be commended for the compassionate approach they take to non-cooperation by custodial parents. Both agencies appear to understand that custodial parents frequently have legitimate reasons for not pursuing child support and, while complying with the federal mandates, both agencies want to give custodial parents as much flexibility as possible to make their own choices. However, custodial parents do not necessarily have accurate or sufficient information or enough flexibility to make the best choices for their children. Too often, they rely on word of mouth or use a child support order as a weapon or revenge against a badly behaving ex-partner. The agencies

need to work on ensuring that custodial parents are sufficiently educated about the child support process and what it means immediately and in the future, especially for their children. Improving services to non-custodial parents can help, since some custodial parents are being protective not only of themselves and their children but of their partners. *(For further discussion of this issue, see Part IV, Section A, Chapter 1: Outreach and Early Intervention.)* Additionally, in order to secure cooperation from more custodial parents, DC should codify rules for unmarried parents who are cohabitating, so that couples with such arrangements are not forced to participate in the child support system

where they have worked out other means of sharing resources and taking care of children.

v. CSSD should establish an ongoing and sustainable case closure policy.

Best practices suggest that a “minimum” case closure strategy of “review[ing] arrears-only cases that have no payments in three years and no reported income for possible case closure” should be implemented.⁴⁶⁹ This effort will be greatly facilitated by improved automation, but should not be placed on hold until such a system is available. An organized case-closing effort would aid both current caseload and federal reporting numbers.



2. Locating and Serving Process on Non-Custodial Parents

Introduction

The first step in establishing a child support order in a judicially-based system like DC's is serving the non-custodial parent with process or an official notice to appear in court for a hearing at a specific date and time. Locating the non-custodial parent in order to serve him/her requires access to good information and a variety of tools. This presents a particular challenge in DC, where a majority of the cases are initiated through mandatory referrals from the welfare system, since many of the cases are initiated for custodial parents who do not necessarily want to pursue child support.

As mentioned earlier, the federal government has invested heavily in improved tools to locate non-custodial parents by developing various databases, directories, and programs for state use, in addition to mandating the development of such data uses in the state level. Every state has access to the Federal Parent Locator Services (FPLS), which allows proactive data matching with other databases, such as the National Directory of New Hires, and can relay information about employment, wages, and existing child support cases of non-custodial parents. Every state also has its own database systems, such as a local new hire directory and databases for local agencies, like the Department of Motor Vehicles. The key to using these systems is having a Social Security number or full name and birth date of the non-custodial parent. This information, however, is typically available only from the custodial parent, whose cooperation is crucial. In addition, these systems rely heavily on non-custodial parents being involved in the traditional economy, so they must be employed "above board" and/or pay taxes,

have other child support orders in place, or alternatively, they could be participating in a public benefits program. The absence of these activities means they remain invisible to the system and, therefore difficult, if not impossible, to locate.

As also noted earlier, even though the custodial parent is usually the best source of information regarding the non-custodial parent, some custodial parents may not have the necessary information. Others may receive informal support from the non-custodial parent and not want to jeopardize either the support or the relationship by turning the matter over to a government agency. Some may fear retribution from the non-custodial parent for "turning him/her in." And others may believe that providing information will not result in any money because they know the non-custodial parent cannot provide support. Many of these custodial parents simply do not see a benefit to themselves or their children from participating in the official child support system.

Even when the non-custodial parent is successfully located service can still be a challenge. Service by mail is an option, but CSSD attorneys prefer personal delivery so that judges will attach a bench warrant in the case of non-appearance. As a result, the first encounter that most non-custodial parents have with the child support system is service of process, typically an official and unfriendly encounter. Given high levels of illiteracy and lack of familiarity with the civil legal system, many non-custodial parents have difficulty understanding the meaning of the notice and lack information about how to navigate the process successfully.

Child support agencies dealing with

a predominantly low-income urban population such as DC face these and many other challenges in providing efficient and successful locate services and service of process. Encouraging custodial parents to provide accurate and sufficient information, effectively giving notice to non-custodial parents, providing them with proper information about child support, and creating incentives for compliance require an investment of time and resources. Many jurisdictions have improved their service functions in order to cultivate a more productive initial relationship with non-custodial parents. This front-end investment has contributed to greater appearance rates in court to establish orders. This Chapter discusses the various practices child support agencies in other jurisdictions have used to improve both locate and service of process functions. With the recognition that CSSD works with a particularly difficult population, this chapter will examine the ways in which the agency can implement and learn from these practices.

Federal Mandates

Federal law provides detailed timelines for the processing of cases and requires that an expedited administrative or judicial process be in place to manage establishment, monitoring and enforcement of child support.⁴⁷⁰ In 1988, the federal government also mandated that all states have a computerized child support enforcement system that performs certain specified functions.⁴⁷¹ OCSE has provided both financial support and substantial technical guidance in order to bring states into compliance with this regulation.⁴⁷²

For non-public assistance cases, custodial

parents fill out an application and pay a \$5 application fee.⁴⁷³ The application can either be picked up at CSSD or printed from the web, and it may be returned via mail, fax, or in person. The application seeks basic information about the non-custodial parent, including Social Security number, appearance, address, date of birth, employer, health insurance availability, and similar information about the custodial parent and the children. The application also contains various agreements that require a signature.

For public assistance cases, the application must be provided to the requester the day of the request or sent to the individual within five working days.⁴⁷⁴ For all cases referred to the IV-D agency through public assistance programs or for those applying for services under Section 302.33 (Services to individuals not receiving Title IV-A or Title IV-E foster care assistance), the IV-D agency must open a case record within 20 calendar days.⁴⁷⁵ 45 CFR § 303.3 requires that the child support agency must attempt to locate all non-custodial parents, sources of income and/or assets when location is needed to take action.⁴⁷⁶

If a case requires locate services (*i.e.*, the custodial parent has not provided sufficient information, or the non-custodial parent cannot be located through a basic search process), the agency has 75 calendar days to use all appropriate locate resources.⁴⁷⁷ Within 90 calendar days of locating the alleged non-custodial parent, the agency must establish an order for support, complete service procedures to establish a support order, or establish paternity.⁴⁷⁸

Child support agencies are required to move 75 percent of cases from service of process to establishment within six months,

and 90 percent within 12 months.⁴⁷⁹ Service may be effectuated by certified mail with return receipt requested or by separate first-class mail.⁴⁸⁰ Generally, except for default judgments in paternity disputes, an unreturned certified mail receipt is sufficient for accomplishing service of process provided that the first-class mail notice is unreturned.⁴⁸¹

In DC, a hearing must occur within 45 days from the date the application for the establishment or modification of child support is filed with the court.⁴⁸² If a non-custodial parent has not been properly served within 45 days, the hearing will be held anyway to continue the case for 30-90 days so that a second attempt at service may be made.

Challenges in the District

Before addressing the specific challenges in the system, it is useful to give a brief overview of how cases work their way through CSSD. Regardless of how a case is filed, it is officially opened by CSSD's Intake department. Based on the information available, this case is then sent to one of three places: (1) the Locate Unit (if location is unknown), (2) the Interstate Unit (if the non-custodial parent resides in another state), or (3) the Legal Section (to file the case with the court).⁴⁸³

In DC, the locate process is partially automated.⁴⁸⁴ To aid this process, the 1996 Welfare Reform legislation created a Federal Parent Locator Service (FPLS) that consists of a National Directory of New Hires and a Federal Case Registry.⁴⁸⁵ If information entered by Intake matches information in the FPLS, the name appears on a computer-generated task list for a

process server, along with a priority level.⁴⁸⁶ If there is no information match, a task list is generated for the locate worker, directing the worker to check a variety of sources.⁴⁸⁷

The sources to which locate workers have access include: DC New Hires Database,⁴⁸⁸ DC DMV records, DC Department of Corrections databases, Bureau of Prisons information, other DC Metropolitan Police databases, Accurint, Lexis/Nexis, WALE, DC Department of Human Services' ACEDS (Automated Client Eligibility Determination System), the Multistate or DC Financial Institution Data Match system, federal food stamp listings, and free internet tools (*e.g.*, phonebooks and reverse phone number look-ups).⁴⁸⁹ As part of the process, locate workers attempt to cross-reference the non-custodial parent's Social Security number and date of birth, as well as cross-reference any Social Security number and address information that may be available.⁴⁹⁰ A specific CSSD employee is charged with verifying Social Security information and has an internal deadline of 20 days to process this before moving the case along.⁴⁹¹

Before an order can be established, the non-custodial parent must be properly served. Service of process is the formal delivery of documents, which at the onset of a case typically includes a notice and summons to appear, and the petition or complaint that initiates a court action. Proper service can be effectuated by several means. The method preferred by DC courts is personal service, which entails personally delivering the complaint to the respondent at his residence or place of employment.⁴⁹² This mechanism is most likely to provide the non-custodial parent with actual notice of the proceeding.

District of Columbia law also allows “substituted service” if the complaint cannot be delivered to the non-custodial parent. Substituted service occurs when the complaint is delivered to an adult other than the non-custodial parent at his residence or place of employment.⁴⁹³ Service by certified mail is also permitted under DC law.

In April 2006, successful service of process occurred in approximately 53 percent of cases, which is well-below the national average and the agency goal of 70 percent, though an increase from the 32 percent success rate reported in April 2005.⁴⁹⁴ Thus far in FY 2007, CSSD has increased the number of notices served by approximately 35 percent, though the rate has remained the same because of streamlined procedures leading to additional court-ready cases. Despite this improvement, the failure to effectuate service in nearly half of its cases is problematic not only because it delays a case from being resolved (and money going to the custodial household), but it also wastes the time and resources of the court, CSSD who must call the hearing anyway, and the custodial parent, who typically appears not knowing that service has not been completed.

DC’s successful service percentage is low for two significant reasons. First, the Locate Unit frequently does not have accurate locate information for the non-custodial parent. In fact, in 2005, more than one-third of all persons needing to be served had no known address.⁴⁹⁵ Second, CSSD seeks to personally serve each non-custodial parent rather than using the alternatives authorized in the DC Code. Its reluctance to serve by these alternate mechanisms is based on the unwillingness of the courts to issue bench warrants for

failures to appear pursuant to notices that were mailed or substitute served.⁴⁹⁶

In 2005, CSSD began sending “courtesy copies” of the complaint/hearing notice to both non-custodial and custodial parents. This allows the non-custodial parent to appear “voluntarily” even if he has not been officially served. Though service via certified mail is currently accomplished in many other jurisdictions, including Prince George’s County and Philadelphia,⁴⁹⁷ CSSD believes that without the ability to secure a bench warrant, this alternative service has no more value than the courtesy copy and is also more expensive.⁴⁹⁸ CSSD believes that it is hard to convince the courts to issue bench warrants even in the case of personal and limited substituted service,⁴⁹⁹ though DC Applesseed witnessed no such reluctance on the part of the judges. CSSD estimates that it would need an additional 25 process servers to complete personal service on all of its cases within the allotted timeframe, and thereby retain the option of securing bench warrants. An analysis of this issue, including a cost-benefit analysis of the effectiveness of bench warrants, should be conducted to determine whether increasing capacity to perform personal service is justified, or if less expensive alternative forms of service would be more efficient.

Case Origination

As noted, in the District, as in all states, most cases originate either through application by the custodial parent or referral from the IV-A agency (the state agency responsible for providing public assistance through Title IV, Part A of the Social Security Act), which in DC is the Department of Human Services, Income

Maintenance Administration.⁵⁰⁰ In DC, about 72 percent of child support cases involve referrals from IMA, either current or former TANF recipients.⁵⁰¹ The remaining 28 percent involve people who have never received public assistance and whose cases would have originated through a direct application to CSSD.

If a custodial parent applies for TANF, she is obligated to assign her support rights to the District⁵⁰² and provide IMA with certain information about the non-custodial parent during her TANF interview.⁵⁰³ At all IMA offices other than the Anacostia office, IMA staff ask the custodial parent questions regarding the non-custodial parent, then enter this information into a computer database that automatically transmits the information to CSSD. At the Anacostia office, a CSSD employee interviews the TANF applicants while they are waiting to be interviewed by IMA to obtain additional information for CSSD case intake.⁵⁰⁴ This external placement of a CSSD employee is a byproduct of a 2006 co-location grant from OCSE which was designed to increase the quality of child support information collected and improve collaboration between the two systems and their employees.

Since the majority of CSSD's cases are TANF or former TANF cases, it is important to consider problems that arise in the TANF context. As described earlier, IMA conducts initial TANF interviews, one part of which is collecting from TANF applicants the basic information necessary to process a child support case through CSSD. Although federal and DC law mandate that IV-A agencies collect this information, the information is not essential to the TANF process. In fact, some IMA workers do not believe that child

support is beneficial to their clients and are not motivated to assist in the process. The incomplete information retrieved may reflect the lack of importance that IMA apparently gives to collecting this information.⁵⁰⁵ Furthermore, there is no financial incentive for IMA to improve its child support role because, unlike other jurisdictions where the TANF program bears the cost of any child support penalties, CSSD pays back any money that IMA loses due to poor child support performance. This structure is based on the belief that keeping TANF sufficiently funded causes the least amount of harm to children in the short and long term, a belief worth examining.⁵⁰⁶

Similarly, although federal law allows an IV-A agency to penalize TANF recipients for not cooperating with child support unless there is a good cause exemption,⁵⁰⁷ the penalties are minimal often non-existent, in DC.⁵⁰⁸ CSSD recognizes that many of those receiving TANF may not want to jeopardize their relationship with the non-custodial parent or may be worried about domestic violence.⁵⁰⁹ This is confirmed by our research. Some mothers interviewed did not believe that turning over paternity information was "worth it."⁵¹⁰ Some were concerned that if they reported paternity and got CSSD involved, the father would be upset and not want to support the child either formally or informally. They did not want to jeopardize their existing informal support relationship with the father and even the \$150 pass-through amount was not substantial enough to risk losing this informal support. Others explained that they knew the fathers did not collect regular paychecks that could be subject to wage withholding. Still others were skeptical of IMA and CSSD, either because of past experiences or a general distrust of government agencies.⁵¹¹

CSSD's Intake Procedures

CSSD's Intake Unit has 12 specialists and 3 support staff.⁵¹² The intake manager delegates each new case to an intake staff member, with the exception of domestic violence cases where one specialist handles all stages of those cases.⁵¹³ The intake case workers perform a preliminary investigation on the file to determine where to send the case next. First, the case worker determines if there is any other open CSSD case concerning the same non-custodial parent. If there is another open case, or if the custodial parent was able to provide an address for the non-custodial parent either through the IMA process or on their application, Intake confirms the address and sends the case directly to the Legal Section.⁵¹⁴ If there is no open case or address, Intake attempts to contact the custodial parent to obtain more information.

In order to obtain more information, Intake sends a letter to the custodial parent asking her to come to CSSD for an interview or send information via mail. The forms no longer need to be notarized before they are returned to CSSD, and the face-to-face interviews are now optional. (Until relatively recently, both were requirements of CSSD, which significantly slowed the process.⁵¹⁵) CSSD has noticed that this change of procedure has increased the response rate for receiving completed forms, and also increased the quality of participation in the interviews (those who now participate in the interviews are more likely to share information that will help in the locate process).⁵¹⁶ As a result CSSD can now meet the 20-day case-initiation deadline for a greater number of cases.⁵¹⁷ Based on the information gathered through this process,

Intake determines whether the case should be sent to Legal, the Interstate department, or to the Locate/Service Unit.

CSSD's Locate Function

The Locate Unit has two types of staff: outside investigators that serve process⁵¹⁸ and inside investigators who search for the non-custodial parent, working from task lists generated by CSSD's computer system (District of Columbia Child Support Enforcement System (DCCSES)).⁵¹⁹ If within 75 days Locate is unable to find the non-custodial parent using all available locate sources, the case enters an automated locate function.⁵²⁰ The information about the non-custodial parent is subject to quarterly matches against the FPLS. If no match is made within one year (without a Social Security number) or within three years (with a Social Security number), the case can be closed. CSSD sends a final letter to the custodial parent notifying her that if no new information is received, CSSD will close the case.⁵²¹ Custodial parents are often unaware of how this automated locate process functions.

CSSD's Service Functions

Between four and seven process servers (investigators) work in the CSSD Locate/Service Unit. The Service component handles about 1400 summons per month.⁵²² For comparison, with a staff of twelve, Philadelphia serves about 4,000 summonses monthly by personal service, certified mail, substituted service, and posted service (the legality of which is unclear in cases not involving "real property").⁵²³ In the District, investigators generally attempt to serve approximately ten non-custodial

parents per week and work 8:15 a.m. - 4:45 p.m. and do not work evenings or weekends.⁵²⁴ Typically, the process servers spend the mornings in the office reviewing their files and conducting “mini-locates to confirm addresses.”⁵²⁵ Process servers try to effectuate personal service in the afternoons,⁵²⁶ though many non-custodial parents are not home during these hours. The Metropolitan Police Department also assists CSSD in serving notices, receiving about 100 summons per month.

CSSD has faced challenges in the area of personal service. First, even where investigators have accurate information, they do not always understand the legal requirements for service.⁵²⁷ For example, some investigators believe that they cannot personally serve a non-custodial parent at their place of employment or outside of the District, though such service is allowed under DC Code.⁵²⁸ Poor performance by individual investigators has been noted in separate research.⁵²⁹ Third, personal servers must be willing to serve non-custodial parents *when* non-custodial parents are most likely to be at home or work and *where* non-custodial parents are most likely to live or work. This means service in all neighborhoods of the District of Columbia, even those perceived to be dangerous.⁵³⁰ Fourth, when a service attempt has failed, servers do not always report the reasons. This can interfere with the success of subsequent attempts. Lastly, investigators do not always fill out the summons form so that it will be admissible in court to prove that service occurred.⁵³¹ CSSD is taking steps to address some of these challenges. Among the initiatives that CSSD “has or is in the process of implementing”:

- Exploring alternative work hours with the Flexible Investigator Work Hours Pilot Program.⁵³² Its purpose is to

explore the effectiveness of attempting service of process outside of regular business hours. The program will extend investigators’ work hours to 8:00 p.m. one day per week to increase the likelihood the non-custodial parent will be home when the investigator tries to serve him. If the late-hours stage of the pilot program results in increased service, the program will advance to the second stage, which will alter work schedules to allow investigators to attempt service of process on Saturdays.

- Working with traditionally difficult employers to establish a protocol for serving process on their employees;
- Revising the Memorandum of Understanding with the Metropolitan Police Department’s Paternity and Warrant Squad and improving communication between the Squad and CSSD;
- Partnering with the Prince George’s County Sheriff’s Department to facilitate process service in that jurisdiction; and
- Providing comprehensive training for investigators.

The effectiveness of these efforts will be measured in increased rates of successful service of process.

In addition to the service protocol, service of process represents additional challenges. From a psychological perspective, non-custodial parents can perceive the opening of legal process through compulsory means to be unduly adversarial and negative. Many non-custodial parents believe the

system is “against them” personally from the outset. Additionally, many non-custodial parents may not fully understand the substance of the documents they receive and the procedures they describe. This risk is enhanced by the District’s low literacy rates: nearly 75,000 District residents lack a high school diploma and 37 percent read at or below the third-grade level. More than 150,000 residents lack the basic literacy skills needed to get or hold an entry-level job.⁵³³

CSSD is attempting to address these issues. Since August 2006, CSSD’s Enforcement Unit has been contacting non-custodial parents by telephone to inform them of the pending child support proceeding and upcoming hearing date in an effort to encourage their voluntary participation in the process.⁵³⁴ CSSD encourages the non-custodial parent to voluntarily appear for the hearing and to bring their last two pay stubs and a copy of any paperwork that they have received. If the non-custodial parent appears at the hearing without being officially served, CSSD tells the parent that he or she is under no obligation to be there. If the non-custodial parent is not prepared to participate in the process that day, CSSD asks for willingness to accept service for a later court date. CSSD also tells the non-custodial parents that they have the right to leave the hearing.⁵³⁵ Additionally, CSSD is currently working to implement a Voluntary Service of Process Pilot Program.⁵³⁶ Its purpose is to encourage non-custodial parents to voluntarily submit to CSSD and accept service of process. The program will involve sending initial contact letters to non-custodial parents and providing them a limited period of time during which they can retrieve a copy of the paperwork at the CSSD office. After that period expires,

CSSD advises the non-custodial parents that CSSD will attempt service of process, which may include the Metropolitan Police Department or contact to their places of employment. It is not entirely clear what the non-custodial parent gains from this inconvenience, except perhaps being spared the embarrassment of process service at home or work.

CSSD’s pre-service procedures have not been well-received by the courts. CSSD believes the courts find the procedures potentially coercive and worries that CSSD may contact people directly who have legal representation. CSSD, however, states that the calls are scripted and monitored and that the content of the calls is appropriate and helpful to the non-custodial parent. Further, CSSD believes that this mechanism in conjunction with the Voluntary Service Pilot Program allows them to make contact with a non-custodial parent in a non-hostile way to establish orders.

Best Practices

Reviewing employer compliance with reporting mandates. Some states have been successful in creatively mining available data to rectify problems with their locate function. For instance, Minnesota conducted a compliance review with the new hire reporting laws to find out which employers may not be complying with the requirement to report all new hires to the state New Hire Reporting Center within 20 days of the employee starting work. To do this, Minnesota generated a list of possibly non-compliant employers by eliminating all employers who had reported a new hire within the last six months from a larger list of all employers within the state (as maintained by the Minnesota Department

of Revenue). Then, Minnesota eliminated multi-state employers who had reported a new hire to another state within the last six months (through use of the federal new hire database). Through this process, Minnesota was able to identify approximately 87,000 employers (out of a total of 150,033) who had not made a report to the New Hire Reporting Center within the last six months. Although some of these employers may not have made a new hire within the last six months, Minnesota mailed brochures on the new hire reporting program to all of these employers, both to provide a “gentle” reminder of the requirements and to educate employers on the reporting process. Minnesota was encouraged with the results of the program in that 3,000 new employees were added to the new hire database following the mailings.⁵³⁷

Accessing cell phone records to improve locate functions. States have found other ways to improve the locate process. Virginia was first to subpoena cell phone billing records to locate delinquent non-custodial parents and has garnered praise for its innovative process. The subpoenas are strictly limited to finding addresses and not calling histories. A coordinated effort between the Virginia Office of the Attorney General and the Child Support Agency enlisted the voluntary cooperation of cell phone companies to conduct data matches between their customer records and child support clients.⁵³⁸ As of November 2006, Virginia has issued more than 4,500 subpoenas to cell phone companies to locate non-custodial parents.⁵³⁹ Virginia’s success rate has been impressive, with 40 to 50 percent of the subpoenas producing locate information. Virginia continues to refine its procedures by working with cell phone companies to develop a more

effective matching process and to impress upon the cell phone companies the mutual benefit of automated data matches. A new automated quarterly match with two companies was begun at the end of 2006, and other companies are expected to follow in 2007.⁵⁴⁰ OCSE has formed a national committee on the use of cell phone numbers to gain information on parent location, and CSSD is participating on the committee.

Service Best Practices

Increased pre-service outreach and information to non-custodial parents.

Like the District of Columbia, Colorado has a high percentage of low-income non-custodial parents and a high child support default rate.⁵⁴¹ Denver County, in particular, is a highly urbanized area with a high currently- or formerly-incarcerated population.⁵⁴² Colorado wanted to increase participation by non-custodial parents in order to lower its default rate. The Division of Child Support Enforcement (CSE) also wanted more accurate and current information on which to base orders, as well as an improved image and relationship with non-custodial parents.

Colorado recently implemented a demonstration grant in Denver and Jefferson Counties to test strategies to promote the participation of non-custodial parents. For service functions, the project used a variety of mail, telephone, and other methods to encourage non-custodial parent participation with the system and establish rapport with them.⁵⁴³ This outreach occurred before service was attempted. The case worker sent a “contact us” letter explaining that the custodial parent had applied for services, the non-

custodial parent may be the father of the child, that paternity testing is available, and encouraging the non-custodial parent to contact CSE for an appointment.⁵⁴⁴ In addition to the letter, the case worker attempted to contact the non-custodial parent by telephone to explain the nature of the proceedings, identify barriers to child support payments, and make appropriate referrals to legal service providers.⁵⁴⁵ CSE reported a 44 percent non-custodial parent response rate to the letter.⁵⁴⁶

The San Francisco County's California Department of Child Support Services (DCSS) developed another program aimed at improving locate and service functions, called Enhanced Parental Involvement Collaboration (EPIC).⁵⁴⁷ Goals of the program included increasing efforts to contact non-custodial parents before serving papers, educating them about the child support process, and encouraging their participation. DCSS believes it is very important to take advantage of early opportunities to communicate information and establish a good relationship while they have the attention of non-custodial parents.

As part of the EPIC Program, before attempting service DCSS sends a "come and get it" letter to non-custodial parents. Written in simple, plain language, the letter informs them of the case filed, identifies the children who are at issue, and encourages the non-custodial parents to contact DCSS.⁵⁴⁸ During the evaluation program, approximately 18 percent of the non-custodial parents responded to the letter and contacted DCSS. If the non-custodial parent does not respond to the initial letter, DCSS performs additional pre-service outreach, which consists of

attempting to make telephone contact with the non-custodial parent (or obtaining assistance from others to reach the non-custodial parent, such as family members, an employer, social worker, prison official or other agency representatives). If contact is made, the case-worker speaks to the non-custodial parent either in person or by phone and explains the child support process. Information discussed includes (1) explanation of the summons and complaint; (2) the reasons for the case; (3) opportunity for genetic testing for paternity; (4) how child support is calculated; (5) how to formally appear and obtain a court date, and (6) any special needs of the non-custodial parents (*e.g.*, interpreters or guardian *ad litem*). Almost all of the interviews in the evaluation program resulted in either a stipulation or a filed answer. Overall, the non-custodial parent response rate after this type of outreach was 52.1 percent.

If there is no response from the non-custodial parent, process servers attempt personal service. These service documents included a "friendly flyer" to explain the documents and how the non-custodial parent can obtain assistance. The process server encourages the non-custodial parent to contact the agency and take advantage of his available options.

The success of the EPIC program was impressive. Using a variety of pre-service outreach efforts, DCSS obtained a 70 percent response rate prior to formal process service, and 88.5 percent of those contacted through all methods participated in the establishment process.⁵⁴⁹ The EPIC default rate was 11.5 percent compared to 64.7 percent for the control group.⁵⁵⁰ Among EPIC cases, collections were 15.96 percent higher, collections on cases with

arrears were 13.55 percent higher, and support distributed to custodial parents was 5.32 percent higher. DCSS, recognizing the success of the EPIC program, created a fulltime EPIC team and all new cases requiring establishment of orders now use the EPIC process.

Increasing hours and quality control.

Philadelphia has improved its service rates by more thoroughly investigating their locate information before attempting service. Philadelphia also has staff available for service on evenings and weekends, and employs an individual responsible for quality control to conduct random ride-alongs with process servers to ensure quality and verify accuracy of affidavits.

Recommendations

Locate Recommendations.

i. CSSD should continue and strengthen collaboration with IMA.

DC's co-location project improved the quality of the information obtained from TANF interviews and should be continued, and possibly expanded, by CSSD. Additionally, CSSD should work with IMA staff to help them understand the value of child support to the child and the importance of obtaining helpful locate information so that they can solicit paternity and child support information more effectively. Also, during the initial interview, CSSD should confirm locate information with the custodial parent. CSSD staff have indicated reluctance to share locate information with custodial parents for this purpose because of safety concerns for non-custodial parents. Confidentiality in this circumstance, however, should be the exception rather

than the rule. Given the relatively low instance of life-threatening female to male domestic violence, and the benefit of using the custodial parent's first-hand knowledge of the non-custodial parent, concealing the non-custodial parent's address should be based on some indication that safety may be an issue.

ii. Ensure compatibility of computer systems.

For locate searches, CSSD should make sure that any new computer systems have full compatibility to conduct automated matches with other agencies, in as close to real-time as possible, to identify the location of non-custodial parents and minimize any inefficiencies within the system.

iii. Implement the use of cell phone records for locate purposes.

CSSD should expedite its plans to use cell phone billing information to locate non-custodial parents. An estimated 65 percent of the total U.S. population owns a cell phone. Using the knowledge base that the state of Virginia has already developed, and the OCSE committee is developing, the appropriate DC agencies can take advantage of this new era-appropriate method to locate non-custodial parents.

Service Recommendations.

iv. Strengthen investigator training.

As proposed, CSSD process servers should get adequate training to fully understand service rules according to federal law the DC Code and any updates thereto on a recurring basis. CSSD, in collaboration with management, top performing employees, and union representatives, should develop job performance

standards for process servers so that they understand their job requirements and can be supervised effectively. Similar to Philadelphia, CSSD may want to consider having management “shadow” process servers on a random basis to oversee their performance.

v. Consider process service the earliest form of customer service for non-custodial parents.

Similar to San Francisco and Denver, CSSD should use personal service as a constructive way to educate non-custodial parents on child support processes and procedures. Although this process may not necessarily improve service rates in the short term, the process will benefit the non-custodial parents by encouraging their participation.

CSSD should continue to reach out to non-custodial parents through its Voluntary Service of Process Pilot Program. However, CSSD should ensure that non-custodial parents benefit from participation in this program, and should consider providing financial or other incentives to encourage participation.

The courts need to work with CSSD to find ways to reach non-custodial parents that will satisfy the courts’ concerns about coerciveness but also serve the community’s interest in engaging non-custodial parents in non-adversarial ways.. For example, in addition to including CSSD’s contact information and a request for the non-custodial to voluntarily appear, CSSD could include *simple* literature about the child support program, non-custodial parents rights and obligations (such as the right to counsel and to a paternity test), the identities of legal referral agencies and other resources available to the non-

custodial parent (such as fatherhood programs, and employment programs,). Information should be provided at the time of service and not after an order is in place, as is currently practiced. Such a mechanism would allow CSSD to “open the door” in a friendly but informative manner. Providing additional resources in the letter not only educates the non-custodial parent, but may also make it more likely that he/ she will effectively participate in the child support process. CSSD should incorporate similar materials with its service documents as well.

vi. Make better use of alternative forms of process service.

CSSD estimates that it would need 25 additional process servers in order to successfully perform service of process within the 45 day window for all of its cases. Clearly this is not viable. CSSD and the courts need first to study the effectiveness of bench warrants relative to the costs of personal service, and determine under what alternative circumstances bench warrants can be provided in child support cases. The overriding purpose is not to increase ex-parte or default orders, but to increase appearances by non-custodial parents to participate in establishing paternity and setting orders. CSSD and the Court share an interest in this goal and should work together to find fair and efficient means to accomplish it.



3. Medical Support

Introduction

With the anticipation of a new federal medical support performance standard in FY2008, child support agencies are focusing increased attention on ensuring that medical support is included in all child support orders. The DC Council passed the requirement for medical support in February 2001, in the Child Support Welfare Reform Compliance Amendment Act of 2000.⁵⁵¹ Agencies are responsible for ensuring that both new and existing orders include a provision for medical support. The goal of the medical support standard is to ensure that every child receives the most comprehensive health care coverage available to them, whether through private or public means.

Medical support can be ordered as cash reimbursement to the government for Medicaid, cash to the custodial parent for un-reimbursed medical costs, or enrollment in private health insurance. As with financial support, the child support agency is responsible for ensuring that medical support is provided as ordered. If one or both parents can obtain healthcare coverage from private insurance, then it is in the state's interest to ensure that the child is covered through that private policy so long as the policy is comprehensive and affordable and the care is accessible to the custodial parent and child. Sometimes, private insurance is not the best option; for example, when the non-custodial parent's coverage is limited to a geographic area to which the custodial parent and child do not have easy access. Often, however, neither parent has access to private health insurance. In DC, where over half of children live in households where no parent holds full-time employment⁵⁵² and is therefore unlikely to have medical benefits,

and where approximately 70 percent of those involved in child support currently or formerly received TANF, private health insurance is not always a feasible option. Many who leave TANF assistance jobless still rely on some sort of public assistance and therefore would still qualify for Medicaid.⁵⁵³ Of those TANF recipients who are employed only about half have health insurance from their employers.⁵⁵⁴ Given the high cost of health care, the importance of preventive health care for children and the cost to individuals, communities, and local health care systems of caring for the uninsured, the child support system has a vital role to play in ensuring that children are adequately covered.

Federal Mandates

Requirement for Medical Support Orders.

Although there have been a significant number of studies commissioned by, and recommendations made to, federal regulatory agencies regarding medical child support orders, to date there are relatively few federal mandates governing medical support. The principal federal mandate is that all child support orders enforced through state enforcement agencies must expressly address the provision of healthcare coverage under the enactment of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA).⁵⁵⁵ Since 1984, state child support agencies have been authorized to petition for the inclusion of medical support as part of all child support orders, with the purpose of increasing the number of children in single-parent families with health insurance.⁵⁵⁶ PRWORA

requires agencies to provide notice to employment-related coverage plans of existing medical support orders or require plan administrators to enroll qualified children, barring parental objection. Federal law provides that if affordable private health care coverage is available to the non-custodial parent, then that parent must obtain that coverage for his or her children. States have been allowed to modify the federal definition of “affordable” and some states have limited the percentage of income that can be required to be used toward purchasing health insurance. In DC, health care coverage is deemed affordable (*i.e.*, is available at a reasonable cost) if it is available through an employer-provided health plan of the custodial or non-custodial parent.⁵⁵⁷

Obtaining affordable private health insurance is not always feasible for parents. Low-income parents who have no or limited access to private health care coverage can participate in state Medicaid programs. Similar to TANF, Medicaid requires custodial parents to assign rights to seek private health care coverage for the child (*e.g.*, from the non-custodial parent) to the state’s child support enforcement agency and to cooperate with that agency in pursuing the private coverage or cash support to pay for health care coverage.⁵⁵⁸ The custodial parent must also disclose the paternity of each child covered by Medicaid and assist with enforcement of medical support orders against the non-custodial parent.⁵⁵⁹ If the parent fails or refuses to assign these rights or cooperate with the enforcement agency, the parent can lose his or her right to medical coverage under Medicaid; however,

the children of that parent do not lose their coverage.⁵⁶⁰ When a parent no longer qualifies for Medicaid, states must provide Transitional Medical Assistance (TMA) for a specified period of time.⁵⁶¹

In addition to Medicaid, states may offer health care coverage through the State Children’s Health Insurance Program (“SCHIP”).⁵⁶² There are no federal mandates applicable for SCHIP programs, as SCHIP is a block grant program that provides increased federal funds to states to offer health care coverage to children who are not income-eligible for Medicaid but have no private health insurance.⁵⁶³ States may offer SCHIP coverage through expanded Medicaid programs, which DC does. If a state chooses to offer SCHIP coverage through Medicaid, the assignment and cooperation requirements apply to the recipient parent because the children are considered Medicaid beneficiaries. Again, if the parent fails or refuses to assign rights to private health care coverage or to cooperate with the enforcement of such rights, then the parent loses eligibility for Medicaid coverage for himself or herself.

National Medical Support Notice

The Child Support Performance and Incentive Act of 1998 established the National Medical Support Notice (NMSN).⁵⁶⁴ The NMSN is a standardized federal form that states must use to notify employers of their responsibility to provide health coverage for a child. Federal law requires all state child support enforcement agencies to use the NMSN, which must be sent to the

employer, if appropriate, within two business days after the date of entry of the obligor's name in the State Directory of New Hires.⁵⁶⁵

The NMSN consists of four documents. The first is Part A- Notice to Withhold for Health Care Coverage - that is to be completed by the child support agency and sent to the employer with the rest of the packet.⁵⁶⁶ The second document is the "Employer Response," which is the employer's opportunity to inform the IV-D agency that:

- The employer does not provide health care coverage for its employees.
- The employee is not eligible for the health care coverage the employer provides.
- The employee has been terminated or has left that employment.
- The deduction for health care coverage cannot be made within state or federal withholding limits and the state's priority for withholding.

The employer has 20 business days to return the "Employer Response," if appropriate. If none of these situations is applicable, then the employer should comply with the NMSN by enrolling the child in the health plan. The third document is Part B – Medical Support Notice to Plan Administrator - which should be forwarded to the employer's health care administrator for handling. The final document of the NMSN is the "Plan Administrator Response" that is to be completed by the health plan administrator and returned to the child support agency. This will then be filed

to establish that medical support is being provided for the child(ren).

Federal Performance Measures

The Federal Child Support Performance Measures is the tool used by the federal government to allocate incentive payments to the state agencies.⁵⁶⁷ Beginning in FY 2008, establishment of medical support will be one of the performance measures for which states will be held accountable. As with the other performance measures, where states are effectively in competition with each other for a limited pool of federal incentive dollars, medical support offers another chance to increase federal funding to the District. The performance measures are designed to measure the overall effectiveness and efficiency of state child support services. Due to the impending accountability for establishment of medical support, this is an opportunity for CSSD to take steps to meet federal requirements and benefit from federal incentive grants. However, the specific measures have not been fully determined and the definition of medical support and other essential elements of this program may be subject to change in the coming year.

Challenges in the District

The District is one of only a few jurisdictions to dedicate a unit to processing medical support. In preparing for the upcoming federal performance measure on medical support establishment, the unit has reviewed about half of its 27,000 child

support cases established prior to 2004 for inclusion of medical support provisions.⁵⁶⁸ CSSD estimated that the agency needed approximately a year and a half to review orders set prior to 2004.⁵⁶⁹ To augment its review, CSSD has recently sent letters to custodial parents encouraging them to contact CSSD if their children do not have health care coverage or to provide insurance information if their children are covered by private health insurance.⁵⁷⁰ CSSD estimates that about 50-60 percent of cases in DC involve children on Medicaid, followed by cases where the custodial parent provides the insurance. The smallest percentage involves cases where the non-custodial parent provides the insurance.⁵⁷¹ Many working mothers are eligible for SCHIP coverage (DC Healthy Families), which is a Medicaid program for working families. A family of four can earn up to \$30,000 annually and be eligible for Medicaid.

During the review of existing cases, if a support order does not contain a provision for medical support, CSSD contacts the custodial parent to determine whether the child is covered by private health insurance and, if not, whether private health insurance is available. If either is true, CSSD forwards the case to its legal department to modify the support order to incorporate a medical support provision. All support orders requiring modification must be filed with the DC Superior Court Family Court for approval. Though most modification requests within the three-year review timeframe require demonstration of a substantial change in circumstance, a case can be reviewed solely to include a medical support provision in the child support order.⁵⁷²

According to a December 2002 OCSE Policy Interpretation Question (PIQ) memorandum, if the custodial parent has satisfactory health insurance coverage other than Medicaid, the child support agency does not have to petition for modification of the order to require either the custodial parent or the non-custodial parent to provide coverage.⁵⁷³ Failure to modify the order, however, could affect the agency's medical support performance under the federal standards.

In DC, if the custodial parent does not have private insurance, then a motion for modification will be filed and a hearing scheduled to determine the health care coverage options of the non-custodial parent.⁵⁷⁴ If the non-custodial parent is employed and ordered to begin providing medical support, CSSD sends an NMSN to the non-custodial parent's employer.⁵⁷⁵ If the employer determines that the child is eligible for coverage under its plan, then the employer sends the designated portion of the NMSN to the administrator of the employer's group health plan to enroll the child(ren). However, if multiple health care options exist under the employer's health plan, then the employer sends a portion of the NMSN back to CSSD to select the most appropriate health care option. CSSD contacts the custodial parent to solicit her input on the health care option she prefers.⁵⁷⁶ If the custodial parent does not respond or select a health care option within 30 days, then CSSD makes the choice. There are no agency criteria for making their choice. Once the selection is made, the NMSN is sent back to the employer, and the children are enrolled in the selected group health plan.

If the non-custodial parent is employed, but is not eligible for employer-provided health care coverage, then CSSD reviews the medical support order to determine whether it obligates the non-custodial parent to provide alternative coverage. If it does not, then the case will most likely need to be reheard in court. CSSD typically contacts the custodial parent to determine if other private options are available for the child. If no other options exist, or the custodial parent does not respond, then CSSD returns the case to court to allow the judge to decide an appropriate medical support order.

CSSD does not currently conduct a systematic review of coverage alternatives once health care coverage is in place. For example, if affordable private health insurance is unavailable and coverage is provided through Medicaid, it is CSSD's

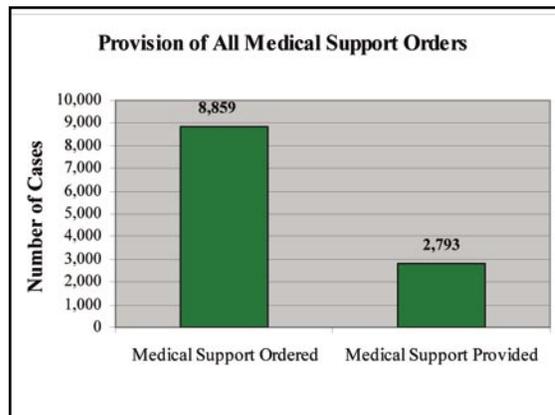
practice to include in the order that private coverage be provided if and when it becomes available. The daily match against the New Hire Directory will not trigger a response, however, if the medical support order is considered satisfied. Similarly, there is no mechanism in place for ascertaining all potential sources of coverage. The focal point for coverage analysis is the custodial or non-custodial parents and not their households. Very little or no consideration is given to

health care coverage available to a step-parent. Moreover, there is no law or vehicle in DC that requires a step-parent to obtain such coverage. As a result of these limitations, it is likely that some District children are enrolled in Medicaid when better private coverage is available. It is worth considering whether legislation to include step-parents in provision of private insurance might both enhance options for children as well as enhance the ability of CSSD to get "credit" for additional medical support orders.⁵⁷⁷

In addition, while medical support obligations in the District continue until the child attains age 21, coverage under employer provided health plans generally terminates when the child attains age 19,

unless the child is enrolled full-time in post-secondary education.⁵⁷⁸ Currently, CSSD does not have procedures in place to ensure that the obligated parent continues to provide private health care coverage when a child's eligibility ceases under the employer provided health plan. This means the child either then lacks

coverage, enrolls in Medicaid if eligible, or is covered by the custodial parent in contradiction of the existing court order. Some other jurisdictions also experience this difficulty and are addressing it in a number of ways, as will be discussed in the next section. CSSD has recently included the investigation of this issue in the strategic plan of the Medical Support Unit.



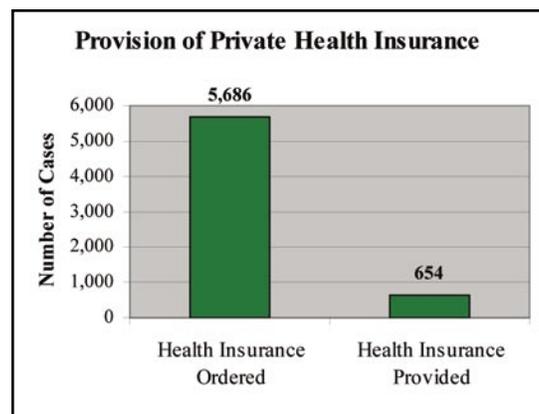
In 2006, only one-quarter of DC's child support orders contained medical support provisions. Of these, 64 percent contained orders for health insurance enrollment (as opposed to cash contributions) and only 16 percent of those saw health insurance provided as ordered. Overall, less than 1,000 child support cases were being enforced for private medical coverage.⁵⁷⁹ Such low numbers demonstrate a need for CSSD to improve its follow-up procedures for medical support orders, especially to employers. Currently, when an employer fails to timely respond to the NMSN, a warning letter can be generated, but the process is not fully automated. According to CSSD staff, 60-70 percent of employers respond to the warning letter and thus far, no employer has been fined for failure to comply with the NMSN. It is inappropriate that the District provide Medicaid for children whose parents or other family members have adequate health insurance coverage available and equally inappropriate that District children go without health insurance because of a failure to ensure that proper enrollment procedures are being followed. Medicaid should not be the default if health care coverage is otherwise available.

Best Practices

Employer outreach regarding NMSNs.

The NMSN is an extensive and complicated document and requires

action by state agencies, employers, and health plan administrators within certain prescribed time periods. As with any action that requires the concerted efforts of multiple entities, outreach and education are necessary to ensure that the process is orderly and efficient. Some jurisdictions, like New Jersey, hold meetings with employers, plan administrators, payroll associates, human resources organizations, and chambers of commerce to heighten familiarity with the NMSN. In addition, New Jersey's child support enforcement agency prepares and distributes fact sheets, brochures, Frequently Asked Questions (FAQ) sheets, and information packages to all stakeholders.⁵⁸⁰ Several jurisdictions have established a toll-



free hot line and internet website that employers and plan administrators can use to obtain information regarding NMSNs or the process for implementing coverage pursuant to an NMSN.⁵⁸¹

In addition, New York's child support enforcement agency created a cover letter for the NMSN, providing a quick reference for the NMSN process and timelines for the employer and plan administrator. To augment the state child support agency's efforts, New York's Department of Labor included articles regarding the NMSN in its newsletter, and New York's Department of Insurance issued letters to licensed health care providers and carriers reminding them that they

were obligated to honor the NMSN. To enhance efficiency, New York has automated the NMSN process, and all documents related to the support order or NMSN are routed through a central location. Finally, the state child support enforcement agency is working with large employers to reduce the amount of paperwork associated with the NMSN. Such outreach procedures may improve the District's currently poor rate of providing ordered health care coverage.

Preventing gaps in coverage. Many non-custodial parents subject to support orders frequently change employment, which can lead to gaps in medical coverage for the children. In response, Rhode Island initiated a process obligating employers to provide the state child support agency with notice whenever a child loses health care coverage under an employer provided health care plan. This notice allows the state enforcement agency to act quickly to issue a new NMSN to the non-custodial parent's new employer and minimize any lapse in coverage.

Accessing information about health insurance options. Child support agencies are not health insurance brokers. The Georgia state enforcement agency discovered that a vendor used by the state Medicaid program identified children enrolled in the SCHIP program who could be removed because they had access to private health insurance. The vendor also maintained a database of private insurance coverage and had information about private insurance available to children not in the Medicaid or SCHIP programs. The child support enforcement agency realized that it could

use such a database when modifying support orders or enforcing the terms of medical support orders to search for private insurance coverage options for children.⁵⁸² Care needs to be used when employing outside vendors for this purpose since not all insurers will provide information to these private companies and the data may not be sufficiently reliable to comply with OCSE standards.⁵⁸³

Determining affordability of coverage.

As previously mentioned, federal law provides that private health care coverage is considered available at a "reasonable cost" if it is available through an employer provided health care plan.⁵⁸⁴ However, with the ever-increasing cost of dependent care coverage, many judicially-oriented child support states have diverged from the federal interpretation of "reasonable cost." In Texas, the maximum amount that the non-custodial parent is required to pay for health care coverage is ten percent of the non-custodial parent's monthly net income. Similarly, Colorado sets the maximum amount for health care at 20 percent of the non-custodial parent's gross income. New Jersey limits the maximum that must be paid for coverage to no more than 5 percent of the non-custodial parent's net income, and no parent below 200 percent of the poverty level is required to provide coverage unless it is available to them at no cost.⁵⁸⁵ DC does not place specific limits on medical support, but provides that the total child support obligation (including health insurance premiums, child care expenses, and extraordinary medical expenses) shall not exceed 35 percent of the obligated parent's adjusted gross income.⁵⁸⁶ The federal definition

is likely to change based on proposed rules promulgated in September 2006,⁵⁸⁷ and the District will be required to enact conforming legislation.

Addressing the potential gap in health care coverage for dependents. In response to potential coverage gaps when private insurance ends (usually at age 18), several states have devised practices to ensure continued coverage for dependents. In New Jersey, there is no age of emancipation, so the child support and medical support continue until a party makes a motion to end the order.⁵⁸⁸ This means that an order can continue until the child completes schooling, whether post-college or vocational training. However, there is nothing in place to cover the gap when the employer-sponsored insurance ceases for dependents, although New Jersey is considering instituting a cash medical support requirement if a gap in coverage occurs. Georgia is evaluating the use of a child support insurance pool, and Massachusetts is implementing the “Connector,” an independent public authority created to assist qualified Massachusetts adult residents who lack health care coverage to obtain affordable health care coverage. This system will affect child support, though coordination between the Connector and state child support agency has not yet taken place.⁵⁸⁹

Use of medical support facilitators. At least two states have established pilot programs that use medical support facilitators to obtain information from the custodial and non-custodial parents regarding income and health care coverage alternatives.⁵⁹⁰ The

facilitators obtain information prior to the establishment of the child support order and use the information to make a recommendation to the court as to the medical component of such order. Moreover, the data obtained by the facilitator are used in other relevant matters, such as to pre-screen families for Medicaid and SCHIP programs. For enforcement cases (*i.e.*, existing orders), the use of facilitators resulted in a significant increase in healthcare coverage, substantial offsets to Medicaid costs, and fewer cases seeking order adjustments.⁵⁹¹ The facilitators did not have a similar effect on establishment cases, mainly because in many of those cases the children were already enrolled in Medicaid at the time the child support order was established.

In addition, Georgia is exploring the feasibility of providing state-wide or regional health care coverage to children of parents who are unable to obtain private or public health care coverage. To this end, Georgia has established a limited risk-pool for children that fall within the coverage gap and has issued a request for proposals that requires vendors to agree that the cost remain constant in the first year and commit to rates for the second and third years.

Finally, North Carolina has implemented a program under which a family may receive twelve months of transitional Medicaid coverage when the earned income of the family renders it ineligible for Medicaid or SCHIP. This program benefits cases where medical support orders do not exist, or require modification or enforcement. This

initiative benefits the state in that it maximizes the use of private health insurance, but allows for the use of public health care when necessary and for a limited period of time.

Recommendations

DC Appleaseed was encouraged to learn that CSSD recently developed a strategic plan for its Medical Support Unit that includes a number of important steps toward correcting current shortcomings and looking toward a more effective medical support program. We strongly encourage CSSD to move forward on these initiatives and prepare for the promulgation of the forthcoming rules.

i. Develop a strong national medical support notice program.

CSSD should design a program that will be proactive rather than reactive and establish a strong medical support program with a focus on the NMSN.⁵⁹² We recommend that the program include the following.

- Work closely with employers to make the process as easy as possible for them, and as easy as possible for staff to follow up:
 - Establish a toll-free phone number, a web page, or a similar tool for employers to obtain useful information regarding the NMSN and associated procedures. CSSD should make its information as user-friendly as possible and, should CSSD determine that web-based communication is optimal, it should work as closely as possible with the Office of the Chief Technology Officer to ensure a final product that

meets employer needs.

- Automate the process for employers as much as possible.
- As planned, create a clean, usable database of employers already providing health insurance coverage under a support order. Once information from the employer is available, use it to fill out subsequent NMSNs via phone communication rather than accepting a non-response from that employer. This process depends upon getting a verified employer Federal Employer Identification Number since that is the key to accessing the information necessary to enforce compliance.
- CSSD should initiate an outreach program informing employers of rules governing NMSNs, such as the employer's liability if it fails to return or process the NMSN within the prescribed time and an eligible child requires medical care.
- Establish regular follow-up procedures.
 - When Part A of the NMSN comes back from an employer indicating that the non-custodial parent is not covered by health insurance, automatically generate a letter to the custodial parent providing information about Medicaid/SCHIP coverage. Coordinate with Medicaid to

conduct a monthly three-point match to find out whether referred families are then enrolled in Medicaid to demonstrate that CSSD facilitated coverage. Start now to collect data on Medicaid offset collections which will begin to be required by OCSE in 2009. With the combination of facilitated coverage and demonstrated collection, Medicaid should be able to help fund these activities.

- If a NMSN is returned for ineligibility, then CSSD should automatically generate a new NMSN annually and send it to the non-custodial parent's employer – as eligibility and coverage may change from year to year.
- Similarly, when a New Hire is registered for a Medicaid recipient child, an NMSN should be automatically sent to the new employer. All orders should be written to ensure that this is viable.
- Fill in the gaps.
 - The District should establish a health insurance program option for 19-21 year olds who are not enrolled in post-secondary education, do not qualify for Medicaid, and do not have employer-based health insurance. In other words, a program

should be designed to provide health insurance to child support-eligible youth who are not eligible for existing coverage options.

- Develop supplemental forms to capture information not provided in the NMSN - such as specific information about the insurance program which the child is enrolled - to ensure that children receive maximum benefit from their insurance coverage.

ii. Increase CSSD's administrative authority to modify child support orders for the purpose of adding medical support provisions.

As CSSD reviews all previously established child support orders to ensure they include medical support in preparation for the inclusion of medical support in the federal performance measures in 2008-2009, some of these cases clearly require hearings to determine which parent should provide and/or pay for health insurance coverage. Other cases involve merely documenting that the custodial parent is providing insurance and both wishes and plans to continue. CSSD should be granted authority by the DC Council to modify these orders to include that the custodial parent will continue to provide health insurance. This will save CSSD's, the court's, and custodial parents' time and resources. The procedures by which this should be done should be designed in consultation with the court. (*See further*

discussion in Part IV, Section B, pp. 205-207.)

iii. Follow-up on orders that contain medical support provisions to ensure enforcement.

Apart from meeting federal mandates regarding the establishment of medical support, the District should invest in a strong follow-up program ensuring that medical support orders are met. Investing in a strong medical support enforcement system at the beginning of the program will help build relationships with employers and families that will continue to pay off over the long term.

iv. The District should codify the right of child support-eligible children to receive medical support through a step-parent.

Following the recommendation of the Medical Child Support Working Group, the DC Council should enact legislation to clarify that parents can provide health insurance coverage for a child through a current spouse if coverage is accessible, if the spouse is willing, and if there are no restrictions on the employer's health insurance program preventing the enrollment of a step-child.



Conclusion

The District of Columbia's child support system is one of the most important functions in the local government – particularly given the number of children in that system and the circumstances in which they live. Some have said that DC's child support system does not compare badly to other medium-sized cities if one controls for demographics. Those demographics include race, educational status, age, and number of children. The answer, however, is not to *control* for the demographics but to *adapt* to those demographics. DC's child support system needs to be better designed to serve the particular children and families who depend on it.

This Report contains many recommendations designed to help DC's child support system do that. We believe that, if our system incorporated practices that address unemployment, incarceration, arrearages, parenting problems, and other obstacles to the regular payment of child support, the performance of the program will significantly improve and DC's children will be better served. CSSD has indicated

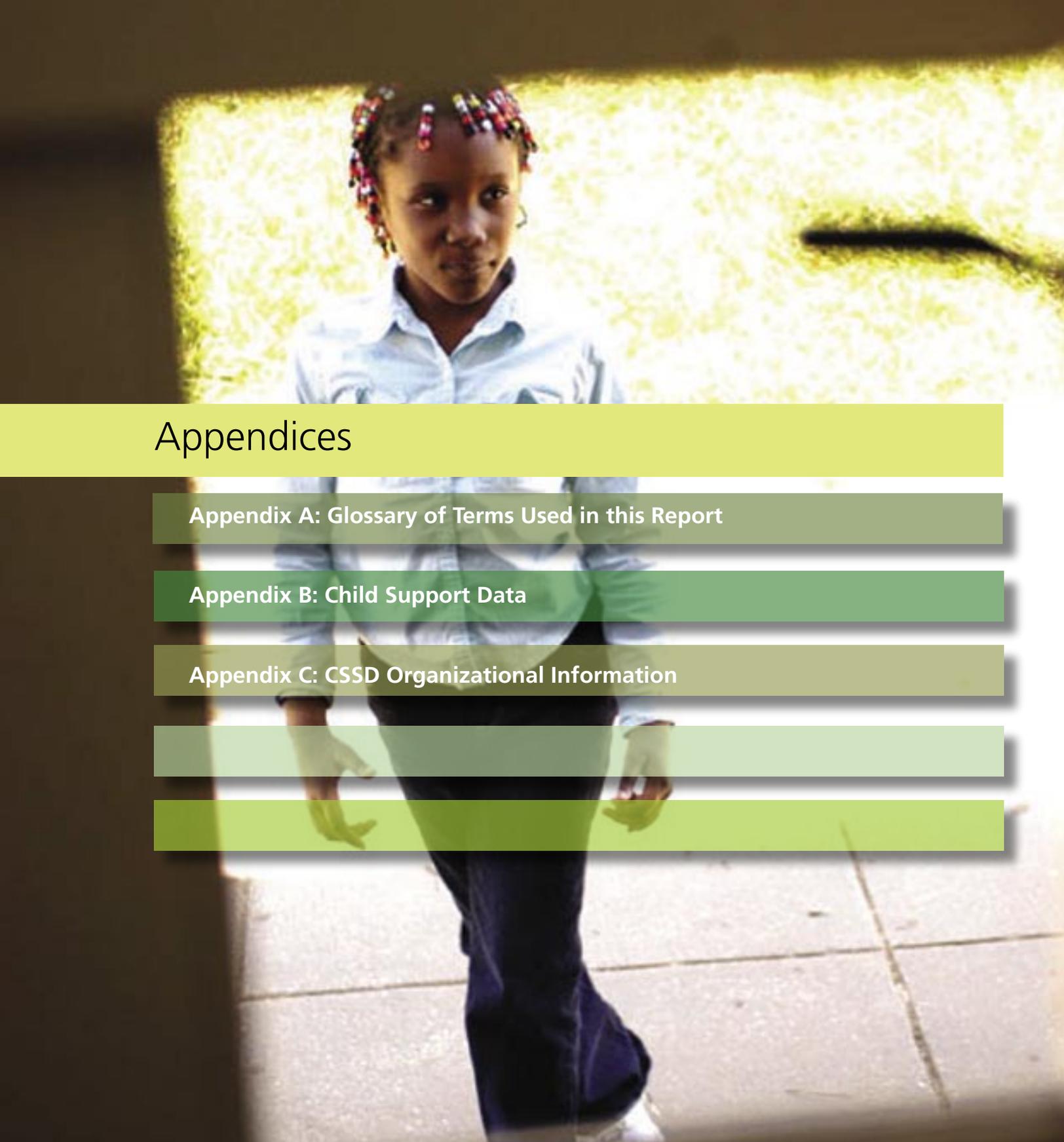
an interest and willingness to move in this direction.

To get there, the system must move away from thinking of non-custodial parents as the problem. It must instead treat all parents equally, and all parents as potentially part of the solution. Low-income non-custodial parents – parents that are “dead broke,” not “deadbeat” – must come away from their contact with the child support system more willing and more able to support their children than before. And the system must help them get there.

The decision to invest in the child support system should be an easy one. Besides the financial return – an average of \$4.58 cents paid in support for every government dollar spent – child support improves the likelihood that children will stay in school and reach their full potential as adults. DC is spending millions to improve our school system. It should invest at least as much in making sure the families of our most vulnerable children are equally sound.



DC Appleseed



Appendices

Appendix A: Glossary of Terms Used in this Report

Appendix B: Child Support Data

Appendix C: CSSD Organizational Information

Appendix A: Glossary of Terms Used in the Report ⁵⁹³

Absent Parent/Father: See non-custodial parent.

ACF/Administration for Children and Families: The ACF is part of the federal Department of Health and Human Services (DHHS) and handles Child Support, Child Care, Foster Care, Head Start, and a variety of other programs.

Arrearage/Arrears: Unpaid overdue child support.

Bradley Amendment: A 1986 amendment to Title IV-D that prohibits state courts from retroactively modifying child support orders. It is specifically designed to prevent state courts from unilaterally reducing an obligor's child support debt.

Child Support Guidelines: Child Support Guidelines provide a standard method for calculating the amount of support that is owed by a non-custodial parent. Every state is required to develop a child support guideline. As of April 1, 2007, DC is using a new guideline formula.

Custodial Parent: The parent with whom the child primarily resides. The custodial parent is typically the recipient of child support payments. This report sometimes uses 'mother' when referring to the custodial parent because five of every six custodial parents are mothers (83.1 percent).⁵⁹⁴

CSE/Child Support Enforcement: The state or local government agency operating in accordance with Title IV-D of the Social Security Act (See 'IV-D').

Child Support: The financial support paid by a parent to help support a child or children of whom they do not have custody.

It can be entered into voluntarily, through divorce or custody cases, or when ordered by the court.

CSOSA/Court Services and Offender Supervision Agency: CSOSA is a federal agency responsible for the supervision of criminal offenders who return to the District from prison and/or who are sentenced in the District to probation.

CSSD/Child Support Services Division: A division of the DC Office of the Attorney General, CSSD is the agency in charge of administering the child support system in the District.

DHHS/Department of Health and Human Services: DHHS, sometimes referred to as HHS, is the federal agency that includes the Administration for Children and Families, the Office of Child Support Enforcement, and the Office of Family Assistance (administrators of TANF).

IMA/Income Maintenance Administration: IMA is located within the DC Department of Human Services and is the local administrator of Temporary Assistance for Needy Families (TANF).

IV-A: The title of the federal Social Security Act that contains the Temporary Assistance for Needy Families (TANF) program. IV-A agencies are the designated administrators of federal TANF funds. IMA is the IV-A agency in the District

IV-D: The title of the federal Social Security Act that contains the child support enforcement program. IV-D agencies are the designated administrators of child support program funds. CSSD is the IV-D agency in the District.

Medical Support: Refers to provision in child support orders that address which parent will enroll the child in and/or pay for public or private health insurance.

Medicaid: A federally-funded medical insurance program with income eligibility requirements.

Non-Custodial Parent: Refers to a parent with whom the child does not regularly reside. This report often refers to the non-custodial parent as the father because five of every six non-custodial parents are fathers (83.1 percent) and only 1 in 6 are mothers (16.9 percent).⁵⁹⁵ Also referred to as absent parent or non-resident parent.

Non-Resident Parent: See non-custodial parent.

OCSE/Office of Child Support

Enforcement: OCSE is an office within the Administration for Children and Families (ACF), a part of the US Department of Health and Human Services (DHHS). It administers the federal child support program.

Obligor: A person who owes child support pursuant to a child support order.

Obligee: A person to whom child support is owed.

OAG/Office of the Attorney General: OAG is the governmental agency under the Mayor that has authority over and conducts all law business in the District. The OAG operates under the authority of DC Official Code § 1-301.111. The Child Support Services Division (CSSD) is a division of OAG.

Paternity Establishment: The legal determination of fatherhood by court order, administrative order, voluntary acknowledgement, or any other method under state law.

Petitioner: The party initiating a legal motion or case.

PIQ/Policy Interpretation Question: Informational memos from the OCSE office to state IV-D offices regarding various child support policy issues and updates.

Poverty: Poverty is a federal indicator of a family’s economic status and ability to obtain resources for basic needs of living. According to the US Census Bureau, the 2006 poverty threshold for a family of three, with one child under 18, was \$16,227.⁵⁹⁶ Eligibility for means-tested programs is often expressed as a percentage of poverty.

Pro Se: A *pro se* client is someone who at the time of filing a motion or case does not have legal representation.

Respondent: The party answering a petition or motion.

TANF/Temporary Assistance for Needy Families: TANF is the federal block-grant program administered on the state level that offers assistance and work opportunities to needy families (welfare) for a limited period of time. On a federal level, TANF is overseen by the Office of Family Assistance (OFA) which is part of the Administration for Children and Families, US Department of Health and Human Services. In DC, TANF is administered by the IMA (See ‘IMA’).

Workforce Development: Refers to a relatively wide array of learning-for-work activities and programs, like vocational education, work readiness, and job training programs. Programs that provide career and technical education are included in workforce development.

Appendix B: Child Support Data

	DC 2004	National 2004	DC 2005	National 2005	DC 2006	National 2006
Caseload	92,847	15,854,475	85,117	15,860,753	77,651	15,844,238
Cases with Orders Established	32,425	11,753,603	33,707	11,994,590	35,278	12,215,891
Number Orders Established	1,179	1,181,012	1,902	1,180,238	1,950	1,158,866
Cases with Collections	17,683	8,133,646	18,663	8,303,946	18,071 (23 %)	8,530,648
Number of Children	98,054	17,289,695	86,968	17,173,286	76,658	17,261,575
Statewide PEP	64.34 %	98.73 %	74.81 %	83.38 %	78 %	97.87%
Percent of Cases with Orders	34.92 %	74.37 %	39.6 %	75.9 %	45 %	77.3%
Percent of Current Collections Distributed	51.22 %	58.99 %	52.89 %	60 %	52.5 %	60.35%
Percent of Cases with Arrears Collection	42.33 %	59.87 %	43.68 %	60.04 %	41.7 %	60.07%
Cost Effectiveness	\$3.14	\$4.38	\$2.45	\$4.58	\$2.55	\$4.58

Statewide PEP: percentage of children born out of wedlock with paternity established/acknowledged.

Source: From HHS FY 2004 Preliminary Data Report, Child Support Enforcement Annual Data Report (Form OCSE-157) DC 2006, HHS 2005 Preliminary Data Report, and HHS 2005 Preliminary Data Report.

Appendix C: CSSD Organizational Information

The Child Support Services Division is one of eight Divisions within the Office of the Attorney General. Within CSSD there are five Sections, containing a total of 15 units. Two of these Sections, Systems and Automation and Fiscal Operations, do not involve individual case management. The other three Sections - Legal, Policy & Training (which contains the Customer Service Unit), and Program Operations - have direct responsibility to customers and/or handle cases. Within these three sections, 10 managers oversee the operations and functions of 84 caseworkers, who are supported by 27 clerical assistants. Currently in CSSD, there are 16 vacancies amongst these three sections, a 19 percent vacancy rate.

Systems and Automation Section contains six units with 53 current positions plus a Section Chief and Administrative Assistant. Of the 53 positions, there are 5 vacancies, and 3 positions planned for the future. Fiscal Operations has 3 units and 24 current positions plus a Section Chief. There are 6 vacant positions, including one management position, and there is one administrative position slotted for the future.

Endnotes

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- ⁵ *Child Support Payments Benefit Children in Non-Economic as Well As Economic Ways: Research Fact Sheet*, Center for Law and Social Policy (Oct. 2004).
- ⁶ Email from Cynthia Bryant, Clinical Professor and Director, University of Texas at Austin School of Law, to Judith Berman, Senior Program Associate, DC Appleaseed Center (Mar. 20, 2007) (Dispute Resolution WICSEC 2006 (Nov. 2006)).
- ⁷ Interview with Jessica Pearson, Director, Center for Policy Research in Denver, CO, in Washington DC (Sept. 12, 2006).
- ⁸ Stacy L. Brustin, *The Intersection between Welfare Reform and Child Support Enforcement: DC's Weak Link*, 52 Cath. U.L. Rev. 621 (2003).
- ⁹ Karen M. Roye, *Enhanced Parental Involvement Collaboration (EPIC) Project Final Report*, Executive Summary 4 (2005-2006) (Oct. 13, 2006).
- ¹⁰ Department of Health and Human Services, Administration for Children and Families, Form OCSE-157 The Child Support Enforcement Annual Data Report, District of Columbia (2006).
- ¹¹ Timothy S. Grall, *Custodial Mothers and Fathers and their Child Support*, 2003, US Census Bureau Current Population Reports (2006).
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- ¹⁴ *See id.*
- ¹⁵ *See id.*
- ¹⁶ Jacquelyn Bogess and Daniel Ash, *Understanding Child Support: A Practitioner's Guide for Working with Fragile Families*, 3 (Flona D. Mincy, ed., Legal Protection for Fragile Families, 2001).
- ¹⁷ *See id.*
- ¹⁸ Lauren M Rich, Irv Garkinkel, and Qin Gao, *Child Support Enforcement Policy and Unmarried Fathers' Employment in the Underground and Regular Economies* 1 (May 2006) (unpublished).
- ¹⁹ Bogess and Ash, *supra* note 16, at 4.
- ²⁰ *See id.*
- ²¹ *See id.*
- ²² P.L. No. 93-647.
- ²³ *Child support enforcement policy and low-income families*, 1 FOCUS 1 (2000) (Timeline of major changes in federal laws affecting child support enforcement).
- ²⁴ *See id.*
- ²⁵ House Committee on Ways and Means, 2004 Green Book, WMCP 108-6, pt. 8, at 15 (2004).
- ²⁶ *See id.*
- ²⁷ *See id.* at 16.
- ²⁸ *Id.* at 16.
- ²⁹ *Child support enforcement policy and low-income families*, *supra* note 23.
- ³⁰ *See id.*
- ³¹ Bogess and Ash, *supra* note 16, at 20.
- ³² *See id.*
- ³³ *See id.*

- ³⁴ *Child support enforcement policy and low-income families, supra* note 23.
- ³⁵ *See id.*
- ³⁶ *See id.*
- ³⁷ *See id.*
- ³⁸ *See id.*
- ³⁹ Bogess and Ash, *supra* note 16, at 24.
- ⁴⁰ WMCP 108-6, *supra* note 23, pt. 8, at 8.
- ⁴¹ <http://www.acf.hhs.gov/programs/cse/newhire/library/brochures/fpls/fpls.htm>.
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- ⁴⁴ WMCP 108-6, *supra* note 35, pt. 8, at 44.
- ⁴⁵ *See id.* pt 44, at 29.
- ⁴⁶ *See id.* pt 45, at 29.
- ⁴⁷ Memorandum from the Office of Child Support Enforcement to State Child Support Enforcement Agencies, OCSE IM-01-02, (Apr. 18 2001) *available at* <http://www.acf.hhs.gov/programs/cse/pol/IM/2001/im-01-02.htm>.
- ⁴⁸ *Child support enforcement policy and low-income families, supra* note 23.
- ⁴⁹ WMCP 108-6, *supra* note 23, pt. 8, at 13.
- ⁵⁰ *See id.* at 29.
- ⁵¹ *Child support enforcement policy and low-income families, supra* note 23.
- ⁵² WMCP 108-6, *supra* note 23, pt. 8, at 32.
- ⁵³ *See id.* at 39.
- ⁵⁴ Memorandum from the Office of Child Support Enforcement to State Child Support Enforcement Agencies, OCSE-IM-01-07, Legislation on Presumptive Eligibility for Medicaid and Final Rules for State Child Health Insurance Program (SCHIP) and Medicaid Presumptive Eligibility (Aug. 31, 2001).
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- ⁵⁷ *See id.* at 40-41.
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- ⁶² WMCP 108-6, *supra* note 23, pt. 8, at 33.
- ⁶³ *See id.* at 35.
- ⁶⁴ *See id.* at 35.
- ⁶⁵ *See id.* at 36.
- ⁶⁶ *See id.* at 37.
- ⁶⁷ *See id.* at 38.
- ⁶⁸ *See id.* at 39.
- ⁶⁹ *See id.* at 38.
- ⁷⁰ Bogess and Ash, *supra* note 16, at 8.
- ⁷¹ *See id.* at 12.
- ⁷² H.R. Doc N9 108-6, pt 8, at 21 (2004).
- ⁷³ *See id.* at 22.
- ⁷⁴ *See id.* at 20.
- ⁷⁵ *See id.*
- ⁷⁶ *See id.*

⁷⁷ See *id.* at 58.

⁷⁸ See *id.*

⁷⁹ Bogess and Ash, *supra* note 16, at 8.

⁸⁰ S. 1932: Deficit Reduction Act of 2005 Congressional Budget Office Cost Estimate, January 27, 2007; Interview with Federal Government Officials, US Department of Health and Human Services, DC (Feb. 7, 2006).

⁸¹ S. 803.IS (2007) and H.R. 1386.IH. (2007)

⁸² See *id.* States could formerly get credit for all paternities established in the state, and will now be limited to paternity establishment among children in the child support caseload.

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⁸⁵ See *id.*

⁸⁶ Interview with Federal Government Officials, US Department of Health and Human Services, DC (Feb. 7, 2006).

⁸⁷ H.R. Doc N9 108-6, pt 8, at 54 (2004).

⁸⁸ See *id.* at 51.

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⁹⁰ http://ocse.acf.hhs.gov/ext/stateplanspublic/tc4.cfm?state_id=DC.

⁹¹ Department of Health and Human Services, *Office of Child Support Enforcement, Strategic Plan 2005-2009* at 1 (1995).

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⁹³ See *id.* at 6.

⁹⁴ See *id.* at 6.

⁹⁵ See *id.* at 10.

⁹⁶ See *id.* at 10-12. For discussion of debt leveraging, see Part IV, Section 1, Chapter 5, Management of Child Support Arrears.

⁹⁷ See *id.* at 1.

⁹⁸ H.R. Doc N9 108-6, pt 8, at 5 (2004). The Child Support Enforcement Amendments of 1984 (Public Law 98-378) extended the authority in section 1115 of the Social Security Act to the Child Support Enforcement program. This funding could be used for states to test innovative approaches to support enforcement so long as the modification does not disadvantage children in need of support nor result in an increase in Federal TANF costs. ⁹⁹ http://www.acf.hhs.gov/programs/cse/grants/1115_description.html.

¹⁰⁰ <http://www.acf.hhs.gov/grants/open/HHS-2006-ACF-OCSE-FD-0006.html>.

¹⁰¹ Vicki Turetsky, *Families Will Lose At Least \$8.4 Billion in Uncollected Child Support If Congress Cuts Funds – and Could Lose Billions More*, Center for Law and Social Policy (January 18, 2006).

¹⁰² 2005 American Communities Survey, *available at*

http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=04000US11&-qr_name=ACS_2005_EST_G00_DP3&-ds_name=ACS_2005_EST_G00_&-lang=en&-sse=on.

¹⁰³ This number represents children under age 18. Child support in the District applies until the child reaches age 21. *Butler v. Butler*, 496 A.2d 621.

¹⁰⁴ According to the US Census 2006 Federal Poverty threshold, poverty for a single parent with two children is \$16,242. 200 percent of poverty for a single parent with two children would therefore be \$32,484. Poverty thresholds are used to calculate the number of Americans in poverty each year. The Department of Health and Human Services uses a formula based on the poverty threshold (*i.e.*, Poverty Guidelines) for administrative purposes, such as determining financial eligibility for certain federal programs.

¹⁰⁵ Stephen Baskerville, *The Politics of Fatherhood, PS: Political Science and Politics*, No. 4, Vol. 35 (Dec. 2002).

¹⁰⁶ *Turning the Corner on Father Absence in Black America: A Statement by the Morehouse Conference on African American Fathers*, Morehouse Research Institute and Institute for American Values (1999), *available at*

http://www.americanvalues.org/turning_the_corner.pdf.

¹⁰⁷ Eirini Flouri, *Fathering and Child Outcomes*, Hoboken, NJ: Wiley (2005).

¹⁰⁸ Elaine Sorenson, Testimony before the DC Council Judiciary Committee, June 5, 2003.

¹⁰⁹ Former assistance cases are close to the national average (42.7% and 45.9% respectively) while non-public assistance recipients form a higher proportion of child support cases nationwide (27.7% in DC, compared to 38.3% nationwide). US Department of Health and Human Services, The Office of Child Support Enforcement, *Preliminary Report FY 2005* (2006), *available at* <http://www.acf.hhs.gov/programs/cse/pubs/2006/>.

reports/preliminary_report/.

¹¹⁰ Gregory Acs and Pamela Loprest, *A study of the District of Columbia's TANF Caseload*, at ii (2003), available at <http://www.urban.org/url.cfm?ID=410863>. 2006 federal poverty guideline for a family of three is \$16,600. The above statistics are based on a 2003 report using data from TANF recipients in 2002.

¹¹¹ See *id.*

¹¹² District Department of Employment Services, *The District of Columbia's Strategic Two Year Workforce Investment Plan 2005-2007*, at 49 (2004), available at http://www.does.dc.gov/does/frames.asp?doc=/does/lib/does/frames/State_Plan_Final_Document.pdf.

¹¹³ DC Kids Count Collaborative, *Every KID COUNTS in the District of Columbia*, 13th Annual Fact Book (2006).

¹¹⁴ Ward 3, in contrast, had an unemployment rate of 3.2%. District Department of Employment Services, *The District of Columbia's Strategic Two Year Workforce Investment Plan 2005-2007*, at 45 (2004), available at http://www.does.dc.gov/does/frames.asp?doc=/does/lib/does/frames/State_Plan_Final_Document.pdf.

¹¹⁵ Irwin Garfinkel and Sara McLanahan, FOCUS, *Fragile Families and Child Well-Being: A survey of new parents 9-11* (2000).

¹¹⁶ DC Kids Count Collaborative, *supra* note 113, at 46-47.

¹¹⁷ District Department of Employment Services, *The District of Columbia's Strategic Two Year Workforce Investment Plan 2005-2007*, at 45 (2004), available at http://www.does.dc.gov/does/frames.asp?doc=/does/lib/does/frames/State_Plan_Final_Document.pdf.

¹¹⁸ Marcia Carlson, Sara McLanahan, and Jeanne Brooks-Gunn, *Unmarried but not Absent: Father's Involvement with Children After a Nonmarital Birth*, Center for Research on Child Wellbeing Working Paper #05-07-FF, at 7 (Dec. 2005).

¹¹⁹ The Sentencing Project, *State Rates of Incarceration by Race* (2004).

¹²⁰ Bureau of Justice Statistics, *Criminal Offender Statistics: Summary Findings*, available at <http://www.ojp.usdoj.gov/bjs/crimoff.htm>.

¹²¹ Interview with DC Government Official, in DC (Mar. 22, 2006).

¹²² The District has reasonable policies for issuing "good cause" waivers, which are waivers granted to custodial parents who have experienced domestic violence at the hands of the father. For example, an applicant is not required to produce evidence beyond a signed affidavit that she or her child has been a victim of abuse. And CSSD is a partner in the Superior Court Domestic Violence Center with attorneys dedicated to the domestic violence cases. There are some limitations to this policy, however, including some intake interview practices that do not encourage disclosure, according to some parents. In addition, some women in the child-support-eligible population have never been victimized by their partner but have reason to be afraid that applying for child support will trigger violence. These women are not necessarily protected by the good cause waiver since they would have to respond negatively to the question, "Have you ever been abused?" Ultimately, only 29 custodial parents were granted good cause waivers last year, which suggests that some women who might be eligible may not be applying.

¹²³ <http://csed.dc.gov/csed/cwp/view.a.3.q.636240.asp>; see "Pass-through" section in Part III, Chapter 3: The Child Support Process in DC.

¹²⁴ US Department of Health and Human Services, Office of Child Support Enforcement, *Administrative and Judicial Processes for Establishing Child Support Orders* (2002).

¹²⁵ Testimony by Elaine Sorenson before the Judiciary Committee of the Washington, DC Council (June 5, 2003).

¹²⁶ District of Columbia State Profile, available at

<http://ocse.acf.hhs.gov/ext/irg/sps/report.cfm?State=DC&CFID=759876&CFTOKEN=75bdf636ea9edbe-00EB3A24-F889-D7DE-FE4E8FCB87259070> (last visited Apr. 24, 2007).

¹²⁷ UIFSA replaced URESA, the Uniform Reciprocal Enforcement of Support Act in 1992, and was revised in 1996 and 2001. Though some of the issues we will be addressing in this report have equal relevance for interstate and local cases, we will not be separately addressing CSSD's interstate procedures and practices. We believe that this issue warrants attention, but is outside the scope of our current investigation.

¹²⁸ The Child Support Enforcement Amendment Act of 2001, authorized the "Mayor or any party who has a legal claim to any child support" to initiate a criminal action for failure to pay. The District of Columbia's criminal contempt remedies for failure to pay child support are codified at DC Code Ann. § 46-225.02.

¹²⁹ Interview with DC Government Official, in DC (Mar. 13, 2006).

¹³⁰ CSSD represents the District and not an individual custodial parent. As noted, public assistance custodial parents are required to assign rights to child support to the District in order to allow the District to recover costs associated with public assistance, even when the custodial parent is not receiving public assistance and has not assigned rights to the District.

¹³¹ We would argue that the review of temporary orders, which in many cases remain temporary for many years, is a kind of de-facto enforcement role for the court which is both inefficient and costly. We will address this further in the Chapter "Improving Management of Child Support Cases."

¹³² Memorandum from Talia Sassoon Cohen, Policy Counsel, OCC/CSED Policy Counsel Memo to All Child Support Staff, Revised New Representation Policy (Jan. 4, 2001).

¹³³ See Part III, Chapter 2, History and Statutory Framework of the Child Support System.

¹³⁴ 42 USC § 667 (2007).

¹³⁵ DC Code Section 16-916.01 (2007).

¹³⁶ See *id.* at 5.

¹³⁷ The 1990 Guideline contained a formula which only went up to \$75,000 which in effect meant that upper-income non-custodial parents paid a significantly lower proportion of income toward child support than their middle- and lower-income counterparts. The New Guideline accounts for combined incomes up to \$24,000.

¹³⁸ According to the US Census 2006 Federal Poverty threshold, 133% of poverty for a family of one equals \$10,488.

¹³⁹ District of Columbia Child Support Guideline Commission, *Report of Final Recommendations* 24 (2004).

¹⁴⁰ <http://csed.dc.gov/csed/cwp/view,a.3,q.636240.asp>.

¹⁴¹ As of March 2007, the District reports it has passed \$1.7 million directly to TANF families.

¹⁴² Presentation by DC Government Officials to DC Appleseed Child Support Project Team (Dec. 19, 2005).

¹⁴³ CSSD is working with an area think-tank to find resources to conduct an evaluation of the pass-through program.

¹⁴⁴ Interview with Federal Government Officials, US Department of Health and Human Services, in DC (Feb. 7, 2006).

¹⁴⁵ Testimony by Elaine Sorenson before the Judiciary Committee of the Washington, DC Council (June 5, 2003).

¹⁴⁶ FY 2006 Child Support Enforcement Preliminary Data Report, Table 12: Unaudited Incentive Performance Scores FY 2006, *available at* http://www.acf.hhs.gov/programs/cse/pubs/2007/preliminary_report/table_12.html.

¹⁴⁷ It should be noted that these numbers, based on federal program performance reports, vary significantly from those that appear in the DC Council Committee on the Judiciary FY 2007 Budget Report. In the Budget Report, OAG reports at 21.71 percent change in support orders established, and an 11.52 percent increase in the collection of arrears. It appears that these numbers are based on changes in the *number* of cases and dollars, rather than *rates* which take into account the proportion. Memorandum from Phil Mendelson, Chairman, Committee on the Judiciary, to All Councilmembers re: Recommendations of the Committee on the Judiciary on Fiscal Year 2007, at 52 (Apr. 28, 2006).

¹⁴⁸ Telephone interview with Karen Roye, Director, San Francisco CA Department of Child Support Services, (Oct. 27, 2006); and Telephone interview with Dan Welch, Colorado Child Support Enforcement Division, in CO (July 24, 2006).

¹⁴⁹ See *Best Practices* section of this Chapter.

¹⁵⁰ 45 CFR § 303.6a(2) (2007).

¹⁵¹ See *id.*

¹⁵² See *id.* § 303.6a(4).

¹⁵³ See *id.* § 308.2(c).

¹⁵⁴ Interview with DC Government Officials, in DC (Mar. 30, 2006).

¹⁵⁵ Telephone interview with Karen Roye, Director, San Francisco, CA, Department of Child Support Services, (Oct. 27, 2006).

¹⁵⁶ Interview with DC Government Officials, in DC (Jan. 26, 2007).

¹⁵⁷ Interview with DC Government Officials, in DC (Mar. 30, 2006).

¹⁵⁸ Interview with Community Service Provider, in DC (June 12, 2006); Interview with Parents, in DC (Nov. 14, 2005).

¹⁵⁹ Interview with Community Service Provider, in DC (June 12, 2006).

¹⁶⁰ Interview with Parents, in DC (Mar. 8, 2006, Aug. 21, 2006, and Nov. 14, 2005).

¹⁶¹ CSSD reportedly sent “thank you” letters to non-custodial parents who paid their child support in full and timely throughout 2006. This effort is laudable but it leaves open the issue of effective outreach to parents not in 100 percent compliance.

¹⁶² Paul Legler, *Low-Income Fathers and Child Support: Starting Off on the Right Track* 28 (2003).

¹⁶³ U.S. Health and Human Services, Office of Inspector General, *Child Support Enforcement Customer Service: Parent Perceptions of Telephone and Office Visit Experiences in Four States*, at i (2003).

¹⁶⁴ See *id.*

¹⁶⁵ Interview with Parents, in DC (Apr. 24, 2006).

¹⁶⁶ Interview with Parents, in DC (Apr. 24, 2006, Feb. 28, 2007)

¹⁶⁷ Interview with Community Service Provider, in DC (Oct. 28, 2005).

¹⁶⁸ The address to custodial parents is evidenced in the following language used to describe enforcement methods: the methods are used “to

help you get your support payments” – emphasis added. *See*

[http://csed.dc.gov/csed/cwp/view,a,3,q,514762,csedNav,31158\].asp](http://csed.dc.gov/csed/cwp/view,a,3,q,514762,csedNav,31158].asp).

¹⁶⁹ [http://csed.dc.gov/csed/cwp/view,a,3,q,514741,csedNav,31158\].asp](http://csed.dc.gov/csed/cwp/view,a,3,q,514741,csedNav,31158].asp).

¹⁷⁰ Karen M Roye, *Enhanced Parental Involvement Collaboration (EPIC) Project Final Report*, Executive Summary 3 (2005-2006) (Oct. 13, 2006).

¹⁷¹ *See id.* at 2.

¹⁷² Telephone interview with Karen Roye, Director, San Francisco Department of Child Support (Oct. 27, 2006).

¹⁷³ Roye, *supra* note 170, at 22.

¹⁷⁴ Telephone interview with Karen Roye, Director, San Francisco Department of Child Support (Oct. 27, 2006).

¹⁷⁵ *See id.* at 4.

¹⁷⁶ Roye, *supra* note 170.

¹⁷⁷ Telephone interview with Karen Roye, Director, San Francisco Department of Child Support (Oct. 27, 2006).

¹⁷⁸ Dan Welch, Presentation at the National Child Support Enforcement Training Conference in Arlington, VA: *Early Intervention Opens the Door for Better Outcomes* (Sept. 10-13, 2006).

¹⁷⁹ *See id.*

¹⁸⁰ *See id.*

¹⁸¹ *See id.*

¹⁸² *See id.*

¹⁸³ Telephone interview with Dan Welch, Colorado Child Support Enforcement Division, in CO (July 24, 2006).

¹⁸⁴ *See id.*

¹⁸⁵ *See id.*

¹⁸⁶ *See id.*

¹⁸⁷ Welch, *supra* note 178.

¹⁸⁸ Telephone interview with Dan Welch, Director, Colorado Child Support Enforcement Division, in CO (July 24, 2006).

¹⁸⁹ Telephone interview with Dan Welch, Director Colorado Child Support Enforcement Division, in CO, (July 24, 2006); Email from Dan Welch, Director, Colorado Child Support Enforcement Division, to DC Appleseed Staff (Jan. 12, 2007).

¹⁹⁰ Telephone interview with Cynthia Bryant, Clinical Professor and Director Mediation Clinic, UTA School of Law, (July 13, 2006).

¹⁹¹ *See id.*

¹⁹² *See id.*

¹⁹³ *See id.*

¹⁹⁴ *See id.*

¹⁹⁵ For more information on this process, *see chapter on Legal Representation and Collaboration with the Court*.

¹⁹⁶ Telephone interview with Cynthia Bryant, Clinical Professor and Director Mediation Clinic, UTA School of Law (July 13, 2006).

¹⁹⁷ *See id.*

¹⁹⁸ Texas Web-Based Training 4 (2004), *available at* http://www.acf.hhs.gov/programs/cse/stsys/ref/state_tx_web_training.pdf.

¹⁹⁹ http://www.ilchildsupport.com/noncustodial_parent_cs.html.

²⁰⁰ National Council on Child Support Director’s Annual Conference, Section 1115 Demonstration Grant Nebraska, at 2.

²⁰¹ *See id.*

²⁰² *See id.* at 4-6.

²⁰³ Legler, *supra* note 162, at 32.

²⁰⁴ *See* Interview with DC Government Official, in DC (Dec. 8, 2005).

²⁰⁵ Legler, *supra* note 162, at 30.

²⁰⁶ *See* Interview with Community Service Provider, in DC (Nov. 10, 2005).

²⁰⁷ <http://www.npr.org/templates/story/story.php?storyId=5671455> (last visited Dec. 27, 2006).

²⁰⁸ *Black Males Left Behind* (Ronald Mincy ed., Urban Institute Press 2006).

²⁰⁹ Contracts for all government-assisted projects totaling \$100,000 or more must contain the provision that 51% of the new employees hired for the project shall be District residents, and the Department of Employment Services First Source Register shall be the “First Source” used to identify potential employees. DC S.T. § 2-219.03.

²¹⁰ In an evaluation of the one-stop centers conducted one year after the opening of the first full-service center in DC, the DC Jobs Council

reported that not one of the 43 low-income job seekers who participated in the evaluation found a job as a result of their use of the one-stop center. *The DC Jobs Council, Help Wanted: Low-income Job Seekers Assess the District of Columbia's One Stop Career Centers: A Report of the DC Jobs Council* (2001), available at <http://www.dcejc.org/app/docs/HelpWanted.pdf>.

²¹¹ *The District of Columbia's Strategic Two Year Workforce Investment Plan 2005-2007*, *supra* note 112, at 45.

²¹² DC Kids Count Collaborative, *supra* note 113.

²¹³ Martha Ross and Brooke DeRenzis, *Reducing Poverty in Washington, DC and Rebuilding the Middle-Class from Within*, Washington, DC: Brookings Institute at 13 (2007).

²¹⁴ DC Kids Count Collaborative, *supra* note 13.

²¹⁵ This estimate is based on court calendar observation over the course of several months. It does not include those who were not able to be served, or those who were served with process but did not attend court.

²¹⁶ FFP [Federal Financial Participation] is available for identification and referral of unemployed non-custodial parents to job training, coordination with courts regarding compliance with court orders, tracking participation, and data collection. U.S. Department of Health and Human Services, Office of Child Support Enforcement, OCSE AT-00-08, *Policy Questions and Responses Regarding Collaborative Efforts Between IV-D Agencies and Agencies or Organizations Administering the Welfare-to-Work Program* (Sept. 15, 2000).

²¹⁷ Doolittle and Lynn, *infra* note 420. The authors use the term “smoke out” to describe the process of identifying and initiating wage-withholding for non-paying non-custodial parents who are actually employed while seeking to identify and provide services to those who are unemployed.

²¹⁸ 42 USC. § 666a(15) (2007), requiring that states have in place procedures to ensure that persons owing overdue support work or have a plan for payment of such support.”

²¹⁹ Kristin Ruth, *Breaking the Cycle by Using Alternatives to Incarceration* (n.p.) (2006); Cynthia Miller & Virginia Know, *Manpower Demonstration Research Corporations, The Challenge of Helping Low-Income Fathers Support Their Children, Final Lessons from Parents' Fair Share* (2001).

²²⁰ *Id.* at § 666a(15)(B) (2007); DC Code § 46-226.09 (2007).

²²¹ 42 USC § 607d (2007).

²²² 45 CFR §§ 303.6c1, 303.100 (2007).

²²³ 42 USC § 653a (2007).

²²⁴ *See id.* § 653i(1).

²²⁵ 45 CFR § 303.32 (2007).

²²⁶ U.S. Department of Health and Human Services, Office of Child Support Enforcement, OCSE AT-00-08, *Policy Questions and Responses Regarding Collaborative Efforts Between IV-D Agencies and Agencies or Organizations Administering the Welfare-to-Work Program*, at A1 (Sept. 15, 2000). *Emphasis added.*

²²⁷ *See Help Wanted: Low-income Job Seekers Assess the District of Columbia's One Stop Career Centers: A Report of the DC Jobs Council* (2001), available at <http://www.dcejc.org/app/docs/HelpWanted.pdf>.

²²⁸ In 2005, the Washington Metropolitan Area gained 81,600 jobs, of which only 11,700 were in the District. In 2005, the District lost 400 public sector jobs, while the Metro area gained 9400. DC Department of Employment Services, *Labor Market Trends*, No. 18 (Feb. 2006).

²²⁹ Brookings Greater Washington Research Program, *Reducing Poverty in Washington, DC and Rebuilding the Middle Class from Within 2* (2007).

²³⁰ *See id.*

²³¹ *See id.* at 1-2.

²³² The Child Support Services Division's Response to “Taking Care of the District's Children: The Need to Reform DC's Child Support System” by DC Applesseed Center for Law and Justice, June 11, 2007.

²³³ *See*, Lyon, *Characteristics of Families Using Title IV-D Services in 1995* (1999), found that 44% of non-resident fathers whose children received TANF earned less than \$15,000 a year and nearly 1/3 earned less than \$10,000; Karin Martinson, *Serving Non-custodial Parents Through Welfare-to-Work Grants: Labor Market Characteristics, Employment Barriers, and Service Strategies* (The Urban Institute) (1998); and Elaine Sorenson, *Low-Income Non-custodial Fathers: Who Are They and What Are States Doing to Assist Them in Their Effort to Pay Child Support?* (The Urban Institute) (1997). *See also*, Geraldine Jensen, *Families Online Magazine, Who are the Fathers of Children on Welfare? Can they pay child support?* available at <http://www.familiesonlinemagazine.com/fathers.htm> (Summarizes several studies on fathers).

²³⁴ Leticia Fernandez and Jeanette Hercik, *Addressing the Needs of Non-Custodial Parents in TANF Families Workshop 5* (2001).

²³⁵ Karin Martinson, John Trutko, and Debra Strong, *Serving Non-custodial Parents: A Descriptive Study of Welfare-to-Work Programs 1* (The Urban Institute) (Dec. 2000), available at <http://fatherhood.hhs.gov/ncp-wtw-d00/index.htm>.

- ²³⁶ Of 11 sites in the National Evaluation of the Welfare-to-Work Grants Program by Mathematica Policy Research, Inc., 10 served between 79 and 99 percent women. Only one site served a predominantly male population. Thomas M. Fraker, Demetra S. Nightingale et al., US Department of Health and Human Services, *The National Evaluation of the Welfare-to-Work Grants Program: Final Report* (2004), available at <http://www.mathematica-mpr.com/publications/pdfs/WtWgrantsfinal.pdf>.
- ²³⁷ Lawrence Mead, Op-Ed., *And Now, 'Welfare Reform' for Men*, Wash. Post, Mar. 20, 2007.
- ²³⁸ Interview with Community Service Providers, DC (Aug. 22, 2006); Amanda Miller, *From Here to Paternity*, Wash. City Paper, Mar. 16, 2007, at 21.
- ²³⁹ Interview with Community Service Providers, in DC (Aug. 22, 2006).
- ²⁴⁰ Amanda Miller, *From Here to Paternity*, Wash. City Paper, Mar. 16, 2007, at 21; Vicki Turetsky, *Staying in Jobs and Out of the Underground: Child Support Policies that Encourage Legitimate Work* Center, for Law and Social Policy Child Support Services (2007); Harry Holzer, Paul Offner, and Elaine Sorensen, Institute for Research on Poverty Discussion Paper no. 1281-04, *Declining Employment Among Young Black Less-Educated Men: The Role of Incarceration and Child Support* (May 2004).
- ²⁴¹ Donald W. Myers, Division of Child Support Enforcement and Virginia Department of Social Services, *The Barriers Project: Evaluation and Final Report* (2006), available at http://www.dss.virginia.gov/files/about/reports/children/child_support/2006/barriers.pdf.
- ²⁴² See *id.* at 40.
- ²⁴³ See *id.*
- ²⁴⁴ See *id.* at 41.
- ²⁴⁵ Cynthia Miller and Virginia Knox, *Manpower Demonstration Research Corporations, The Challenge of Helping Low-Income Fathers Support Their Children, Final Lessons from Parents' Fair Share*, at v (2001).
- ²⁴⁶ Doolittle and Lynn, *infra* note 420, at 18-19.
- ²⁴⁷ Miller and Knox, *supra* note 219, at v.
- ²⁴⁸ David Grey Ross, Commissioner, Office of Child Support Enforcement, Memorandum to State IV-D Directors, September 14, 2000: State IV-D Program Flexibility with Respect to Low Income Obligor – Imputing Income; Setting Child Support Orders and Retroactive Support; Compromising Arrearages; Referral to Work-Related Programs and Other Non-traditional Approaches to Securing Support, available at <http://www.acf.hhs.gov/programs/cse/pol/PIQ/2000/piq-00-03.htm>.
- ²⁴⁹ Information on Fast Track program available at <http://www.state.ga.us/GAFatherhood/jobs.html>.
- ²⁵⁰ Information on Illinois' NCPSU available at http://www.ilchildsupport.com/noncustodial_parent_cs.html.
- ²⁵¹ Information on Earnfare available at <http://www.dhs.state.il.us/ts/et/earnfare.asp>.
- ²⁵² Irma Perez-Johnson, Jacqueline Kauff, and Alan Hershey, Mathematica Policy Research, Inc., *Giving Non-custodial Parents Options: Employment and Child Support Outcomes of the SHARE Program* (2003), available at <http://aspe.hhs.gov/HSP/wtw-grants-eval98/share03/report.pdf>.
- ²⁵³ DC Bar Legal Beat, *DC Superior Court to Establish Fathering Initiative* (Jan. 2007).
- ²⁵⁴ Center for Law and Social Policy Research, *Fact Sheet: Child Support Benefits Children in Non-Economic as well as Economic Ways* (2004), available at http://www.clasp.org/publications/CS_Noneconomic_FS.pdf.
- ²⁵⁵ Letter from Margot Bean, Commissioner Office of Child Support Enforcement, to All State and Tribal IV-D Directors, Dear Colleague Letter, DCL-06-31 (Sept, 29, 2006); available at <http://www.acf.hhs.gov/programs/cse/pol/DCL/2006/dcl-06-31.htm>.
- ²⁵⁶ *Child Support and Fragile Families*, *supra* note 16, at 3.
- ²⁵⁷ Jessica Pearson, *Building Debt While Doing Time: Child Support and Incarceration*, American Bar Association Judge's Journal, Vol. 43, No. 1 (Winter 2004).
- ²⁵⁸ Pamela Oxurgho, Correne Saunders, and Catherine Born, *The Intersections of Incarceration and Child Support: A Snapshot of Maryland's Caseload*, University of Maryland School of Social Work (July 2005).
- ²⁵⁹ Esther Griswold, Jessica Pearson, and Lavae Davis, *Testing a Modification Process for Incarcerated Parents*, at iii (Dec. 2001).
- ²⁶⁰ S. B. 277, (2004), 12-104.1 Child Support –Incarcerated Obligor – Suspension of Payments and Accrual of Arrearages.
- ²⁶¹ 45 CFR § 303.11 (b)(5) (2007).
- ²⁶² David Gray Ross, Commissioner, Office of Child Support Enforcement, *State IV-D Program Flexibility with Respect to Low Income Obligor—Imputing Income; Setting Child Support Orders and Retroactive Support; Compromising Arrearages; Referral to Work-Related Programs and Other Non-Traditional Approaches to Securing Support*, PIQ-00-03 (September 14, 2000); available at <http://www.acf.hhs.gov/programs/cse/pol/PIQ/2000/piq-00-03.htm>.
- ²⁶³ Child Support Guideline Revision Act of 2006, § 2r(5).

²⁶⁴ DC Child Support Guidelines at 5 (2006).

²⁶⁵ Eric Lotke, DC National Center on Institutions and Alternatives, *Hobbling a Generation: Young African American Men in DC's Criminal Justice System Five Years Later* (1997).

²⁶⁶ Interview with DC Government Official, in DC (Nov. 28, 2006).

²⁶⁷ Modifying Orders for District of Columbia Prisoners, Proposal Under Priority Area 1 at 4 (2007).

²⁶⁸ *See id.*

²⁶⁹ *See id.*

²⁷⁰ Personal Communication, National Institute of Corrections Transition from Prison to Community Project Staff, Jan. 2006.

²⁷¹ Interview with Federal Government Official, in DC (Mar. 20, 2006).

²⁷² *Final Report: Comprehensive Reentry Strategy for Adults in the District of Columbia* 21 (June 12, 2003).

²⁷³ Bradley Amendment, 42 USC § 666a(9) (2007) (prohibits the retroactive modification of child support).

²⁷⁴ Interview with Community Service Provider, in DC (Jan. 19, 2006).

²⁷⁵ *See id.*

²⁷⁶ Interview with Federal Government Official, in DC (Mar. 16, 2006).

²⁷⁷ *See id.*

²⁷⁸ Memorandum of Understanding, Office of the Attorney General for the District of Columbia and the Court Services and Offender Supervision Agency.

²⁷⁹ Interview with DC Government Official, in DC (Nov. 28, 2006).

²⁸⁰ Interview with Federal Government Official, in DC (Mar. 20, 2006).

²⁸¹ *See id.*

²⁸² Telephone Interview and Email with Dianne King (Aug. 2006).

²⁸³ Personal communication with Federal Government Official, in DC (Feb. 1, 2007).

²⁸⁴ Legis. B15-0712, 2004, Omnibus Public Safety Ex-Offender Self-Sufficiency Reform Amendment Act, (2004).

²⁸⁵ Modifying Orders for District of Columbia Prisoners, Proposal Under Priority Area 1 at 4. (2007)

²⁸⁶ *Id.* at 5.

²⁸⁷ Interview with Private Citizen, in DC (Sept. 20, 2006).

²⁸⁸ The Child Support Services Division's Response to "Taking Care of the District's Children: The Need to Reform DC's Child Support System" by DC Appleseed Center for Law and Justice, June 11, 2007.

²⁸⁹ *Offender Population Demographics*, Court Services and Offender Services Agency (July 25, 2006).

²⁹⁰ Interview of Community Service Provider, in DC (Jan. 19, 2006)

²⁹¹ Modifying Orders for District of Columbia Prisoners, Proposal Under Priority Area 1 at 5. (2007)

²⁹² Department of Health and Human Services Administration for Children and Families, Office of Child Support Enforcement, *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs* (2006).

²⁹³ *See id.* at vii.

²⁹⁴ Re-entry Policy Council, *Child Support and Re-Entry*, at 129 (2005); *see also* at 198-200 (which emphasize the need for timely responses to requests for review by inmates); Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, Joseph Hohenstein, *Every Door Closed: Barriers Facing Parents with Criminal Records*, No. 6 of 8 (2002).

²⁹⁵ Modifying Orders for District of Columbia Prisoners, Proposal Under Priority Area 1 at 4. (2007)

²⁹⁶ *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, *supra* note 202, at ii.

²⁹⁷ Owigho, Saunders and Born, *infra* note 351. In one neighboring jurisdiction, Maryland, "[a]lmost one-half of incarcerated non-custodial parents need to have orders established in their cases (47.1%) compared to one-quarter of non-custodial parents" not in prison. There is no reason to believe that the District's statistics regarding incarcerated non-custodial parents are any better.

²⁹⁸ *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, *supra* note 202, at ii.

²⁹⁹ *Id.* at iii.

³⁰⁰ *See id.* at V.

³⁰¹ Interview with Jessica Pearson, Director, Center for Policy Research, in Arlington VA (Sept. 12, 2006).

³⁰² Modifying Orders for District of Columbia Prisoners, Proposal Under Priority Area at 10.

³⁰³ *See id.* at 13.

- ³⁰⁴ Interview with DC Government Officials, in DC (June 27, 2006).
- ³⁰⁵ Re-entry Policy Council, *Child Support and Re-Entry*, at 198-200 (2005).
- ³⁰⁶ Milwaukee County Project for the Incarcerated, Presentation at National Child Support Enforcement Conference, Lisa Marks, Deputy Director Milwaukee County Child Support Agency (Sept. 13, 2006).
- ³⁰⁷ *Id.*
- ³⁰⁸ *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, *supra* note 202, at v.
- ³⁰⁹ *Id.* at 21.
- ³¹⁰ Pearson, *supra* note 257, at 6.
- ³¹¹ Jessica Pearson, Nancy Thoennes, Lanae Davis, June C. Venohr, David A. Price, and Tracy Griffith, *OCSE Responsible Fatherhood Programs: Client Characteristics and Program Outcomes*, U.S. Department of Health and Human Services (Sept. 2003); Pearson, *supra* note 265, at 6-8; Jessica Pearson and Esther Ann Griswold, *Lessons from Four Projects Dealing with Incarceration and Child Support*, Corrections Today, American Correctional Association Inc., Vol. 67, Issue 4 (2005).
- ³¹² Jessica Pearson and Esther Ann Griswold, *Lessons from Four Projects Dealing with Incarceration and Child Support*, Corrections Today, American Correctional Association Inc, Vol 67, Issue 4 (2005).
- ³¹³ Pearson and Griswold, *supra* note 312.
- ³¹⁴ *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, *supra* note 202, at 29.
- ³¹⁵ *Ex-offender Resource Guide* (March 2005), available at www.oedworks.com/exoffender.htm.
- ³¹⁶ *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, *supra* note 300, at 29.
- ³¹⁷ Pearson and Griswold, *supra* note 311, at 2-4. And, in the long-run its cost would seem to at least off-set the costs to society of recidivism.
- ³¹⁸ E-mail from Private Citizen to DC Appleseed staff (June 28, 2006).
- ³¹⁹ Pearson, *supra* note 257, at 4.
- ³²⁰ *Id.*
- ³²¹ *Dealing With Child Support Issues When You Are In Prison*, Washington State Department of Social and Health Services, Doc 22-423, available at <http://www1.dshs.wa.gov/dcs/resources/publications.asp>.
- ³²² National Institute of Justice, part of the U.S. Department of Justice, Washington State's Corrections Clearinghouse: *A Comprehensive Approach to Offender Employment* (July 1999). In addition, the CSE involvement and flexibility were commented on favorably. Pearson, *supra* note 257, at 6.
- ³²³ *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, *supra* note 202, at vii-viii
- ³²⁴ Oregon Admin. R. 137-005-3330.
- ³²⁵ See *id.*
- ³²⁶ David Gray Ross, US Department of Health and Human Services, The Office of Child Support Enforcement, OSCE-DLC-99-59, *Guidance on Definition of "Public Charge" in Immigration Law* (June 9, 1999).
- ³²⁷ Interview with Community Service Provider, in DC at 2 (July 10, 2006); Interview with Community Service Provider, in DC at 1 (June 21, 2006).
- ³²⁸ National Campaign to Prevent Teen Pregnancy, *Not Just Another Single Issue: Teen Pregnancy Prevention's Link to Other Critical Social Issues* at 6 (2002). It is important to note that these mothers may no longer be teens or easily identifiable as former teen parents when they enter the child support caseload.
- ³²⁹ *Id.* at 7.
- ³³⁰ HR 78: *American Child Support Enforcement Immigration Act of 2006* (Introduced Jan. 1, 2007).
- ³³¹ 45 CFR § 302.70(a) (iii) (2007).
- ³³² Interview with Community Service Provider, in DC (July 10, 2006).
- ³³³ Policy Interpretation Question, PIQ-15099-01, affirms that States may work not only with 'reciprocating countries' but also continue working with existing reciprocity agreements and to declare new reciprocal agreements as needed under PRWORA. Child support services may to be provided to any U.S. citizen living abroad or to any non-resident alien who applies directly to the state for child support enforcement services. OCSE policy states there is no constraint on individuals from foreign countries from filing a signed application (section 302.33(a) (i) and 303.2(a)92) and (3)).
- ³³⁴ See *id.* Community Service Provider, in DC (June 21, 2006).
- ³³⁵ Interview with DC Government Officials, in DC (Mar. 30, 2006).

³³⁶ See *id.*

³³⁷ 45 CFR § 302.70 (2007); 45 CFR § 303.5(g) (2007).

³³⁸ *Not Just Another Single Issue: Teen Pregnancy Prevention's Link to Other Critical Social Issues*, *supra* note 338, at 4 (2002).

³³⁹ California Women's Law Center, *Policy Brief: Teen Dating Violence: An Ignored Epidemic* (2001), available at http://www.cwlc.org/files/docs/policy_brief_teen_dating_violence.pdf (stating that abused teens are four to six times more likely to become pregnant than non-abused teens, and over 70 percent of pregnant teens are abused by their boyfriends, compared to six percent of adult pregnant women).

³⁴⁰ The Child Support Service Division's Response to "Taking Care of the District's Children: The Need to Reform DC's Child Support System" by D.C. Appleseed Center for Law and Justice, June 2007.

³⁴¹ See *id.*

³⁴² See *id.*

³⁴³ Telephone interview with Dan Welch, Director, Colorado Division of Child Support Enforcement (July 24, 2006).

³⁴⁴ US Department of Health and Human Services, *An OCSE Guide for Hispanic/Latino Customer Service* (1999) at 58.

³⁴⁵ See *id.* at 50.

³⁴⁶ See *id.* at 19.

³⁴⁷ See *id.* at 19.

³⁴⁸ Judi Bartfield, University of Wisconsin – Madison, Institute for Research on Poverty, *Forgiveness of State Owed Child Support Arrears*, at i (2003).

³⁴⁹ Roberts and Sorensen, *supra* note 412, at 2.

³⁵⁰ Current Collections and Arrears Management: Peer-to-Peer Training Conference Summary Notes, La Jolla California 5 (2006), available at <http://www.acf.hhs.gov/programs/cse/pol/DCL/2006/dcl-06-40.htm>.

³⁵¹ Pamela Ovwigho, Correne Saunders and Catherine Born, Baltimore, MD: Univ. of Maryland School of Social Work, *Arrears Leveraging Pilot Project: Outcomes Achieved and Lessons Learned* (2005).

³⁵² Office of Child Support Enforcement, *New Approaches to Child Support Arrears: A Survey of State Policies and Practices 2* (n.d.).

³⁵³ Ovwigho, Saunders and Born, *Arrears*, *supra* note 351 at i.

³⁵⁴ In a written reply to our questions about the makeup of the arrears, we could find out only what amount of arrears were owed on cases for current assistance recipients, former assistance recipients, and never assistance recipients. DC does not measure the concentration of arrears, nor average the amount of arrears, nor how arrears have accumulated. E-mail from staff at the DC Office of the Attorney General, to staff at DC Appleseed (Apr. 27, 2006).

³⁵⁵ Department of Health and Human Services and Office of Child Support Enforcement, *The Story Behind the Numbers: Who Owes the Child Support Debt?* (2004); Sorensen, Koball, Pomper, Zibman and the Urban Institute, *Examining Child Support Arrears in California: The Collectibility Study 7* (2003) [hereinafter "*The California Collectibility Study*"].

³⁵⁶ Vicki Turetsky, Center for Law and Social Policy in Washington DC (2006) (unpublished document).

³⁵⁷ US Department of Health and Human Services, The Office of Child Support Enforcement, OCSE-PIQ-99-03, *Public Policy Supporting Two Parent Families/Compromise of Child Support Arrearages* (Mar. 22, 1999).

³⁵⁸ Sherri Heller, Address at National Child Support Association Mid-Year Policy Forum, Washington DC (Jan. 2004).

³⁵⁹ See *id.*

³⁶⁰ Interview with DC Court Personnel, in DC (Jan. 25, 2006); Interview with DC Government Officials, in DC (Dec. 19, 2005).

³⁶¹ This is contrast with California where the *California Collectibility Study* showed that 71% of child support debtors have a default order.

³⁶² Interview with DC Government Official, in DC (Dec. 19, 2005).

³⁶³ Child Support Guideline Revision Act, DC Law L16-0138 (2006).

³⁶⁴ Roberts and Sorensen, *infra* note 412.

³⁶⁵ *The California Collectibility Study*, *supra* note 355. The *California Collectibility Study* found that one of three principal reasons for child support arrears in the state resulted from the assessment of interest on arrears at 10% per year – a full 27% of the total arrears amount was attributable to interest. The study evaluators recommended lowering the interest rate in California.

³⁶⁶ "Prior research has shown that once a child support order is in place, amending that order is difficult and not often done, especially among low-income families" (Waller and Plotnick, 2001). Ronald Mincy and Lenna Nepomnyaschy, Center for Research on Child Wellbeing, *Child Support and Minority Fathers in Fragile Families* 15-16 (2005).

³⁶⁷ Letter from Linda Singer, DC Attorney General to Judy Berman, DC Appleseed Senior Program Associate, May 15, 2007.

³⁶⁸ According to one DC Government Official, a custodial parent can call and ask for modification at any time based on changed circumstances, such as a third party providing child care for the child.

³⁶⁹ The Child Support Services Division's Response to "Taking Care of the District's Children: The Need to Reform DC's Child Support System by DC Appleseed Center for Law and Justice, (June 2007).

³⁷⁰ Available at

http://www.acf.hhs.gov/programs/cse/pubs/2005/reports/preliminary_report/table_19.html.

http://www.acf.hhs.gov/programs/cse/pubs/2005/reports/preliminary_report/table_20.html; The District's averages would probably be higher if this data included 2005 and 2006 performance.

³⁷¹ *The California Collectibility Study*, *supra* note 355, Executive Summary, at 2.

³⁷² *See id.*

³⁷³ *See id.* at 10.

³⁷⁴ Interview with Jessica Pearson, Director, Center for Policy Research, (Dec. 12, 2005).

³⁷⁵ US Department of Health and Human Services, The Office of Child Support Enforcement, OCSE PIQ-00-03, *State IV-D Program Flexibility with Respect to Low Income Obligor – Imputing Income; Setting Child Support Orders and Retroactive Support; Compromising Arrearages; Referral to Work-Related Programs and Other Non-traditional Approaches to Securing Support* (Sept. 14, 2004).

³⁷⁶ Roberts and Sorensen, *infra* note 412, at 5. *See also* Bartfield, Office of Child Support Enforcement, *Strategies to Contain the Growth of Arrearages* 6-11.

³⁷⁷ Jessica Pearson and Lanae Davis, Center for Policy Research, *An Evaluation of the Colorado Arrearages Forgiveness Demonstration Project*, Colorado Department of Human Services (May 2002).

³⁷⁸ Center for the Support of Families, Inc. for The Minnesota Department of Human Services and the Hennepin County Child Support Division, *Arrearages Management for Low-Income Non-custodial Parents: Evaluation Report* (2004).

³⁷⁹ *See id.* at 5.

³⁸⁰ Owwigho, Saunders and Born, *Arrearages*, *supra* note 351, at 5.

³⁸¹ *See id.* at 31.

³⁸² One pilot program was available only to men between the ages of 16 and 30, while other programs required participants to regularly attend fatherhood meetings, show progress towards obtaining a GED, establish paternity, and/or have regular contact with their children. No matter what criteria are used, the program should be well-publicized, easily understood by potential participants, and viewed as "fair," not only to participants but also to other constituents, including government officials, taxpayers, and custodial parents.

³⁸³ Legal Beat, Washington Lawyer (2007), available at

http://www.dcbar.org/for_lawyers/resources/publications/washington_lawyer/january_2007/legalbeat.cfm.

³⁸⁴ US Department of Health and Human Services, Office of Child Support Enforcement, Administrative and Judicial Processes for Establishing Child Support Orders (2002).

³⁸⁵ Testimony by Elaine Sorenson before the Judiciary Committee of the Washington, D.C. Council (June 5, 2003).

³⁸⁶ Department of Health and Human Services, OMB No. 0970-0177, Child Support Enforcement Annual Data Report, District of Columbia (2006).

³⁸⁷ D.C. Council Committee on the Judiciary Budget Report, FY 2007.

³⁸⁸ Department of Health and Human Services, OMB No. 0970-0177, Child Support Enforcement Annual Data Report, District of Columbia (2006).

³⁸⁹ Child Support Enforcement, FY 2005 Preliminary Report, May 2006, accessed on April 12, 2007.

³⁹⁰ 45 CFR § 303.101a (2007).

³⁹¹ 45 CFR § 303.101b(2) (i) (2007).

³⁹² Memorandum from Talia Sassoon Cohen, Policy Counsel, OCC/CSED Policy Counsel Memo to All Child Support Staff, re. Revised New Representation Policy (Jan. 4, 2001).

³⁹³ With some exceptions, the language of the materials is oriented toward custodial parents. For example, the brochure on establishing paternity states: "if the man *you* suspect to be *your* child's father disputes that he is the father..." (emphasis added). While there are materials in the folder that are addressed to the non-custodial parent, the packet was clearly not designed with the non-custodial parent's needs and interests primarily in mind.

³⁹⁴ Interview with DC Court Personnel, D.C., (Mar. 5, 2007).

³⁹⁵ District of Columbia Bar Foundation, *Civil Legal Services Delivery in the District of Columbia 1-2* (2003).

³⁹⁶ 45 CFR § 304.23 (j-k) (2007).

³⁹⁷ In some cases, the obligor has been paying but the money is not reaching the custodial parent, either because of error or fraud on the part of the employer withholding the wages, or an error by the child support clearinghouse. In these cases, the contempt charge would be dropped, but the non-custodial parent may still be required to return to court to ensure that the error has been corrected and the account is in good standing.

³⁹⁸ Based on Project Team court observations, DC Appleseed (2006-2007).

³⁹⁹ DC Code §16-916.01 (o) (2); revised language at CSGRA 2006, Sect 2(r) (4) (A).

⁴⁰⁰ Different states have different formulas for imputing income. Imputing income is based on the earning capacity of a party rather than true income. If one is voluntarily unemployed or fails to seek gainful employment though is able-bodied, the judge may base that person's income on their earning capacity.

⁴⁰¹ This is not to suggest that CSSD attorneys would represent a non-custodial parent in such a matter, but rather provide the information and assist with the contacts that will help the non-custodial parent move his claim forward and/or help secure the paperwork necessary to process the child support matter.

⁴⁰² Margot Bean, Office of Child Support Enforcement, Dear Colleague Letter DCL-06-37: National Judicial - Child Support Task Force Strategic Plan (Oct. 30, 2006).

⁴⁰³ Lee Morhar, Diane Nunn, and Michael Wright, PowerPoint presentation Collaboration between Child Support and the Courts CALIFORNIA, Chicago IL, Emailed June 1, 2006.

⁴⁰⁴ Kristin Ruth, *Breaking the Cycle by Using Alternatives to Incarceration* (n.p.) (2006).

⁴⁰⁵ http://support.fathers.com/site/PageServer?JServSessionIdr004=j8bhvyvf33.app2b&pagename=nfc_fathering_court.

⁴⁰⁶ *See id.*

⁴⁰⁷ http://support.fathers.com/site/PageServer?JServSessionIdr001=b2whf33.app6b&pagename=nfc_fathering_court.

⁴⁰⁸ Alicia Key, PowerPoint Presentation, CSRP- The Alternate Solution (Nov. 2006) (Emailed Mar. 20, 2007).

⁴⁰⁹ Email from Cynthia Bryant, Clinical Professor and Director, UTA School of Law, to DC Appleseed staff, Dispute Resolution WICSEC 2006 (Mar. 20, 2007).

⁴¹⁰ Email from Cynthia Bryant, Clinical Professor and Director, UTA School of Law, to DC Appleseed staff, Dispute Resolution WICSEC 2006 (Mar. 20, 2007).

⁴¹¹ Alicia Key, PowerPoint Presentation, CSRP- The Alternate Solution (Nov. 2006) (Emailed Mar. 20, 2007).

⁴¹² Paula Roberts and Elaine Sorenson, Office of Child Support Enforcement, *Strategies for Preventing the Accumulation of Child Support Arrears and Managing Existing Arrears: An Update 8-11* (2005).

⁴¹³ Alicia Key, PowerPoint Presentation, CSRP- The Alternate Solution (Nov. 2006) (Emailed Mar. 20, 2007).

⁴¹⁴ Paula Roberts and Elaine Sorensen, Office of Child Support Enforcement, *Strategies for Preventing the Accumulation of Child Support Arrears and Managing Existing Arrears: An Update 8-11* (2005).

⁴¹⁵ Alicia Key, PowerPoint Presentation, CSRP- The Alternate Solution (Nov. 2006) (Emailed Mar. 20, 2007).

⁴¹⁶ *See id.*

⁴¹⁷ Delaware Service Documents, Delaware Division of Child Support Enforcement.

⁴¹⁸ Presentation by Cynthia Bryant, Dispute Resolution WICSEC 2006 (Nov. 2006) (emailed Mar. 20, 2007).

⁴¹⁹ Vicki Turetsky, Washington DC: Center for Law and Social Policy, *You Get What You Pay For: How Federal and State Investment Decisions Affect Child Support Performance 3* (1998), available at http://www.clasp.org/publications/you_get_what_you_pay.pdf.

⁴²⁰ Fred Doolittle and Suzanne Lynn, *Working with Low-Income Cases: Lessons for the Child Support Enforcement System from Parents' Fair Share* (1998), available at <http://www.mdrc.org/publications/144/full.htm#I.%20CSE%20Reform:%20A%20Middle-Class%20Paradigm>.

⁴²¹ 45 CFR §§ 302.70a, 303.101b (2007).

⁴²² *See id.* §§ 302.85, 307.

⁴²³ Beginning with the issuance of revisions to 45 CFR Part 95, Subpart F (Automated Data Processing Equipment and Services; Conditions for Federal Financial Participation), published in final form in the Federal Register on February 7, 1990, 55 FR 4364 and OCSE-AT-90-11 of October 9, 1990, *Policy Clarification Relating to Automated Child Support Enforcement Systems (CSES)*, the Office of Child Support Enforcement has been working to assist states in meeting automation requirements. The OCSE website now has an entire section dedicated to facilitating automation

practices: *available at* http://www.acf.hhs.gov/programs/cse/stsys/dsts_auto.html.

⁴²⁴ See 45 CFR § 303.101 (2007).

⁴²⁵ Karen N. Gardiner, John Tapogna and Michael E. Fishman, prepared for U.S. Department of Health and Human Services and Office of Child Support Enforcement, *Administrative and Judicial Processes for Establishing Child Support Orders* (2002).

⁴²⁶ 45 CFR §§ 303.3b, 303.11b (2007).

⁴²⁷ See *id.* § 303.11b.

⁴²⁸ 45 CFR § 302.70 (2007); DC Code § 46-207.01 (2007).

⁴²⁹ 45 CFR § 303.100b (2007).

⁴³⁰ See *id.* § 303.100e.

⁴³¹ See *id.* §§ 303.6a, 303.6c.

⁴³² See *id.* § 303.6c.

⁴³³ See *id.* § 303.11.

⁴³⁴ Office of Inspector General and Office of Evaluation and Inspections, *Region VI, Barriers in Closing Child Support Enforcement Cases*, Document #OEI-06-00-00471 (2002).

⁴³⁵ 45 CFR § 303.11 (2007).

⁴³⁶ Office of Child Support Enforcement and US Department of Health and Human Services, *Automated Systems for Child Support Enforcement: A Guide for Automating Case Closure* (2004).

⁴³⁷ The process was not concealed from DC Applesed Project Team members. In fact, the team conducted interviews in the room where the analysis was taking place, and work products were visible on the walls. The process is extensive, however, and we were not invited nor allowed to spend time studying the specific components.

⁴³⁸ Interview with DC Government Official, in DC (Mar. 13, 2006).

⁴³⁹ *Vertical Prosecution Implementation*, CSSD document (2007). VPP began in January 2007 with partial implementation. It could not be fully implemented until after impact and effect bargaining with the union regarding job description changes.

⁴⁴⁰ *Vertical Prosecution Implementation*, CSSD document (2007).

⁴⁴¹ See *id.*

⁴⁴² See *id.*

⁴⁴³ See *id.*

⁴⁴⁴ Interview with DC Government Employees, in DC (Jan. 27, 2007); See also http://www.acf.hhs.gov/programs/cse/grants/abstracts/fy2004_1115_abstracts.html#90FD0100.

⁴⁴⁵ Department of Health and Human Services, Administration for Children and Families, Form OCSE-157 The Child Support Enforcement Annual Data Report, District of Columbia (2006).

⁴⁴⁶ Brustin *supra* at 8.

⁴⁴⁷ See *id.* at 677-678.

⁴⁴⁸ Department of Health and Human Services, Administration for Children and Families, *Form OCSE-157 The Child Support Enforcement Annual Data Report*, District of Columbia (2006).

⁴⁴⁹ Interview with DC Government Official, in DC (Nov. 16, 2005).

⁴⁵⁰ US Department of Health and Human Services, The Office of Child Support Enforcement, *FY 2002 Annual Statistical Report*, and *FY 2003 Annual Report to Congress*, *FY 2004 Preliminary Data Report*, and *FY 2005 Preliminary Data Report*, *available at* <http://www.acf.hhs.gov/programs/cse/pubs/index.html#annual>. CSSD reported that case closures over two years resulted in a reduction in open cases from 118,000 to just over 85,000. Thus, despite a reduction in orders established from '02-'04, and an increase in orders of only 2% in '05, CSSD is able to claim a 5 percent increase in the order establishment rate from 35% to 40%, still about 35 percentage points lower than the national average. ⁴⁵¹ Paul Legler, Annie E. Casey Foundation, *Low-Income Fathers and Child Support: Starting off on the Right Track* (2003).

⁴⁵² State of Arizona Office of the Auditor General, Arizona Department of Economic Security, and Division of Child Support Enforcement, *Arizona Performance Audit: Report No. 01-01* at 45-46 (2001).

⁴⁵³ See *Id.* at 44-46.

⁴⁵⁴ Vicki Turetsky, Washington DC: Center for Law and Social Policy, *Realistic Child Support Policies for Low Income Fathers: Kellogg Devolution Initiative Paper* (2000).

⁴⁵⁵ Elaine Blackman, *Early Intervention and Case Management: 'Reunion Call' Highlights Key Issues*, Child Support Report Vol. XXVI, No. 4, (Apr.

- 2004).
- ⁴⁵⁶ *See id.*
- ⁴⁵⁷ Letter from Linda Singer, District of Columbia Attorney General (May 15, 2007).
- ⁴⁵⁸ U.S. Office of Child Support Enforcement Best Practices – Automation, *available at* http://www.acf.hhs.gov/programs/cse/pubs/1995/best_practices/bpenfd.htm (last visited Mar. 15, 2007).
- ⁴⁵⁹ Email from Monica Scanlon, Regional Director Metro Boston Region, Massachusetts Department of Revenue, to staff at DC Appleaseed Center (Mar. 19, 2007).
- ⁴⁶⁰ *See id.*
- ⁴⁶¹ Department of Health and Human Services and Office of Child Support Enforcement, *Compendium of State Best Practices and Good Ideas in Child Support Enforcement* at FL 1 (5th ed. 2000).
- ⁴⁶² State of Arizona Office of the Auditor General, Arizona Department of Economic Security, and Division of Child Support Enforcement, *Arizona Performance Audit: Report, No. 01-01* at 27-28 (2001).
- ⁴⁶³ *Compendium of State Best Practices*, at MD 1.
- ⁴⁶⁴ US Department of Health and Human Services, The Office of Child Support Enforcement, *FY 2005 Preliminary Report*, *available at* http://www.acf.hhs.gov/programs/cse/pubs/2006/reports/preliminary_report/.
- ⁴⁶⁵ Vicki Turetsky, *Realistic Child Support Policies for Low Income Families*, Center for Law and Social Policy (Mar. 2000).
- ⁴⁶⁶ Interview with Jessica Pearson, Director, Center for Policy Research, CO, in Arlington VA (Sept. 12, 2006).
- ⁴⁶⁷ Stacy L. Brustin, *The Intersection between Welfare Reform and Child Support Enforcement: DC's Weak Link* 52 Cath. U.L. Rev. 621, (2003).
- ⁴⁶⁸ Doolittle and Suzanne Lynn *supra* note 240, at 18-19.
- ⁴⁶⁹ Paula Roberts and Elaine Sorenson make a specific recommendation in *Strategies for Preventing the Accumulation of Child Support Arrears and Managing Existing Arrears, An Update* (Oct. 6, 2005).
- ⁴⁷⁰ 45 CFR §§ 302.70a, 303.101b (2007).
- ⁴⁷¹ *See id.* §§ 302.85, 307.
- ⁴⁷² Beginning with the issuance of revisions to 45 CFR Part 95, Subpart F (Automated Data Processing Equipment and Services; Conditions for Federal Financial Participation), published in final form in the Federal Register on February 7, 1990, 55 FR 4364 and OCSE-AT-90-11 of October 9, 1990, "Policy Clarification Relating to Automated Child Support Enforcement Systems (CSES)," the Office of Child Support Enforcement has been working to assist states in meeting automation requirements. The OCSE website now has an entire section dedicated to facilitating automation practices: http://www.acf.hhs.gov/programs/cse/stsys/dsts_auto.html.
- ⁴⁷³ Child Support Enforcement Basic Services Packet, *available at* <http://csed.dc.gov/csed/cwp/view,a,3,q,514937.asp> (last visited Feb. 28, 2007).
- ⁴⁷⁴ 45 CFR § 303.2a (2007).
- ⁴⁷⁵ *See id.* § 303.2b.
- ⁴⁷⁶ 45 CFR § 303.3b (2007).
- ⁴⁷⁷ DC Code § 46-206a (2007); 45 CFR § 303.3b (2007).
- ⁴⁷⁸ 45 CFR § 303.4d (2007).
- ⁴⁷⁹ *See id.* § 303.101.
- ⁴⁸⁰ *See id.* § 46-206b(2).
- ⁴⁸¹ *See id.*
- ⁴⁸² *See id.* § 46-206s.
- ⁴⁸³ DC Appleaseed Center, *Profile of DC Child Support System* 3-4 (Jan. 2007) "CSSD CS Order Initiation Process" chart.
- ⁴⁸⁴ *See* DC Code § 46.266.10 (2007) ("The IV-D agency shall have a single, District-wide automated data processing and information retrieval system...").
- ⁴⁸⁵ 42 USC. § 653 (2007).
- ⁴⁸⁶ DC Appleaseed Center, *Profile of DC Child Support System* 10 (Jan. 2007).
- ⁴⁸⁷ *See id.*
- ⁴⁸⁸ Employers must report new employees to the DC New Hires Database within 20 days of the date the new employee begins employment. DC Code § 226.06b (2007).
- ⁴⁸⁹ Meeting with DC Government Officials at 5 (Oct. 26, 2005); DC Appleaseed Center, *Profile of DC Child Support System*, Sect.3, at 10 (Jan. 2007)

[crediting: Interview with DC Government Officials (Dec. 19, 2005 and Mar. 13, 2006)].

⁴⁹⁰ Interview with DC Government Officials, in DC at 5 (Oct. 26, 2006).

⁴⁹¹ *See id.*

⁴⁹² DC Code § 46-206b1 (2007).

⁴⁹³ *See id.*

⁴⁹⁴ Robert J. Spagnoletti, Public Oversight Hearing, FY 2005 Performance of the Office of the Attorney General before the Committee of the Judiciary 5 (Nov. 3, 2005); Council of the District of Columbia Committee on the Judiciary Budget Report (Apr. 28, 2005).

⁴⁹⁵ *See id.*

⁴⁹⁶ Interview with DC Government Officials, in DC (Mar. 13, 2006).

⁴⁹⁷ *See id.*

⁴⁹⁸ Interview with DC Government Officials, in DC (Nov. 28, 2006).

⁴⁹⁹ *See id.*

⁵⁰⁰ A child support order can also be transferred from one state to another or from foster care.

⁵⁰¹ FY 2005 HHS data, Office of Child Support Enforcement, *Preliminary Child Support Enforcement Report for FY 2005* (2006).

⁵⁰² Federal law, also codified in the DC Code, mandates that TANF recipients assign their right to child support to the state. 42 USC. § 608a(3) (2007); DC Code § 4-205.19b (2007). DC passes through \$150 of any child support sent to the state by the non-custodial parent to the custodial parent. DC Code § 4-205.1c(5) (2007).

⁵⁰³ *See* 42 USC. § 654 (2007) (an individual receiving TANF must cooperate with the state agency and supply all necessary information).

However, a custodial parent can apply for a “good cause” exception to participating in the child support process, if, for example, the custodial parent fears that supplying information concerning the non-custodial parent may threaten the safety of the custodial parent or the child. *See* 42 USC. § 654(29) (2007).

⁵⁰⁴ Meeting with DC Government Officials, in DC at 1, 3-4 (Jan. 27, 2007).

⁵⁰⁵ *See id.* at 2.

⁵⁰⁶ Comments of DC Government Official, in DC at 3 (Oct. 26, 2005).

⁵⁰⁷ 42 USC. § 608a2 (2007).

⁵⁰⁸ IMA is allowed to apply only one sanction per pay period, so if a TANF participant is already being sanctioned for another programmatic issue, she will not suffer any additional consequences for refusing to cooperate with child support.

⁵⁰⁹ Comments of DC Government Officials, at 2 (Oct. 26, 2005).

⁵¹⁰ Interview with Parents, in DC (2006).

⁵¹¹ *See id.*

⁵¹² Meeting with DC Government Officials, in DC at 1 (Oct. 26, 2006).

⁵¹³ *See id.*

⁵¹⁴ *See id.*

⁵¹⁵ Interview with DC Government Officials, in DC at 2 (Oct. 26, 2006). These changes were a byproduct of the extensive reengineering process that CSSD has undertaken.

⁵¹⁶ *See id.* at 2-3.

⁵¹⁷ 45 CFR § 303.2b (2007).

⁵¹⁸ *See CSSD SEMA Functions*

⁵¹⁹ Interview with DC Government Officials, in DC at 4 (Oct. 26, 2006).

⁵²⁰ 45 CFR § 303.3b(3) (2007).

⁵²¹ Interview with DC Government Officials, in DC at 4 (Oct. 26, 2006).

⁵²² Interview with DC Government Officials, in DC (Mar. 12, 2006). *But see* CSSD’s New Initiatives Report wherein it states: “Currently, the Locate Unit has four investigators to serve an average of 800-1,000 notices per month.” And more recently, the May 15, 2007 response to an early draft of this report which states the volume of notices as 1400 a month.

⁵²³ PA Code, Ch. 400 (See especially Rule 410).

⁵²⁴ Interview with DC Government Officials, in DC (Oct. 26, 2006).

⁵²⁵ Interview with DC Government Officials, in DC (Oct. 26, 2006).

⁵²⁶ *See id.*

⁵²⁷ Interview with DC Court Personnel, in DC (Oct. 18, 2005).

⁵²⁸ Interview with DC Government Officials, in DC (Nov. 30, 2005); Interview with DC Court Personnel, in DC (Jan. 3, 2006).

⁵²⁹ For example, the Washington Post reported that one field investigator “served five summonses in a one-month period, compared with a new hire, who after six weeks was averaging 40 a month.” *Longtime Employees Among 10 Fired*, The Wash. Post, July 8, 2006. There has also been some anecdotal evidence that field investigators are out working at other jobs when they are supposed to be serving summons for CSSD.

⁵³⁰ Interview with DC Court Personnel, in DC (Dec. 9, 2005).

⁵³¹ Interview with DC Government Officials, in DC at 2 (Nov. 30, 2005).

⁵³² *CSSD Initiatives 2008*, CSSD Document (Feb. 7, 2007).

⁵³³ District Department of Employment Statistics, *The District of Columbia’s Strategic Two Year Workforce Investment Plan 2005-2007* at 49 (2004).

⁵³⁴ Interview with DC Government Officials, in DC (Nov. 28, 2006).

⁵³⁵ *See id.*

⁵³⁶ *CSSD Initiatives 2007*, CSSD Document (Feb. 6, 2007).

⁵³⁷ http://www.acf.hhs.gov/programs/cse/newhire/library/training/mn_newhire.pdf.

⁵³⁸ Office of Child Support Enforcement, *Compendium of Best Practices of 2006*, at 42-43 (9th ed. 2007).

⁵³⁹ It must submit several subpoenas for each parent since the companies all keep separate records

⁵⁴⁰ http://www.dss.virginia.gov/files/division/dcse/facts_statistics/FACTSheet_11_01_06.pdf.

⁵⁴¹ Telephone interview with Dan Welch, Director, Colorado Division of Child Support Enforcement 1 (July 24, 2006).

⁵⁴² *See id.*

⁵⁴³ *See id.* at 2.

⁵⁴⁴ *See id.* at 2-3.

⁵⁴⁵ *See id.*

⁵⁴⁶ Center for Policy Research, *Reducing Child Support Default Orders in Colorado, Preliminary Evaluation Report*, Colorado Department of Human Services 1 (Oct. 2005).

⁵⁴⁷ Roye, *infra* note 594, Executive Summary, at 3.

⁵⁴⁸ *Id.* at Appendix B.

⁵⁴⁹ Karen M Roye, *Enhanced Parental Involvement Collaboration (EPIC) Project Final Report*, at 24 (Oct. 13, 2006).

⁵⁵⁰ *Id.*, at 4.

⁵⁵¹ *See* 48 D.C. Reg § 1270 (Feb. 16, 2001).

⁵⁵² DC Kids Count Collaborative, *supra* note 113.

⁵⁵³ Gregory Acs and Pamela J. Loprest, *The Status of TANF leavers in the District of Columbia*, *The Urban Institute*, at 3 (Jan. 3, 2001).

⁵⁵⁴ *Id.*

⁵⁵⁵ Pub. L. No. 104-193, § 382, 19 (1996).

⁵⁵⁶ Laudan Y. Aron, DHS Office of the Assistant Secretary of Planning and Evaluation, *Health Care Coverage Among Child Support-Eligible Children* (Dec. 2002); *available at*

<http://aspe.hhs.gov/hsp/CSE-health-ben02/index.htm>.

⁵⁵⁷ 45 CFR § 303.31a(1) (2007), DC CODE § 16-916.01 § 2i(5) (2007).

⁵⁵⁸ 42 USC. § 1396ka(1)(A) (2007).

⁵⁵⁹ *See id.* § 1396ka(1)(B).

⁵⁶⁰ 42 CFR § 433.148b(1) (2007).

⁵⁶¹ Transitional Medical Assistance (TMA) must also be provided to those simultaneously participating in Medicaid and TANF cash assistance and who lose their TANF eligibility due to earnings or child support. Those who leave due to earnings may receive up to 12 months of TMA, while those who leave due to child support receive four months of TMA. 42 USC. § 1396r-6a (2007).

⁵⁶² The legislation found in Title XXI of the Social Security Act.

⁵⁶³ Judith Wooldridge, Ian Hill, Mary Harrington, Genevieve Kenney, Corinna Hawkes, and Jennifer Haley, Children’s Health Insurance Program, *Interim Evaluation Report: Congressionally Mandated Evaluation of the State* (2003).

⁵⁶⁴ The NMSN was issued on December 27, 2000 and took effect March 27, 2001; it is required to be identified as a qualified medical support

order under ERISA by health care administrators. 45 CFR 303.32 (2007), as cited in Alisha Griffin, New Jersey Department of Human Services, *Final Report: A Feasibility Study of Review and Adjustment for Medical Support and CHIP Collaboration* (2002).

⁵⁶⁵ 45 CFR §§ 303.32c(2), 303.32a (2007).

⁵⁶⁶ Fact Sheet, NMSN, CSSD document.

⁵⁶⁷ See Part II: History and Statutory Framework of the Child Support System.

⁵⁶⁸ Interview with DC Government Officials, in DC (Nov. 28, 2006).

⁵⁶⁹ See *id.*; They are required to have 75% completed by the end of FY 07.

⁵⁷⁰ Memorandum from Benidia Rice, CSSD Initiatives (2007-2008).

⁵⁷¹ Interview with DC Government Officials, in DC (Nov. 28, 2006).

⁵⁷² 45 CFR § 303.8d (2007).

⁵⁷³ US Department of Health and Human Services, The Office of Child Support Enforcement, OCSE-PIQ-02-03, *Medical Support Enforcement Policy Clarifications* (Dec. 20, 2002).

⁵⁷⁴ Interview with DC Government Officials, in DC (Nov. 28, 2006).

⁵⁷⁵ According to CSSD, approximately 1,100 NMSNs were sent out between November 2006 to April 2007.

⁵⁷⁶ 45 CFR § 303.32c(8) (2007).

⁵⁷⁷ 21 Million Children's Health: Our Shared Responsibility, The Medical Child Support Working Group's Report to the Honorable Donna E. Shalala, Secretary, Department of Health and Human Services and the Honorable Alexis M. Herman, Secretary, Department of Labor (June 2000) at 3-22 includes the following recommendation: "When neither parent has access to private health care coverage at reasonable cost but a step-parent does, enrolling the children in the stepparent's coverage should be considered *under certain conditions*. These conditions are: (a) the coverage is accessible to the children; (b) the stepparent is willing to provide such coverage; and (c) there are no employer/insurer constraints for enrollment of the child. When these conditions are met, the parent who is married to the step-parent should be ordered to provide health care coverage for the children. The order should specify that this obligation may be met by enrolling the children in the step-parent's health care coverage. Moreover, the order must make it clear that if the obligated parent and the step-parent later commence proceedings for a separation or divorce, the obligated parent has responsibility for obtaining information about the cost and availability of COBRA coverage for the children and enrolling the children in this coverage. The order should also specify that if COBRA (or other) coverage is not available or affordable, the obligated parent must immediately seek modification of the medical provisions of the child support order. As an alternative, the custodial parent should seek publicly-funded coverage in order to minimize any lapse in coverage for the children." Available at <http://fatherhood.hhs.gov/medsupport00/FullReport.pdf>.

⁵⁷⁸ Interview with DC Government Officials, in DC (Nov. 28, 2006).

⁵⁷⁹ Department of Health and Human Services, Child Support Enforcement Annual Data Report, Form OCSE-157, District of Columbia (2006).

⁵⁸⁰ Paula Roberts, Center for Law and Social Policy, *Recent State Efforts in Medical Child Support*, at 2-3 (2005).

⁵⁸¹ See *id.* at 3.

⁵⁸² See *id.* at 3.

⁵⁸³ Phone interview Cathy Bennett, Policy Studies, Inc. (July 11, 2006).

⁵⁸⁴ 45 CFR § 303.31a (2007).

⁵⁸⁵ Paula Roberts, Center for Law and Social Policy, *Failure to Thrive: The Continuing Poor Health of Medical Child Support* 12 (2003).

⁵⁸⁶ DC Code Sec. 16-916.01(n).

⁵⁸⁷ Child Support Enforcement Program; Medical Support, 71 Fed. Reg. 54,965-54,974 (Proposed Sept. 20, 2006).

⁵⁸⁸ Email from Cathy Bennett, Policy Studies Inc., to staff, DC Applesseed Center (Jan. 4, 2007).

⁵⁸⁹ See *id.*

⁵⁹⁰ Policy Studies, Inc., *Increasing Healthcare Coverage for Children: A New Coordinated Approach Findings from Colorado* 6 (2004).

⁵⁹¹ See *id.* at 11.

⁵⁹² Phone Interview with Cathy Bennett, Policy Studies, Inc (July 12, 2006).

⁵⁹³ See also <http://www.acf.hhs.gov/programs/cse/fct/glossary.htm>.

⁵⁹⁴ Timothy S. Grall, Custodial Mothers and Fathers and their Child Support, 2003, US Census Bureau Current Population Reports (2006).

⁵⁹⁶ <http://www.census.gov/hhes/www/poverty/threshld/thresh06.html>.

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