



## UNIVERSAL CHILD SUPPORT SERVICES

### EXECUTIVE SUMMARY

Child Support Enforcement services are provided automatically to recipients of AFDC, Medicaid and in some cases Foster Care assistance. All other single parent families must seek services on their own, either through application to the State Child Support Enforcement agency or through a private attorney. However, most parents owed child support can't afford to hire an attorney which often requires paying a large retainer up front, and according to some researchers, many others will not seek assistance, public or private because of fear of retribution from the noncustodial parent and because of the stigma created by the coupling of welfare and child support issues.

The Child Support Enforcement Amendments of 1984 began a move to recognize the support needs of private cases by mandating certain State laws to cover all cases of child support. This expanded focus was continued by the child support guideline and immediate wage withholding provisions of the Family Support Act of 1988 and would be further brought to bear by enactment of the Administration's 1994 proposal for in-hospital paternity establishment. Under the proposal, States would be required to establish in-hospital paternity establishment programs aimed at securing the voluntary establishment of paternity of all children.

A number of States have attempted to be even more responsive to the needs of the non-IV-D population by establishing uniform systems, rather than the traditional dual approach, for monitoring the support rights of all children. Current law however is clear that Federal funding is not available for child support cases unless families not otherwise eligible for such services make application and pay, or the State pays on their behalf, an application fee. States have responded to this requirement in two ways -- by requiring routine application for IV-D services in all cases of separation and divorce or by allocating the costs of such services between IV-D and non-IV-D so that appropriate Federal reimbursement is made.

While the Nation is clearly headed in the direction of establishing

a universal system for child support enforcement, many believe that with the majority of children destined to spend some part of their life in a single parent family, routine payment of child support should be inescapable like payment of taxes, without placing the burden on the custodial parent to take action. (The Child Support Enforcement program provides services to about half of all women potentially eligible to receive support from a parent not living in the home.) However, taking the current environment a step further and requiring all parents to participate in a public child support program and all States to operate a universal program raises a number of critical issues:

- o Federal right to intervene -- government intrusion
- o Institutional capacity of the system
- o Costs vs. benefits
- o Equity of services
- o Stigmatizing effect associated with public child support

Each of these issues is explored in the paper. In addition, the paper presents several options which could be pursued to extend the reach of the current child support program. Each could be pursued in conjunction with more uniform rules for providing services, as covered in the discussion of equity of services. The options include:

- o Status quo - opt-in approach with more aggressive outreach (could also be transitional approach)
- o Mandated universal participation
- o Universal services with opt-out provisions based on one or a combination of the following:
  - good cause
  - alternative arrangement
  - limited to existing cases with clear evidence of routine compliance

A hybrid approach could also be developed under which select program functions would be mandated (such as collection) with opt-out or opt-in rights provided for remaining program functions. Pros and cons follow each option.

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### I. BACKGROUND

Each year a million children go through divorce or separation and almost as many are born out of wedlock. Parents of these children have less time, attention, and money to devote to their well-being. Children in single parent families are six times as likely to be poor as children in two parent families and are likely to stay poor longer. The single most important factor leading to the poverty of these children has been the widespread withdrawal of financial support and involvement by fathers.

The financial insecurity faced by these children can be devastating. A study conducted by the National Child Support Assurance Consortium found that children faced by the abdication of one parent lost the chance for a safe and healthy childhood. Mothers interviewed reported that in the first year after the father left their children went hungry, lost access to regular health check-ups and did not see a doctor when they were ill. Children lacked appropriate clothing and couldn't participate in regular school activities due to a lack of funds. A large number lost their regular child care because of cost and a substantial number were in turn left unsupervised while their mother went to work. More than half of these families faced a severe housing crises. Within the first year, almost received AFDC and slightly over half received Food Stamps.

While public policy cannot address the emotional and behavioral effects changes in family structure have on children, it can lessen the consequences by insuring that their parents take responsibility for meeting their financial needs.

The advent of Government involvement in child support was driven by growing welfare rolls directly attributable to lack of parental support. Enacted in 1975, title IV-D of the Social Security Act created a federal-state program for the location of noncustodial parents, establishment of paternity and support, and enforcement and collection of support. Families with children receiving AFDC, Medicaid and in some instances foster care assistance are mandated

by statute to receive assistance in obtaining child support.

However, the problem of non-support crosses gender and income levels. Even single parents living above the poverty line are likely to experience persistent economic insecurity. These custodial parents have essentially two choices if they have an enforcement problem. They can either hire their own attorney or apply for services at the state Child Support office. Most women owed child support however can't afford to hire an attorney which often requires putting a large retainer up front and according to some researchers many others will not seek assistance, private or public, because of fear of retribution from the noncustodial parent and because of the stigma created by the coupling of welfare and child support issues. In addition, requiring parents to seek services, public or private, is alleged to set up animosity between the parents and has a tendency to alienate children from non-supportive parents.

The remainder of this paper will focus on who is receiving or failing to receive child support services and whether the government can and should develop an equitable approach to protecting the support rights of all children.

## II. CURRENT DIRECTION

### Who is receiving services - public and private?

#### Public

All families receiving Aid to Families with Dependent Children (AFDC) payments due to the absence of a parent from the home are required to cooperate in the establishment of paternity and the collection of child support and to assign their rights to such support to the State. To reimburse the State and Federal costs of assistance payments the State retains all but the first \$50 of current monthly support paid on behalf of such families.

Since 1987, applicants and recipients of Medicaid have been similarly required to cooperate in the establishment of paternity and in the collection of medical support as a condition of

eligibility. Medical support payments collected on behalf of these families are directed to the State Medicaid agency to reimburse the costs of medical assistance but any child support collected on their behalf is paid directly to the family (if they are not AFDC eligible). These cooperation rules were later relaxed to exclude pregnant women and women with newborns of less than two months old. This action was taken because of concern that women would not obtain essential prenatal and early infant care if forced to cooperate with child support agencies.

State child support agencies are also required to provide child support services for children on whose behalf the State is making foster care maintenance payments. However, because of the unique and sensitive situation of these children State action has been slow.

Similar to the concerns prompting the relaxation of the requirement for Medicaid cooperation, past proposals before Congress to extend the requirement for cooperation as a condition of Food Stamp benefits have met with substantial opposition from advocacy groups. These groups were concerned that the nutritional needs of pregnant women and children would suffer in cases where custodial parents chose to do without Food Stamp benefits rather than cooperate with the Child Support agency. The Food and Nutrition Services of the Department of Agriculture has however undertaken a study to evaluate options for increasing the use of child support enforcement services among food stamp households. Their report should be released during the summer.

In addition to the mandated participation of families receiving public assistance, any other family may obtain services from the state Child Support agency by making application and paying an application fee. States may also charge fees for services and recover costs not otherwise covered by such fees.

In FY 1991, IV-D services were being provided on behalf of over 6 million AFDC and Foster care cases and on behalf of over 5 million non-AFDC cases which includes Medicaid cases not eligible for AFDC but nonetheless required to cooperate as a condition of eligibility.

## Private

All remaining single parent families rely on the willingness of the noncustodial parent to pay the support for which they are responsible or seek private assistance in obtaining support.

Pursuing child support through private avenues can be expensive. There are attorney's fees, court filing costs and possibly genetic tests costs to pay which alone could be as much as several hundred dollars. Once an order is entered, it needs to be enforced. Unless the father voluntarily pays, enforcement entails additional lawyer's fees and court costs. For a mother whose income is already near poverty and is reluctant to seek IV-D services, these costs can be an insurmountable barrier to obtaining support for children.

Based on the National Child Support Assurance Consortium study mentioned earlier, mothers first try to support their children on their own. Primarily, they rely on their earnings, joining the labor force for the first time or taking a second or third job. They report that in many cases, "the children literally lost both parents - one who walked out on them and another who was so busy trying to keep them housed, fed and clothed that she had little time for parenting."

Private attorneys have traditionally been hired by obligees to collect support but more recently some individuals have turned to private collection agencies. These agencies typically charge fees of 25 percent to 40 percent of the collection and tend to work only the most profitable of cases.

Census data estimates that about \$11.2 billion of \$16.3 owed in child support was received in 1989.

## Penetration

The Child Support Enforcement program provides services to about half (47 percent) of all women potentially eligible to receive child support from a parent not living in the home. Mandatory IV-

D clients account for about 28 percent of all families potentially eligible for child support and non-mandatory IV-D cases account for about 19 percent. Of women without awards, there are about 1.6 million mandatory users, 400,000 voluntary users and about two million non-users of IV-D services.

There are few differences between non-mandatory families who have voluntarily sought IV-D services and those families who have not sought services. The marital status, race, number of children, age, education, and employment status of mothers are very similar. What distinguishes public non-mandatory and private cases (non-users) is the extent to which child support is paid. For voluntary users of IV-D services, 34 percent receive all of the support due while 39 percent receive none of the amount due. Sixty-six percent of the non-users receive all child support due, while eighteen percent receive none of the support due.

Finally, there is a substantial difference in income between mandatory users, voluntary users and non-users. The mean family income for mandatory users it is \$6,700, for voluntary users it is \$17,500 and of non-users is \$23,500

While all these families could clearly benefit from receipt of child support, the families currently receiving IV-D services, especially those without support orders, are significantly less well off financially and thus more in need of such services than those currently outside the IV-D system.

#### Move toward universal services

The Child Support Enforcement Amendments of 1984 began a move to recognize the support needs of private support cases by mandating certain State laws to cover all cases of child support. Since then the non-AFDC component of the child support program has expanded markedly and the level of services provided has improved considerably. This is especially true in areas such as the Southeast where little attention was previously given to these cases.

However this expanded focus was most dramatically brought to bear

by the child support guideline and immediate wage withholding provisions of the Family Support Act of 1988.

Beginning in 1990 States were required to use one set of guidelines to address support amounts in all new or modified support orders, both public and private, with limited exceptions. This provision is expected to insure that equitable levels of support are established without regard to the intervention of the State Child Support agency.

Perhaps more dramatic to the concept of universal services is the Family Support Act requirement which beginning in 1994 requires immediate income withholding for all new private orders. While this provision will go a long way to insuring that private cases have access to the most valuable enforcement mechanism already available to public cases, it will not extend coverage to private cases with older orders or where the non-custodial parent's income is not reachable through wage withholding.

The Administration's 1994 proposal for in-hospital paternity establishment also takes a big step forward in removing the distinction between public and private support cases. Under the proposal, States will be required to establish in-hospital paternity establishment programs aimed at securing the voluntary establishment of paternity of all children. Recognizing that often public assistance is not needed or sought until sometime after the birth of a child, the proposal was not limited to current public support cases but rather is directed at all out of wedlock births in the State.

While these families will not receive State intervention in establishing and securing support unless the family decides to make application for child support services or subsequently becomes eligible for Federal assistance which mandates the receipt of such services, the provision will be beneficial in eliminating current delays associated with paternity establishment, and in turn, expedite the establishment of the order and collection of support at the point IV-D services are sought.

### States which extend services to all

Federal regulations are clear that Federal funding is not available for child support cases unless families not otherwise eligible for such services make application and pay, or the State pays on their behalf, an application fee. While some have questioned its efficacy, this requirement is clearly articulated in statute and has also been viewed as protecting the rights of parents and Federal interests. In the absence of such an application, parents may not be aware of the benefits and consequences of receiving such services, including in some cases liability for the cost to the State of providing services. In cases where the parent is receiving support regularly, the other parent simply may not want support enforcement agency involvement since it would be unnecessary and might even create tension between the parents.

With respect to the Federal government, concerns were that States would refinance support enforcement administrative costs related to non-IV-D cases at Federal expense, without necessarily enhancing or even directly affecting services provided to families. In addition, there was concern that the inclusion of these cases would qualify some States for larger incentive payments under the IV-D program, payments that are entirely Federally-financed, through a simple transfer of already ongoing child support collections to the State child support program. Several years ago, the Congressional Budget Office estimated that a legislative amendment would increase Federal costs \$155 million per year.

States have responded to this requirement in two ways. Some States require routine application for IV-D services in all cases of separation and divorce. While additional federal funding may attribute to this action in some cases, States have clearly expressed the desire to provide a uniform system, rather than the traditional dual approach, for monitoring the support rights of all children. The response of other States has been to provide universal services but to allocate the costs of such services between IV-D and non-IV-D so that appropriate Federal reimbursement is made.

Washington for example attempted to have all support orders treated as IV-D cases so they could be handled routinely through their central clearinghouse. The federal rules requiring a written application for IV-D services for each case stalled this effort until State procedures could be changed.

Currently, Michigan, Wisconsin, Pennsylvania, New Jersey, and Ohio provide some form of universal services. In Michigan, the entire IV-D and non-IV-D caseload is the responsibility of the Friends of the Court, local circuit court based agencies under cooperative agreement with IV-D. Cost allocation between IV-D and non-IV-D activities is done at the local agency level by time studies and total costs are adjusted by the percent of time spent on non-IV-D activities.

Wisconsin's form of universal services, implemented in 1987, was established partly as an outgrowth of the Wisconsin Child Support Initiative contained in the Child Support Enforcement Amendments of 1984. The core of the State's child support statutes do not distinguish between IV-D and non-IV-D requirements. All support orders contain an assignment of support to the court issuing the order, and establish immediate withholding (with no opt-out allowed for good cause or alternative arrangements). If the obligor subsequently becomes delinquent, the custodial parent must apply for IV-D services if he/she wants the State to take other enforcement actions.

In Pennsylvania, the State has been collecting child support on behalf of all custodial parents since the 1930s. With the advent of title IV-D in 1974, the State transferred workers who had been working for State courts into the newly formed Bureau of Child Support in the Department of Public Welfare. Today, all counties have cooperative agreements with the State establishing the local court of common pleas as the IV-D agency. Since Pennsylvania uses a court based system, and all petitions to establish paternity or establish child support contain language requesting IV-D services, all cases in the State are within the IV-D system. The courts, in turn, contract with the local District Attorney (or private attorneys in some small counties) to provide legal services, although custodial parents may use their own attorneys if they

wish. All support is collected by the courts through wage withholding or direct pay to the clerk of the court. The only possible way a child support case could be outside the IV-D system is for the parties to reach a private arrangement without using the court system.

While not providing universal services per se, a number of States have designated in statute a single registry or dual registries for processing all child support payments. The Social Security Act provides that States may develop procedures for the payment of support on behalf of non-IV-D families through the IV-D agency. Under New Jersey statute every award for alimony, maintenance or child support payments must be made through the probation department unless the court orders otherwise. In Ohio, both IV-D and non-IV-D obligors must make payments through the clerk of the court. Thus, in many States a mandate for universal services may mean little more than joining two separate State operations. Attached to this paper is a listing of State statutes addressing the entity to which child support payments are made.

However, pursuit of a universal approach has not been trouble-free in all States. Iowa recently decided to have all support (IV-D and non-IV-D) collected by the IV-D agency, but ran into problems with their legislature because of complaints from noncustodial parents over inaccuracies in arrearage computations. The State now requires that all non-IV-D support payments be made through local clerks of the court.

Illinois developed another approach toward some semblance of universality which involves outreach to non-IV-D cases with respect to review and modification of orders. For parents who choose not to apply for IV-D services, the Illinois Task Force on Child Support published a "do-it-yourself" package for modifying child support awards. Using this material, both custodial and non-custodial parent in Cook County can petition for modification and represent themselves in court. After a publicity campaign, requests for the self-help package came into the task force at the rate of 90 a month.

These actions suggest that States have not been completely

unresponsive to the needs of the non-IV-D population.

### III. DISCUSSION

#### Underlying philosophy of the program

In a January 21, 1992, Wall Street Journal article on universal wage withholding, an attorney representing a noncustodial parent distraught over a withholding order stated that "His employer has a staid traditional culture and a wage withholding garnishment for child support was not the image he wanted to portray among co-workers." Another attorney in the same article stated concern that the more universal requirement casts conscientious parents in the same category as the dead beat.

Clearly, the message we have sent with respect to child support needs to be changed. With the majority of children destined to spend some part of their life in a single parent family, routine payment of child support should be viewed as the norm. However, questions of universality raise questions of parental choice and unwarranted government intrusion. A recent article or changing family structure questioned what the expectations should be when the interests of adults and children conflict?

#### Federal intervention

As indicated by the above, the nation is, to at least a limited extent, headed in the direction of establishing a universal system for child support enforcement. Taking the current environment a step further and requiring all parents to participate in a public child support program and all States to operate a universal program however would undoubtedly be controversial. To some people this looks too much like big government intruding on the rights of the individual.

In review and adjustment demonstration projects all States reported the largest single reason for terminating non-AFDC review was the lack of authorization. (Note, this information should be viewed as anecdotal given the low percentage of respondents). The most prevalent reasons for lack of authorization included an

unwillingness to go to court or otherwise get involved in legal action, a desire to avoid involvement with the other parent and concerns that custody or visitation would be raised. These concerns, expressed by parents who sought government services, would undoubtedly resonate from those who have not asked the government to intervene on their behalf.

Colorado's experience may however be more relevant in considering approaches to universality. Under its demonstration project, rather than trying to force participation they developed a policy of aggressively trying to get people to participate. Their much lower rate of terminations evidences the potential benefits of this approach.

Counter to arguments against unsought government intervention, are the arguments of others that since the child support is really for the children, their interests and not necessarily those of the parent should prevail. Children should not be held hostage to ongoing disputes and grievances of the parents. Their well-being dictates that their economic security be given a priority.

Under this view, payment should be inescapable like payment of taxes. It should be done automatically whenever a payment is late or missed, without the mother having the burden of taking action. Some argue that because of the unequal power structure between men and women that women often go without support for fear of retribution from the noncustodial parent in the form of threats and abuse. The burden for child support enforcement should be removed from the custodial parent.

Some fear of government intrusion is thought to be just a fear of doing things differently and initial public and political resistance should be expected. In fact, parents in states that already require all payments through a registry do not report this concern and in fact most parents are said to prefer not having to exchange the support personally. Additionally, Attorneys and other involved in the legal system see it as more efficient and accurate because a record of payments is established.

Government intervention in protecting the economic security of its citizens is certainly not innovative. As Mary Jo Bane notes in Overview: Social Policy, President Franklin D. Roosevelt and the New Deal first defined the social policy mission of the Federal Government: to provide economic security to people unable to support themselves. Most notable among the steps taken by the Federal government to protect its citizens is the Social Security System. The program is a universal public system for ensuring economic security which has been largely successful in eradicating poverty among the elderly. Payment of social security taxes, which undoubtedly raised ire among citizens in its infancy, are now routine. Few now question so-called government intrusion in this area.

The same routinization of child support may be in order to address changing family structure and most notably the significant increases in the number of single parent families. Mandating universal services would certainly send the message that social policy will continue to protect the rights of those unable to protect themselves -- in this case, children.

#### Institutional capacity of the system

The IV-D agencies presently have some 37,000 full time staff and a caseload of 13 million cases, but they successfully handle only one-half or less of all cases. By most estimates, caseloads would double under a universal system.

As indicated above under the discussion of program penetration, the current IV-D system may be viewed as adequately targeting those families who have the greatest need for child support assistance. Families with awards who receive mandatory services are substantially poorer than other families with awards. Any decision to extend child support services to current nonusers must consider whether such action would reduce the capacity of the publicly funded child support system to provide services to families most in need.

Minnesota conducted a pilot study including all wage withholding orders in the IV-D system from August 1987 to July 1989 and found

the inclusion of non-IV-D cases had an adverse impact on the regular child support program's caseload, administrative costs, staffing and AFDC collections. Caseload increased 33 percent and staffing by 14 percent. Non-AFDC collections increased 80 percent but AFDC collection increased only 16 percent. This compares to non-pilot counties where AFDC collection increases averaged 23 percent. The State was very concerned about the attention which was diverted from AFDC cases.

Certainly before adding additional cases to the current system, fundamental changes to improve performance outcome would be necessary. Currently the program collects support in only 12 percent of AFDC cases and 28 percent of non-AFDC cases. With these type of results, parents already apprehensive to the idea of becoming part of a public system would undoubtedly remain unconvinced of the benefits.

Because of the significant number of cases entering the system should universality become a reality, consideration must be given to transition. Should a decision be made for a universal system, it may be sensible to establish an interim approach where aggressive action is taken to include existing cases now outside the IV-D system, but where only new cases would be required to be included. This would prevent the system from being overburdened, allow parents with existing cases the opportunity to come to accept the universal approach and provide time for program enhancements (both those from the Family Support Act and others adopted under the current welfare reform endeavor) to work.

In addition, many believe that the current financial structure would need to be changed. Many advocates and custodial parents report that state agencies target AFDC cases and give second-class treatment to non-AFDC cases because the incentives are minimal for their cases. States on the other hand argue that they do not have sufficient staffing and resources to adequately provide services to their current caseloads and to keep up with the myriad of legislative mandates imposed on the program. These issues will be explored in a separate paper.

It is also worth noting that the Commission on Interstate Child Support Enforcement expressed concerns about overburdening the current system by mandating additional participation. While recognizing that a two tier system in which only some cases have remedies available to establish and enforce support obligations is not equitable, they recommend that all laws enacted by the Congress apply to all child support cases and that private attorneys have access to the various mechanisms for location and support enforcement. However, this would do nothing to alleviate the costs of obtaining private counsel and would still put the onus on the custodial parent to seek help.

### Decoupling from welfare

#### Equity of Services

One issue associated with universal services is the question of whether the issue of child support should be decoupled from welfare. This is perhaps addressed best by a 1988 Nebraska ruling on the State's Referee Act which found that the Act's applicability to only IV-D cases amounts to an unreasonable classification inasmuch as it distinguishes between children whose custodial parents are receiving AFDC benefits and other children; amounting to a denial of equal protection of obligors based upon whether their children receive Federal assistance. The justices found that it is no answer to say that the same services are available to non-IV-D cases on payment of a fee (however small). In that case, a custodial parent not receiving AFDC must pay additional money to receive a service available automatically to those receiving AFDC.

Universal inclusion of all cases in the child support systems will not entirely eliminate program fragmentation or pave the way for attitudinal changes until all cases are treated equitably and fairly. While the Child Support Enforcement Amendments of 1984 went a long way in insuring that equal services were available to all cases many differences in treatment still remain. These differences most notably involve distribution of support payments, review and adjustment of support orders, medical support enforcement services, conditions for submittal for Federal income tax refund offset and treatment of collections for incentives

purposes.

Under the current rules for distributing support collections in the child support program, non-AFDC families receive all current and past-due support collected on their behalf except to the extent that they previously received AFDC and arrearages remain owing to the State. In this case, States have the option of retaining past-due amounts collected to apply to unreimbursed assistance payments or paying the amount first to the family to cover past-due support. As indicated previously, amounts collected on behalf of AFDC families are retained to reimburse the State and Federal government for the cost of assistance payments, with the exception of the first \$50 of current monthly support collected.

While a separate paper will address whether distribution rules should be changed, the current distribution scheme is overly complex and results in extraordinarily high State costs. Some also believe it acts as a disincentive for AFDC custodial parents to cooperate in the enforcement of support since they do not receive the actual support paid on behalf of their children, but rather a \$50 check from the State. Finally, it provides a disincentive for noncustodial parents to pay support since in their mind the State and not the children receive their payments. Several demonstration projects are currently underway to study the effects of these distribution requirements on child support compliance. However, with respect to at least one state, indications are that direct payment to the family has no net effect on child support compliance.

With respect to review and adjustment requirements, the statute clearly provides for unequal treatment of AFDC and non-AFDC cases. AFDC cases must be reviewed and adjusted automatically while in non-AFDC cases parents have to request a review thus putting the burden on the custodial parent, or the noncustodial parent to initiate the process. Given the unwillingness of parents to agree to such reviews evidenced by the review and adjustment demonstration projects, this voluntary approach will not insure that all support orders remain equitable over time.

Medical support enforcement, also addressed in detail in a separate paper, provides for inequitable treatment of AFDC and non-AFDC cases. In AFDC cases and non-AFDC Medicaid cases, States must pursue actions to include health insurance in the support order and enforcement actions of such provisions. However, non-AFDC cases must request that such services be provided on their behalf. This difference allows non-welfare families to choose whether they want to risk a reduction in their cash support because of inclusion of health insurance coverage but does not allow welfare families this same consideration. This explanation could also be presented in the reverse: welfare families are automatically afforded medical support protection to the extent possible but such considerations on behalf of non-welfare families is given secondary consideration.

The rules for submitting cases for Federal income tax refund offset also vary between AFDC and non-AFDC cases, with non-AFDC cases being provided unequal access to this enforcement technique in two ways. First, in non-AFDC cases the arrearage necessary to qualify for tax offset (\$500) is more than three times that for AFDC cases (\$150). Second, past-due amounts sought in non-AFDC cases must be on behalf of a minor child while there is no such limitation with respect to AFDC cases.

Clearly the intent of these separate rules was not to treat non-AFDC cases with lesser attention but to avoid over-burdening the current system and at least with respect to Medical support enforcement and review and adjustment requirements, to insure that the desires of the family were protected. (As alluded to above, concerns have been expressed that inclusion of health insurance in a support order would reduce cash support available. To the extent that families are not dependent on medical assistance, it was believed in their best interest to provide a choice in receiving such services). However, as long as different classes of cases are treated differently, States will continue to operate dual systems of enforcement and clear decoupling from welfare cannot happen.

Finally, an issue of importance to both advocates and the States is the unequal treatment of collections in determining incentive payments available to States. Under the current process, incentives available for non-AFDC case activities are capped at 115

percent of the amount of their AFDC incentive payments. Most if not all States have reached this cap and thus receive no financial inducement to work on non-AFDC cases once this cap is reached nor, as some have complained, to actively seek to collect sufficient levels of support to remove families from AFDC. While this incentive cap was placed in recognition that support orders and collection amounts are larger for non-AFDC families, if we are to truly decouple the issue of child support from welfare and send the message that the government is interested in protecting the support rights of all children above all else, it may make sense to institute an incentive structure which applies equally to all cases.

#### Destigmatizing Effect

Destigmatization is another issue intrinsic to the concept of universality. Developing a system that embraces all cases and establishes uniform rules may have a limited effect in changing the perception that child support enforcement is a welfare issue, unless these changes are made in conjunction with a changed message - that society's, as well as government's foremost interest is protection of the child.

Such a change could invoke at least gradual society intolerance to parental abandonment and in turn reduce noncustodial parent resistance to compliance and increase the cooperation of custodial parents.

To a large extent this issue, if combined with an approach of equity of universal service delivery, can be simply one of semantics and presentation. Under Vermont's welfare reform waiver package for instance, the experimental program is entitled Vermont for Kids.

#### IV. OPTIONS

Following are several options which could be pursued to extend the reach of the current child support program. Universal paternity establishment has not been included here because it is being presented in a separate paper. These options focus on all other

IV-D services. Each could be pursued in conjunction with more uniform rules for providing services as discussed under the topic of decoupling above.

In addition, a hybrid of these options could be developed. Selected program functions (like collection and distribution) could be mandated for all cases with opt out rights provided for the remaining functions.

Status quo - opt-in approach with more aggressive outreach and accessible services

As indicated by the Colorado review and modification demonstration project, an opt-in approach can largely result in universality if the right message is sent.

This can also be viewed as a transitional step to universality with new cases subject to universal inclusion and existing cases subject to treatment under this approach.

Pros and cons

PROS

- o Colorado's demonstration project appeared to indicate that this can, if packaged properly, result in near universal participation.
- o Aggressive outreach could destigmatize services if properly packaged.
- o Serious programs of outreach could attract a substantial number of families currently outside the system. The study conducted by the Child Support Assurance Consortium found that over one-quarter of the respondents did not know that there was a state child support system designed to help them.

CON

- o May have very limited effect. Requirement for aggressive

outreach may be largely ignored by States with program which are already over burdened.

### Mandated universal participation

All child support would be collected and monitored through the same system removing the distinction between IV-D and non-IV-D cases. A state could do this by requiring that all those with child support orders apply for IV-D services. This would allow all cases to be monitored by a single program with the staff to assist in collection. If payments are late or missed they could automatically generate reminder notices and enforcement action. The government then becomes the primary initiator of enforcement action. This could completely lift the burden off the custodial parent so they do not have to initiate action. The state would then have one uniform system for collections in all cases rather than the current dual system.

This could be more easily accomplished by eliminating the Federal requirement that non-AFDC families must apply for services or allow States to require application by operation of State law, so that the program were available to all. This would give states the incentive to unify collection services so that all cases are treated more universally. As the system becomes more universal, efficiency is enhanced if all cases are treated the same.

### Pros and Cons

#### PROS

- o High volume processing and economies of scale could ensure a more efficient system.
- o The same uniform system would protect working class, middle class and upper class families.
- o Would heighten predictability of services
- o Would destigmatize child support

- o Opposition can be overcome through education and growing public experience

#### CONS

- o Parties privacy violated - people want government to help only when they need it -- not up to government to decide what is best for people
- o Unnecessarily involves parties who have no difficulty with child support
- o Acquiring millions of cases in the system could require a decade of transition; huge task to register let alone serve
- o Exacerbates current problems associated with lack of staffing/funding
- o May increase program involvement in custody and visitation issues -- parents concerned about these issues who currently avoid services would be involved
- o Initial consolidation costs as well as ongoing operational
- o If provisions are not included for good-cause opt-out could threaten the safety of some families. The National Child Support Assurance Consortium found that of the mothers interviewed who had not sought a support order, fear of domestic violence was a contributing factor for 31 percent of those who had been married and 10 percent of those who had not.

#### Opt-out provided - various options

All cases would be included in the same system unless they expressly opted not to receive such services. Specific rules for opting out should probably be included to lessen the ability of noncustodial parents to coerce this action. Among the possibilities for opt-out are:

1. good cause - much like that used in the AFDC and Medicaid program - though the efficacy of this approach has been seriously questioned.
2. alternative arrangement - like that provided under the requirements for immediate wage withholding - under this option the parents would be required to provide to the universal agency its reasoning for opting-out. For example, the parents may agree that a lump sum of child support will be paid in advance so that the noncustodial parent can use the money toward a down-payment on a home or to pay tuition for private education rather than receive monthly cash payments. The extent to which this would have to be proven or monitored also needs consideration.
3. existing cases only provided opt-out - and then, only where there is clear evidence that the terms and conditions of the support order have been routinely complied with. (Could also be used as transitional approach to option 2).

#### Pros and Cons

##### PROS

- o May provide for a system which excludes only the most exceptional cases
- o Requiring specific action on the part of the parent may send message that participation is an expectation
- o Would protect families with good cause reasons for not participating
- o If third opt-out selected, universality would eventually occur and proposal may receive less opposition
- o Children's best interest protected

##### CONS

- o Allowing people to opt out would only make the system work less efficiently.
- o It also means that AFDC cases are continued to be treated differently, resulting in a dual system that remains fragmented.
- o No matter what precautions are put in place, there will undoubtedly be cases where people opt out because of fear of the obligor caused by either direct or indirect pressure.
- o Opt-out provisions can often be used by domineering parents to escape their obligations. They can become a bargaining chip in settlement negotiations, and once agreed to the parent can put pressure on the other parent not to revert to the legal enforcement action. The custodial parent is then back to the old trap of doing nothing rather than rocking the boat or facing retaliation.

#### Costs and Benefits

More analyses for this topic is needed. We will look at data from CPS, administrative data and experience in States like Michigan, Wisconsin, Pennsylvania and Ohio to determine the extent to which universal services improve collections or merely delude performance.

Actual costs and collection potential will be provided in later iterations after the issues have been fleshed out and the data analyses and modeling group input is obtained.

#### Costs

One concern in extending services to all is concern about possible delays in receiving payment since payments would no longer pass from one parent to another. This concern can essentially be alleviated if the government entity has sufficient staff, resources and a dependable automated system. (This may not easily be assured, however, given the current Federal fiscal crisis.) With more and more wage withholding, most payments will not pass

directly and with electronic fund transfer there should conceivably be no extra delay.

### Benefits

To Employers - Currently when wage withholding is included in orders for child support not registered and paid through a government entity, the employer has to send payments in non-IV-D cases to each custodial parent. This means employers must bear the burden of dealing with parent inquiries, tracking custodial parent addresses, etc. One employer in the Wall Street Journal article referenced earlier reported that he has to write 6,000 child support checks each pay period.

In 1994, when the requirement for immediate wage withholding goes into effect this burden may be somewhat alleviated because States will be required to designate an entity to carry-out withholding. However, since they are under no requirement to establish a single agency and because the IV-D process and withholding for existing orders will still involve separate payors, some employer burden will remain. The employer will still need to cut individual checks for each case and send them to different sources -- some to the clerk of the courts, some to IV-D, etc. A system of universal services would allow employers to pay one central source regardless of the ultimate payee.

To Families - By most estimates, a truly uniform and universal child support system could theoretically collect up to an additional \$25 - \$30 billion from non-custodial parents.

A record of payment would be maintained under a universal approach -- this is immensely important to non-IV-D cases where often the lack of records or poor records of past payment is often an impediment to enforcement action and calculation of an arrearage.

Further, under a unified universal system all cases are treated fairly and the burden is not placed on the custodial parent to seek out service which they may be reluctant to do out of fear or concerns of not wanting to adversely impact the relationship between the children and their noncustodial parent.

To the Government - Fragmentation leads to both inefficiency in collecting support and unequal treatment. Multiplicity of levels and branches of government involved in establishment, review and adjustment and enforcement would be reduced and replaced with a unified approach so all families are treated similarly.

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**STATE STATUTES ADDRESSING ENTITY TO WHICH  
CHILD SUPPORT PAYMENTS ARE MADE**

**SUMMARY ANALYSIS**

Our examination of State statutes which specify the entity or entities to which child support payments may or shall be made reflects that:

- Thirty-five (35) States have some statutory authority designating the clerk of the court as an entity to which payments may (or in some cases, shall) be made. Some statutes expressly mandate that payments be made through the court; others are more permissive. Many specify alternative options, perhaps due to court or judicial district variances (e.g., KS specifies "court clerk or court trustee").

These States are: Alabama, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virgin Islands, Wisconsin, and Wyoming.

- Another four (4) States refer to a "county officer" (such as the New Jersey Probation Departments or the Georgia Child Support Receiver). These are California, Georgia, New Jersey, and Ohio.
- Five States have statutes that designate a "county depository" or centralized "family support registry." These States are Colorado, Florida, Iowa, Vermont, and Washington. Vermont's statute embraces all orders, not just those in IV-D cases. Two of these States, Iowa and Colorado, also have provisions imposing the collection responsibility on court clerks for non-IV-D cases (therefore, these are listed above among the 35).
- Eleven States refer to the support enforcement agency as the entity to whom payments are to be made in IV-D cases, and are generally silent regarding non-IV-D cases. These States are: Alaska, Delaware, Hawaii, Maine, Maryland, Minnesota, Mississippi, New York, Utah, Virginia, and West Virginia. Texas specifies three options in their income withholding statute-- court registry, child support collection office, or attorney general, but mandates that payments go to the AG in IV-D cases.

- One State, New Hampshire, specifies that in cases where the obligee does not make application for IV-D services but wishes to utilize the services, the services are limited to "monitoring, collecting, and disbursing moneys."
- New Jersey's law on applying for income withholding is noteworthy in that it addresses the probation department's role in recordkeeping to document, track, and monitoring support payments & administering withholding in cases in which the obligee has not established a IV-D case.
- In addition to "court clerks," States' laws also refer to alternatives as "family division or support enforcement services unit" (CT), probation officer (ID), district attorney (NV), checking or savings account or directly to obligee's bank account (OR), court registry (TX).
- Iowa's "collection services center" statute (excerpt included in chart) is particularly exemplary, from the standpoint of its explanation of payment processing & references to two "official entities" for disbursing support: the collection services center (IV-D cases) and clerks of the district court (non-IV-D cases).
- Washington State's statute setting forth legislative intent to establish a "central support registry" in the State to "improve recordkeeping" and "reduce the burden on employers" by "creating a single standardized process" for deducting support payments from wages may be a useful model for other jurisdictions contemplating centralization of payment processing.

STATES WITH LAWS REFERRING TO SOME RESPONSIBILITY OF COURT CLERKS

The 35 States which our research reflects have some statutory authority regarding payment of support, or withheld wages, to court clerks are:

Alabama	Arizona	Arkansas	Colorado
Connecticut	District of Columbia		Guam
Idaho	Illinois	Indiana	Iowa
Kansas	Kentucky	Louisiana	Massachusetts
Michigan	Missouri	Montana	Nebraska
Nevada	New Mexico	No Carolina	North Dakota
Oklahoma	Oregon	Pennsylvania	Puerto Rico
Rhode Island	So Carolina	South Dakota	Tennessee
Texas	Virgin Isl	Wisconsin	Wyoming

STATES WITH LAWS DESIGNATING A COUNTY OFFICE

The 4 States with statutes which refer to a county office or official are:

California      Georgia      New Jersey      Ohio

STATE WITH LAWS REFERENCING SUPPORT REGISTRY/CENTRAL DEPOSITORY

The 5 States with specific laws denoting that payments be made to a central registry or depository are:

Colorado\*      Florida      Iowa\*      Vermont      Washington

\*Also have statutes referring to court clerks

STATES WITH STATUTES ADDRESSING PAYMENTS IN IV-D CASES

The following 12 States have statutes that refer to making of payments through the child support enforcement agency:

Alaska	Delaware	Hawaii	Maine
Maryland	Minnesota	Mississippi	New Hampshire
New York	Utah	Virginia	West Virginia

Researched & compiled by  
OCSE Policy Branch  
4-13-93

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- AL §30-3-60 Clerk of the court . . . clerical duties in regard to domestic relations matters, support and nonsupport cases, including the receipt and disbursement of support payments.
- §30-3-61 . . . directing any employer of the obligor to withhold and pay over to the clerk of court or the department of human resources, . . .
- AK §25.27.062 An income withholding order must direct the obligor . . . and pay the money to the agency.
- §25.27.080 (a) A court order requiring payment of child support shall be modified to order payments be made to the agency upon application.
- §25.27.103 Payments to agency. An obligor may make child support payments to the agency.
- AR §9-14-215 (c) A circuit or chancery court clerk may collect from the noncustodial parent a fee of \$10.00 for completion of income withholding forms for a custodial parent. A notice of this fee shall be sent to the noncustodial parent along with the notice (concerning withholding). After 30 days upon nonpayment of the fee by the NCP, the clerk may notify the payor [employer] who shall withhold the fee and remit such to the clerk [LAW ADDED IN 1991].
- §9-14-218 (a) (3) Beginning January 1, 1994, all support orders issued or modified shall include a provision of immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding, or a written agreement of the parties incorporated in the order setting forth an alternative agreement. (4) In all non-Title IV-D cases brought prior to January 1, 1994, the support order may include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement. The judge of each division shall determine if all support orders shall be subject to the provisions of this section and shall enter a standing order setting forth the treatment of non-Title IV-D cases in that division prior to January 1, 1994.

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- AZ §12-2457      The clerk of the superior court shall receive and disburse all monies applicable to support and maintenance, including alimony.
- CA CivCode §4702      Payment to county officer designated by court; Fees and expenses...the court shall direct that the payments of support shall be made to the county officer designated by the court for that purpose..."
- CO §26-13-114      Family Support Registry..."the implementation of a central family support registry for the collection, receipt, and disbursement of payments with respect to child support obligations for children whose custodians are receiving child support enforcement services from...IV-D cases)."
- §14-10-17      "...the court may at any time order that maintenance or support payments be made to the clerk of the court, as trustee, for remittance to the person entitled to receive the payments."
- CT §46-215(c)      "The court or a family support magistrate may direct all orders of support to be made through the family division or support enforcement services unit, and where the state of Connecticut has an interest, direct payments to the commissioner of administrative services..."
- DE §513      "...the Court may: (1) Order the defendant to pay a certain sum periodically into the Division of Child Support Enforcement or directly to a dependent, his guardian, custodian or trustee, for his support...(8)...mail or otherwise deliver the said deduction to the Division of Child Support Enforcement or the obligee as directed..."
- DC §30-514      "If, because of the failure of a payee to give notice under this section, the Court is unable, for a 3-month period, to deliver payments owed pursuant to the withholding order, the Court shall return each undeliverable payment to the obligor and inform the holder to cease the withholding."

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- FL §61.13 "(c) (2) ..payments of child support shall be made through the depository in the county where the court is located."
- §61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments;
- GA §19-11-6 "...Amounts collected by the department shall be distributed and deposited by the department in conformity with law."
- §15-15-4 Duties of child support receiver. It shall be the duty of the child support receiver to: (1) Collect all child support payments and such other payment of support as are established by judicial order..."
- §19-6-33 (e) (1) deduct from the obligor's income...and pay that amount to the obligee or to a child support receiver, the IV-D agency, or other designee, as appropriate. NOTE: GA "income deduction order" statute specifies the general use of income deduction, and adds references to requirements that apply "if the obligee is receiving IV-D services."
- GU CSE Unit Agreement §2 The Clerk of the Superior Court of Guam, via Ct. Financial Management System, agrees to receive child support payments made to the court pursuant to court orders of support for any child/ren deserted or abandoned by his/her parents; to include child support collections received through Government of Guam Payroll Deduction Plan.
- §3 The Clerk of the Superior Court of Guam, via Financial Management System, agrees to transfer all child support collections received to the Financial Management Office, Department of Public Health and Social Services, for deposit to the Department of Public Health and Social Services account.

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- §6 The Clerk of the Superior Court of Guam, via Financial Management System, agrees to provide copies of the certification of court ledgers for non-payment of child support; maintain records on the number of documents being requested by the Child Support Enforcement Unit and bill the Child Support Enforcement Unit on a monthly basis for the documents provided.
- HI §571-52 the assignment (of amounts of future income) shall be to the clerk of the court where the order is entered if for the support or maintenance of a spouse or former spouse, or to the child support enforcement agency [department of the attorney general] if for the support, maintenance, or education of a child or if child support and spouse support are contained in the same order.
- ID §8-704 "...the court may order either parent or both parents to assign such sum as the court may determine to be equitable to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive such payment..."
- IN §31-1-11.5-13"Payment of support order. -- (a) Upon entering an order for support, the court shall require that the support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment."
- §31-2-2.1. Support payments for dependents -- Order for payment to clerk of court.
- IL §750 5/507 Payment of maintenance or support to court...the court may order at any time that maintenance or support payments be made to the clerk of court as trustee for remittance to the person entitled to receive the payments."

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IA §252B.13A 1. The department shall establish within the unit a collection services center for the receipt and disbursement of support payments as defined in section 598.1 required pursuant to an order for which the unit is providing enforcement services under this chapter. For purposes of this section, support payments do not include attorney fees or court costs. 2. The center shall develop an automated system to provide support payment records from the center to the clerks of the district court and the clerks of the district court are authorized to receive this information.

§252B.14 All support payments required pursuant to orders entered under this chapter and chapter 234, 252A, 252C, 598, 675, or any other chapter shall be directed and processed as follows: 1. If the child support recovery unit is providing enforcement services for a support order, support payments made pursuant to the order shall be directed to and processed as follows: a. Payments made through income withholding, wage assignment, unemployment insurance offset, or tax offset shall be directed to and disbursed by the collection services center. b. Payments made through electronic transfer of funds, including but not limited to use of an automated teller machine, a telephone initiated bank account withdrawal, or an automatic bank account withdrawal shall be directed to and disbursed by the collection services center. c. Payments made through any other method shall be directed to the clerk of the district court in the county in which the order for support is filed and shall be disbursed by the collection services center. 2. If the child support recovery unit is not providing enforcement services for a support order, support payments made pursuant to the order shall be directed to and disbursed by the clerk of the district court in the county in which the order for support is filed.

252B.15 1. If the child support recovery unit is providing enforcement services for a support order, the collection services center is the official entity responsible for disbursing the support payments made pursuant to the order. 2. The collection services center shall notify the clerk of the district county of any order for

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which the child support recovery unit is providing enforcement services. The clerk of the district court shall forward any support payment made pursuant to the order, along with any support payment information, to the collection services center. The collection services center shall process and disburse the payment in accordance with federal requirements. 3. If the child support recovery unit is not providing enforcement services for a support order, the clerk of the district court in the county in which the order for support is filed is the official entity responsible for disbursing of support payments made pursuant to the order. 4. If the unit's child support enforcement services center relating to a support order are terminated but the support obligation remains accrued or accruing, the support payment receipt and disbursement responsibilities relating to the order shall be transferred from the collection services center to the appropriate clerk of the district court.

- KS §23-4,108 The payor shall pay the amount withheld to the income withholding agency, or otherwise to the clerk of court or court trustee as directed by the order of withholding.
- KY §205.750 "Payments to be made to domestic relations clerk, court designee or cabinet.--(1) Child support payments made pursuant to a court order shall be made through a domestic relations clerk of the county or other person or agency designated by the court to receive payment..."
- LA R.S. §46:236.3 The total amount withheld, including the dates withheld shall be forwarded within ten days to the person ordered to receive the support or to the department or its representative as provided in the order.  
(c)(9)

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LA R.S. §46:236.2(A) The department may, by a written motion together with a written certification from the department that support enforcement services are being furnished to the individual or caretaker of any individual receiving support benefits, obtain an order to require any person under an order to support such individual or caretaker to make such support payments payable to the department.

(B) Any interested party may by a written motion, together with a written certification from the department (1) that the department is not presently furnishing and does not contemplate furnishing AFDC for or on behalf of an individual and (2) that no services are being rendered by the department on behalf of the individual, obtain from the court which rendered the order to support such individual an amended order to require that support payments be made payable to the individual or caretaker instead of the department.

LA R.S. §46:236.5  
(b) 1)

Any court with jurisdiction to establish paternity or to establish or enforce support obligation may implement an expedited process for the establishment or enforcement thereof in accordance with the provisions of Subsection C of this Section. Such a court may collect and distribute support obligations and may, by court order or rule, assess and collect a fee of not more than five percent of all existing and future support obligations to fund the administrative costs of a system for expedited process.

ME 195777

Support and alimony orders issued or modified by the courts in this State must have a provision for withholding of income...the department (of human services) is designated as the agency responsible for adopting and administering procedures to receive, document, track, and monitor all support payments collected pursuant to this section. The department may promulgate a fee for use of these services.

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MD Family Law  
§10-204(c)

The accused individual shall make the payments to the person who has custody of the minor child, through the appropriate support enforcement agency; or if there is an agreement with respect to support of the child, to the recipient designated in the agreement.

§10-127

Send the deducted amount directly to the support enforcement agency or the recipient, as specified in the order.

MA 208§36A

In any case in which an obligor is under court order to pay alimony or support and maintenance or child support in an action or judgment for divorce . . . or in an action or judgment for separate support. . . the court. . . may enter an order of trustee process against the disposable earnings. . . the trustee shall transmit. . . to the clerk of the court, or to the family service office of the court or any other party designated by the court, the amount ordered by the court to be trusteed.

119A§4

The IV-D agency shall establish accounting systems to record child support payments received by it on behalf of obligees pursuant to wage assignments in effect for child support obligors.

MI §25-164(9)

The order (of income withholding) shall direct sources of income to withhold from income due the payer and to pay to the office of the friend of the court for the judicial circuit in which the order was entered an amount sufficient to meet the payments ordered for support and service fees, and to defray arrearages in payments and service fees due at the time the order of income withholding takes effect.

MN §518.551

The court shall direct that all payments ordered for maintenance and support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, or has applied for child support and maintenance collection service.

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- MS §43-19-39** Court orders of support in all cases brought under the provisions of sections 43-19-31 to 43-19-53 shall specify that the payment of support, attorney fees, if any, or costs of court shall be directed by the absent parent to the child support unit of the state department of public welfare
- §93-11-109** ...the clerk or the obligee's attorney shall serve notice of delinquency and order of withholding on the payor [employer]
- §93-11-111** The payor shall pay the amounts withheld to the department of public welfare.
- MO §454.495** . . . the court shall order all support payments to be made to the circuit clerk as trustee for the division or other person entitled to receive such payments under the order.
- MT §40-6-117** ...the court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer any of them for the benefit of the child under the supervision of the court.
- §40-5-205** . . . then any support money paid by the person or persons responsible for support as a result of any action shall be paid through the support enforcement and collections unit of the department of revenue.
- NC §50-13.4** (d) Payment for the support of a minor child shall be ordered to be paid to the person having custody of the child or any other proper person, agency, organization or institution, or to the court, for the benefit of such child.
- NE § 42-369(1)** All orders or judgments for temporary or permanent support payments, alimony, or modification of the same shall direct the payment of such sums to be made commencing on the first day of each month to the clerk of the district court for the use of the persons for whom the same have been awarded.

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- NV §425.410 Whenever, as a result of any assignment or action, support money is paid by the responsible parent, such payment shall be made through the division upon written notice by the division to the responsible parent, or to the clerk of the court or district attorney if appropriate, that the child for whom....
- NH §458-B:3 III. In cases where the obligee does not make application for IV-D services, but wishes to utilize the division's services, the division's role in enforcing support is limited to monitoring, collecting, and disbursing moneys under this section.
- NH §458-B:6 IV. That the employer must send the withheld amount to the state or other payee at the same time the obligor is paid.
- NJ §2A:17-56.13 In every award for alimony, maintenance or child support payments the judgment or order shall provide that payments be made through the probation department of the county in which the obligor resides, unless the court, for good cause shown, otherwise orders.

§2A:17-56.14

An obligee who has not established a IV-D case through the probation department shall file an affidavit when applying for the income withholding, stating that the payments not made for support have accrued arrearages in an amount equal to the amount of support payable for 14 days. The probation department shall administer the withholding in accordance with procedures specified for keeping adequate records to document, track, and monitor support payments or establish or permit the establishment of alternative procedures for the collection and distribution of amounts withheld by an entity other than a designated public agency. Alimony, maintenance or child support payments not presently made through the probation department shall be so made upon application of either party unless the other party upon application to the court shows good cause to the contrary.

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- NM §40-11-17 (B) The court may order support payments to be made to the mother; the clerk of the court; or a person, corporation, or agency designated to collect and administer such funds for the benefit of the child, upon such terms as the court deems appropriate.
- ND ROCS.2(e) Payments to clerk. The interim order must provide that all support payments be paid to and through the clerk of the district court. Payments must be in a manner acceptable to the clerk unless otherwise ordered by the court.
- §1409-09.23 Procedures must be developed for the clerks of court to promptly distribute amounts withheld pursuant to an income withholding order and to promptly refund erroneously withheld amounts.
- §1409-09.241. Except as provided in subsection 2, each judgment or order which requires the payment of child support, issued or modified on or after January 1, 1990, subjects the income of the obligor to income withholding, regardless of whether the obligor's support payments are delinquent.
- NY §440 (1)(a) Any support order made by the court in any proceeding under the provisions of article three-A of the domestic relations law, pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or under the provisions of articles four, five or five-A of this act (i) shall direct that payments of child support or combined child and spousal support collected on behalf of persons in receipt of services pursuant to section one hundred eleven-g of the social services law, or on behalf of persons in receipt of public assistance be made to the support collection unit designated by the appropriate social services district, which shall receive and disburse funds so paid.
- OH §2301.36 . . . the court shall require that support payments be made to the child support enforcement agency of the county as trustee for remittance to the person entitled to receive payments . . .

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- OK 43§135 If a judicial order, judgment or decree directs that the payment of child support, alimony, temporary support or any similar type of payment be made through the office of the court clerk, then it shall be the duty of the court to transmit such payments to the payee . . .
- OR §25.020 . . . the obligor shall make payment thereof to the Department of Human Resources when the obligee is receiving general or public assistance or IV-D services.
- §25.030 Support orders in respect of obligees not subject to ORS 25.020 may provide for payment under the order: (a) To the clerk of court . . . (b) To a checking or savings account . . ., or (c) Directly to the obligee by deposit into the obligee's bank account. Also provides for fees to be paid by obligor to clerk for maintaining collection, accounting and disbursement services.
- §25.040 When support payments payable to clerk of court . . . the person ordered to pay the money shall make payment thereof to the clerk of the court . . .
- PA 23Pa.C.S.A. §3704 When so ordered by the court, all payments of child and spousal support, alimony or alimony pendente lite shall be made to the domestic relations section of the court which issued the order or the domestic relations section of the court at the residence of the party entitled to receive the award.
- PR 25T.8§523 At any time the obligor is in arrears for the equivalent of one (1) month or more in the payment of support and there does not exist an order in his file in the court for the withholding of part of his income at the source, the clerk of the court will automatically certify to the judge the total amount of the debt and he will immediately issue the corresponding order to withhold the obligor's income at the source...the clerk shall promptly remit said order (to withhold income at the source) to the employer or disburser....In cases where the obligor changes employer or there is a new disburser, the clerk of the court shall proceed (to remit . . .order to the employer immediately after being notified of the change.

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CHILD SUPPORT PAYMENTS ARE MADE

RI §15-5-24 Each judgment containing support provisions and each order for support issued by the family court of this state shall include an order directing the obligor to assign the income...to the clerk of the family court.

SC §20-7-1315(B) (4) Where the obligor makes payments directly to the obligee pursuant to an order for support and where income withholding procedures take effect, the provisions to pay directly are superseded by the withholding process and the obligor and the payor on behalf of the obligor must during the period of withholding pay this support through the court.

§20-7-1315(C) (1) When a delinquency occurs, the clerk of court shall prepare, file and serve on the obligor a verified notice of delinquency. In cases where the obligor makes payments pursuant to an order for support directly to the obligee and the obligee seeks income withholding, the notice of delinquency must be verified by the obligee and then served on the obligor by the clerk of court as with any other notice of delinquency.

§20-7-1315(E) (5) The payor shall promptly pay the amount withheld to the clerk of court, in accordance with the notice to withhold and in accordance with any subsequent notification received from the clerk of court concerning withholding.

§20-7-1315(E) (6) Upon the records of the clerk of court reflecting the satisfaction of an arrearage, the clerk of court shall service upon the payor by regular mail a notice of reduction of withholding.

§20-7-1315(G) (5) Any clerk of court which collects, receives, or disburses payment pursuant to an order for support or a notice to withhold shall maintain complete, accurate, and clear records of all payments and their disbursements.

**STATE STATUTES ADDRESSING ENTITY TO WHICH  
CHILD SUPPORT PAYMENTS ARE MADE**

- SD §25-7A-34    The payor shall transmit the amount withheld to the department in accordance with the order for withholding within five days after the date the obligor is paid or his property withheld and in accordance with any subsequent notification received from the department redirecting payment.
- §25-7A-44    The department may apportion withheld amounts among multiple support orders giving priority to current support, and shall maintain complete and accurate records of all payments and disbursements. A certified copy of payment records maintained by the department or clerk of courts shall, without further proof, be admitted into evidence in any legal proceedings under this chapter.
- TN §36-5-101(a) (4) The order or decree of the court may provide that the payments for the support of such child or children shall be paid either to the clerk of the court or directly to the spouse or to the person awarded the custody of the child or children. The court shall order that all support payments of Title IV-D cases shall be paid to the clerk of the court.
- TN §36-5-501(a) (1)
- When any order for the support of minor children is entered in a court, whether setting support, modifying support or enforcing previously ordered support, the court may order an immediate assignment to the clerk of the court, of the party's wages, salaries, commissions, pensions, annuities and other income due and to be due as the court may find necessary to comply with the order of support, including, in the court's discretion, an amount reasonably sufficient to satisfy an accumulated arrearage.
- TX §14.43(c)    The court shall order that income withheld for child support be paid through and promptly distributed by a court registry, a child support collection office, or the attorney general, unless the court finds that there is good cause to require payments to be made to another person or office.

STATE STATUTES ADDRESSING ENTITY TO WHICH  
CHILD SUPPORT PAYMENTS ARE MADE

UT §62A-11-403 When a child support order is issued or modified in this state after July 1, 1985, it shall authorize the withholding of income...and that all withheld income shall be submitted to the office (of Recovery Services).

VA §20-79.3(12)

That, except as provided in subdivision 16, employers shall remit payments on each regular pay date of the obligor directly to the payee if requested in writing by the payee, provided the employer has not received notice that the payee is receiving child support services as defined in §63.1-250 through the Division of Child Support Enforcement.

§20-79.3(16) That the employer is to remit individual payments to the Department of Social Services for disbursement to the payee when directed to do so by the Department of Social Services of any court having competent jurisdiction.

VI 16§358(2)

An employer who receives a notice or order of income withholding shall...send this withheld amount to the Paternity and Child Support Division or such other entity or person as it may designate.

VT 33§4103(a)

The office of child support shall establish a registry for the following purposes: processing child support collections and disbursements, maintaining records necessary for the receipt and disbursement of child support...(b)...All orders for child support not subject to wage withholding made or modified on or after July 1, 1990 shall require that payment be made through the registry unless the parties have agreed that the obligor will pay the obligee directly.

STATE STATUTES ADDRESSING ENTITY TO WHICH  
CHILD SUPPORT PAYMENTS ARE MADE

WA §26.23.010 (eff.1-1-88) It is the intent of the legislature to create a central Washington state support registry to improve the recordkeeping of support obligations and payments, thereby providing protection for both parties and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.

It is also the intent of the legislature that child support payments be made through mandatory wage assignment or payroll deduction if the responsible parent becomes delinquent in making support payments under a court or administrative order for support.

To that end, it is the intent of the legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state.

WI §767.265(1) Each order for child support...for maintenance payments...for family support...for costs...for support by a spouse...or for maintenance payments, each court-approved stipulation for child support...and each order for child or spousal support...constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits...lottery prizes that are payable in installments and other money due or to be due in the future to the clerk of the court where the action is filed.

WV §48A-2-13 All support payments owed to an obligee who is an applicant for or recipient of the services of the [Child Advocate] office shall be paid to the office. Any other obligee owed a duty of support under the terms of a support order entered by a court of competent jurisdiction may request that the support payments be made to the office. In such case, the office shall proceed to receive and disburse such support payments to or on behalf of the obligee as provided by law.

WY §20-6-214 The clerk (of court) shall maintain records showing receipt and disbursement of all funds received...promptly distribute all funds received to the appropriate person or agency...



## ADMINISTRATIVE PROCESS

### EXECUTIVE SUMMARY

Over the last ten years, large court backlogs resulting from overburdened court systems have caused the Federal and State governments to seek alternative forums for addressing child support cases, such as administrative processes or the use of more limited administrative procedures for handling certain functions or case processing activities.

An administrative process for purposes of child support is a statutory system granting authority, traditionally vested in the courts, to an executive agency. The continuum of such processes extends from limited application (such as the use of certain administrative procedures with judicial action otherwise necessary) to a more comprehensive application (adjudication, determination, establishment and enforcement with a full range of administrative remedies), depending on the authority granted under State statute.

Administrative process systems provide the child support agency the ability to more effectively control case processing. The process allows States to streamline procedures, consolidate case management, provide more consistent treatment of cases and, at the same time, reduce court dockets. States, however, often choose to limit the use of administrative process to address particular problems in concert with an otherwise adequate judicial approach. Utilization of key administrative procedures can significantly reduce court involvement in child support enforcement and make a substantial contribution to a more streamlined and effective child support program.

About one-third of the States have administrative process statutes that allow for the establishment and/or enforcement of child support orders outside the court structure. While some of these states use administrative process for all IV-D cases, others use them only in certain cases and/or in selected jurisdictions.

While there is no hard data on the level of improvement produced by adoption of an administrative process, states which have such systems maintain that the number of support orders established and the amount of child support collected increases. They contend that the speed of establishment, the uniformity of handling and the control over the process provide significant benefits. For example, Oregon's Child Support Updating Project found that it was significantly less costly to modify orders by administrative process (\$496 per case) than by judicial process (\$770 per case).

This paper defines what is meant by an administrative process and procedures and explores the move toward extricating child support matters from the courts, and issues which would be raised under a Federal mandate. These include the benefits to be derived, legal challenges, universal application, transitional considerations, and the role of the courts and political environment.

Finally, two options are provided for moving the child support program away from the courts:

- o Require all States to adopt a complete administrative process for child support
- o Require States to adopt a core set of administrative procedures, including:
  - subpoena/discovery power
  - administrative garnishment
  - administrative liens
  - administrative seizure and sale
  - administrative order to withhold and deliver

While both of these options speak to a State mandate, another approach which may be more politically acceptable is to encourage States to embrace one option or the other by providing enhanced Federal funding for associated costs.

## ADMINISTRATIVE PROCESS

### I. BACKGROUND

Over the last ten years, large court backlogs resulting from overburdened court systems have caused the Federal and State governments to seek alternative forums for addressing child support cases, such as administrative processes. However, as discussed below, few States have actually implemented what can be considered true administrative process systems. Rather, many have retained their judicial-based systems but have instituted more limited administrative procedures for handling certain functions or case processing activities.

The Child Support Enforcement Amendments of 1984 provided the first Federal response to the growing barrier to collecting child support caused by overburdened court systems by requiring States to have and use expedited processes to establish and enforce support orders. Under the requirements, States could use administrative or quasi-judicial processes for handling their support cases or submit evidence to the Secretary that their current judicial process provided expedited handling by meeting case processing time frames set out in regulation.

While the expectation was that under this requirement child support cases would be handled under a simpler and more efficient process than the traditional legal system provides, problems in case processing and adjudication remain. Several witnesses testified to the Commission on Interstate Child Support that the delays and expense of court hearings have been detrimental to obtaining support. The testimony suggested that many parents wait for hours to have their case heard with dozens scheduled for a morning or afternoon session, to which all parents must report at the start of the session. The Commission's report indicated that a judge's unfamiliarity with a case that was heard earlier by another judge often added time and may have added inconsistency to the resolution of factual disputes.

Similarly, a study conducted by the National Child Support

Assurance Consortium found that, among the mothers who pursued support through the State Child Support Enforcement agency, long waits to obtain an order were common. Even after a support order was obtained, it took a substantial amount of time to receive even one payment. Of these families, over one-quarter waited more than one year to receive a single payment and a similar number never received regular support. These mothers provided a substantial amount of information to the IV-D agency, including the father's name in all cases, and his home address, work address and social security number in the majority of cases. While these delays cannot be fully attributed to the State's method for establishing and enforcing support orders, certainly it was contributory.

This paper will define what is meant by an administrative process and procedures and explore the move toward extricating child support matters from the courts, and issues which would be raised under a Federal mandate. Use of administrative processes for establishing paternity is only touched on briefly here as it has been closely examined in a separate paper.

It is important to note that this paper does not attempt to explore the use of quasi-judicial or dedicated court systems for child support cases or to compare the benefits of a model judicial or quasi-judicial system vs. an administrative process system. Rather, the intent is to speak to the benefits of a pure administrative process and alternatively the benefits of employing model administrative procedures in an otherwise judicial environment.

## II. What Is An Administrative Process

An administrative process for purposes of child support is a statutory system granting authority, traditionally vested in the courts, to an executive agency to determine, through adjudication, child support orders, and to establish and enforce child support orders. The continuum of such processes extends from limited application (such as the use of certain administrative enforcement remedies with judicial action otherwise necessary, addressed in section III) to a more

comprehensive application (adjudication, determination, establishment and enforcement with a full range of administrative remedies), depending on the authority granted under State statute.

In a true administrative process decisions are made at the lowest possible level, with appeals to hearing officers or administrative law judges. All actions, with the exception of final appeals, take place within a child support agency.

Following is a discussion of the authority and procedures used under an administrative process system. As indicated above, authority under State statute may be (and generally is) more limited.

### Authority

An administrative process must have a legislative base providing an executive agency the right to:

--bring action

--secure wages and asset information including administration subpoena power to compel witnesses

--enforce judicial orders administratively

--use post-judgment remedies like wage assignment, garnishment, and attachment and execution of property

--promulgate rules and regulations

### Functions

#### Paternity Establishment

Paternity establishment under administrative process systems is generally limited to cases where paternity is uncontested. The agency may be authorized to establish paternity after providing

notice to all parties in uncontested cases, in cases where the alleged father has acknowledged paternity in writing and in cases where the alleged father and mother marry after the child's birth.

#### Support Order Establishment

Under an administrative process to establish support liability, the executive agency is granted by statute the right to establish enforceable orders in cases where no prior order exists. The only limitation is that the executive agency may not modify a court-ordered child support amount.

Guidelines have been particularly helpful in facilitating administrative process systems. Uniform requirements like guidelines allow front line workers to exercise authority otherwise left to attorneys and judges.

Typically, notice is provided to the noncustodial parent and the response dictates the next action. If the notice is ignored, an administrative default order is established and enforcement action taken. If a response is made, the parent can discuss the case with the agency and either a consent agreement can be reached or a hearing can be requested.

Under such a hearing, the support worker will often represent the agency. A hearing officer, or administrative law judge, who must be considered an impartial examiner of the facts, will make the decision. The hearing officer represents no one and may be employed by the umbrella agency where the child support agency rests (usually the Department of Social Services) or another agency like the Assistant Attorney General's office.

Under an administrative process, a hearing of record is created which includes documentary evidence and a recording of the proceeding. A tape recorder replaces the traditional court reporter. Procedures for admitting evidence are simpler. There are usually no codified rules of evidence and admissibility standards are not as stringent as the courts. Forms of hearsay such as unauthenticated letters, retold phone conversations between the caseworker and the obligee or statements by persons

not present at the hearing may be acceptable. The key criteria is relevancy.

Depending on State statute (and in some cases State constitution) the order may be advisory only or adopted by the State court as its own. Appeal rights range from administrative to, ultimately, judicial appeal and can involve a new trial as a matter of right, (de novo), to appeal alleging error (judicial review of the record).

Use of administrative support establishment eliminates delays and provides consistency of orders over a wide range of cases. Since courts are not involved and there may be less attorney involvement, costs are reduced and the proceedings less adversarial. In addition, since rules are relaxed, innovative techniques can be used to facilitate the process. In Washington and Alaska, the administrative process provides for conducting hearings via teleconference which has proven to be very helpful in remote areas.

#### Modification

Administrative process agencies have authority to modify existing orders following the same requirements for establishing orders. However, most current administrative process statutes do not authorize administrative agencies to modify existing judicial orders. (Georgia's statute allows for this, but it has never been tested, and recently Iowa and Missouri are reported to have enacted statutes authorizing administrative review of judicial orders). Once a court obtains jurisdiction over child support matters, its jurisdiction continues. This limitation would clearly raise transitional issues in considering a mandate for an administrative process.

#### Administrative Enforcement Remedies

An administrative process gives the agency authority to perform all enforcement functions except the use of contempt proceedings. These remedies, which do not require the active involvement of the courts and limit the involvement of attorneys, can also be

adopted by States which are otherwise judicially-based, as explored in more detail below. They include:

- o Administrative liens - Encumbers property so that it can't be sold or mortgaged;
- o Seizure and sale - Allows administrative agencies to seize, advertise and sell property. Where property is not subject to physical seizure, the title is sought; and
- o Order to withhold and deliver - Garnishment of wages, bank accounts and accounts receivable.

States may have provisions specifically providing for administrative enforcement of judicial orders to allow the agency to enforce prior judicial orders through administrative remedies and judicial enforcement of administrative orders, allowing administrative orders to be filed with the court, thus producing an enforceable order of the court--allowing for administrative remedies as well as contempt of court.

## II. USE OF ADMINISTRATIVE PROCEDURES IN AN OTHERWISE JUDICIAL ENVIRONMENT

States often choose to limit the use of administrative process to address particular problems with an otherwise adequate judicial approach. While such an approach is embraced by the administrative process continuum discussed earlier, we have chosen to discuss such practices independently to provide a clearer understanding of the options provided later in this paper. As used here, we distinguish between the two ends of the continuum by referring to more limited administrative processes as administrative procedures. Like administrative processes, administrative procedures are authorities granted to the IV-D agency typically by statute which are traditionally vested in the courts.

As provided below, the use of key administrative procedures can significantly reduce court involvement in child support enforcement and make a substantial contribution to a more

streamlined and effective child support program.

The U.S. Commission on Interstate Child Support recommended greater use of administrative procedures. Specifically the Commission's report provided, "While realizing the important role of the court in establishment and enforcement of child support obligations, states are encouraged to simplify the IV-D child support process and make it more accessible by utilizing administrative procedures where possible. An important consideration would be the reduction in the workload of the court and reserving use of the court for those functions where a judicial officer is required."

The report further provided that it did not find enough evidence or research to mandate a particular system. "Both judicially based and administrative process systems can use administrative procedures to expedite cases. This is especially true when the court official is used only to review and sign enforcement requests. Examples of such procedures include the use of income withholding to enforce child support orders, administrative subpoena powers, and orders to withhold and deliver that can be implemented without the need for court involvement."

#### Administrative Subpoena/Discovery Powers

Administrative subpoena or discovery powers authorize the child support agency to issue subpoenas in order to gain access to information relevant to a case being enforced administratively. Administrative subpoena power to gain information and records is clearly necessary for a more efficient program. Several states have enacted statutes which require noncustodial parents and other persons to submit financial statements and other information to the agency upon request. The review and adjustment demonstration cross-site report concluded that the availability and utilization of administrative discovery powers were helpful in both conducting a review and obtaining a modification.

These demonstration projects found that administrative discovery powers available to child support agencies are an important

factor affecting the availability of independent wage or income information on obligors and, therefore, the ability to conduct a review of an order. The State issued employer subpoenas in all cases with obligor employer information available. Illinois reported that the overall response rate from employers was very high (80 percent). In addition to providing current information on obligor's location and income, the use of the employer subpoena reportedly reduced delays in filing petitions for modification, since the response to the subpoena was admissible in court and the legal representatives did not have to wait to obtain other evidence of income and allowable deductions. States which lacked such powers had lower response rates, and the project staff in those cases did not necessarily obtain the information needed.

The cross-site report also included in its finding that the actual length of time required for completion of a review appeared to be most affected by the source of information and the level of difficulty in obtaining that information. Further, they found that the length of time required to obtain a modification does not appear to be affected by the modification process itself. An expedited court-based process can be shorter than a stipulation process (though the stipulation process was thought to be shorter than an un-expedited judicial process).

#### Administrative Enforcement Remedies

Administrative enforcement remedies are defined as powers granted to a State agency which allow for the attachment and execution outside the judicial system of a responsible parent's assets. In addition to using administrative enforcement remedies to enforce administrative orders as provided above, a number of states use them to enforce court based support orders, after giving appropriate notice.

Administrative remedies differ from judicial remedies in that they are imposed by the agency in lieu of the courts. Existing administrative process statutes have established a number of administrative enforcement remedies. Statutes vary concerning the procedures the agency must complete in order to affect the

non-complying parent's property. Following are specific remedies:

Administrative garnishment - The most common administrative enforcement remedy, an order to withhold and deliver, is used to seize property (usually money) belonging to a noncustodial parent that is in the possession of a third party (e.g., employer, insurance company, bank, credit union). The order is issued by an agency official and usually served by certified mail on the person or officer of the company in possession of the noncustodial parent's property. Typically the order will recite identifying information about the noncustodial parent, the amount to be withheld, the amount and types of property exempt from withholding, the procedure for delivering the property to the agency or court clerk, and information describing the withholder's liability for failure to comply.

Administrative liens - The statute may prescribe a procedure for recording a lien against a non-complying noncustodial parent's real and personal property. The lien usually is accomplished by filing a document with the court clerk or county recorder of deeds in the county in which the property is located, similar to the State's procedure for creating judgment liens. The lien encumbers property so that, if the noncustodial parent attempts to mortgage or sell the property, a title search will reveal the lien. In practice, the noncustodial parent or purchaser of the property will pay off the support arrearage in order to remove the encumbrance on the title and release the lien, so that the property will not be subject to seizure and sale by the agency or the support obligee.

An official from the Massachusetts Department of Revenue, recently testifying at a child support enforcement oversight hearing held by the Human Resources Subcommittee of the Committee on Ways and Means, argued on behalf of the expanded use of administrative procedures. With respect to the use of administrative liens he stated that because past-due support has the status of a court judgement, it makes no sense to go back to court to obtain a lien. Doing so when a judgement already exists wastes the resources of the court and the child support agency

and causes unnecessary delays. He suggested instead that Congress could require the use of administrative liens that would be valid throughout the Country. He believes that once such a system of administrative liens is available, collection of arrears in interstate cases will be revolutionized.

Seizure and sale of property - This procedure is similar to seizure and sale (or levy and execution) under a State's civil law mechanisms for collecting judgment debts. In administrative seizure and sale, the child support enforcement agency, rather than the court, authorizes and carries out the seizure of property and advertises and holds the sale. The sale proceeds, less the costs of seizing the property and holding the sale, are applied to reduce or satisfy the support arrearage.

One especially noteworthy use of these administrative remedies has been undertaken in Massachusetts. A single notice is sent to obligors owing \$500 or more informing them of administrative enforcement measures including liens, levy and seizure, income assignment, Federal and State tax refund intercept, referral to a collection agency and reporting to a consumer credit bureau. After a second bill is sent with the opportunity to dispute the debt amount, assets are identified through automated interface with IV-D and tax records and quick action can be taken to seize assets.

The State has had very promising results from this practice. Collections from workers' compensation liens have quadrupled -- running at a rate of \$1.5 million annually. Collections from unemployment compensation benefits have increased by \$10 million per year. The speed of mass production wage withholding or levies increases collections about \$11 million per year and a bank levy strategy, when fully implemented, is expected to yield \$5 million annually.

Though more limited, a Texas child support lien law permits liens to be attached to property of delinquent obligors without obtaining a court issued judgment. The law instead authorizes IV-D or anyone else enforcing the order on behalf of a child support claim to submit a child support lien notice to a county

clerk where the obligor's property is located or the obligor resides. The clerk is required to enter the lien in the county's judgment records and the property cannot be sold or transferred until the lien is extinguished.

### III. CURRENT ENVIRONMENT

#### Expedited Processes

As previously indicated, the Child Support Enforcement Amendments of 1984 require all States to use an expedited process system for establishing and enforcing support orders because of long delays and severe backlogs of the courts. Expedited processes are defined in Federal regulation as those that include administrative or expedited quasi-judicial processes in which the presiding officer is not a judge, which increase the effectiveness of the establishment and enforcement process and which meet the following time frames for case disposition: 90% of cases in three months, 98% in six months and 100% in a year.

States may obtain an exemption from these requirements if their existing judicial systems meet some general requirements and the case disposition time frames included in regulation. Currently, 22 States have exemptions from the requirement for expedited processes. These exemptions cover one or more political subdivisions or judicial districts of the State. Only 2 States, Arkansas and Kansas, are operating under Statewide exemptions.

However, child support program audits have found that even where an exemption was not granted, or requested, expedited processes were not always used. Seven States have been cited as failing to substantially comply with the requirement for an expedited process for establishing and enforcing support orders.

#### State Advances Toward an Administrative Process

About one-third of the States have administrative process statutes that allow for the establishment and/or enforcement of child support orders outside the court structure. While some of these states use administrative process for all IV-D cases,

others use them only in certain cases and/or in selected jurisdictions. Attached is an analysis of State use of administrative processes and procedures.

Only five States, Missouri, Oregon, Washington, Virginia and Montana have systems which can be considered pure administrative process systems. Oregon is currently attempting to pass legislation to expand their administrative process to include paternity establishment authority.

Other States however are moving toward an administrative process. Massachusetts, California, Michigan, Maryland and New York traditionally use the courts or quasi-judicial processes to enforce support obligations but are beginning to use, or are exploring the use of administrative alternatives to avoid costly or lengthy litigation.

As indicated earlier, Massachusetts' IV-D agency, located in the State's Department of Revenue, is using administrative enforcement techniques as an effective method of collecting child support arrears.

California is pilot-testing the use of the State Franchise Tax Board to collect delinquent child support as it would delinquent personal income tax liabilities. The District Attorneys from six pilot counties will refer child support arrearages to the FTB for collection. The FTB will handle the arrearage as it would a delinquent personal tax liability and may use the full array of administrative methods of collections available to it. The FTB will mail demand for payment notices to delinquent obligors. There will be a repetitive processing of cases through automated levy programs, including vacation trust funds, wage data, financial institutions, dividends and miscellaneous 1099 information. Manual intervention will occur in selected cases, including research and analysis of Department of Motor Vehicles, real property, and credit report information, and involuntary actions taken, such as warrants and vehicle seizures. The project will run between January 1, 1993 and December 31, 1995, with an evaluation due by January 1, 1996.

Michigan hopes to begin using the broad collections powers granted to the Department of Treasury in pursuing AFDC fraud cases, to collect child support arrears in AFDC cases. The ability to use DOT authority is currently under review by State attorneys and operational procedures with the DOT are under development. Michigan hopes to implement this initiative in the fall of 1993.

Proposed legislation is currently before the New York legislature that would authorize the IV-D agency to enforce child support orders through administrative seizure of property, with due process protection for affected parties. The specific administrative procedures authorized in the bill that relate to parental financial resources include administrative seizure of property in delinquent cases, to streamline access to those resources.

Minnesota has recently implemented an administrative process in select counties in response to their failure to pass a child support audit of their expedited process system. They found that the system provided significant improvement with decreased case processing time, increased collections and decreased complaints from custodial parents.

Other States are moving toward administrative systems for modification. Montana has recently adopted an administrative review process conducted by hearing officers. The hearing officer can issue orders compelling parties to submit financial information, they can issue subpoenas and they can hold hearings by telephone conference. Anyone who has a support order filed with the State registry can request such a review.

#### Other Countries

The United States is not alone in its quest for uniformity and consistency in child support matters. Australia and the United Kingdom have recently undergone transformations to improve their child support programs through use of administrative processes.

Australia implemented an administrative system for assessment of

child support payments in 1987. Child support is set administratively by the Registrar and is reconciled at the end of the year. Appeals are made to the courts. If it is determined that the parent is not eligible for government financed assistance, the custodial parent must seek a court order/agreement or private arrangement within 3 months.

In Great Britain, the number of single parent families grew from 600,000 in 1971 to over a million in 1986. Divorce and separation were the major cause but out of wedlock births doubled over this same period of time. There was considerable inconsistency in maintenance awards as a proportion of noncustodial parent net income and seventy percent of noncustodial parents were not making regular payments.

In response, an administrative system has been phased-in over a period of time. The new Agency will take on responsibility to assess and review child maintenance claims. At the end of the transition period, the court will no longer have responsibility for assessing new claims for maintenance awards. However, courts will continue to have jurisdiction over related matters which arise when parents separate or divorce (custody, visitation, contested paternity, property settlements, spousal support) and may retain responsibility for adjusting the formula.

Since both of these programs are relatively new, no hard data is available as to their effectiveness. Both speak to what can be viewed as a non-existent approach to child support enforcement prior to these changes, so comparisons would probably be meaningless for our purposes. However, close examination of their procedures may be helpful were a Federal approach pursued in this Country.

#### IV. DISCUSSION ISSUES

A number of issues need to be addressed when consideration is given to granting the IV-D agency greater authority such as the use of some level of an administrative process system. These include the benefits to be derived, legal challenges, universal application, transitional considerations, and the role of the

courts and political environment.

These issues, while provided in the broadest context, are applicable in varying degrees to both pure administrative process systems and more limited administrative authorities.

#### Benefits of administrative processes and procedures

Administrative process systems provide the child support agency the ability to more effectively control case processing. The process allows States to streamline procedures, consolidate case management, provide more consistent treatment of cases and at the same time, reduce court dockets. As indicated by Massachusetts administrative enforcement experience, significant gains can be achieved by adopting even a limited administrative enforcement strategy.

Judicial systems can be extremely slow and cumbersome in establishing and enforcing support orders. In a judicial system, proceedings can be delayed through continuances and discovery requests. These delays are avoided under an administrative process, where the scope of issues raised and motions made can be limited.

While there is no hard data on the level of improvement produced by adoption of an administrative process, states which have such systems maintain that the number of support orders established and the amount of child support collected increases. Further, they contend that the speed of establishment, uniformity of handling and control over the process provide significant benefits.

An indirect benefit of an administrative process is the less formal system and surroundings involved. The judicial process, even when efficient, is often viewed as intimidating because of its formality. This was evidenced to some extent by the review and demonstration projects which found large numbers of non-AFDC cases where authorization could not be obtained. Among the primary reasons for not authorizing review and adjustment was an unwillingness to go to court (24 percent) and a desire to avoid

legal action (17 percent). This suggests the need for a more "user friendly" system. Use of administrative processes may have made a difference to these individuals by alleviating fears associated with going to court.

In addition, administrative process is thought to be beneficial in motivating front line workers. With more direct access to effective enforcement tools, their role changes from collection agent to enforcer. The front line worker has more authority (e.g., can sign off on forms that need to be signed by attorneys or judges), and more control over their cases from beginning to end which is thought to provide greater job satisfaction.

#### Legal challenges

Two questions often arise in considering the adoption and use of an administration process. The first involves the extent to which States can legislatively delegate traditionally judicial areas to the executive branch. While the Worker's Compensation program has set a precedent, State constitutions have in some States restricted such actions and several States have faced challenges based on the question of separation of powers.

One notable case occurred in Nebraska in 1988 in Drennen vs. Drennen. The Nebraska Supreme Court found the State's Referee Act to be unconstitutional in that it "deprives the district court of its original jurisdiction on each designated area (in this case findings of contempt) and violates State constitution's guarantee of access to the court as original trier of facts."

The court also found that the Referee Act denied equal protection of the law by arbitrarily denying child support payors in IV-D cases the same access to the courts as other payors. This may make a case for extending any requirement for administrative process to embrace all cases of child support in the State, not just those vested under title IV-D authority.

Conversely, a Iowa Supreme Court ruling may pose the most prudent judicial reaction to administrative process challenges. The Court found in a case challenging administrative withholding, "In

cases where activities of coordinate branches of government run shoulder-to-shoulder, as they do in child support cases, we must view the concept of separation of powers with a certain amount of pragmatism and cooperation. In those cases, it is permissible, often even desirable, to view the constitutional allocation of authority with an eye toward a common goal....The facts of the present case mirror the concern expressed in these [child support] cases that the court system, acting alone, has not been effective in obtaining compliance with child support."

However, in commenting on the Downey-Hyde proposal for Child Support Assurance, the Illinois Department of Public Aid expressed concerns that a requirement for an administrative process would represent a violation of constitutional separation of powers. The State was especially concerned about the effect on cases where initial action had been taken by the court and subsequent action was attempted by an administrative agency. Illinois stated that they would oppose any requirement which would "violate the established constitutional separation of the duties of the judicial and executive branches or require changes in State constitution." However, it should be noted that Illinois recently enacted an administrative process law which provides hearing officers the authority to adjudicate initial child support orders, modify non-judicial orders and establish paternity. The State is phasing in the law beginning with two locations in Cook County. However, administrative process will not be implemented in some smaller counties where it is considered unnecessary because of small caseloads.

The second question which often arises is due process protection - whether an administrative process can protect the due process rights of all parties. This question, unlike the first, can be clearly addressed in state statute and agency procedures, though legal challenges have been raised. However, caution should be exercised in drafting statute and procedures. Several court decisions have held that appellate courts should increase the intensity of their review of administrative decisions where the agency has acted as investigator, prosecutor and judge. To address such concerns, it has been recommended that "an agency must establish a hearing process which earns the respect of the

judiciary and the noncustodial parent population by delivering even-handed justice."

### Universal application

While many States have speeded up child support establishment and enforcement actions through adoption of some degree of administrative process, the process can still be cumbersome, especially for non-IV-D cases which are not necessarily embraced by the State under these requirements. If universal services are provided (as addressed in a separate paper) this problem would be largely eliminated.

However, in the absence of a universal system, some consideration should be given to the discriminatory nature of a dual State approach. Non-IV-D families may view this practice as putting their needs secondary, i.e., demanding efficiency only on behalf of IV-D cases. Of course, the reverse argument could be made as well. IV-D parties could view use of an administrative process as providing "second-rate" legal action since their access to the courts is severely limited. A third way to view this, however, is as an improvement to all cases. IV-D cases are handled quicker under an administrative process system, thus freeing court time to provide better services to non-IV-D cases.

However, as indicated in the Nebraska Supreme Court ruling cited above, application of an administrative process to IV-D cases only may undermine the authority of the system and may subject it to successful legal challenge.

### Transitional considerations

Transition to an administrative process may also raise legal issues associated with case jurisdiction. Unless States are required to enact statutes which explicitly provide administrative authority to modify court orders, a dual system will remain until these cases age out of the system. In addition, even if a specific mandate is included in Federal law, State constitutions may require conformity changes.

A mandated administrative process would also require significant resources to ensure that an appropriate response was provided. While needs for additional staff would most likely be limited since experience shows that current front-line workers are capable of becoming agency representatives, developing rules, procedures, training, and data processing modifications would take time and additional resources.

Mandating the use of specific administrative procedures may limit the above cited legal issues but would still require the development of rules, procedures and data processing modifications and would continue to necessitate appropriate training of staff.

#### Role of courts and political environment

Courts are always the source of final decision on a case through appeal, whether the trial-level adjudication was done by an administrative officer, master, referee or judge. Most courts today are overburdened and would benefit from having their caseloads reduced. Under an administrative process system, the court's role could be reserved primarily for divorces and legal separations which often involve complex custody and property issues (although States which have administrative processes generally also direct contested paternity cases to the courts). Also, criminal contempt proceedings could still be handled by the courts, although these are usually needed only in the most flagrant cases.

Advocates of administrative process suggest that the best role for the courts in the child support system is to hear appeals. However, courts, clerks, lawyers and administrators often have vested interests in preserving their turf and are powerful and effective lobbyists against change. Elements of the judicial system will likely be opposed to the perceived usurpation of their domain if a requirement is imposed for administrative processes.

This was clearly evidenced when the requirements for expedited processes were first implemented. Many courts argued strongly

against the requirement that the hearing officer not be a judge of the courts.

Vermont originally had an administrative system which worked well. Because of political pressure, however, the State instituted a Family Court system. However, some efficiencies were retained since this is a quasi-judicial process.

In West Virginia, a circuit judge sought injunction against a law which authorized an administrative process to handle most domestic relations matters of the State. The Supreme Court of Appeals voided enactment of the administrative process because the law unconstitutionally divested circuit court judges of their authority. Legislation was then enacted requiring judicial ratification of administrative orders.

However, judicial support for administrative child support programs may be on the upswing, after eight years of experience with the expedited process requirements of the Child Support Enforcement Amendments of 1984. Judges are much more supportive of the requirements now than they were when the requirements were first proposed and mandated.

The Georgetown University's Program on Science, Law and Compensation conducted a survey of 40 "judges, court administrators, legal scholars, writers and prominent practitioners with accumulated judicial branch experience" and found that almost all agree that the courts' effectiveness was being squeezed. Included in their recommendations was the concept that the judicial community begin a process of analyzing every class of dispute before the bench and determine in which forum cases should be resolved. Clearly, this signals the judicial community's willingness to seek alternatives to judicial adjudication to lessen the burden of the court.

#### V. OPTIONS

Following are two options for moving the child support program away from the courts. While both of these options speak to a State mandate, another approach which may be more politically

acceptable is to encourage States to embrace one option or the other by providing enhanced Federal funding for associated costs.

Because of the significant benefits expected to be produced under either approach, the Federal government could provide 100 percent funding for the costs associated with an administrative process or specific administrative procedures. Reduced administrative expenditures resulting from greater program efficiency and increased collections could significantly offset the additional costs to the Federal government.

1. Require all States to adopt a complete administrative process for child support - Courts would remain responsible for divorce settlements, but paternity, child support collection and modification would be done by administrative procedures including an administrative process under an administrative agency.

#### PROS and CONS

##### PROS

- o Case processing is cheaper when removed from the court;
- o Streamlined processing leads to greater efficiency because services are less fragmented;
- o Scientific advancement in genetic testing has taken much of the guesswork out of paternity establishment;
- o Administrative process coupled with more uniform requirements (like guidelines) allows front line workers to exercise authority otherwise left to attorneys and judges;
- o All parties involved have expertise in child support. Typically, judges and lawyers are like general practitioners ... in smaller courts, judges hear cases involving wide variety of issues; in larger courts they tend to specialize but assignments are rotated;

- o Legal services agencies believe that parties involved in the action would rather appear in an administrative forum than in a judicial one. In pro se actions, the administrative forum tends to be more "user friendly" and not as intimidating as the judicial forum. Also, rules of evidence are more relaxed;
- o Administrative process systems are generally more informal than courts. In court based hearings, people feel "weight" of court environment. Even in Family Court, Magistrates wear robes, sit on the bench and conduct hearings in the court room. While IV-D non-attorney staff may present cases and do filings, more and more magistrates ask staff to perform like lawyers;
- o The Child Support Agency has more control over an administrative process. It doesn't have to rely on actions of other agencies and can control personnel, budget, dockets, etc.;
- o It could update cases efficiently -- inexpensively and quickly;
- o It could produce fair results by treating all cases equitably;
- o A great deal of efficiency should be gained as all except the most complex child support matters would be dealt with by one agency rather than the extremely fragmented system that we now have;
- o It will eliminate current problems in interstate cases of responding States giving less weight to administrative orders; and
- o It allows States to respond to audit findings. Currently, the IV-D agency has no control over audit findings related to court deficiencies.

CONS

- o Other States don't always treat administrative orders like judicial orders. More weight is given to orders issued by the courts. They may revert to the URESA model because they are uncomfortable using an administrative order as the basis for an enforcement action;
- o Rules between judicial and administrative orders are still confusing. Though this has improved, legislation like the Soldiers and Sailors Relief Act which provides time off for appearances at judicial proceedings but not corollary action for administrative proceedings, still serve as a barrier;
- o Court-based systems provide uniformity for IV-D and Non-IV-D cases;
- o A significant number of cases may be subject to challenge which could produce longer delays than direct action of the courts;
- o It may require change in State constitutions;
- o It may result in political opposition, especially in States with strong, effective judicial and quasi-judicial systems;
- o Courts may remain overburdened if judicial ratification/registration of orders is provided;
- o Quasi-judicial process can be workable for deciding more complex issues, like contested paternity, which require more judicial safeguards and subjective decision-making; and
- o Discovery in administrative cases may be limited while in quasi-judicial cases or judicial cases discovery may include the right to use interrogatories, depositions,

admission of fact and production of documents.

2. Require States to adopt a core set of administrative procedures, including:

- administrative subpoena/discovery powers;
- administrative liens;
- administrative seizure and sale; and
- administrative order to withhold and deliver (garnishment).

PROS

- o While the Commission on Interstate Child Support Enforcement did not recommend a particular system for establishing and enforcing support orders they did address the need for administrative procedures. They recommend that States simplify the child support process and make it more accessible by utilizing administrative procedures where possible. The examples they cite include income withholding, administrative subpoena powers, and orders to withhold and deliver that can be implemented without the need for court involvement;
- o Enforcement actions that are administratively imposed, with challenges and appeals limited to very narrow circumstances, allow volumes of cases to be handled efficiently;
- o Less political opposition;
- o It retains State flexibility;
- o It will allow efficient court-based systems to continue without disruption;
- o Administrative procedures allow front line workers to exercise authority otherwise left to attorneys;

- o It allows States to respond to audit findings; currently the IV-D agency has no control over audit findings related to court deficiencies;
- o Streamlined processing leads to greater efficiency because services are less fragmented; and
- o It aids in eliminating barriers caused by court backlogs. Administrative procedures keep most enforcement actions out of the courts.

#### CONS

- o It may provide more limited improvement and benefits; and
- o With respect to administrative enforcement remedies, opposition may come from employers, banks and title insurance companies.

#### VI. COSTS

While there is general agreement by program officials that the use of administrative processes are less costly than judicial processes, there is no hard data readily available to substantiate this claim. The dramatic changes undertaken by the Child Support Enforcement program over the last 10 years have made it very difficult to specifically attribute cost savings or collection increases solely to the introduction of an administrative process.

In fact, a draft report prepared by the Maryland Judicial Conference (June 1993) found that while States have had administrative process systems in place for an extended period of time, no statistics are yet available to show the benefits of changing from a judicial system to an administrative system. The report provides, "...all of the states which have instituted such a system maintain that the number of orders established and amount of support collected have increased using an

Administrative process."

While again not providing specific numbers, the results of a comparative study of administrative and judicial procedures conducted by the University of Southern California Center for Health Services Research showed that "administrative procedures are superior to court-oriented procedures for the establishment of child support obligations."

However, Oregon's Child Support Updating process may shed some light on the potential administrative cost savings associated with an administrative process. Oregon's Child Support Updating Project found that it was significantly less costly to modify orders by administrative process (\$496 per case) than by judicial process (\$770 per case). This finding was attributed to the simpler and more uniform procedures used in the administrative process, lack of required attorney involvement, faster progression, and absence of travel and waiting time, since administrative hearings were conducted statewide by telephone conference.

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**STATE PROFILE  
ADMINISTRATIVE PROCESS**

It is difficult to categorize the States in any other than broad categories as to their usage of administrative processes and procedures due to variations among them as to what constitutes administrative process. There are other variables, such as differences in remedies available at particular points in the process, universality of application, and differences even among jurisdictions within county administered States as to availability and/or usage.

The following States utilize administrative processes or procedures as described:

**Alaska** - Administrative Hearing Officers establish paternity (including ordering blood tests) establish child support orders, review and modify non-judicial orders and take enforcement actions.

**Colorado** - Child support caseworkers establish paternity in uncontested cases, issue default child support orders based on State guidelines and issue temporary child support orders. They modify child support orders established under administrative process and enforce orders for child support and medical support through wage assignment, garnishment, etc.

**Georgia** - The State has a provision for Administrative Hearing Officers to establish child support orders administratively.

**Hawaii** - Administrative Officers handle all establishment and enforcement matters except paternity and contempt/failure to support cases, which are handled judicially. Administrative orders are filed with Clerk of the Court without judicial signoff.

**Illinois** - A new State law provides for Hearing Officers who can adjudicate paternity and establish initial child support orders, modify non-judicial orders and take enforcement actions.

Implementation is being phased in starting with two locations in Cook County. Some smaller counties, with small caseloads, won't get the process because it's not needed.

Iowa - Administrative Hearing Officers can establish child support orders. A judge must sign a paternity order. However, they can initiate blood tests. After performing review and adjustment, they can administratively modify orders, including child support orders originally completed by the courts in dissolution cases. A judge signs off on the modified order to certify due process has been served and not to review or agree on the contents of the order. The hearing officers can also initiate seek work orders.

Kentucky - The State has a provision for Administrative Hearing Officers to establish child support orders administratively.

Maine - Administrative Hearing Officers enter child support orders, voluntary paternity acknowledgements, order blood tests and take enforcement actions except in cases of contempt.

Missouri - If there is no child support order, a Notice of Finding of Financial Responsibility is sent to the noncustodial parent. If there is no response, an Administrative Hearing Officer can issue an administrative default order. If the noncustodial parent responds, he can request an administrative or judicial hearing. If there is an order, the Hearing Officer can duplicate it and add arrearage amounts to it. Hearing Officers can establish paternity if there's consent. In a recently passed law, effective January 1, 1994, review and adjustment will be done administratively for all orders, including judicial orders. The adjusted order will be sent for judicial review. If there is no judicial response in 45 days, the adjusted order becomes effective.

Montana - An Administrative Law Judge handles all child support establishment and enforcement functions, including establishment of paternity.

Oklahoma - Hearing Officers can establish, enforce and review and

adjust orders. There are two Hearing Officers for the State, serving the four counties which comprise slightly less than half the total caseload.

Oregon - Administrative Hearing Officers handle child support order establishment, review and modification of non-judicial orders, paternity establishment (including ordering blood tests) and enforcement.

Utah - Administrative Law Judges handle all child support establishment and enforcement functions with the exception of paternity establishment.

Virgin Islands - Administrative Hearing Officers handle uncontested paternity establishment, establishment of child support orders and modification of non-judicial orders.

Virginia - All child support establishment and enforcement functions, including establishment of paternity, are carried out under the State's administrative process.

Washington - Administrative Hearing Officers handle order establishment, review and modification of non-judicial orders, and enforcement. A small percentage of paternities are established administratively through in-hospital declarations.



## CENTRALIZING CHILD SUPPORT WITHIN STATE GOVERNMENT

### EXECUTIVE SUMMARY

Currently, the organizational structure of the Child Support Enforcement (title IV-D) program in many States is very fragmented. Various State and local agencies provide child support services or perform functions without the benefit of central direction and control. The various agencies have different priorities, level of commitment and funding, skills and abilities including their knowledge of all aspects of the program and how they interrelate, and systems and procedures for processing and tracking child support actions and coordinating with other components. As a result, the quantity, timeliness, and cost of case work in many jurisdictions is seriously deficient.

The purpose of this paper is to identify and explore the issues associated with requiring States to develop a centralized child support operation. The options and advantages and disadvantages for each issue are discussed but no conclusions are given.

The issues included in this paper as being among the more important aspects of centralization include: (1) the extent to which centralized operations should be alike among States, (2) where within State government the central State child support agency should be located, and (3) the extent to which child support services are centralized at the State level. No attempt was made to develop specific models for centralizing operations since any number of options and permutations could be proposed if the issues identified in this paper are not first decided.

For a program like child support there are many obvious benefits for centralizing the program at the State level. The first of these is that program planning, budgeting, and obtaining legislative support can be accomplished by one State agency rather than being dependent on the competing interests which may exist locally. Significant economies of scale are also possible. For example, in a decentralized operation, each local jurisdiction usually collects and distributes child support payments. If this function was performed centrally, the work could be done with fewer staff thereby freeing staff time for other functions such as paternity establishment. Allocation of resources to areas having the greatest need is also much easier in a centralized environment because the State agency would control all child support activities. This flexibility and control of resources in turn increases the potential for better and more consistent results throughout the State.

Communication, which is critical to successful operations, is also simplified in a central operation. This is true not only for staff communication but also for systems communication and interface. Many systems are used in a decentralized child support environment for such objectives as: case management and tracking; hiring, training, and evaluating staff;

procuring equipment and contractual support; communicating with other agencies involved in child support related functions; etc. If these systems can be combined and made uniform throughout the State, communication should improve and the cost of their operation should decline, again through economies of scale.

- The primary disadvantage to centralization is that the child support program has a long history of many services being performed at the local level. Consequently, units of local government are likely to resist the centralization of all child support functions at the State level. In addition, the States will incur transitional costs and need some lead time to restructure the systems used in operating the program.

## CENTRALIZING CHILD SUPPORT WITHIN STATE GOVERNMENT

### PROBLEM

The organizational structure of the title IV-D program in many States is very fragmented. Various State and local agencies provide child support services or perform functions without the benefit of central direction and control other than that provided by Federal regulations. The various agencies have different priorities, level of commitment and funding, skills and abilities including their knowledge of all aspects of the program and how they interrelate, and systems and procedures for processing and tracking child support actions and coordinating with other components.

This type of decentralized system is highly dependent on close coordination and communication which is difficult to achieve, and typically incurs additional expense due to the need to duplicate and verify work and the inability to capture economies of scale. As a result, the quantity, timeliness, and cost of case work in many jurisdictions is seriously deficient.

Requiring States to centralize child support operations should, if successfully planned and implemented, eliminate many of the present day deficiencies. For purpose of this paper, the term "centralization" means the establishment or designation of a State level agency which has supervisory, programmatic, and budgetary control of State child support resources and operations, including the allocation and organization of resources in a manner which minimizes the number of staff and locations needed for program effectiveness.

For a program like child support there are many obvious benefits for centralizing the program at the State level. The first of these is that program planning, budgeting, and obtaining legislative support can be accomplished by one State agency rather than being dependent on the competing interests which may exist locally. Significant economies of scale are also possible. For example, in a decentralized operation, each local jurisdiction usually collects and distributes child support payments. If this function was performed centrally, the work could be done with fewer staff thereby freeing staff time for other functions such as paternity establishment. Allocation of resources to areas having the greatest need is also much easier in a centralized environment because the State agency would control all child support activities. Economies of scale and wise allocation of resources are vital to the child support program which typically features large caseloads and minimal staff resources. This flexibility and control of resources in turn increases the potential for better and more consistent results throughout the State.

Communication, which is critical to successful operations, is also simplified in a central operation. This is true not only for staff communication but also for systems communication and interface. Many systems are used in a decentralized child support environment for such objectives as: case management and tracking; hiring, training, and evaluating staff; procuring equipment and contractual support; communicating with other agencies involved in child support related functions; etc. If these systems can be combined and made uniform throughout the State, communication should improve and the cost of their operation should decline, again through economies of scale.

Because of the need to process a high volume of cases in a uniform and consistent manner with minimum resources, centralization of the program at the State level warrants serious consideration. The primary disadvantage is that the child support program has a long history of many services being performed at the local level. Consequently, units of local government are likely to resist the centralization of all child support functions at the State level. In addition, the States will incur transitional costs and need some lead time to restructure the systems used in operating the program.

## **BACKGROUND**

Federal law and regulations give the States maximum flexibility regarding the organizational structure of the title IV-D program as indicated in Attachment A. The IV-D program is located within the agency which administers the IV-A program in 47 States, the office of Attorney General in 4 States, and the revenue agency in 3 States.

In at least 44 States, the State IV-D agency has delegated child support function(s) to agencies and officials such as the Attorney General, county IV-D agencies, District Attorneys, County Attorneys, Family Courts, Friend of the Court, Court Trustees, and Clerks of the Court. In at least 32 States, County or District Attorney(s) or equivalent official(s) provide child support services under cooperative agreement. Cooperative agreements also exist with the State Attorney General in at least 11 States; and the Court, Court Trustee, or Friend of the Court, in at least 22 States. The Clerk of Court or county depository receives IV-D child support collections in at least 36 States under a cooperative agreement, or as required by State law. The State IV-D agency is responsible but generally does not have adequate authority to ensure that child support functions performed by these agencies are carried out in an efficient and effective manner in accordance with the IV-D State plan.

## **OBJECTIVE**

The purpose of this paper is to identify and explore the issues associated with requiring States to develop a centralized child support operation. The options and advantages and disadvantages for each issue are discussed but no conclusions are given. Also, no attempt was made to develop specific models for centralizing operations since any number of options and permutations could be proposed if the issues identified in this paper are not first decided.

The issues included in this paper as being among the more important aspects of centralization include: (1) the extent to which centralized operations should be alike among States, (2) where within State government the central State child support agency should be located, and (3) the extent to which child support services are centralized at the State level. We have summarized the issues and related options in the matrices below. The manner in which staff is assigned to work on cases, such as individually or in a team, also impacts centralization from the standpoint of achieving economies of scales and eliminating duplication. However, the relationship of this issue to centralization is not as direct as the other issues and was, therefore, not considered in this paper.

### CENTRALIZATION -- ISSUES AND RELATED OPTIONS

#### ISSUE 1 -- UNIFORMITY OF OPERATIONS AMONG STATES

	Uniform Approach for State Operations	Limited Selection for State Operations	Free Choice for State Operations
Option 1	X		
Option 2		X	
Option 3			X

#### ISSUE 2 -- PLACEMENT IN STATE GOVERNMENT

	Agency that Administers the AFDC Program	State Revenue or Tax Agency	State Attorney General or Legal Agency	Separate State Agency
Option 1	X			
Option 2		X		
Option 3			X	
Option 4				X

### ISSUE 3 -- DELIVERY OF CHILD SUPPORT SERVICES

	All Functions Performed at Locations Throughout the State Except Some Distribution	All Functions Performed at Locations Throughout the State Except Correction and Distribution	All Functions Performed at One Location
Options 1	X		
Options 2		X	
Options 3			X

### UNIFORMITY OF OPERATIONS AMONG STATES

Currently, State child support enforcement programs vary extensively from county administered involving multiple locations and units of local governments to State administration from one office. If States were required to centralize, a primary question to decide is to what extent should State centralized operations be alike? The options range from total uniformity among all States, limited selection of a centralized structure based on some methodology to narrow the choices, to free choice in selecting a centralized structure. Each is explained in more detail below along with its advantages and disadvantages.

- I. **UNIFORM APPROACH** - All State Child Support Enforcement programs are configured the same, both in terms of program organizational structure and the procedures followed to administer child support. The agency that houses the program including its name, the unit within this agency which delivers the services, and the basic procedures which this unit follows to provide services are alike among all States. There may be some difference in organizational structure concerning whether or not to have and the number of field offices needed for States with large geographical areas or populations.

**Advantages:**

- Best practices institutionalized nationwide.
- Opportunities to simplify program, and monitor compliance maximized.
- Inefficient and ineffective organizational structures being followed in current system eliminated.
- After start-up costs are financed, least costly to operate due to economies of scale, elimination of duplication, and more effective automation.
- Communication between States significantly enhanced due to the use of the same systems.

- The costs of planning, implementing, operating, and enhancing statewide automated systems greatly reduced; interface and sharing of data greatly enhanced.
- Accountability significantly improved because of the comparability between programs and the data they provide.
- Significant economies of scale possible not only from the elimination of inefficient methods but also through the establishment of cooperative relationships among the States for such functions as training, forms development and design, computer functions, development of personnel standards, etc.
- Easier to evaluate the impact of and to implement changes to program, either administrative or legislative.

Disadvantages:

- The likelihood of passage remote due to State and local political resistance to such a major change.
  - Transition time to fully accomplish will take several years and potentially could be hampered by State and local staff reluctance to change.
  - Significant infrastructure and investment dismantled and lost.
  - Start-up cost very high.
  - Questionable practicability due to extreme State and local differences.
  - Future program innovation more difficult to achieve in an environment where uniformity is regulated and differences are discouraged.
2. LIMITED SELECTION - This approach assumes that it is desirable to have State programs organized as much alike as possible but that extreme State differences preclude a uniform approach. Therefore, States are given some limited choice in deciding how to centralize their child support operations. The methodology for limiting choices could be by the use of criteria, by specifying models, or a combination of the two. If criteria is used, States could centralize in any manner they wish provided that each criterion for centralizing is met. An example of a criterion might be that collection and distribution must be automated and performed at a central State location. If specific models are used, a State would select from among a list of pre-approved models. The models might include configurations for small states where a single office would suffice, a regional office setup for States with sparse population and large geographical area, county or local office setup for States with dense populations, etc. No attempt was made in this paper to identify the criteria or specify models.

**Advantages:**

- Many of the same benefits as the uniform approach, although perhaps not to the same extent.
- Resistance to change lessened because States can exercise choice.

**Disadvantages:**

- Essentially the same as the uniform approach, but less severe due to the opportunity of choice.
- Increased need for regulation and control at the Federal level due to program variability.

3. **FREE CHOICE** - States have unlimited authority to centralize operations and select operating procedures which conform to the rules and regulations established for the program. The only difference between this and the current environment is that States would be required to implement a program which meets the goals of centralization.

**Advantages:**

- Several States already centralized.
- Of the three, easiest to sell to State politicians.
- Least lead time required to fully implement.
- Least costly of the three methods to start up and implement but not to operate.
- Most adaptable of the three methods in accounting for State differences and allowing change to meet changing conditions in the State.
- More opportunities to innovate because the restrictions on program format are fewer.

**Disadvantages:**

- Effectiveness of structures in administering child support and achieving results will vary much like the current system.
- Economies of scale more difficult to achieve in a variable setting, thus increasing program operating costs.
- Automated systems must be customized to the structures selected, thus increasing cost and the chance of failure and decreasing the interface capability among systems.
- Future program changes more difficult to assess and make and more costly to implement due to program variability.
- Resistance from local politicians likely to be greater under this option because of perceptions of State interference in local affairs.

## PLACEMENT IN STATE GOVERNMENT

This category explores where the central child support agency should be housed in State government. The primary options are the welfare agency, tax or revenue department, Attorney General or legal department, and separate State agency.

### 1. AGENCY THAT ADMINISTERS THE AFDC PROGRAM

#### Advantages:

- The 'traditional' location of the child support enforcement agency thus more politically acceptable.
- Simplified communication, both automated and human, on AFDC, Medicaid and other Social Security Act programs.
- Availability of personnel who are committed and trained to provide "service".
- Involves the least amount of change and cost to implement because most States are already configured this way.

#### Disadvantages:

- Non-welfare customers often reluctant to use service due to negative perception of public welfare agencies.
- For various reasons, CSE often not given a high priority by the welfare agency which has resulted in limited visibility to public and limited resources.
- Human services agencies have difficulty holding their own in operating partnerships with courts and attorneys general.
- Reaffirms public perception of CSE as a program for people on welfare.
- CSE requires a different set of skills and orientation than that needed to provide welfare assistance.
- Leaving the program in the welfare agency which involves the least amount of change may be perceived by the public as an inadequate response to the problem.

### 2. STATE REVENUE OR TAX AGENCY

#### Advantages:

- Broad range of administrative tax remedies available which are not currently available to CSE.
- Skills and orientation of personnel well suited to monitoring and collecting legal obligations.
- Highly automated operations easily adapted to CSE needs.
- Mandatory tax withholding procedures ideal for collecting child support from a majority of Non-Custodial Parents [NCP].

- Tying child support to taxes elevates the importance of the program in the public mind and thus may result in less delinquency among obligors.
- Reinforces the image of child support as a program of income transfer between the parents.

Disadvantages:

- Tax agencies very resistant to the concept.
- Generally, current personnel lack the skills needed to establish paternity, orders, and other CSE functions unrelated to collecting the legal obligation.
- Public perception of tax agencies, from the standpoint of providing customer service, is not generally positive. This perception and the lack of a history of helping people with problems might cause people to avoid using the service.
- Not easily accessible to the general public. Could pose a hardship for welfare customers and a deterrent to non-welfare customers.
- CSE would probably have difficulty competing for resources since tax collection would continue to be the primary function of the agency.
- Political resistance to the idea and cost to implement likely to be high in most States.
- Coordination with welfare and other social programs more difficult to achieve and likely to suffer.

### 3. STATE ATTORNEY GENERAL OR LEGAL AGENCY

Advantages:

- A natural fit of skills available and required except for the collection and distribution function.
- Generally, the agency in State government with the greatest public respect.
- General receptivity to the concept.
- In most states independent from the Executive Branch thus often more able to obtain resources.
- Places CSE in a legal rather than welfare context which should generate better response from NCP's.

Disadvantages:

- Litigious traditions incompatible with non-judicial remedies that are considered more effective in CSE.
- Not easily accessible to the general public or accustomed to dealing with the general public.

- Tendency of Attorneys General to prefer high profile and "difficult" cases may relegate CSE to a lower priority, thus making recruitment and retention of highly qualified people more difficult.
- Coordination with welfare programs harder to achieve and likely to suffer.
- Program requirements more socially oriented and not specifically related to enforcing the support obligation may be assigned a lower priority.

#### 4. SEPARATE STATE AGENCY

##### Advantages:

- Visibility and direct access to the Governor, key Executive Departments and the Judiciary.
- More likely to be able to operate as an equal with the Courts, Attorney's General and other Executive Departments.
- Except for the welfare agency model, easiest and least costly to implement once legislative hurdles are cleared.
- Coordination with welfare agencies better than that possible with the tax agency and attorney general models.
- Elevates the importance of child support as a stand-alone objective in the State rather than a subordinate welfare initiative.
- Change would be perceived by the public as something more than just lip service.

##### Disadvantages:

- Would require Constitutional changes in many States.
- Almost totally lacking in political support at any level. May not be able to lobby adequately for funding.

#### DELIVERY OF CHILD SUPPORT SERVICES

Currently, the child support program in many States is very fragmented with child support functions performed by various State and local agencies. The State child support agency generally has limited control over how these functions are performed. In addition, the agencies performing these functions have different levels of commitment, funding, skills, and understanding of how the program works, and systems and procedures for providing services and coordinating with other agencies. As a result, the quantity, timeliness, and cost of case work in many jurisdictions is deficient.

The centralization of the child support program at the State level has many benefits including having one central authority responsible for all program planning, policy, and procedures; budgeting; and obtaining funding and legislation. In addition, central control over the allocation of resources, including staff, is essential to obtaining better results in a program

with high caseloads. Also, the centralization of systems for objectives such as case management and tracking; hiring, training and evaluating staff; procurement of equipment and contractual support; and communication with other agencies involved in child support; etc. will improve system communication and reduce costs.

- Texas is an example of how centralization can result in program improvement. Prior to July, 1985, the child support program was located in the Texas Department of Health and Human Services. Child support services were provided at the local level under cooperative agreement with the State child support agency in many counties, including Dallas, Houston, Fort Worth and El Paso. These services included the receipt of all collections and distribution of collections to the family. The State child support agency provided services in all other counties. The contract counties generally had inadequate funding, resources, and commitment to the program. At the State level, the program had low priority, insufficient resources, and inadequate child support laws. In addition, the State child support agency did not have control over State child support offices around the State because these offices were under the authority of a Regional Administrator who had responsibility for programs other than child support.

In July, 1985, the child support program and less than 300 staff were transferred to the State Attorney General. State child support offices were established around the State which provide the full range of child support services throughout the State. Most child support collections are now paid directly to the State child support agency. The State has many new child support laws, including legislation which requires the Attorney General's office to use the State's share of collections for welfare recipients and incentive payments to fund the program. Currently, the State has over 2,000 child support workers. Texas has made significant improvements in program performance including paternity establishment, and collections.

The options under this category identify where child support services/functions are performed within the State. The options are: child support functions performed at locations throughout the State, collection and distribution functions performed at one location and all other child support functions performed at various locations throughout the State, and all child support functions performed at one location. Each option below assumes the establishment of a central registry of cases accessible to all State child support offices and to other States.

- I. **ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION** - Under this approach, the State child support agency has offices located throughout the State. The State Central office distributes all child support collections assigned to the State as a condition of receiving assistance. Each office performs all other child support functions; e.g., intake, location, paternity establishment, and enforcement of support obligations, collection of support, and distribution of non-AFDC collections to the family.

#### Advantages:

- Reduces fragmented organizational structures.
- Permits use of existing local infrastructure.
- Lowers the cost per case in providing child support services because fragmentation is reduced and services are delivered more uniformly.
- Lowers the cost of automated systems because maintenance would be required on fewer communications lines and systems security would involve fewer locations.
- Provides clients local access to services and information on the status of their case.
- Allows NCPs to pay support at local offices.
- Facilitates the transfer of local staff working for agencies that perform child support services under a cooperative agreement or other arrangement; e. g., Clerk of Court, District Attorney, or local county agency; thus preventing the loss of program expertise.
- Maximizes opportunities to co-locate child support with local AFDC, food stamps, and medicaid offices.

#### Disadvantages:

- Structure currently lacking in most States.
- Significant investment in current system lost.
- Operating costs still high in most States because functions are decentralized and services delivered from a large number of local offices.
- Program effectiveness still highly dependent on the attributes of each local office, including the skills and commitment of local management.
- The larger the number of local offices the more difficult it is to ensure effective communication and uniform provision of child support services.
- Loss of experienced workers from local government or contractors who are not hired by State or elect to transfer to another local job to retain benefits.
- Opposition from local agencies and officials who are reluctant to relinquish control of child support functions, such as the payment of collections to the Clerk of Court.
- The difficulty of obtaining any needed State legislation to transfer child support functions.
- Lead-time required to transfer child support functions to the State child support agency dependent upon the effective date of necessary State legislation, functions to be transferred, the degree of automation, and caseload.
- Regional structure currently used by many States to administer public assistance programs not consistent with the child support program's need for direct line authority over local child support staff.

2. **ALL FUNCTIONS PERFORMED STATEWIDE EXCEPT COLLECTION AND DISTRIBUTION** - Under this approach, the State child support agency has offices located throughout the State. Each office performs all child support functions; e. g., intake, location, paternity establishment, and establishment of support obligations, except collection and distribution. Collection and distribution functions would be performed at the central office of the State child support agency.

Advantages:

- All advantages listed under **ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION** except number 6.
- Economies of scale for centralized functions which, in turn, allows local offices to focus more staff and time on direct client services.
- Consistency and uniformity of centralized functions.
- Increases State capability to distribute all child support collections at the same time each month in an efficient, effective, timely, and uniform manner through a centralized statewide system.
- Cash handling and accounting functions more likely be separated due to volume of collections which decreases the opportunity for fraud and misappropriation of funds.
- Employer withholdings sent to one location.
- NCPs with support orders in more than one county required to send payments to one location.

Disadvantages:

- All disadvantages listed under **ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION**.
- NCP not able to pay support in person at a local office.
- Payments to non-AFDC families precluded until after the distribution run.

3. **ALL FUNCTIONS PERFORMED AT ONE LOCATION** - Under this approach, the State child support agency has one office which performs all child support functions; e. g., intake, location, paternity establishment, establishment of support obligation, collection, for the State. A minor variation of this approach could be the establishment of small offices in selected locations throughout the State to perform intake and provide clients with a local contact to obtain or provide information about their case.

Advantages:

- The first, third and fourth advantages listed under ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION.
- Economies of scale maximized which lowers operating costs to the maximum possible extent.
- Staff communication, training and supervision enhanced due to the lack of geographical separation.
- Legislative mandates and changes to the program easier and less costly to implement.

Disadvantages:

- All disadvantages listed under ALL FUNCTIONS PERFORMED AT LOCATIONS THROUGHOUT THE STATE EXCEPT SOME DISTRIBUTION except numbers 3, 4, 5, and 10.
- Costly and difficult to implement in States where child support services are now available and provided by local offices throughout the State.
- Clients required to apply for child support services through the mail unless they travel to the central State child support office which may be a long distance from home. The variation discussed above would significantly reduce this problem.
- More difficult to be responsive to clients because contact with the client is infrequent or never occurs.
- Loss of program expertise due to the inability of local staff to transfer and relocate to the central office of the State child support agency.
- Resistance from localities and the political establishment to such a radical change in program operation.

## ATTACHMENT A - Summary of CSE regulations on organizational structure

Federal law and the implementing regulations require that there be a single and separate organizational unit in each State to administer the title IV-D program. Federal regulations require the following: The separate IV-D agency may be located within any State agency, including the same agency responsible for the IV-A program, or it may be established as a new State agency. The IV-D agency is solely responsible and accountable for the IV-D program and all of its functions even though it is not required to perform all functions directly. However, if the IV-D agency delegates any function(s) to any other entity, it retains ultimate responsibility for making sure all delegated IV-D functions are carried out in accordance with Federal requirements.

The regulations also outline organizational and staffing requirements for IV-D agencies. The organizational structure of the IV-D agency must provide for the administration or supervision of all of its required IV-D responsibilities and include clearly established lines of authority. More specifically, the organizational structure and staff levels must be sufficient to fulfill the required State level functions outlined in regulation. Further, the organizational structure and resources at the State and local level must be adequate to administer all other support enforcement functions.



## Privatization of Child Support Enforcement Services

### Executive Summary

This paper considers the viability, in the context of welfare reform, of the small but growing phenomenon of privatizing child support services. Privatization of child support enforcement, for the purposes of this paper, is contracting, by the Federal, a State, or a county government with private firms to provide a specific geographic area with one, several, or all of the services normally provided by a Child Support Enforcement (title IV-D) agency.

Privatization is increasingly of interest to States because it offers a means of improving services without adding employees to State payrolls and of reconciling demands to improve the efficiency, cost effectiveness, and productivity of child support programs in the face of shrinking resources. Contractors have been equally interested. States represent a large market for various types of contractor expertise--almost \$2 billion in Federal and State funds were spent on child support enforcement services in FY 1992.

To date, privatization has fallen into two categories: privatization of one or multiple services, but not all services, and complete privatization of all IV-D services. The option to privatize a single or multiple services has been available almost as long as the IV-D program. Examples include the provision of lockbox, location and collection services, casework, and service of process. More recently, some States have contracted for the provision in subsections of the States, of the entire range of IV-D services. As with the privatization of just a few services previously, initial results from efforts to privatize all services have been encouraging: in Tennessee's 10th Judicial District, for example, collections in the first year were up by over 44 percent.

Regardless of the type of privatization to be undertaken --

whether for all services or just a subset -- three sets of issues and problems should be addressed: (1) why privatization should be considered at all and whether it is feasible in a variety of settings; (2) whether States can provide the necessary inputs for and sufficiently streamline the procurement process; and, (3) potential long term problems.

Privatization has many advantages, and is worth considering. It is particularly effective for States experiencing resource problems, and for those where the legislature is willing to allocate money, but not additional staff, to IV-D programs. With contractor staff providing services, State payrolls do not need to be increased. At the same time, training, benefits, developmental activities, and technological advances can be built into the overall cost of the contract, generally at a net cost which does not greatly exceed what States are already paying. Moreover, higher costs attributable to privatization may well be offset by gains in productivity, higher collections and lower costs from welfare avoidance. Other advantages include: performance and customer service orientations, management and technology expertise available from contractors, ability to respond quickly to changing caseloads, and more flexible use of personnel and technology.

However, privatization's advantages must be balanced against a range of questions that remain, in large part because there is little experience with privatization in a variety of settings. Open questions include: privatization's effectiveness in larger geographic and/or functional areas; the capacity of firms to meet demand with quality service; contractors' ability to offer competitive costs over time; how close contractor management can remain to line operations; and whether privatizing will lessen or further increase existing fragmentation of the child support system.

Privatization will also be more or less effective depending on the procurement process. Privatization will not work well if the State or county cannot detail the responsibilities of the agency and the contractor, the standards and requirements the contractor is subject to, required output and its format, and the means of

enforcing the contract.

In the long term, a number of issues are relevant, and need to be explored further. First, it will be important to maintain competition. This keeps costs reasonable, and facilitates transition if a contractor is performing poorly. Further, competitors are likely to encourage contractors to maintain high performance. Second, in privatizing, a IV-D agency must be aware of how privatizing may affect the flow of work in the State. If one or several services are improved while others are not, overall services will be limited by the least efficient link in the process. Third, measures need to be developed to insure that services provided through privatization remain effective and cost efficient. Finally, important issues of confidentiality of and access to child support information must be addressed.

Given all of these potential concerns, the feasibility of privatization as a national, a Statewide, or a large urban area strategy is unclear. In the context of restructuring child support, this may argue for pursuing a gradual expansion of privatization and a strong program of Federal technical assistance and training so mistakes are not repeated. In the short run, this could involve starting with functional areas particularly well-suited to privatization and gradually expanding to complete privatization. States should also carefully consider running a pilot before undertaking full-scale implementation. A pilot helps a State to avoid the negative publicity caused by large scale problems and gives both the State and the vendor a chance to work out any problems before full-scale privatization is attempted.

Taking all of these considerations into account, options could be developed along the lines of the following directions:

- o Demonstrations--State Level. The Federal government could fund demonstrations to test privatization's effectiveness.
- o Privatization at the State Level--State Lead. The Federal government can simply continue to support the existing environment.

- o Privatization at the State Level--Federal Lead. The Federal government could take a proactive role to accomplish privatization at the State level.
- o Greatly Expand Privatization--State and Federal Levels. A combination of the three options above.
- o Privatization at the Federal Level. Partial or complete privatization could be explored should a restructuring option be chosen which gives the Federal government responsibility for some or all child support services.

## Privatization of Child Support Enforcement Services

### I. Introduction.

The purpose of this paper is threefold. It will provide background about, explore issues related to, and examine options for privatizing child support services in the context of restructuring the existing child support enforcement program.

Privatization of child support enforcement is contracting, by the Federal, a State, or a county government with private firms to provide a specific geographic area with one, several, or all of the services normally provided by a Child Support Enforcement (title IV-D) agency. What privatization is not is the provision of services by private firms directly to custodial parents, generally on a contingency fee basis, which are outside of and duplicate existing services available from the IV-D agency. Typically, such services are limited to location and collection. For this paper, privatization also excludes activities which are not ongoing, such as the development of automated systems or training programs, or which are not specifically child support related, such as facilities management.

Privatization is currently a very small, albeit growing phenomenon. So why is it of interest to States? It's an intriguing means of improving services without adding employees to State payrolls and of reconciling demands to improve the efficiency, cost effectiveness, and productivity of child support programs in the face of shrinking resources. States are facing a range of intractable problems including lack of management expertise, outdated technology, inflexible bureaucracies, growing AFDC caseloads, frequent modifications of child support orders, regulatory change, and strict Federal performance standards.

In this environment, States and local governments have been strongly motivated to consider alternatives like privatization. Moreover, initial feedback suggests that private firms can provide high quality IV-D services at competitive prices.

Contractors have been equally interested. States represent a large market for various types of contractor expertise. In FY 1992, almost \$2 billion in Federal and State funds were spent on child support enforcement services. Firms which can tap this market by offering competitive alternatives to government-provided services have the potential to achieve substantial financial returns.

Is privatization the wave of the future for States? It remains too early to tell. While the privatization of single functions began in the mid-1970's, complete privatization is relatively new, and neither have been subjected to extensive evaluation. Should privatization be adopted as a formal strategy for restructuring State child support enforcement programs? Again, the answer is unclear. Yet given the interest in this approach at all levels of government and among contractors, it cannot be written off for lack of hard data; rather it demands close scrutiny and serious consideration.

## II. Background.

States are mandated under title IV-D of the Social Security Act to provide child support enforcement services to all AFDC-eligible cases and to any non-AFDC individuals who apply for them. These IV-D services include paternity establishment, location, order establishment, and the enforcement of support obligations, including the collection and distribution of support. Currently, States either directly provide IV-D services through State staff, or contract for such services through cooperative agreements with public sector county, judicial, district attorney, law enforcement personnel, and/or private attorneys.

States can also obtain some or all of their child support services from private sector firms. While only a few States have chosen to do so, their numbers are increasing. Included among these States are Tennessee, Wyoming, Georgia, Colorado, Idaho, Nebraska, New York, Vermont, Michigan (Wayne County), Massachusetts, California (Los Angeles County) and Missouri.

For now, States are learning which services to purchase and from whom. No clear pattern has emerged regarding the number, breadth of, or geographic area for which the services are being sought. However, privatization efforts to date may be divided into two categories: privatization of one or multiple services, but not all services, and complete privatization of all IV-D services.

#### Privatization of a One or Multiple Services

The option to privatize a single or multiple services has been available almost as long as the IV-D program itself. Morris County, New Jersey contracted with a private company for lockbox and collection services in 1976. Wyoming, since 1991, has had a statewide contract with a local law firm to conduct all casework (except intake) leading to the adjudication of paternity or establishment of an order. Procedures include location, gathering information and evidence, initiating URESA actions where appropriate, and providing litigation services. Missouri is one of several States to privatize service of process. Georgia completed a pilot study to privatize location.

And the feedback from such efforts is largely positive. In Missouri, successful service of process has jumped from under 50% to 80% and remained cost effective; contractors, on average, charge \$21 per actual service, while the fee per attempt by a sheriff's office was \$20. Initially, privatizing saved Morris County, New Jersey over \$9,000 annually.

Such privatization may be particularly useful, for it draws upon the expertise of companies in areas in which the IV-D agency may have far less experience and for which specific knowledge of the IV-D system is less crucial. This is especially true in the area of lockboxes and collection services. Similarly, by privatizing, a IV-D agency may be able to obtain more advanced technology than would otherwise be available to the State. Thus, by privatizing certain discrete service areas, a IV-D agency can target its personnel and other scarce resources to services requiring in-depth knowledge of the Child Support Enforcement program. Not surprisingly, many States' initial efforts have focused on privatizing a single service, while expansion to the

privatization of all services occurred much later.

### Complete Privatization of All IV-D Services

Complete privatization of all services is a relatively new phenomenon. To date only two States have contracted for all of their IV-D services, and in these instances, this has been limited to discrete geographic areas within these States. Tennessee completely privatized one of its Judicial Districts beginning in 1991, and in the near future will have expanded this effort in three additional Districts. Services are being provided by two national firms, each of which has been awarded contracts for all services in two separate Districts. Nebraska also recently privatized all of its Douglas County (Omaha-area) IV-D services. In this case, the Clerk of the District Court will perform all collections and distributions and a single private firm will perform all other services.

Despite the lack of formal evaluation of such efforts, early results are encouraging. In Tennessee's 10th Judicial District, for example, collections in the first year were up by over 44%, while funding resources invested in the program increased by nearly 90%.

Moreover, performance results can be built in directly to a private firm's contract, linking remuneration to the firm's ability to produce specified outcomes. Thus, firms can be held accountable for results which can pass the IV-D audit requirements. In defining these outcomes, States have the flexibility to express performance results as multi-year goals, to require objective, measurable outcomes as opposed to subjective ones, and to specify key facets of performance (e.g., case volume, quality/accessibility and timeliness of service, efficiency/cost of administration).

Despite the attractiveness of privatizing all IV-D services, neither Nebraska nor Tennessee initially chose this approach by design. Tennessee stumbled upon privatization when some of its existing providers failed to adequately provide or chose not to continue providing services. Similarly, in Nebraska

privatization was the only feasible means of responding to the recommendations in a report reviewing the operations of the previous Douglas County IV-D system. In fact, despite its satisfaction with the privatization of Douglas County, Nebraska has no immediate plans for further privatization.

### III. Issues and Problems.

Regardless of the type of privatization to be undertaken -- whether for all services or just a subset -- the key considerations are the same. Three sets of issues and problems should be addressed in considering privatization as a restructuring alternative. These include: (1) why privatization should be considered at all and whether it is feasible in a variety of settings; (2) whether States can provide the necessary inputs for and sufficiently streamline the procurement process; and, (3) potential long term problems.

#### To Privatize or Not?

##### 1. Is Privatization an Option Worth Considering as Part of Child Support Enforcement Restructuring?

For States or counties with adequate staff and resources which are performing well, there may be no reason for considering privatization. However, such a situation is not universal. In particular, there is a reluctance among many governors and legislatures to expand program staff to adequate levels if it means increasing the size of State government by adding to State payrolls. Similarly, in many States, it is difficult to obtain funds for enhancing productivity, including training, long range planning, and technology. This situation is not likely to improve in the future, as States resources are expected to continue to shrink.

Privatization is a good response to these types of problems, and especially to legislatures which will allocate money, but no additional staff, to IV-D programs.

With contractor staff providing services, State payrolls do not need to be increased. At the same time, training, benefits, developmental activities, and technological advances can be built into the overall cost of the contract, generally at a net cost which does not greatly exceed what States are already paying. Moreover, higher costs attributable to privatization may well be offset by gains in productivity, higher collections and lower costs from welfare avoidance.

Privatization also offers other advantages:

- o performance-orientation instead of process-orientation;
- o customer service orientation;
- o management and technology expertise;
- o ability to respond quickly to changing caseloads and requirements; and,
- o more flexible usage of personnel and technology.

Despite these many potential benefits, privatization remains relatively untried. Projects currently underway are relatively small in scale and too few in number and too new to provide a solid basis for evaluation. However, given the potential benefits of privatization, it remains an option worth further exploration.

## 2. Is Privatization Feasible in a Variety of Settings and on a Large Scale?

At this time, the viability of extensive privatization remains unclear. Open questions include:

- o Scope. Most of the privatization efforts to date have involved small geographic areas and/or limited functional areas. The private companies have worked with small staffs, usually including the displaced IV-D workers.

This reduces the initial learning curve, as well as start-up costs. As contractors expand their scope beyond these initial efforts to larger, or more complex situations, it is unclear whether their initial successes will continue.

- o Capacity and Access. No one knows how many firms - especially State and local firms - are providing IV-D services to States. Nationally, there are at least three firms which currently have units specializing in child support enforcement services. Other national firms offer generalized management consulting and data systems services. State-specific firms, including law firms and even collections agencies, have also bid for contracts, as have various smaller and/or local firms and organizations. In the majority of cases, however, the firms are still relative newcomers to child support enforcement, many having five or fewer years experience. While capable of handling the current projects, it is unclear how rapidly these firms can expand their capacity and still retain their edge in areas like customer service and performance orientation. On the other hand, access to this market appears relatively open, and additional firms should be able to gain entry. A concern, however, is that firms trying to get in for the first time will be less committed to observing all of the child support enforcement requirements and serving more difficult cases.
  
- o Cost. Cost reflects competition and risk. In the small, less complex privatization efforts to date, there have been approximately 1-6 qualified bidders. Further, each project bid first assembled detailed specifications for contractors. By reducing the number of unknowns the contractor had to address, less margin for error (risk) had to be built into the contract, holding down costs. As privatization spreads to larger, more complex projects, there may be fewer qualified bidders. It is also unclear if specifications can be detailed enough to limit risk sufficiently. Either of these factors could result in higher costs.

- o Political considerations. Political considerations could influence the willingness to privatize. First, State officials may be concerned about using a single contractor for extensive services given the predicament that would result if the contractor went out of business or no longer was providing acceptable services. Second, a fragmented system with several political offices already providing services has many parties potentially opposed to any changes. Likewise, within a more centralized system, the bigger the geographic area and the more services the privatization encompasses, the more interested parties will be affected. Either scenario may provide enough opposition to render privatization politically infeasible. Finally, child support agencies could face political pressure to award contracts to contractors who may or may not be qualified or to other State agencies such as State colleges and universities.
  
- o Distance from Line Operations. Familiarity with line operations enhances management decisions. Projects to date have involved small jurisdictions, with direct top management involvement. If project management becomes more diffuse (e.g., contracts are expanded Statewide in large States or let at the Federal level), this intimate knowledge of local operations could easily be lost, possibly with negative implications.
  
- o Fragmentation. Privatization could further fragment a system that already involves multiple branches and levels of government. The existing complicated organization hampers program effectiveness, and the additional fragmentation which privatization causes could vitiate the very efficiencies which make it attractive in the first place. Moreover, in the context of moving toward both further centralization within the Child Support Enforcement Program and child support assurance, such fragmentation may be particularly problematic. However, as of yet any fragmentation caused by the privatization effort in Tennessee has not been disruptive. The different contractors are working effectively both with

each other and the various government agencies involved in the IV-D program.

- o Data Conversion. The State must decide who will be responsible for data conversion and clean-up and how both old and new data and/or cases will be phased into the contractor's system or domain of responsibility.

#### Can States Make the Process Work?

##### 1. Can States Provide the Necessary Inputs to Make Privatization Work?

Privatization will not work well if the State or county cannot detail the responsibilities of the agency and the contractor, the standards and requirements the contractor is subject to, required output and its format, and the means of enforcing the contract. States must also be able to provide information about caseload for which contractors will be responsible to contractors prior to the submission of bids.

Information is conveyed to the contractor in the Request for Proposal (RFP). The RFP should also include information regarding performance standards, monitoring and oversight, penalties for non-compliance, and the process by which services are to be completed. Any constitutional limitations imposed by State or the Federal Constitution should also be reflected in the RFP.

Contractor concerns can be addressed at the front end if States schedule a bidders' conference to discuss the contents of the RFP and any issues that interested bidders may have.

To do this, States must have completely thought through these questions in the context of the whole program and its operations. Some States have been unable to do this. For instance, Virginia sought bids to privatize areas of Northern Virginia and Richmond, but withdrew its request when it was unable to answer questions regarding requirements. The expansion of privatization to larger service and geographic areas may depend on how well States can

identify their own needs and how well they can convey them to interested bidders. Without detailed specifications, States will experience a higher risk of dissatisfaction and unacceptable products, especially if contract periods are multi-year.

During the privatization decision process, it is critical for the IV-D agency to involve top managers and to maintain a dialogue with front line IV-D workers who are frequently concerned about job security, changes in benefit structure, and change in general. It should be stressed that in most cases the displaced IV-D workers are hired by the private contractor or given new positions within the IV-D or other social service agency. In fact, many contracts mandate that the contractor hire existing IV-D staff.

## 2. The State and Federal Procurement Process

For privatization to work, the period of time required to bring on a contractor cannot be excessive nor can bidders be able to stall the process with protests and objections. Most States which have successfully privatized have required six months to a year to bring on a contractor, although some contractors have been brought on in shorter periods. The length of time between issuance of the RFP to the signing of the contract must be taken into consideration when planning the privatization effort. Time must be allocated for writing the RFP, publicizing its availability, a bidder's conference, the submission of bids, evaluation of the bids, negotiation of the actual contract, and for the new company to set up shop. Thus, more complex contracts are likely to require a longer lead time.

A related issue is the length of the contract. Currently, many States obtain services through annual cooperative agreements. This period, however, is insufficient for a contractor to come up to speed, establish itself, and still recoup its investment. As a result, States like Tennessee have contract periods of as long as five years. While this makes the project more attractive to the contractor, it also locks the State into a longer term arrangement which may ultimately become problematic. As

contracts expand in terms of scope, this issue may pose a greater concern for both sides.

Magnifying these problems is the fact that the IV-D agency has little to no control over the bidding process it must follow. The bidding regulations and requirements were not formulated with the IV-D program in mind and may need to be changed so they are better suited to Child Support privatization.

## Long Range Problems

### 1. Maintaining Competition

One State which privatized emphasized that competition must be maintained or problems may arise in any of three areas:

- o Cost. Reduced competition is likely to raise costs, particularly if a State comes to rely on a single contractor. By fully recompeting on a regular basis, a greater pool of knowledgeable contractors can be sustained.
  
- o Transitions. States experimenting with privatizing suggest that relying on a single contractor, particularly at the State level, could result in significant problems. Should a contractor fail or decide not to renew the contract, there is no one available to step in and insure continuity of service. Rather, States may want to involve several contractors in their privatization efforts. In this way, competition will be maintained, thereby reducing costs. Moreover, alternatives will exist should a State decide that a contractor's performance is unsatisfactory or should a contractor decide not to renew.

If a State decides to change contractors, further problems would have to be resolved. These include whether or not key staff could be transferred to the incoming contractor and how to transfer resources and information in an orderly fashion. Coordinating the transition between two firms is difficult. It may be achieved in one of two

ways. Either the first firm shuts down and then the second one sets up shop or they run parallel services. The first involves a service lag, while the second is very costly. The type of transition must be considered when deciding when to begin the bidding process and estimating the cost of the contract.

Finally, having made the decision to privatize, a State may have difficulty in subsequently returning to direct provision of services. Given the many difficulties which would have to be overcome, the initial decision to privatize becomes even more significant.

- o Performance. As an agency becomes dependent on a single firm, the motivation for the firm to do competent work decreases. Competition would tend to promote higher standards of customer service and programmatic results.

However, competition may be hard to maintain, for firms who win the initial contract will have an advantage in service and bidding experience over any potential newcomers.

## 2. Insuring Coordination

In deciding an area to privatize, the agency must be aware of how privatizing that area may affect the flow of work. If one or several steps in the process are improved while others are not, overall services will be limited by the least efficient link in the process. Alternately, if a contractor fails, this could create a bottleneck in the process. The inefficiencies associated with any additional fragmentation are also a concern. When planning for coordination, the State must be aware of any archaic or illogical practices which may make the privatization particularly problematic.

To avoid long range problems, the contractor(s)' interaction with various requirements and centralized systems must be considered. At a minimum these include: the State's centralized management information system; the Federal Child Support Enforcement Network

(CSENET); and the ability to process interstate cases forwarded by other States.

States must also avoid contracts which involve duplicating systems that already exist. Instead contractors should tap into preexisting databases. For example, a collections and disbursement contract can involve building a module which uses the data in an existing State system, rather than building a whole new system.

### 3. Cost Efficiency

Privatization needs to be tested for programmatic and cost effectiveness. To do so, a clear measurement and monitoring system should be incorporated into the contract. States may also need to establish an initial baseline against which subsequent costs and performance can be measured.

The cost implications of privatization are unclear. Although it saves government FTE's, it is not necessarily less expensive than a government system. Privatizing may have allowed additional resources to be brought into a program. In addition, private workers often earn more than government workers and contract turnover will require investments in both infrastructure and training. A service lag may result in costly audit penalties. And although many of the long and short range problems can be eliminated through monitoring and oversight, such oversight is itself very costly. Personnel may need to be assigned to full-time onsite monitoring duties. Such costs must be considered when making the decision to privatize. However, additional costs may be recovered in increased incentive payments for higher collections and audit penalty avoidance.

It is also not clear how long private firms can generate additional high levels of productivity. Although their enhanced automation and flexibility may increase collections in the short run by providing an efficient means of coping with the backlog of cases, it is unknown if they will be able to handle difficult cases any more effectively than IV-D staff workers.

#### 4. Insuring Confidentiality

Child support agencies may use State and Federally maintained data to which other government agencies, including law enforcement agencies in some cases, are denied access. Use of this data is governed by stringent privacy rules, which tightly control access. Privatizing child support services would make this data and its use available to private firms, creating the potential for significant problems. These include:

- o Data Ownership. The State must decide who owns and controls the data, who is allowed access to it, and who is responsible for updating it.
- o Data Misuse. Among the possible issues are how to prevent a private agency, for example a collection agency, from using its access to State and Federal data to pursue its non-child support cases; what would happen if private agencies sold State or Federal data; whether or not third parties would be in a position to obtain access through private firms; whether existing data could be altered without authorization; and how agencies would be audited.
- o Sanctions. Penalties would need to be formulated for private sector firms which illegally or inappropriately used State and/or Federal data and an agency would need to be designated to prosecute offenders.

Given all of these potential concerns, the feasibility of privatization as a national, a Statewide, or a large urban area strategy is unclear. In the context of restructuring child support, this may argue for pursuing a gradual expansion of privatization and a strong program of Federal technical assistance and training so mistakes are not repeated. In the short run, this could involve starting with functional areas particularly well-suited to privatization and gradually expanding to complete privatization.

Further, while privatizing certain functional areas may be feasible, the feasibility of complete privatization is also unclear. The larger the geographic scope of privatization efforts, the more crucial all of the issues discussed above become. It is possible for a State to have so much invested in a large project that it would be unable to cancel it if the contractor failed to meet performance or other standards. Thus, regardless of the type of privatization under consideration, States should carefully consider running a pilot before undertaking full-scale implementation. A pilot helps a State to avoid the negative publicity caused by large scale problems and gives both the State and the vendor a chance to work out any problems before full-scale privatization is attempted.

#### IV. Configurations of Privatization.

In considering the options for privatization within the context of restructuring the child support enforcement program, one of two positions may be taken. First, the use of privatization could be greatly expanded. IV-D agencies<sup>4</sup> could be mandated or encouraged to phase in the use of private firms to aid automation, take advantage of economies of scale, and centralize services. Private firms could be encouraged to participate by awarding them "franchises" to completely serve all individuals in need in a given geographic area, and by providing sufficiently long contract periods to make their investments worthwhile. Second, a "wait and see" attitude could be adopted. Privatization could be allowed to develop on its own or a series of demonstrations could be undertaken.

The options outlined below are consistent with all of the restructuring options discussed in the option papers.

##### 1. Privatization Demonstrations--State Level

The Federal government could fund demonstrations and evaluations to test the effectiveness of privatization options. Based on the results, training, guidebooks, regulations, and recommendations for future privatization could be formulated.

## 2. Privatization at the State Level - State Lead

This is essentially the current situation. States have the flexibility to privatize the services they see fit subject to the regulations which cover IV-D activities. The Federal government could also actively work as requested to provide technical assistance and training and to promote privatization. However, in this case the State is ultimately responsible for the privatization effort.

## 3. Privatization at the State Level - Federal Lead

The Federal government mandates or strongly encourages the States to privatize all or some of their service areas. The Federal government takes a proactive role, providing technical assistance, training, and suggested practices. Such an approach could force States to make use of economies of scale and to target their staff resources on services which require the most judgement and expertise. States could also be required to privatize certain functions when their performance does not meet minimum levels of acceptability.

## 4. Greatly Expanded Use of Privatization--State/Federal Levels

Options could be explored which support some combination of the three approaches above. The goal would be to significantly increase privatization to maximize the benefits it provides. This could involve the privatization of a subset of IV-D services or the complete privatization of all services nationwide.

## 5. Privatization at the Federal Level

Partial or complete Federal privatization could be explored should a restructuring option be chosen which gives the Federal government responsibility for some or all child support services (e.g., a national registry, collection and distribution functions). This could involve either one or multiple contractors. In a federalized system, privatizing certain centralized functions such as collections and distributions could take advantage of economies of scale and alleviate interstate

difficulties.

V. Need for Further Study.

Privatization is a relatively new phenomenon. There is little experience on which to evaluate it and, to our knowledge, no formal studies have been completed. Consequently, in order to evaluate potential options, the issues and concerns raised earlier in this paper must be further explored.

Appendix A

Selected IV-D Privatization Efforts

State	Activity
GA	locate (pilot)
TN	complete privatization of 4 Judicial Districts
WY	all services leading to paternity or order establishment except intake
MO	service of process
NB	all services in Douglas County
CA	LA County -- paternity blood testing, interim automated billing system (until the county-wide system is up), banking and court trustee functions, supplemental locate services, service of process
CO	collections and disbursement
MA	collections
MI	1 county -- locate
NJ	Morris County -- lockbox and collection services
MD	Prince George's County -- lockbox and collections services
NY	New York City -- lockbox services
NJ	Hudson County -- lockbox services
AR	Little Rock -- deposits, collections, distributions for Non-AFDC cases
PA	York County -- bank used for AFDC payments
CA	San Francisco County -- lockbox services



# THE INTERNAL REVENUE SERVICE AND CHILD SUPPORT ENFORCEMENT

## EXECUTIVE SUMMARY

The Internal Revenue Service (IRS) is currently involved in the child support enforcement program both as a source of valuable information to assist in locating noncustodial parents, their assets and their place of employment, and as a collection authority to enforce payment of delinquent support obligations. In FY 1992, well over one-half of a billion dollars was collected by the IRS on behalf of over 800,000 child support cases.

Because of the success of this partnership and the perceived success of IRS tax liability enforcement efforts, child support advocates are increasingly calling for a greater IRS presence in the child support enforcement program, arguing that payment of support should be as automatic and universal as payment of taxes. The President, too, has voiced support for increased IRS involvement in collecting delinquent child support.

In response, this paper addresses how the IRS could play a stronger role in the enforcement of child support. Examined, is the current relationship between IRS, HHS and the State and local child support enforcement agencies and options for further enhancement and expansion.

The options provided are separated into two sections based on scope and intensity. The first set build upon programs which have proven to be effective. The key programs in which the IRS currently participates are: the Federal Parent Locator Service (FPLS), Project 1099 (asset and employment identification), the Federal Tax Refund Offset Program and the IRS Full Collection Process. While these programs, on the whole, have been highly successful and continue to serve as fundamental components of the national child support enforcement effort, as offered in this paper, they could be significantly expanded or improved.

The options explored for improving the effectiveness of the current partnership include:

1. Expanded availability of tax refund offset services, equitable treatment of cases subject to this service and publicized availability;
2. Expanded use of tax return information for child support enforcement purposes and exchange of information by IV-D agencies with the IRS; and,
4. Expansion of the Full IRS Collection Process -- both a modest expansion aimed at providing a deterrent effect and a more comprehensive expansion are explored.

The options included in the second group are more extreme and thus may appear to offer a greater impact but, unlike the first group, do not come without issue. At some point most have been included in proposed legislation and have received some level of support from the child support community. While they appear to be far-reaching, there is virtually no information about the actual number of non-custodial parents who ignore their child support obligations but not their tax liability but have also managed to escape the full array of State enforcement techniques.

The options explored in this section are:

1. Maintenance of child support data by the IRS to support a national directory of new hires;
2. IRS responsibility for enforcement of interstate cases;
3. Collection of past-due support through tax returns; and,
4. Collection of support by IRS through the tax withholding process.

Finally, this paper ends with a discussion of transitional and resource issues, including suggestions for their treatment.

## I. BACKGROUND

The Internal Revenue Service (IRS) is currently involved in the child support enforcement program both as a source of valuable information to assist in locating noncustodial parents, their assets and their place of employment, and as a collection authority to enforce payment of delinquent support obligations. The history of IRS involvement in the child support enforcement program has been continuous, and has expanded steadily, since the enactment of title IV-D of the Social Security Act (the Act) in 1975. Most notable has been the involvement of the IRS in collecting past-due support through the Federal income tax refund offset program. In FY 1992, well over one-half of a billion dollars was collected by the IRS on behalf of over 800,000 child support cases.

Clearly, the IRS has the potential to be a powerful and imposing ally in the continuing battle to enforce parental obligations. The vast majority of noncustodial parents, whether they pay their child support or not, cannot avoid their tax liabilities. If they work for wages or salary, their employer withholds taxes and reports income to the IRS. If they have savings or investments, buy or sell property, have a pension or retirement account, etc., the IRS receives information annually. If an individual fails to file a tax return or pay taxes owed, the IRS is diligent and generally successful in tracking down the taxpayer and enforcing the obligation (overall full-pay rate for individual master file cases for October 1992 - May 1993 is 22%). There may also be a significant psychological advantage to employing the IRS as an enforcer of support debts.

Because of these advantages, whether real or perceived, child support advocates are increasingly calling for a greater IRS presence in the child support enforcement program, arguing that payment of support should be as automatic and universal as payment of taxes. The President, too, has voiced support for increased IRS involvement in collecting delinquent child support.

In response, this paper addresses how the IRS could play a

stronger role in the enforcement of child support. Examined is the current relationship between IRS, HHS and the State and local child support enforcement agencies and options for further enhancement and expansion. The options provided are separated into two sections based on scope and intensity. The first set build upon programs which have proven to be effective. The options included in the second group are more extreme and thus may appear to offer a greater impact but, unlike the first group, do not come without issue. Finally, the paper concludes with a discussion of transitional and resource issues, including suggestions for their treatment.

## II. CURRENT ENVIRONMENT

The key programs in which the IRS currently participates are: the Federal Parent Locator Service (FPLS), Project 1099 (asset and employment identification), the Federal Tax Refund Offset Program and the IRS Full Collection Process. While these programs, on the whole, have been highly successful and continue to serve as fundamental components of the national child support enforcement effort, as offered later in this paper, they could be significantly expanded or improved.

### A. The Federal Parent Locator Service

The FPLS is a computerized national parent location service operated by the Federal Office of Child Support Enforcement (OCSE). The FPLS receives cases from State and local child support agencies and forwards them on a weekly or biweekly basis to the various Federal and State agencies to obtain location information. Information is received from six Federal agencies, including IRS, and 49 State Employment Security agencies. Tax return information is one of the most important and far-reaching sources available for location of a noncustodial parent's address and employment.

Weekly matches are conducted with the IRS masterfile to obtain address and Social Security Number (SSN) information from the most recent tax return filed by the taxpayer. During FY 1992, the FPLS processed nearly 4 million cases with over 2.8 million

cases being sent to IRS for addresses and 500,000 cases referred to IRS for SSN's.

States are charged a small fee (\$.70 per case) for use of the FPLS for non-AFDC cases. This revenue covers a portion of OCSE's administrative costs, including reimbursement of the participating source agencies. IRS currently is paid over \$150,000 per year by OCSE for its participation in this weekly match with its masterfile.

#### B. Project 1099

Since 1984 OCSE and IRS have also conducted quarterly matches of absent parent names and SSNs (submitted by States) with the Form 1099 and Form 1098 information submitted by financial institutions, i.e. banks, employers, brokerage houses, government agencies, etc., and maintained by IRS. These matches enable child support enforcement agencies to identify the various sources of absent parents' income, employment addresses and other relevant information which may be useful in locating noncustodial parents and their assets. During FY 1992, approximately 4 million cases were submitted by States to Project 1099.

The IRS provides information for Project 1099 under the authority of statute, which permits disclosure of return information to appropriate Federal, State and local child support enforcement agencies. As a condition of receiving this Federal tax return information, the receiving agency must establish and maintain, to the satisfaction of the IRS, certain safeguards designed to prevent unauthorized use of the information and to protect the confidentiality of that information. In addition, the information received from IRS may not be re-disclosed to third parties. States must independently verify the information before it can be used in a court or administrative enforcement proceeding or otherwise be disclosed.

#### C. The Federal Tax Refund Offset Program

With respect to direct enforcement of child support obligations, the IRS has been actively involved since 1982 in the interception

of Federal income tax refunds for payment of past-due child support. The program is a cooperative effort of the IRS, OCSE and State Child Support Enforcement agencies. The Tax Refund Offset Program, accounts for approximately twenty percent of all AFDC collections annually and over seven percent of all collections.

In order for a case to be submitted for the offset program, the case must be a IV-D case. For AFDC cases, the amount owed by the noncustodial parent must be at least \$150 and the delinquency must be 3 months or older; in non-AFDC cases, the amount must be at least \$500, the child on whose behalf such support is collected must be a minor and, at State option, arrears that accrued before the case became IV-D may be included. The State is required to verify the accuracy of the debt amount and to provide the noncustodial parent with a pre-offset notice and opportunity for review if the debt is contested.

Each year, Child Support Enforcement agencies submit to the IRS (through OCSE) the names, SSNs, and amounts of past-due child support owed by individuals. When the IRS processes tax returns, it identifies returns of those who owe child support. If a refund is due, all or part of the refund is retained to offset past-due support. Spousal support may also be collected under certain circumstances.

Since inception of the offset program, IRS has collected over four-and-one-half billion dollars in delinquent support, making it one of the most effective and efficient enforcement remedies available to child support enforcement agencies. During FY 1992, over 3.5 million cases were submitted to the IRS, of which 737,254 AFDC cases and 254,435 non-AFDC cases were offset by tax refund interceptions and \$643 million was collected. States are permitted to charge up to \$25 for non-AFDC tax refund offset submittal. The IRS charges States (1993 processing year) \$5.19 per case offset. If OCSE sends the pre-offset notice for the States, an additional \$.32 per offset-notice is collected by HHS.

#### D. The IRS Full Collection Process

Another collection avenue available to State child support agencies through IRS is the Full Collection Process. Through the Full Collection Process, IRS provides State child support agencies a collection mechanism when their attempts to recover delinquencies have failed. Cases eligible for submittal must have a court or administrative order, be at least \$750 in arrears and at least 6 months must have elapsed since the last request for referral. The State must certify that further efforts on their behalf would be unproductive, but that information indicates there may be assets which the IRS can attach to satisfy the debt. The IRS fee for this service is \$122.50 whether or not the collection action is successful (typically paid by the custodial parent in non-AFDC cases).

Under current operations, the process is strictly manual. Applications for full collections are forwarded by State Child Support agencies to ACF regional offices where they are reviewed to determine if the criteria discussed above are met. Each case is then forwarded to the IRS Service Center for the district in which the noncustodial parent lives. IRS assesses the child support liability and sends a notice to the delinquent parent. Once assessed, the IRS treats the case as it would a tax liability. After 60 days, unless paid in full, the case becomes a taxpayer delinquent account and is assigned to a district collection field function for collection. To resolve the delinquency, a collection employee may receive full payment, allow an installment agreement, levy property and rights to property, offset tax credits, or close the case as currently uncollectible because of hardship or because the taxpayer cannot be located or contacted (and there are no assets to levy).

Very few cases have been submitted for the IRS Full Collection process. While there are currently about 450 open full collection cases, only 136 new cases were certified in FY 1991. IRS made 369 collections in FY 1991 totalling \$327,500 (an average of \$887 per case). Only 30 new cases were certified in FY 1992. While the actual number of cases with collections rose to 409, the total amount collected fell to \$293,400 (an average of \$717 per case).

A pilot project currently underway with IRS will provide more insight into the Full Collection Process and how it can be improved. The purpose of the pilot test is to analyze the types of cases submitted by States; to look closely at which cases result in collections; and to analyze the nature of the enforcement action taken by the IRS. Under the pilot several changes will be made in case handling. The IRS has waived the \$122.50 fee for the pilot cases; the arrearage threshold has been increased to \$2,500; and, States will not be required to document the enforcement actions they have taken.

Under the pilot, individuals who are self-employed or have other significant miscellaneous income will be given particular consideration. In addition, States have been asked to give priority to interstate cases. (Of the 698 cases given to the IRS under the pilot, 395 are interstate cases). Experience shows that such cases have the best prospects for a successful outcome through the Full Collection Process.

### III. DISCUSSION

Proponents of a greater IRS role in child support enforcement argue that noncustodial parents would have a much stronger incentive to comply if IRS were the central enforcing agent. Further, they believe that the experience the IRS has garnered in collecting tax debts can be equally effective if applied to the collection of child support. Accordingly, over the last several years, a number of proposals have been put forth which would provide the IRS with a significant role in the collection and enforcement of child support.

Last year, a child support reform proposal put forth by Congressman Hyde and then Congressman Downey would have required a very strong role for the IRS in child support enforcement. Under the working draft, the IRS would collect support directly from all noncustodial parents' pay and distribute such amounts to families. Critics of such increased involvement argued however that there is no evidence that transfer of enforcement functions to the IRS would result in greater success in enforcing support obligations, particularly with respect to those difficult cases

involving the unemployed, underemployed or obligors working in an underground economy.

A Bush Administration initiative, Project KIDS, similarly would have drawn IRS further into the child support enforcement process. Under the proposal, overdue child support would have become a tax liability. Delinquent noncustodial parents would face stiff penalties and delinquent payments would be treated as tax liabilities, collectible by State revenue agencies and the IRS.

Congressman Hyde has introduced a bill this session of the Congress, the Uniform Child Support Enforcement Act of 1993, to require that the Internal Revenue Service collect child support through wage withholding and through a tax reconciliation process rather than through State enforcement efforts. A companion bill was offered in the Senate by Senator Shelby.

While not involving the Internal Revenue Service in the direct administration of child support enforcement, several proposals have been put forth in recent years which affect the tax treatment of child support -- paid and unpaid.

A bill pending in the Senate last session, introduced by Senator Bumpers would have allowed custodial parents a bad debt deduction for unpaid child support payments and would have required the noncustodial parent to add such amounts as income. A similar bill was introduced by Congressman Cox in June. However, it is worth noting that the ability to claim unpaid child support as a bad debt may be meaningless since most taxpayers affected by non-payment of support do not have sufficient earnings to claim the bad debt deduction.

Finally, at a recent hearing on child support, Senator Dodd indicated that he too will be offering legislation which, among other things, will provide for greater use of the IRS in collecting support.

Opponents of an increased IRS role argue however, that although the reputation of the IRS may indeed cause some absent parents to

make payments, the reality is that the Federal tax system, not unlike State child support systems mainly relies on voluntary compliance. IRS has in the past raised concerns that such voluntary compliance with the tax code may deteriorate if debt collection for other program or private debts, becomes a prominent feature of the tax system.

According to a March 1993 article in the Los Angeles Times, former IRS Commissioner Laurence B. Gibbs, has warned that such a plan would merely encourage taxpayers to reduce their payroll deductions (an argument which has been posed since inception of the Federal Income Tax Refund Offset Program but which has not come to fruition).. Mr. Gibbs is quoted as saying "We're one of the very few countries in the world that has been able to make withholding work. Once you take somebody's refund...the next year you'll have to chase them."

Still others charge that the IRS is publicly viewed as a hostile and punitive agency which will not facilitate the kind of voluntary cooperation essential to child support success. In the article referenced above, research director of the National Taxpayer's Union, Paul Hewitt, agreed and said, "There's a strong predilection in the United States against getting the IRS too involved in people's private lives."

Further, States today have potent enforcement remedies equal or superior to those of the IRS. They include wage withholding, garnishment of wage and bank accounts, seizure and sale of assets, reporting to consumer reporting agencies; the ability to require posting of bonds and other forms of security; placement of liens on the real and personal property of noncustodial parents; criminal and civil contempt powers; and, State and Federal income tax refund offset processes. Since unpaid installments under child support obligations are already judgments by operation of State law, they do not need to be reduced to judgment, unlike delinquent tax obligations.

What the States clearly lack though, is the ability to easily reach across State lines. With estimates indicating that 30 percent of child support cases are interstate, this inability is

not insignificant and may alone justify the call for increased IRS involvement, particularly in these interstate cases.

#### IV. OPTIONS

##### A. Expansion of Current Framework

As indicated above, the IRS is already playing a vital role in the enforcement of child support. Unfortunately, the current use of IRS' resources to aid in the establishment and enforcement of support obligations is not without problems and could go much further in addressing the child support needs of America's children.

The following options build on the current partnership between the IRS and child support. While in most cases changes in the law and additional resources would be necessary, significant benefits to the child support community could be realized at minimal cost and with minimal transitional complications.

##### 1. Tax Refund Offset Services

###### Expand Availability to Non-IV-D Families

The Tax Refund Offset Program is currently available for IV-D cases only. While any family may receive IV-D services (and thus benefit from the tax offset program), once application is made the family is subject to all IV-D services and does not have the ability to limit State action. However, a number of families who do not otherwise need or desire IV-D services would benefit from access to the tax refund offset service.

While some extent of State involvement would still be necessary for verification of the debt amount, notice to the taxpayer-obligor of the referral for offset and right to review, i.e., amount of arrearage, the tax offset program could be extended to non-IV-D families at limited burden to IV-D agencies or the IRS. The IV-D program could be expanded to provide a tax refund offset-only service similar to the locate-only service currently available. Alternately, custodial parents or private attorneys

on behalf of custodial parents could be required to file an affidavit of arrears and be given authority to certify cases for offset (through the State agency).

An expanded fee system could be instituted to cover costs, especially if States did not earn incentives on these collections but were required to incur extra costs. Substantial benefits could be realized in terms of welfare avoidance and good-will garnered from the child support community at large.

#### Equitable Treatment of IV-D Cases

As indicated previously, even within the IV-D program, the current rules for submitting cases for Federal income tax refund offset vary between AFDC and non-AFDC cases, with non-AFDC cases being provided unequal access to this enforcement technique in two ways. First, in non-AFDC cases the arrearage necessary to qualify for tax offset (\$500) is more than three times then that for AFDC cases (\$150). Second, past-due amounts sought in non-AFDC cases must be on behalf of a minor child. After a child reaches the age of majority in non-AFDC cases, this valuable enforcement technique is lost for collecting past-due support, including any arrearages which accrued while the child was a minor. There is no such limitation with respect to AFDC cases. In addition, the current limitation on offset for spousal support in non-AFDC cases could be changed to reflect the authority vested to collect such amounts under title IV-D of the Social Security Act.

Given the success of this program and the small expense involved, there appears to be no compelling reason for not treating the support rights of all families equitably.

#### Publicize Availability

The availability of the Tax Refund Offset Program (whether maintained for IV-D cases exclusively, or expanded, as offered above) could be promoted by the IRS. A brief description could be included in the Form 1040 package of materials mailed annually to every taxpayer, explaining procedures and providing

information on the availability of IV-D services. Many do not know the procedures to take in order to have the non-custodial parent's refund offset. This would ensure that parents most at risk of needing child support services are aware of how they can be obtained; signify the Federal government's seriousness about child support; and, serve as a potential deterrent to some noncustodial parents from becoming delinquent in their support duties.

Alternately, it might be possible to conduct a direct mail campaign which targeted single taxpayers with dependents, e.g. those who file as "head of household" or as "married filing separately" and list minor children as dependents.

## 2. Expanded Use Of Tax Return Information

As indicated above, privacy restrictions in the Internal Revenue Code currently limit the use of Project 1099 and other tax return information obtained by State and local agencies. Information obtained from the IRS must be rigorously protected against improper use, and even state and local enforcement agencies are severely limited by the restrictions imposed under the Internal Revenue Code. Generally, information provided by the IRS may not be disclosed directly to the court or administrative authority establishing or modifying a support order. In addition, current requirements for verifying information received from the IRS prior to its use for Child Support Enforcement purposes greatly diminish its value.

States have found these rules to be unduly restrictive especially in that full financial disclosure is essential to assure that appropriate orders are set in accordance with an obligors ability to pay. With appropriate safeguards (sealed records, closed proceedings, etc.) it would appear that judicial and administrative entities which establish and modify orders could be provided access to all available income and asset information maintained by the IRS, without compromising the confidentiality of the information.

Several States commenting on the Downey-Hyde proposal argued for

increased access to information from Federal tax records. One State encouraged expansion of agreements with IRS and Bendex to provide better enforcement tools at the State level.

More recently, when testifying at an August hearing on child support assurance, the Massachusetts Department of Revenue suggested that States be provided greater access to IRS data. In Massachusetts, access to tax data was key to increasing compliance rates to 80 percent; a figure which the State feels could be replicated nationally if greater State access to IRS records with fewer restrictions were provided. However, while access to the entity file may be available, current disclosure laws would prevent such direct access to Federal tax data.

### 3. Exchange Of Information By IV-D Agencies With The IRS

Often ignored is the flip side of this cooperative effort, that is, the value child support data could have to the IRS for purposes of enforcing tax liabilities. In fact, the IRS occasionally subpoenas address and payment information maintained by IV-D agencies. If the IRS needs assistance in locating a debtor, or in verifying whether a taxpayer (or which taxpayer) can lawfully claim a dependent's exemption, arguably, the State and local IV-D agencies should help. State Revenue Offices may also benefit from receiving this information.

In conjunction with revised child support and IRS safeguarding rules, regular and systematic data exchanges could be established which might be of benefit to support enforcement and revenue agents alike.

### 4. Expand The IRS Full Collection Process

#### Modest Expansion - Deterrent Effect

One simple alternative to engaging IRS in a broad child support role would be to greatly expand the first step in the Full Collection Process, i.e. the "60-day notice" which IRS sends when a case is certified. These notices serve a valuable function in securing the debtor's attention. The obligor, thus, is not only

advised of the IRS' interest in securing compliance, but of certain specific dire consequences of continued refusal to pay (e.g. lien, attachment, credit bureau reporting, etc.).

These efforts could be closely coordinated with the referring IV-D agency, to minimize IRS' expenditure of resources and to avoid duplication of efforts. The obligor could even be referred to the IV-D agency as an alternative (which many debtors may prefer) to dealing with an IRS agent.

In addition, the 1099 data might serve as a valuable resource in identifying cases for full collection enforcement and to focus IRS' collection activities. Since this particular use of 1099 information is limited to an exchange between the Federal authorities, the State agency, and perhaps the taxpayer, no change in safeguarding procedures seems to be necessary. If the pilot is successful, it could be greatly expanded. Procedures could be developed to assure close communication and coordination of State-local and Federal enforcement efforts. Automation, new notices, regular case updates, and IRS referral to IV-D agencies for follow-up actions (e.g. entry of wage withholding, posting security or bond, etc.) could be considered.

Since IRS involvement under this option would be limited, costs should be significantly less than when full collection activities are necessary.

#### Comprehensive Expansion

As it currently exists, the Full Collection Process is prohibitively expensive for use in large numbers of cases, and Federal regulations impose significant hurdles which State agencies must meet in order to submit cases.

While the pilot project described previously should provide insight into how the Full Collection Process can be improved, certain problems are already apparent and can be addressed, if necessary, prior to awaiting the outcome of the pilot project.

In commenting on the Downey-Hyde proposal, most States were

largely opposed to full federalization of the child support program through the IRS but expounded on the need to improve and streamline the Full Collection Process. States are generally concerned about the protracted time period involved in full collection; the routine use of payment schedules rather than automatic seizure of assets; and, the lack of automation.

Under the current process, IRS provides a notice to the obligor which stays collection efforts for 60 days. This is followed by collection efforts including face-to-face personal collection. A simple way in which the time period involved in the Full Collection Process could be reduced would be to have the IRS 60-day notice period toll beginning with the notice provided by the IV-D agency. However, without a legislative change, a 30-day notice required under IRS rules would still apply.

It should be noted that according to IRS, child support cases are subject to enforcement action much sooner than most taxpayer delinquencies which remain in notice status for 26 weeks before other collection efforts are pursued. Thus, no other avenue for reducing the time period involved under the Full Collection Process is immediately apparent.

States are also critical of the IRS practice of placing a delinquent obligor on a payment schedule when assets like bank accounts exist which could be subject to attachment immediately. As the child support enforcement community is calling for a harder line in addressing the enforcement of child support, the IRS is being called on to take a more 'user-friendly' approach to addressing tax delinquencies. While the Taxpayer Bill of Rights may mandate flexibility in IRS consideration of tax debts, it might be beneficial if the treatment of child support arrearages were made clearly discernible from that of tax debts by carving-out a special policy requiring IRS to go after assets through lien, levy and seizure when possible rather than instituting payment plans. This would eliminate current complications when the IRS and judges set varying payment schedules for the same debt and would be more effective since less monitoring would be necessary. It would clearly respond to the criticism raised by the child support community that the Federal government may be

able to wait for payments under a protracted collection process, but most families cannot. This would undoubtedly require legislative change as IRS rules provide for case closing when debts are not collectible because of hardship and for the use of installment agreements based on a person's need to have sufficient money to live on.

Finally, some have complained that the current full collection process is too slow and labor intensive because of the lack of automation. IRS however does not believe that the process is either slow or labor intensive. Further, IRS response has been that because of the lack of volume, automation did not appear to be cost effective and regardless may not necessarily be more efficient. Further, they have tried to keep accounts receivable information on non-tax debts and the tax system separate and thus these cases cannot be easily integrated into their current system. Clearly though, expansion of the IRS role in the child support arena would necessitate some form of systems expansion.

#### B. New Directions

The following options speak to a more dramatic change in the role of the IRS in child support enforcement than those captured above. At some point most have been included in proposed legislation and have received some level of support from the child support community. It should be noted that while these proposals appear to be far-reaching, there is virtually no information on the actual number of non-custodial parents who ignore their child support obligations but not their tax liabilities but who have also managed to escape the full array of State enforcement techniques.

##### 1. Maintenance of Child Support Data

Proposals to improve the enforcement of child support have recently included some provision for a new hire reporting system coupled with a child support registry. One option for such a system is the establishment of both a National Directory of New Hires and a National Registry of Child Support Cases. Employers or their payroll agency, at the time of hiring, would provide the

information on new hires to a National directory which would be matched against a child support registry (addressed in-depth under separate cover).

Since 1988, the IRS has been considering steps to simplify and streamline employer reporting. Most recently, as part of this study, consolidation of multiple Federal and State employer reporting requirements was analyzed. Preliminary estimates predict that over the next 15 years the results of this effort, The Wage Reporting Simplification Project (WRSP), will reduce employer burden by as much as \$13.5 billion and government costs by as much as \$1.7 billion.

The envisioned vehicle, the Simplified Tax and Wage Reporting System (STAWRS), can be viewed as a single entity provided employment, tax, and wage reporting services. Under this system, employers file returns, make payments, obtain assistance, and carry out any other interactions with just one STAWRS site or service group. Similarly, participating agencies would deal with one STAWRS entity in obtaining data and revenue submitted to the STAWRS and using other STAWRS services. For purposes of producing a cost and impact analysis, three alternative concepts have been defined. Option 1, the most comprehensive, includes a component for registering fact-of-employment; the data element necessary for child support purposes in collecting new hire data.

Under such a system, child support requirements would place no additional burden on employers, who would be reporting the data to the STAWRS entity in any event. The cost of using the information would be minimal because the data would be used for various purposes by a number of components, who would share costs. Should IRS go forward with such a system, Department of Health and Human Services involvement as a participating agency could be of significant benefit in the establishment of a Federal Child Support New Hire Reporting System.

While some have suggested that independent of this effort, IRS develop and maintain a child support registry, this option is not explored here as it would appear to be of questionable value unless IRS were to take a more wholesale role in child support

enforcement efforts than suggested by the various options presented in this paper.

## 2. Enforcement of Interstate Cases

As indicated previously, IRS has little direct enforcement ability beyond that which is currently available to State child support agencies. Where they could have a substantial impact though, is in the enforcement of interstate cases because of their ability to easily reach individuals and their assets across State lines. Since interstate cases are typically among the most difficult for State child support agencies to serve and the IRS is already equipped to collect taxes and disburse refunds on a national basis, a process could be developed for the routine referral of interstate cases to the IRS. Were such a referral coupled with IRS enforcement through automatic lien issuance, the collection of arrears in interstate cases could be dramatically improved.

Under this option, the IRS would, in effect, be taking on a major IV-D responsibility. To insure that the cost of servicing what may represent 30 percent of the IV-D caseload is not completely shifted to the Federal government or from the IV-D program to the IRS, a requirement could be established that States enter into contractual arrangements with the IRS for pursuit of their interstate caseload. States would pay the full cost of such arrangements which would then be subject to FFP under the IV-D program through transfer of 66 percent of the costs from HHS to IRS via the State.

In commenting on the Downey-Hyde proposal, several States acknowledged the significant benefits which could be gained by IRS involvement in interstate cases. In addition, during an August hearing on child support assurance, testimony was offered suggesting that as an interim step to Federalization of the program, the IRS establish a central registry of interstate cases and have responsibility for interstate wage withholding.

While this option would on the surface seem to provide the most effective role for the IRS in child support, the administrative

burden involved would need to be carefully weighed. If the IRS were given sole responsibility for enforcement of interstate cases an entirely new administrative capability to handle the volume of cases would need to be created. Such capability would necessarily duplicate much of the existing State processes since enforcement entails: locate; payment receipt, maintenance and disbursement; action to enforce non-payment; and, medical support enforcement activities.

Even if as suggested child support provided some of the funding to handle the additional cost, it is unlikely that sufficient staffing increases would be provided to handle the workload involved since IRS is constantly challenged by limited resources to meet existing responsibilities and the support related responsibility would be a peripheral appendage to its primary mission. In turn, the impact in terms of the IRS' capacity to carry out its primary missions could be profound.

A further complication would result from the often blurred distinction between interstate and intrastate cases. This is especially problematic as people move out of state and return or simply disappear. The confusion between agency responsibility which could result might have the perverse effect of lessening governments' responsiveness to interstate cases, increasing custodial parent confusion and frustration.

Alternately, a more practical approach would be to expand the Full Collection Process to target all interstate cases, not dissimilar to the approach being taken in the referenced pilot project. However, such an approach would need to be coupled with the other reforms to the Full Collection Process suggested above.

### 3. Collection of Past-Due Support Through Tax Returns

As indicated under the Discussion section of this paper various proposals have been put forth for the out right collection of child support arrears through the income tax return process. One of the simplest variations would be to modify tax forms to include several lines at the end of the form for self-reporting child support unpaid during the tax year. Such amounts would be

included in determining the individuals net tax liability or refund amount. This could be coupled with a revised form for the self-employed requiring individuals to include and pay such amounts with quarterly estimates of taxes; an idea most recently endorsed by the Children's Defense Fund's January 1993 report on the issue of child support assurance.

Amounts reported would be treated as tax debts and be subject to IRS enforcement. To limit administrative complexity, IRS would not have responsibility for auditing the accuracy of the information reported but any individual who failed to report could be subject to the same consequences imposed for otherwise failing to report truthfully on the tax form.

This option may increase compliance from noncustodial parents wishing to avoid IRS entanglement in their personal lives and increase the collection of arrearages simply because of the sheer weight of IRS involvement and the perception of inescapability. A number of obligors in arrears may be inclined to report truthfully to avoid a closer examination of their tax records by the IRS. The net effect may be marginal however, since like the tax system itself compliance would be voluntary. This concept was supported by a member of the Commission on Interstate Child Support Enforcement in commenting on the Downey-Hyde proposal and by the National Women's Law Center in testifying on the concept of child support assurance in August 1993.

While appearing simplistic, this option too raises a number of problems which are quite complex. The 1986 tax reform significantly reduced the number of individuals required to file income tax forms. Requiring self disclosure of child support would reverse this action by potentially requiring a huge number of individuals to file taxes who would not otherwise be required to do so and who also may not have sufficient income to pay the overdue support.

In addition, administrative details such as how a case would be handled as by whom if an individual had no money to pay the arrears or fails to disclose support owing. Depending on the

answer, this could further fragment the current system.

Under this option, IRS would also probably need to establish some form of an appeal process if penalties were imposed for failure to report truthfully. The expanded bureaucracy and administrative burden involved could have a substantial impact on the effectiveness of this approach and thus would need to be closely examined.

Some have proposed the idea of coupling this approach with a provision under which child support is deducted by employers under the same authority Federal taxes are withheld. However, this would appear to offer little more than current child support mandatory wage withholding laws offer and may actually be less effective because of the difficulty in getting funds collected from tax returns to obligees timely. Further, because of CCPA limits, any amounts withheld by the IRS to collect unpaid child support arrears could diminish the amounts available for payment of current support resulting in increased administrative burden but no net gain in support collected.

#### V. TRANSITIONAL AND IMPLEMENTATION ISSUES

While there are clearly a number of proposals which could be offered to improve child support enforcement through increased involvement of the Internal Revenue Service, expectations should not be unrealistic. Even the IRS cannot assure 100 percent compliance, with either tax or support obligations. For example, IRS staff have indicated that the biggest tax compliance problems are associated with independent contractors, not dissimilar to child support enforcement experience with the self-employed. In addition, a certain subclass of debtors have "opted out" of any relationship with banks, wage reporting employers or other financial entanglements which require the use of a Social Security Number. Some simply have no assets or income beyond a bare subsistence level. But, for the majority who pay their taxes and could pay their support, but fail to do so regularly or completely, attention from the IRS may be compelling.

#### IRS Resources

Naturally, if the role of the IRS is expanded, additional Federal resources will need to be devoted to the effort to ensure its effectiveness while at the same time ensuring there is no shift in resources from tax collection activities to child support enforcement. Current IRS procedures provide authorization to only one service center employee to screen child support cases.

In the IRS Collection Field function, the workload priority system determines the number of cases assigned to a revenue officer. Thus, an expansion of child support collection efforts would require additional staffing or would lead to cases other than child support not being worked. If new staffing were provided, it would take about 6 months before the new employees were trained and on the job full time. These new employees, like all employees would work the complete range of collection cases.

IRS currently collects about \$2,500 for each tax delinquency account, at an approximate cost of \$240. If the child support Full Collection Process were expanded to include 12,000 additional child support cases a year, IRS would require about 70 additional staff years to cover the expansion. If they were to absorb such cases without additional staff, the loss in terms of delinquent taxes not collected would be over \$30 million annually.

In addition to staffing, depending on the scope of the expanded IRS role in child support, it may be necessary to devote resources to support an automated interface between OCSE and/or and IRS.

#### Priority of Debt Collection

A very important issue in considering increased IRS involvement in child support enforcement efforts is the question of priority of support delinquencies. This is a concern with respect to both the issue of which debt should take precedence and as raised above and perhaps more important to the issue of transition, allocation of IRS resources. Currently, IRS gives a higher priority to child support cases since other cases fall under a system which can prevent certain cases, depending on a score,

from going to the Collection Field function. However, if IRS were more significantly involved in child support enforcement, more emphasis on one type of collections (like child support) could impede the recovery for others (tax debts).

If IRS had unlimited time and resources this would not be an issue. However, the reality is that IRS resources have been considerably reduced over the past several years, have not kept pace with the workload and tax collection would necessarily remain the agency's priority.

While IRS does not prioritize its work based on case type, it might be worthwhile to take a proactive prevent competing interests. One option would be to provide specialized agents to work on child support cases with appropriate training in service centers. As child support related caseloads increased, more specialized agents would be necessary.

Priority issues are ultimately a management decision which can be addressed at any time after the necessary legislation is enacted. However, it is unlikely that the IRS would want employees to solely work child support cases since the key issue is not who works the cases but assurance that they are worked.

Alternately, if staffing increases were not possible, IV-D employees or State revenue agents could be granted some limited IRS agent-like authority through a deputizing process based on meeting certain criteria and training standards. If this is possible, child support staff would be provided jurisdiction to delve into interstate child support matters, at no cost to the IRS, so that for example California revenue workers could pursue interstate cases. Similar consideration could be given to contracting out child support functions assigned to the IRS, fundable under or through the IV-D program.

This concept could be considered in conjunction with the option presented above of providing the IRS responsibility for enforcement of interstate cases. State revenue workers or staff of the IV-D agency given this authority would eliminate the need to transfer this function to the IRS eliminating the

administrative burden involved in establishing a new process within the IRS.

The second part of the priority issues deals with the decision which must be made when both tax and child support delinquencies are owing from the same individual. While there may be a compelling humanitarian reason to provide priority to the collection of child support, Federal taxes have always had priority over any other debt. Even State revenue efforts to collect support traditionally give priority to the tax delinquency over the child support delinquency. For example, California revenue officers don't even pursue support when tax debts are also owed. The pilot in LA county indicates a 20 percent overlap.

From a purely Federal fiscal standpoint, Federal tax recovery should have priority. Even when child support arrearages represent unreimbursed AFDC payment, because of the current Federal/State cost sharing arrangement, only one-half of the recovery amount would offset Federal expenditures.

However, under the Downey-Hyde proposal, collection of child support owed at the end of the year through the Federal tax return filing process would have taken precedence over tax collections. Several commenters on the proposal voiced support for this approach to debt priority. The most practical way to handle this issue may be to provide IRS sufficient flexibility to address priority of enforcement proceeds to a case-by-case basis.

While this issue is often brought up by the child support community, IRS has indicated that the only manner in which they prioritize the application of payments concerns the statute of limitation on the debt amount not the underlying basis of the liability.



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**CHILD SUPPORT ENFORCEMENT  
FINANCING AND INCENTIVES**

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# FINANCING AND INCENTIVE

## EXECUTIVE SUMMARY

This paper examines alternative ways to finance the Child Support Enforcement program. Statistics indicate that States are not collecting child support for a substantial portion of their caseload. Financing is one of many factors that have an effect on States' performance and results. This paper will consider alternative financing strategies and mechanisms that would promote the provision of more efficient and effective services.

The options which have been developed in this paper address a number of existing problems and inequities in the way the program is currently financed and seek to redirect the program consistent with a new set of premises about the program's purpose. The premises underlying these options are:

- Child support should lead to an increase in family well-being and economic stability, helping those not on welfare to stay off the rolls, and helping those on assistance to find their way to self-sufficiency.
- Financing options should encourage greater investment in child support enforcement activities.
- Options should contribute to a simplification of the financing structure, so it can be more easily understood by clients, administrators and policy makers alike.

Working from the above premises, four options were developed:

Option 1: Expanded Performance Incentives--Reduce direct Federal matching and link increased Federal funding to specific performance incentives which reward States for successful action on more difficult cases. Incentives would be based on performance and calculated against collections. Exemplary States could receive back from the Federal Government payments in excess of expenditures.

Option 2: Variable FFP With Incentives--States receive variable direct Federal matching dependent on their relative economic and financial capacity to fund their IV-D programs. State incentive payments would be linked to collections and families would receive a bonus for establishing support orders.

Option 3: High FFP--States receive very high direct Federal matching providing a reliable and predictable source of funding. This option has no separate performance incentives but would have increased Federal oversight and control; and,

Option 4: Tiered FFP--All direct Federal matching for States would be variable, dependent on how well a State performed in meeting specified objectives. (A matching rate floor would be established below which no State would fall). Since performance measures are built into the matching rates, this option has no separate structure of incentive payments. States with exemplary performance could receive up to 100 percent of their expenditures.

The four options reflect different philosophies about role of the Federal government in supporting the Child Support Enforcement Program and in the expected behavioral response on the part of the States. The options have purposefully been presented to highlight their differences, although variations could easily be developed.

Option 1 (Expanded Performance Incentives) and Option 4 (Tiered FFP) have the advantage of providing strong financial incentives for improved performance. Both options, however, with a base rate of 50 percent FFP could be perceived by some as a retreat by the Federal government from its strong support for Child Support Enforcement. Option 2 (Variable FFP) attempts to balance an incentive approach with the need to provide States with sufficient resources to operate a sound CSE program. The incentive scheme is much simpler in Option 2 than in Options 1 and 4 because it is based solely on collections.

Option 2 also specifically includes an \$300 incentive payment or bonus for the family. Like Option 2, Option 4 has a variable matching rate. In Option 2 the variable FFP rate recognizes that States have differing economic circumstances. In Option 4 the variable rate rewards good performance.

Option 3 (High FFP) provides the States with a very high match rate. The approach addresses concerns that the fiscal and political atmosphere in some States prevents the program from accessing needed resources. If resource limitations at the State level are the major barrier to program improvement, this option would likely have the greatest impact on program improvement. It also requires the greatest level of Federal monitoring.

It should be noted that all of the above options share some simplifying assumptions. There was not consensus about all of the assumptions, particularly the change in distribution policy and the selection of specific performance incentives. There was

a sense, however, that every variation increased the complexity of the options exponentially. The major simplifying assumptions include:

- Incentives based on results oriented performance. The performance indicators included cost-effectiveness, percentage of paternities established, percentage of cases with orders, percentage of paying cases, and percentage of AFDC case terminations with child support collections.
- No distinction made between AFDC and non-AFDC families. The goal of the program is to increase the well-being of all families. However, the options assume that the current distinction between IV-D and non-IV-D would continue.
- Child Support collections go in their entirety to the families on whose behalf they were collected. Collections on behalf of AFDC families are not retained by the States or the Federal government, although they would offset AFDC benefit costs.
- No change in fee and cost recovery policy. However, nothing in any option precludes the charging of fees or the recovery of costs.
- No change in the current policy of double counting interstate collections for purposes of calculating incentives.

The options presented in this paper are flexible. They can be designed to maintain, increase, or decrease, the existing aggregate level of Federal support for the CSE program. The performance incentives can be based on how well a state meets an absolute standard or on substantial movement towards meeting that standard. They also allow for changes in the simplifying assumptions, although some changes would make the financing structure more complex. Lastly, it would also be expected that the implementation of the new financing structure would be phased in over a period of years, gradually replacing the current financing structure. This would prevent a substantial disruption in the CSE program during the transition period.

## FINANCING AND INCENTIVES

### I. INTRODUCTION

This paper examines alternative ways to finance the Child Support Enforcement program. Statistics indicate that States are not collecting child support for a substantial portion of their caseload. Financing is one of many factors--including staffing, training, resources, fragmentation in administration, programmatic requirements and program audits--that have an effect on States' performance and results. This paper will consider alternative financing strategies and mechanisms that would promote the provision of more efficient and effective services.

The options which have been developed in this paper address a number of existing problems and inequities in the way the program is currently financed and seek to redirect the program consistent with a new set of premises about the program's purpose. The premises underlying these options are:

- Child support should lead to an increase in family well-being and economic stability, helping those not on welfare to stay off the rolls, and helping those on assistance to find their way to self-sufficiency. Rather than serving the interests of the Federal and State governments by generating revenue to offset welfare costs--as the program was intended to do when it was created in 1975--the Child Support program should first serve the needs of those who seek its services. This should lead to a greater emphasis on such goals as increasing paternity establishment, promoting the establishment of support orders, and augmenting the level of funds available to families in need.
- Financing options should encourage greater investment in child support enforcement activities. Such investment ranges from securing additional staff for State programs to insuring that the funds generated for

a State by this program are used to improve program performance rather than to enhance State budget flexibility.

- To the extent possible, options should contribute to a simplification of the financing structure, so it can be more easily understood by clients, administrators and policy makers alike.

Working from the above premises, four options were developed:

- Option 1: Expanded Performance Incentives--Reduce direct Federal matching and link Federal funding to specific performance incentives which reward States for successful action on more difficult cases;
- Option 2: Variable FFP With Incentives--States receive variable direct Federal matching dependent on their relative economic and financial capacity to fund their IV-D programs. State incentive payments would be linked to collections and families would receive a bonus for establishing support orders.
- Option 3: High FFP--States receive very high direct Federal matching providing a reliable and predictable source of funding. This option has no separate performance incentives but would have increased Federal oversight and control; and,
- Option 4: Tiered FFP--All direct Federal matching for States would be variable, dependent on how well a State performed in meeting specified objectives. (A matching rate floor would be established below which no State would fall). Since performance measures are built into the matching rates, this option has no separate structure of incentive payments.

Section II of this paper discusses the current financing structure. Section III identifies the assumptions which underlie the development of all of the options, describes each option and considers its strengths and weaknesses. Section IV addresses the financing of special state initiatives. Appendices on several issues are included at the end of this paper.

## II. THE CURRENT FINANCING SYSTEM

To understand the options which have been developed, one must first understand how the current financing system works. System components are therefore summarized below with a discussion of the overall effect of the current structure. Specific components of the financing structure are then discussed in more detail in the sub-sections which follow.

### A. Current Financing Components.

Four components comprise the current financing structure of the Child Support Enforcement program. These are:

- (1) Direct Federal matching, known as Federal financial participation or FFP. The Federal government pays 66 percent of most State/local program costs. A higher rate, 90 percent, is paid for genetic testing to establish paternity and for comprehensive state-wide automated data processing (ADP) systems. In the aggregate, direct Federal matching (FFP) accounted for approximately 67 percent of States' FY 1992 child support enforcement expenditures.
- (2) Incentive payments to States. The Federal government pays States an annual incentive based on collections and cost effectiveness from its share of AFDC-related collections. States must pass on part of the incentive to any local jurisdiction that collected the child support if the State required the jurisdiction to participate in the program's costs. States and localities can spend these payments on whatever

activities they want. In FY 1992, incentives returned to the States the equivalent of 15 percent of aggregate State child support expenditures and 37 of total AFDC collections.

(3) Distribution of Collections. States transfer to AFDC families the first \$50 of any current support collected each month. Most remaining AFDC collections are retained by the State and Federal governments as reimbursement for welfare benefits previously paid to the families. States retain the same share of these collections as they pay in AFDC benefits. These shared rates vary by State according to the Federal Medical Assistance Percentage or FMAP rate. The total amount of child support collections received by States on behalf of non-AFDC families is returned directly to the custodial parent. AFDC collections not paid to families represent a potential reduction of 8 percent in State and federal AFDC benefit costs. Currently the Federal share of these collections is off-set against the State AFDC grant. AFDC collections retained by the States, excluding incentive payments, represented 39 percent of aggregate child support expenditures in FY 1992.

(4) Fees and cost recovery. States must charge application fees (no more than \$25) to non-AFDC applicants for child support services. Most States have been reluctant to impose fees in non-AFDC cases, so they often either absorb the cost of the fee or charge a minimal fee, such as \$1 or less. States have the option to charge other fees, including fees for Federal and State tax refund offset and for genetic testing. A State may also elect to recover from either parent any costs incurred in excess of any fees collected. Fees and cost recovery represent about a one percent reduction in aggregate child support expenditures.

The paramount question raised in this paper is--Does the current financing structure support improved performance by the CSE agency?

Under the current federal financing structure, in FY 1992 most States' (44 of 54) recovered--through direct Federal reimbursement, incentive payments, and shared AFDC collections--more than 100 percent of their expenditures on child support enforcement. Of the total program expenditures of \$1.99 billion in 1992, States received \$1.34 billion (67 percent) in federal matching funds. Additionally, States received \$787 million as the State share of AFDC-related collections and \$339 million in incentive payments while incurring \$652 million in non-reimbursed state-funded costs, for a net return of \$474 million over costs. (See graph entitled-State Return on Investment)

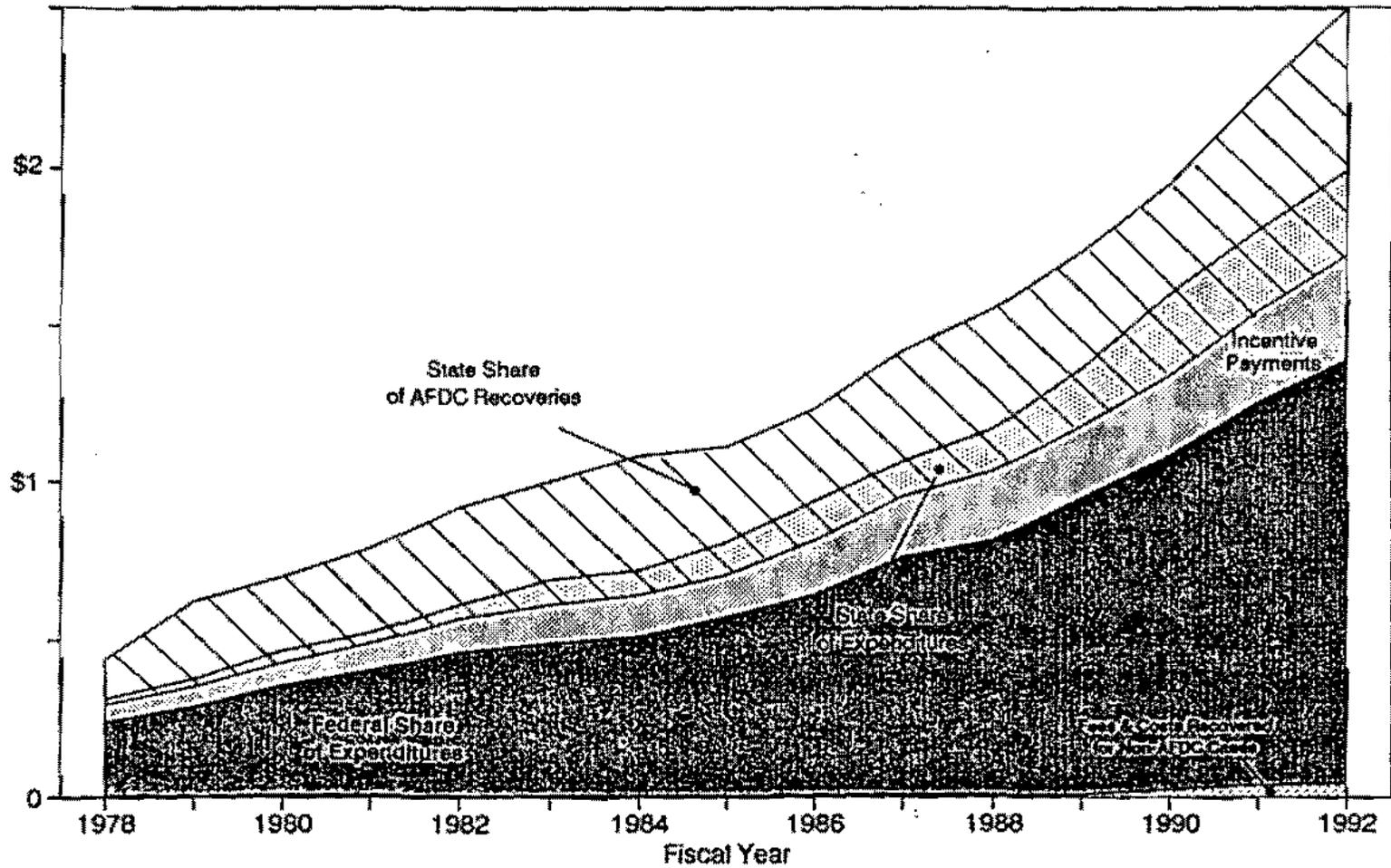
Because the original intent of the program was to use AFDC collections to reimburse previously issued AFDC welfare benefits, it may be misleading to assume that these collections represent monies to be invested in the child support program. In reality, these collections are simply returned to the State treasury. The same argument would apply to incentives paid to States under the program. These amounts may be used by States in budgeting for the child support program, but can be used for purposes unrelated to child support.

This general revenue sharing aspect, which allows States increased budget flexibility, has always been a strong selling point for States to support the program. However, this increased flexibility for the State does not necessarily translate into increased investment in the child support enforcement program. In sum, while the current financing system may be generous to the States, it does not insure that the revenues generated by the program are used to improve program performance.

There is general agreement that the current performance of the Child Support Enforcement Program is not adequate. Child support can not contribute sufficiently to the improvement of the economic well-being of children unless the majority of children whose parents are absent from the home actually receive child

# STATE RETURN ON INVESTMENT BY FFP, INCENTIVE PAYMENTS, AND FEES

(in billions)



Source: Office of Child Support Enforcement, *Child Support Enforcement: Annual Report to Congress*, 1992 & prior years.

support payments. Improved child support performance also enhances the potential success of President Clinton's welfare reform goal of ensuring that both parents are responsible for their children.

While the performance of individual States has been exemplary in some ways, their overall performance shows substantial room for improvement. For cases within the Child Support Enforcement system: (data from 1992)

- o Paternity was established for 17 percent of the cases needing paternity established.
- o The paternity establishment baseline data indicated that 46 percent of all IV-D children born out-of-wedlock had paternity established.
- o Awards were established for 33 percent of the cases needing awards.
- o Collections were made on 61 percent of the cases with orders for current support.
- o Fifty-six percent of the current support due was collected.
- o For each dollar of expenditures the program collected \$4.00 in child support.
- o Eleven percent of AFDC families were terminated due to child support collections being made on their behalf.

It is unclear what level of performance should be expected in each of these areas. Some States do very well in one or two areas. Most States are not close to performing satisfactorily across the entire range of program activities.

## **B. Analysis of Financing Components**

This section provides a more detailed analysis on each component of the financing structure and discusses how changes could facilitate improved State performance.

### **1. Federal Financial Participation (FFP)**

As stated above, in FY 1992 States spent \$1.99 billion for child support services and were reimbursed by the Federal government for \$1.34 billion of those expenditures through Federal matching funds. The Federal government reimburses States at 66 percent for most State and local child support program costs. A higher rate, 90 percent, is paid for genetic testing necessary to establish paternity and for comprehensive state-wide automated data processing (ADP) systems required by the 1988 Family Support Act. The 90 percent funding for systems development is available through FY 1995 by which time state-wide automated systems must be operational. The 90 percent matching rates were specifically authorized to promote increased State attention to federal priorities in the area of automation and paternity establishment. Because ADP expenditures and genetic testing represent a small share of total expenditures, the overall match rate for all expenditures combined was only about 67 percent in FY 1992, not substantially higher than the base rate.

**How does the matching rate for child support enforcement compare with Federal matching rates for other Federal programs?**

Federal matching rates vary significantly from program to program. The CSE match rate of 66 percent is higher than the match rate in some Federal assistance programs and lower than others. Administrative costs for some programs, such as State unemployment compensation and disability insurance, are federally financed at 100 percent, while their benefit payments are paid from trust funds financed by payroll deductions.

Compared to AFDC, Medicaid, and the Food Stamp Program three related assistance programs, whose matching rates for administrative costs are at 50 percent, the CSE 66 percent matching rate is

higher. However, for AFDC and Medicaid benefits paid to individuals or service providers, States are reimbursed at a rate (the FMAP rate) which varies, depending on the State's relative per capita income, from a floor of 50 percent to an 80 percent match rate in the poorest States. In the aggregate, using the FMAP rate results in the Federal government paying about 55 percent of total AFDC and Medicaid benefit costs nationwide. For the Food Stamp Program the Federal government pays 100 percent of the benefit costs.

One could argue that State expenditures for child support enforcement provide services which are more akin to program "benefits" than purely administrative costs. Rather than cash or medical services, the child support program facilitates and provides investigative, legal, and monitoring services which make the transfer of private child support possible. In this regard child support services themselves are not unlike those provided in discretionary service programs, like Head Start, Legal Aid, or the Title XX Social Services block grant. Focusing on the service aspect of the Child Support Program would support reimbursing child support expenditures at an overall higher rate (80 to 100 percent) or a variable rate such as the FMAP rate applicable to AFDC and Medicaid benefits. Congresswoman Schroeder has taken such an approach in her bill, H.R. 915, "The Child Support Economic Security Act of 1993". H.R. 915 would increase the Federal matching rate to 90 percent for all program expenditures and would repeal the payment of performance incentives.

**Is there any evidence that links past changes in matching rates to program performance?**

There is little empirical evidence available to judge what would happen to State performance, if there was a substantial change in Federal funding of the CSE program. Overall CSE performance has improved slightly, even though the FFP rate has decreased slightly. However, it is important to consider that the reduction in Federal funding was accompanied by intense public interest and support for child support, legislative mandates for

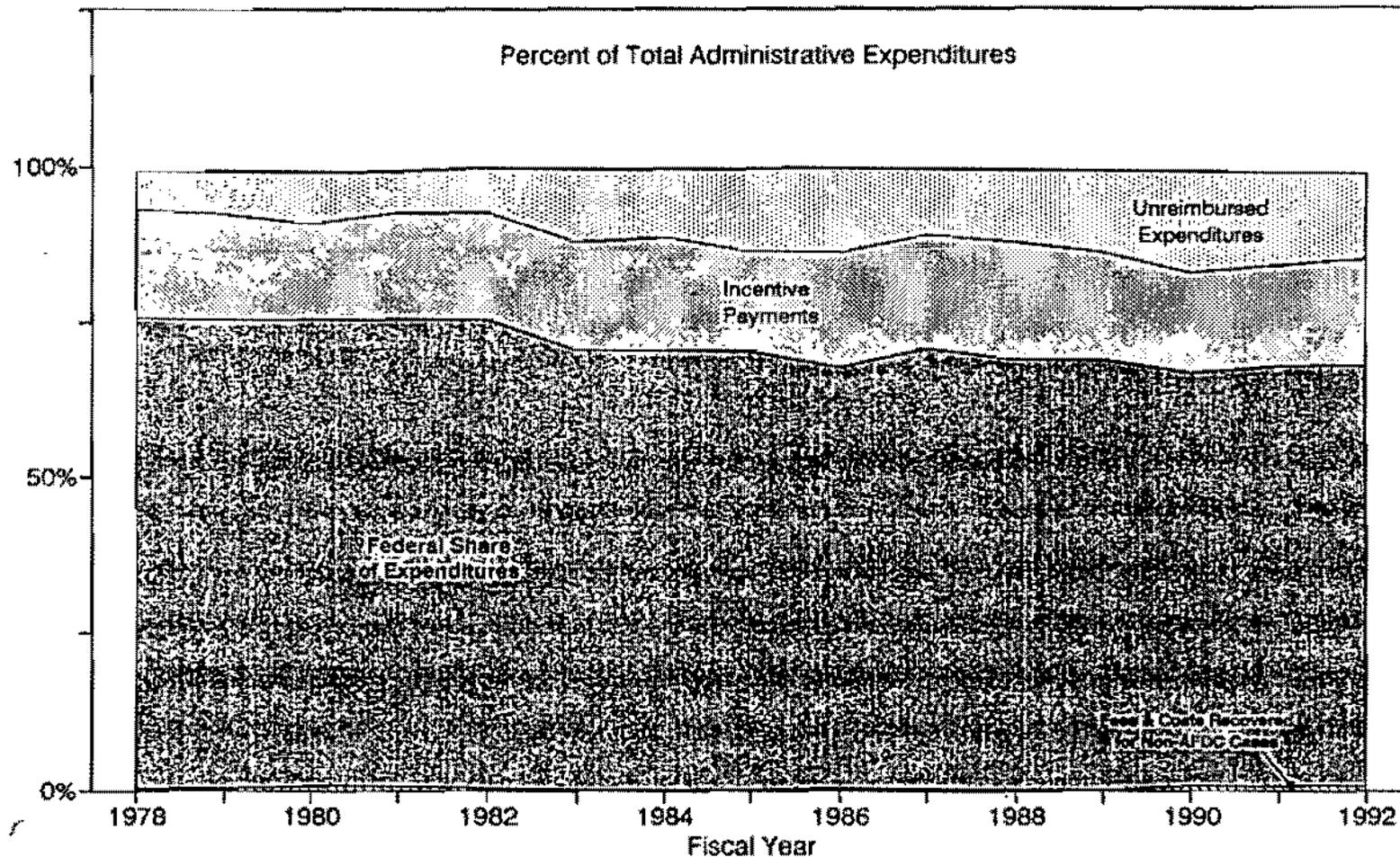
increased services and improved performance, and more vigorous Federal response to audit deficiencies.

Initially the FFP for Child Support Enforcement was 75 percent of costs (with a 15 percent incentive on AFDC collections). In 1982 (P.L. 97-248) the FFP rate was reduced to 70 percent (incentives were reduced to 12 percent). Under the 1984 Child Support Amendments (P.L. 98-378) the FFP rate was further reduced over 4 years to 66 percent. Incentives were reduced to 6 to 10 percent of collections, but were expanded to include non-AFDC as well as AFDC collections. Both in terms of straight FFP (which decreased from 75 percent to 66 percent) or the combined FFP plus incentives rate (which decreased from 94 percent to 86 percent), the aggregate Federal share of expenditures has decreased. (See graph entitled-State Expenditures Reimbursed)

FFP and incentives have always been a part of the child support financing structure. Therefore, only the effect of total funding on performance can be examined. Three measures available from the beginning of the program are: percent of paying cases; the amount of child support collected for each dollar expended; and potential AFDC recovery due to child support. For all three performance measures there has been improvement over time. (See graphs entitled:Cost Effectiveness Ratio, Cases with Collections, and Potential AFDC Recovery). Possibly improvements would have been greater if federal support had not declined.

An alternative to a single high FFP rate is to selectively increase the FFP for certain activities. Enhanced FFP has had some success in moving States to engage in child support activities that the federal government thought desirable. Prior to the 1988 Family Support Act which made state-wide automated systems mandatory, 32 States were receiving 90 FFP for their automated systems even though such systems had to meet additional Federal requirements (and were probably more expensive) than systems using the basic match rate of 66 percent. However, it is not possible to determine the effect of the enhanced match for genetic testing. Both genetic testing expenditures and overall paternity establishment expenditures have doubled since 1988.

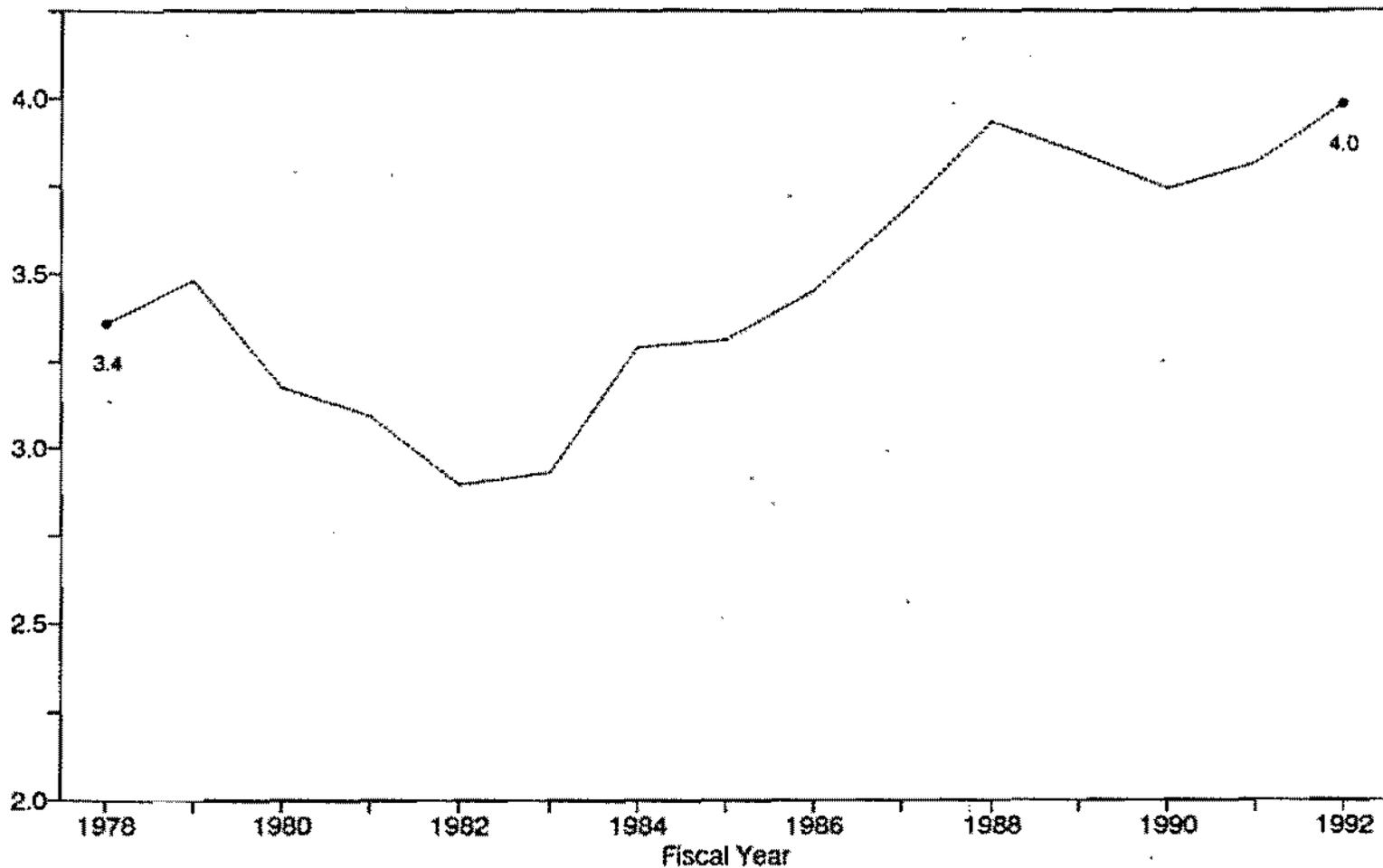
# STATE EXPENDITURES REIMBURSED BY FFP, INCENTIVE PAYMENTS, AND FEES



Source: Office of Child Support Enforcement, *Child Support Enforcement: Annual Report to Congress*, 1992 & prior years.

## COST-EFFECTIVENESS RATIO – NATIONAL AVERAGE

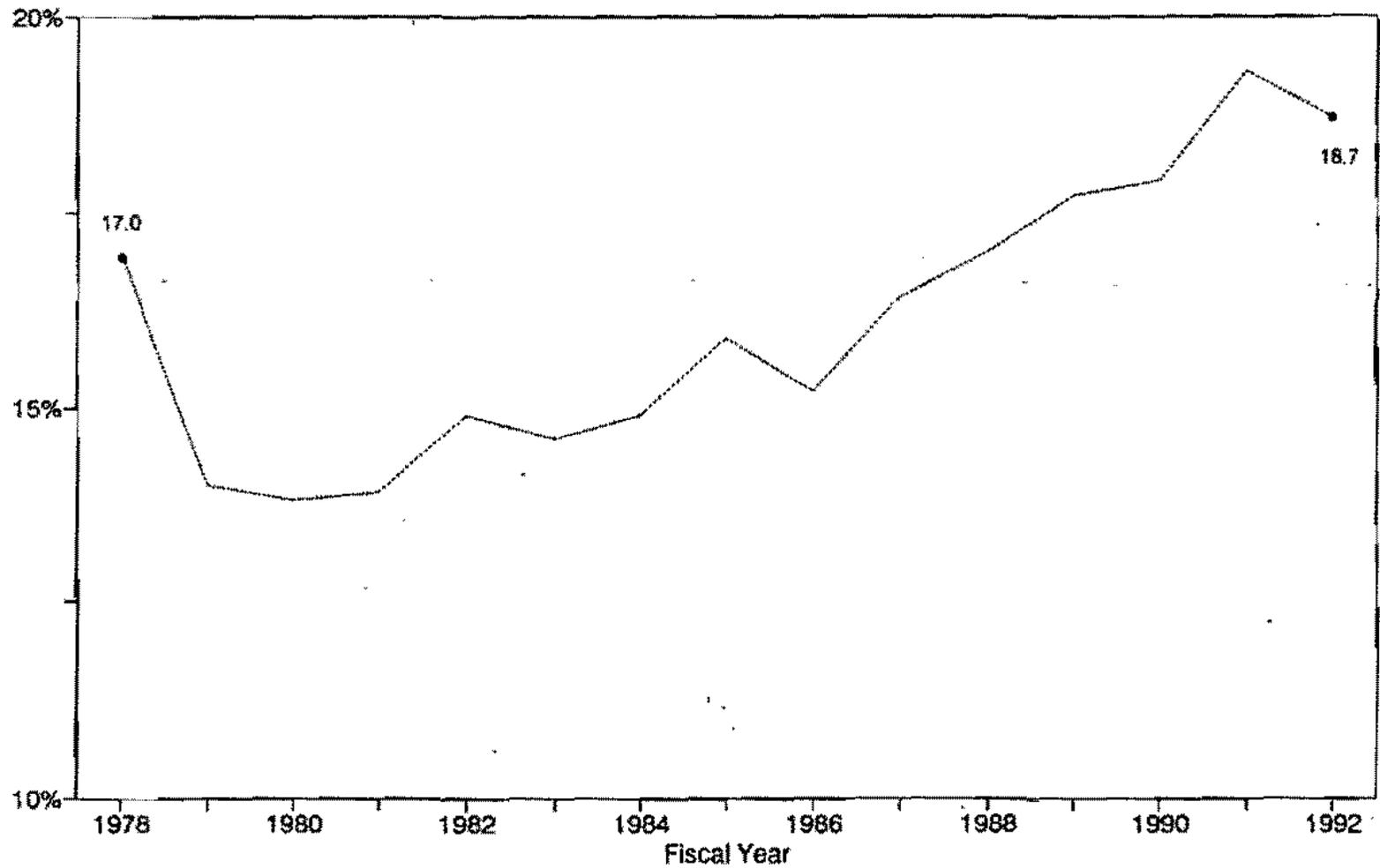
Collections per dollar of Expenditures



Source: Office of Child Support Enforcement, *Child Support Enforcement: Annual Report to Congress*, 1992 & prior years.

# CASES WITH COLLECTIONS

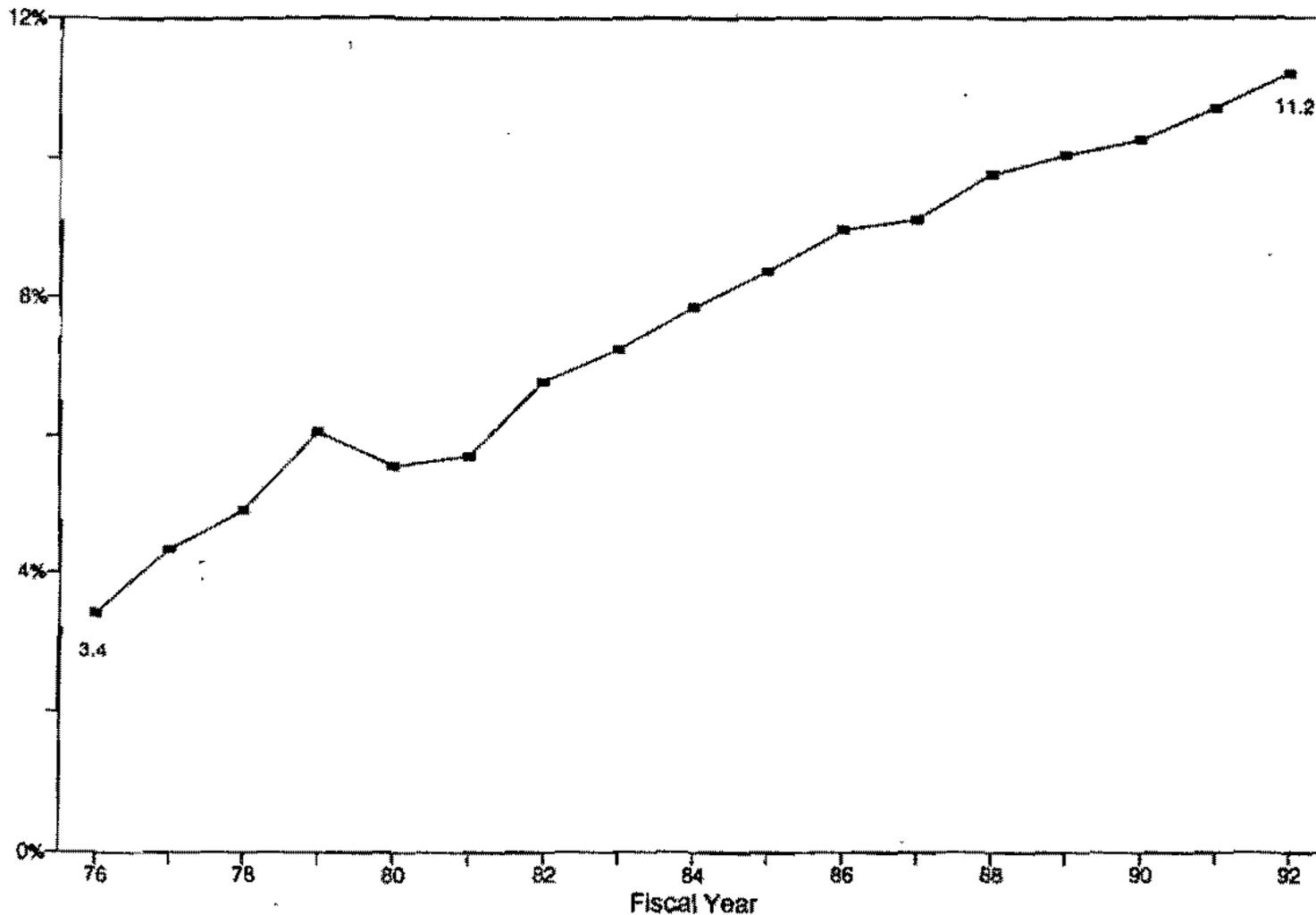
All States Combined



Source: Office of Child Support Enforcement, *Child Support Enforcement: Annual Report to Congress*, 1992 & prior years.

# POTENTIAL AFDC RECOVERY DUE TO CHILD SUPPORT

Gross AFDC Child Support Collections as percent of Benefits to Single Parents



Source: Committee on Ways & Means, U.S. House of Representatives, *Overview of Entitlement Programs (1993 Green Book)*.

Is there any evidence that poverty or other characteristics of the State or caseload affect a State's ability to generate sufficient resources to maintain an adequate child support enforcement program?

There have been no studies about the Child Support Enforcement program that examine the effect of state wealth or other socio-economic characteristics on performance. Garfinkel and Robbins (1992) have examined the effect of state policies on child support outcomes for individuals. Their study included a variable that in part may be related to state wealth, state CSE expenditures per female headed household. That variable was significantly related to positive outcomes for individuals at the 10 percent level.

States vary tremendously in both the proportion of families in poverty and the tax base used to generate revenues for State government activities. For example, the 1990 Census found that the proportion of individuals in poverty varied from 6 percent in Connecticut to 25 percent in Mississippi. Not surprisingly these States also had the highest and lowest per capita income (25,525 and 12,709) respectively. Additionally, there are variations in the child support caseload characteristics, such as the proportion of non-marital births, the proportion of cases with unemployed non-custodial parents, the proportion of interstate cases. These variations can make one case load more resource intensive than another, even if they are of similar size.

The Medicaid and AFDC programs use a variable matching rate (FMAP) to help States pay for the benefit portion of the program. This means that poorer States have a higher match rate than the wealthier ones. The FMAP could be used for child support expenditures or a new matching rate could be devised using State economic factors and caseload characteristics which are relevant to case difficulty. Because the development of an alternative variable matching rate would involve considerable effort and is not necessary for illustrative purposes, this paper uses the FMAP as the model for a variable matching rate which would address issues of resource distribution among the States.

**What kind of Federal matching rates are considered in this paper?**

There is no hard evidence to support the setting of any specific FFP rate for the Child Support Enforcement Program, to support the goals of increasing government investment in the public child support system and improving the performance of the system. The mix of FFP and incentives appears to be more influenced by philosophic considerations than by empirical evidence. If it is believed that lack of sufficient resources is the major problem, then a high FFP rate would assure certainty of funding and minimizes the competition for resources at the State level. If motivation is believed to be the primary issue then a low FFP rate, plus increased funding based on performance, might move States to work harder to decrease their share of program expenditures. The options that are discussed in this paper cover such a range of choices:

- The level of basic FFP would be reduced, but States could increase their reimbursement through specific incentives tied to increased performance in desired areas. (OPTION 1)
- The level of FFP would vary so that poorer States would qualify for the higher match rates. Additional incentives would then be added to address the need to improve performance. (OPTION 2)
- A fixed percentage of financial support for all the States would replace the current combination of FFP rate and incentives. Accompanying this fixed percentage would be enhanced program oversight and monitoring requirements, which would be geared, at least in part, to increasing performance in key areas such as paternity, order establishment, and collections. (OPTION 3)
- The basic level of FFP would vary, rising or falling with States' performance. All States would have a base

rate of 50 percent FFP, but States could increase their FFP to 100 percent based on performance. (OPTION 4)

## 2. Performance Incentives

In FY 1992, the Federal government paid States \$339 million in aggregate incentive payments. The largest incentive payment was \$44 million; the smallest was \$45 thousand. The amount of incentives paid to the States has increased by 250 percent since 1985, the first year in which incentives were paid on collections under the current formula. The amount of CSE collections has increased by 300 percent during this same period.

The annual incentive payments to States are based on the total amount of support collections they make. Each State receives a minimum AFDC incentive payment of 6 percent of its AFDC child support collections, plus a non-AFDC incentive equal to no more than 115 percent of its AFDC collections, regardless of its cost-effectiveness in collecting support.

States increase their incentives by being more cost-effective in their collection of child support on behalf of AFDC and non-AFDC families. A State's cost-effectiveness ratio is the ratio of AFDC or non-AFDC collections calculated separately over total expenditures with minor additions and subtractions. If a State's AFDC or non-AFDC cost-effectiveness ratio exceeds 1.4, the incentive percentage increases to 6.5 percent and continues to increase by 0.5 percent for every increase of 0.2 in its cost-effectiveness ratio. The maximum incentive payment is 10 percent of AFDC collections, plus 10 percent of non-AFDC collections capped at 115 percent of the incentive payment for AFDC collections.

The law requires States to pass a share of the incentive payments on to the local jurisdictions that collected the child support if the State required the jurisdiction to participate in the costs of carrying out the child support program. There are no Federal restrictions on how States and localities spend the incentive payments they receive from the program.

What is the effect of the current incentive system on State performance?

The current incentive payment system is based primarily on cost efficiency. Instead of being rewarded for a desired end, such as paternities or support awards established, incentives increase based on efficiency in collecting child support. This may create a disincentive for working hard cases, for hard cases require more resources per dollar collected which lowers the efficiency ratio and, consequently, the amount of the incentive. Thus, the current funding program does not promote equal treatment of all child support cases.

In States with similar size caseloads, the social and economic characteristics of the State may have more effect on the amount of collections than State effort, (e.g., fewer out-of-wedlock births and less unemployment could result in higher collections with less investment of resources). Penetration of the caseload is not necessary to get incentives. A State can increase its incentive payment by concentrating its efforts on collecting a lot of money from a few cases.

Further, it must be noted that the difference between the six percent guarantee, and the 10 percent maximum, for top performers, is only four percentage points, hardly enough to encourage extensive additional effort by States. Indeed, in FY 1992, only 12 States were eligible to receive more than the minimum six percent AFDC incentive. Eighteen States were eligible for the ten percent non-AFDC incentives, but were capped at 115 percent of the AFDC incentive payment.

The cap on non-AFDC incentive payments was enacted to insure that States pursue the more difficult AFDC cases. It was thought that the cap would motivate States to collect as much child support on behalf of AFDC clients as is collected on behalf of non-AFDC clients. However, most States collect more money on behalf of non-AFDC families than AFDC families, in part because a higher proportion of non-AFDC cases already have orders in place. Also it is believed that non-AFDC clients are more motivated to provide full and complete information since they are voluntarily

requesting CSE services. Non-AFDC families may also be associated with non-custodial parents who have a greater financial ability to pay child support. There is now considerable concern that the cap serves to reduce State interest in pursuing non-AFDC cases, because such collections are not eligible for incentives. (Supporting Our Children: A Blueprint for Reform, US Commission on Interstate Child Support, 1992)

**Are current incentives used by States to fund child support enforcement activities?**

According to a study by the HHS Inspector General (June, 1991), most States use incentives for child support purposes. However, incentives are used to supplant the existing State share of expenditures rather than to supplement the total expenditures on child support activities. Initially several States did use incentives to fund special projects or to enhance service delivery, but such supplementation was discontinued due to State fiscal constraints. A few States have requirements which mandate that incentives be used for child support or other child welfare activities.

In States with county funded and operated child support systems, incentive payments provide numerous political subdivisions with funds to run their child support programs. Where local jurisdictions have to provide for a share of the State match, incentive payments are often used as local match, thus reducing the strain on local government budgets. The number of States and localities who use incentive payments in this way is unknown. Additionally some States use incentive payments for non-child support purposes, which is allowable under current law.

**If the current system was changed, such that States no longer received separate incentive payments, how would they be able to fund special initiatives or local child support improvements?**

One advantage of the present incentive structure is that it provides States (and some local governments) with a source of flexible funding. Incentive funds can now be used for many things, including to respond to identified problems or to

initiate program improvements without the need for new State appropriations. Thus, any changes in the incentive structure which eliminated separate incentive payments to States could potentially reduce their budget flexibility, even where their aggregate level of funding did not decrease. One way to insure that States and their localities continue to have access to funds which could be used for short term, high payoff operational improvements would be to establish a National Child Support Enforcement Revolving Fund.

California already operates such a fund, which provides its counties with "pump-priming" funds. Approximately \$10 million is provided to front the costs of its counties' projects. Counties request funds to conduct one-year projects that are anticipated to increase collections. Counties can participate in one of two options: A (all State and Federal funds); or B (some county match). Projects have an AFDC focus and the project must increase collections by the county's projected amount within the fiscal year or the State takes the money back. Increases in collections on behalf of AFDC families are used to pay back the fund.

Details on what a conceptually similar Federal program might look like are included in Appendix A.

**Should incentive payments take into account any aspect of program performance other than cost-effectiveness?**

The current incentive system does not recognize States' performance in areas other than efficiency. But efficiency may not be the best measure of program effectiveness. (Pirog-Good and Good, 1989) Nationally, most States receive poor marks for the overall services which they render to clients. (Child Support Enforcement Report Card, House Committee on Ways and Means, 1991)

Incentives could serve as motivators for States to improve performance in all areas, including establishing paternity and child support orders. Unlike the current system, incentives could be paid only when performance has increased or is being maintained at the desired level. Ideally each incentive should

encourage States to commit additional resources to specific activities which in the long run will lead to greater family self-sufficiency and economic stability. Performance incentives should also be clearly defined, reasonably attainable, and financially attractive. The U.S. Commission on Interstate Child Support recommended using more performance based incentives in funding the Child Support Enforcement Program. The Bradley, Kennelly and Roukema bills implementing many of the Commission recommendations would authorize studies or demonstrations to develop better performance based incentives.

**How should incentives take into account the dual processing of interstate cases?**

Currently, child support collections from interstate cases are credited twice in computing incentive payments -- once by the State which initiated the collection action and received the collected amount and once by the responding State which secured the required support payment. Thus, any restructuring of the current system should address this duality. (A similar issue would arise if performance incentives are linked to the achievement of specific standards or the performance of specific tasks.) One possible solution would be to give primary credit to that State which secured the actual collection amounts or which performed the specific task. Or given the low success rate with interstate cases, we may simply want to continue double-counting of interstate cases for any performance incentives developed.

**What kind of incentives are considered in this paper?**

In this paper, all incentives are designed to reward increasing penetration, that is, for moving each State's performance towards some absolute standard (e.g., establishing paternities in x percent of cases). Incentives are built into the financing options in two distinct ways. One option includes direct performance incentives, with specific payments to States linked to how they perform in five major areas: paternity establishment, support orders, cases in paying status, AFDC terminations with child support, and overall cost-effectiveness. In some cases, the specific structure of the proposed performance

standards remains to be defined, but could range from a fixed amount or percentage for meeting some absolute standard, to a variable percentage payment which rises as improvements are achieved or higher levels of performance are attained. Alternatively, other options use a variable Federal matching rate as an incentive, with the match increasing according to how well States perform.

There is no magic about the five performance incentives selected. They are used because they appear to represent achievement in the basic mission of the Child Support Enforcement Program. Other areas have been considered as well, for example, the percent of awards with health insurance or other forms of health care coverage. Five performance indicators may be too many. The need to simplify may indicate that fewer well chosen and reliable indicators may be sufficient. The Department might also want to keep open the possibility of being able to change by regulation the indicators used to compute the amount of Federal support. (Appendix B provides an additional discussion of considerations for choosing performance indicators.)

**Can negative incentives work as well as positive incentives in improving performance?**

Sanctions and penalties do represent potential negative incentives which could be considered for achieving State compliance with Federal objectives and program requirements. The use of sanctions or even reduced FFP might be considered in conjunction with the option to stabilize FFP at a considerably higher rate and eliminate the payment of performance incentives. There is ample precedence to suggest that the threat of sanctions and the imposition of audit penalties constitutes an effective strategy to guarantee improved State efforts to provide needed child support services for deserving families. The threat of sanctions embodied into law appears to have contributed significantly to the sharp decline in AFDC overpayments and case error rates which occurred in the 1970's. (See Appendix C for a discussion of the current effects of negative incentives.)

### 3. Distribution of Collections

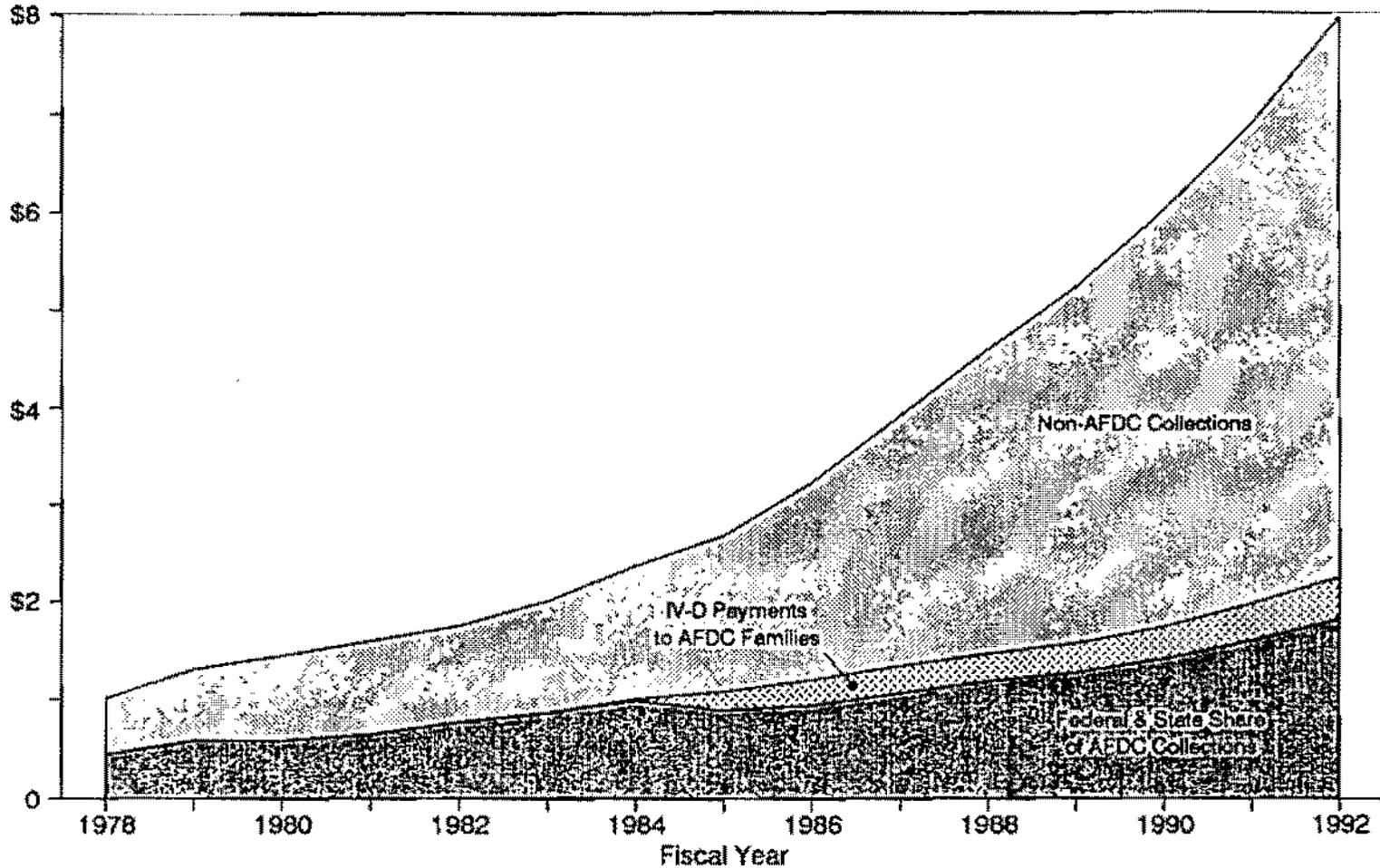
In FY 1992, States collected \$7.96 billion in child support on behalf of families receiving child support enforcement services. Of this amount, \$5.71 billion was collected on behalf of non-AFDC families. Of the balance collected on behalf of AFDC families, \$435 million went to AFDC families, and \$1.8 billion was retained by the Federal and State governments. The federal government pays incentives to States from its share of AFDC collections. (See graph entitled-Total Distributed Child Support Collections)

Most AFDC families only receive the first \$50 of current support that a State collects each month. In a few States all or some additional child support paid is used to recompute the AFDC payment to take into account the gap between the State's AFDC standard of need and the AFDC payment standard. These gap payments authorized in section 402(a)(28) of the Social Security Act and implementing regulations in 45 CFR 232.21 were designed to protect the income of AFDC recipients in States which, prior to passage of P.L. 93-647, child support payments were permitted to fill the gap between the State's standard of need and the State's AFDC payment standard. The remainder of AFDC collections is divided between the State and Federal governments to offset the cost to each of providing AFDC benefits to the family. The State keeps the same percentage of these collections as the percentage it pays for the family's AFDC assistance (i.e., if the State pays 45 percent of AFDC benefit costs and the Federal government pays 55 percent, then the State keeps 45 percent of the AFDC collections and the Federal share is 55 percent). In non-AFDC cases, most child support collected is passed on to the custodial parent.

The treatment of AFDC collections, from the requirement that families assign their child support rights to the State, to decisions about how much goes to families, to the State and to the Federal government, to how to treat arrearages and track the distributions have made this particular area of child support financing difficult to understand. In practice, the rules governing this area are extensive and complex. Discussed below are some particular areas of concern that have received

# TOTAL DISTRIBUTED CHILD SUPPORT COLLECTIONS

Non-AFDC & IV-D Collections by Recipient  
(in billions)



Source: Office of Child Support Enforcement, *Child Support Enforcement: Annual Report to Congress*, 1992 & prior years.

consideration in the context of developing alternative financing options. A detailed discussion of how the distribution rules work is found at APPENDIX D.

**Why is the distribution of child support collections for AFDC recipients considered part of the financing of the Child Support Enforcement Program?**

Distribution of AFDC collections is not a financing tool per se. Rather it represents a return of funds to the Federal and State governments and increases budget flexibility. For many years, shared AFDC collections have been used to calculate the net costs or savings that accrue to the States and the federal governments as a result of child support activities. In the President's budget documents and the OCSE annual reports to Congress these collections are displayed as offsets/savings to State child support enforcement expenditures, even though the collections are actually offset against the States' AFDC grant award request. There are no restrictions on how the States may use their share of the child support collected on behalf of current and former AFDC recipients.

**What is the assignment of child support rights to the State?**

When a family applies for AFDC benefits that family must assign to the State the right to any current child support due and to any arrears that are owed to the family (up to the total aggregate AFDC payments made to the family). While a family is on AFDC, States must first reimburse themselves for child support due while the family was on AFDC before they can pay the family for any back support that is owed for periods when the family was not receiving AFDC payments.

This assignment provision was enacted for several reasons:

- (1) It was believed that most child support payments to low-income families were made on an irregular basis and assignment would protect the family by stabilizing the payments at the AFDC benefit level.

- (2) The State would not have to continually re-adjust AFDC checks for over and under-payments resulting from irregular collection of child support. When the child support program was authorized, most States would have had to make such adjustments manually.
- (3) State and Federal governments could potentially recoup past paid AFDC payments by allowing payments for past-due child support to be retained up to the total amount of AFDC benefits paid. In effect, past and current child support became debts owed to the State and not the family. Thus the assignment of support rights was intended to offset the costs of providing assistance to AFDC families.

**Does assignment of child support rights to the State have adverse behavioral effects?**

A common perception is that the AFDC custodial families get welfare--not child support, and that the non-custodial parent pays the State--not the family. This perception exists in part because with the exception of the \$50 pass-through, most child support is invisible to both parents.

- This perception may reduce non-custodial parent's incentive to pay or to pay regularly if he believes that his payment is simply going to the State, and not directly benefiting his children.
- It may also reduce the custodial parent's incentive to work. For the AFDC custodial parent considering employment, the earnings needed to equal or exceed the entire AFDC monthly benefit amount would be greater than the earnings required to equal or exceed the AFDC benefit amount minus child support. If the child support amount is not known to the custodial parent, it will not be considered in achieving self-sufficiency.

How does the current distribution system affect the economic well-being of families?

The current distribution system affects families in different ways. The income of AFDC families is increased by up to \$50 a month because the \$50 pass-through is disregarded in computing the AFDC benefit amount. However, when arrears payments are being made in addition to current support, some families who would have sufficient income to leave AFDC because of the combined current/arrears child support remain AFDC eligible because the arrears payment are not counted as income due the family. For example, if an arrears payment of \$10,000 was collected, this income would be used by the State to recoup past AFDC benefits rather than paid to the family so that the family could establish economic independence. For current AFDC families, the \$50 pass-through provides more income but increases dependency; the treatment of arrears potentially reduces available income and also prolongs dependency.

For former AFDC recipients the current distribution system decreases the economic viability of families struggling to maintain self-sufficiency. States may retain any payments on arrears to pay-off any child support debt still owed the State for past due child support and for non-reimbursed public assistance. This allows States to pay themselves back first for all outstanding State debts, even when the arrears owed the family accumulated after they left AFDC. The United States Commission on Interstate Child Support cited this as one of the aspects of the current distribution process that needed to be revised. Other advocacy groups, such as the Center for Law and Social Policy, have also indicated their support for changes to the existing arrears distribution policy regarding payment of arrears.

Having assigned an AFDC family's support rights to the State, does the \$50 pass-through increase their cooperation in pursuing support?

While this provision was intended to create incentives for AFDC recipient caretakers to cooperate in the establishment of paternity and child support awards, which ultimately might help

to reduce their dependence on public assistance, there is no evidence that it motivates cooperation and no link between cooperation and payment of the \$50. In FY 1992, this provision resulted in about \$352 million in payments to families.

This practice has had several effects:

- Only cases with current month collections receive the pass-through. These cases already have an award and the non-custodial parents are likely to be the most stable and highly paid. The possibility of obtaining an award and thus the pass through may not be enough to motivate cooperation in other cases.
- The \$50 is not disregarded for determining Food Stamp benefits. This reduces the value of the pass-through in terms of family income to \$35 and increases the administrative accounting burden on the State.
- State IV-A and IV-D administrators have expressed concern about the complicated nature of record keeping for the pass-through and have alleged that these provisions result in high administrative costs. (APWA survey of IV Directors on the cost of distribution changes resulting from the Family Support Provisions)

**How does the current distribution system contribute to the cost of operating the child support enforcement program?**

Because of its complexity, distribution is a relatively expensive function. On average annual distribution costs reported by the States are about 18% of total administrative costs of about \$11 per month per case with a collection. (Sixteenth Annual Report to the Congress, Office of Child Support Enforcement) Most of these costs are related to the cost of distributing AFDC collections and take into account the \$50 pass-through. In Georgia, one State that has a waiver to simplify its distribution process by paying all child support to the family and pay the AFDC grant as the residual, the child support distribution costs are reported as less than \$1 per month per case with collections.

It should be noted that simplifying the distribution of AFDC collections for the child support enforcement program could temporarily increase some AFDC administrative costs, because ADP systems for the AFDC program would have to be improved to take into account potential variation in monthly child support payments. Given current CSE statutory requirements that all States have automated management information systems by 1995, accounting problems on the child support side may be only short-term. There is no similar date when we could expect AFDC ADP systems to handle the change in distribution. Such requirements could, however, easily be included with other AFDC-related ADP changes which will be required as part of welfare reform.

**Are less economically advantaged States helped or hurt by the current provisions for distributing AFDC collections between States and the Federal government?**

The present system splits AFDC collections between the Federal government and States based on their financial participation in providing AFDC assistance payments to families. Since more economically advantaged States pay a higher share of the assistance payments, they consequently recover a higher percentage of the shared AFDC child support collections than do poorer States. The calculation for determining the variable match rates for sharing the cost of AFDC benefits between the Federal and State government is designed to give the poorer States a break. Using it for child support collections has the opposite effect. For example, a poor State with an AFDC match rate of 75 percent generally would pay 34 percent of the costs of the CSE program, but would only receive 25 percent of the AFDC collections. A richer State with an AFDC match rate of 50 percent would pay 34 percent of CSE administrative expenditures but would get back 50 percent of the AFDC collections.

The Congressional Research Service in its 1989 report to the Ways and Means Committee calculated that under current law provisions the break even point for the poorest States is 55% higher than the break-even point for the richest States (p.70). Additionally, the difference between the break-even point for the State and the federal government is five times greater for the richest

States than the poorest States. If poor States act in their own best interest and try to break-even on the operation of the program the federal government will break even. Yet rich States would have to collect twice as much money to make the federal government break-even as they have to collect to make themselves break even.

**How is the distribution of AFDC collections treated in this paper?**

Current policy regarding the distribution of AFDC collections exists within the tension created between the two potentially conflicting goals of cost reduction and self-sufficiency. Child Support collections on behalf of AFDC families were initially seen as revenue that the government could use to offset growing welfare costs. However, emphasis in the AFDC program has shifted to promoting economic self-sufficiency of recipient families. Child support collections can be viewed as income which should be directly available to AFDC families to reduce their reliance on welfare, and when combined with work can ultimately improve their economic position.

This paper, and all of the options presented in the following section, are grounded in the premise that the Child Support program should provide a means to increase family well-being and to help those on assistance to achieve self-sufficiency. To do this AFDC families must be aware of what has been collected, and of its potential, if combined with earnings and the earned income tax credit, to remove them from the assistance rolls.

To this end all of the options start from the premise that all collections, whether AFDC or non-AFDC, should be passed in their entirety on to the families for whom they were collected. This treatment most completely addresses two of the three goals of a restructured financing system-increasing family economic independence and simplification. The third goal of increased investment in child support would also be addressed to the extent that administrative costs related to distribution would be reduced and States could then invest those resources in other

more results oriented child support services, such as award establishment.

There is some concern, however, that this choice could undermine some of the political support for the program among the States. Child Support has often been sold as a money making program or at least a non-tax increasing program.. At least one State and many local jurisdictions in county operated States, use the returned AFDC collections to operate their Child Support program. Therefore, options, that pass some, but not all support to the family, could also be considered. Alternative options for distribution including retaining arrearages to offset AFDC benefit costs are discussed in APPENDIX E.

**Would changing the distribution process result in higher net AFDC costs?**

The effect that changing the distribution process has on AFDC benefit costs depends entirely on whether the child support received by AFDC families is considered countable income for purposes of determining the AFDC benefit amount. If the current \$50 pass-through was eliminated, the cost of AFDC benefits would be reduced by an additional \$352 million (the amount of the \$50 pass-through in FY 1992). If all AFDC-arrears payments were passed through to former-AFDC recipients, rather than retained by the State, AFDC benefit costs would be increased by \$282 million. Arrears payments for former AFDC recipients are off-set against current aggregate AFDC benefit costs. Making both these changes would result in shared State and Federal savings of about \$70 million.

Treating current and arrears support for AFDC recipients as income would likely result in a small reduction in the AFDC caseload, because some families would have enough child support income (especially in combination with other income) to exit welfare. Arrears payments represent about one-third of the child support collected on behalf of AFDC recipients.

However, there has been some interest in the possibility of increasing the amount of child support disregarded in determining

the AFDC benefit amount or allowing all States to use child support to fill the gap between the AFDC standard of need and the AFDC payment standard. The Bradley, Roukema and Kennelly bills (S. 698, H.R. 1600 and H.R. 1961) that would implement the recommendations of the U.S. Commission on Interstate Child Support, contain provisions to allow any State to become a fill-the-gap State. If substantial changes were made in the amount of the disregard or in the number of States using "gap" procedures then less of the \$2.25 billion in AFDC collections would be available to reduce AFDC benefit costs. The experience of the Georgia Welfare Reform Demonstration, which uses child support to fill the gap, is discussed in APPENDIX F (forthcoming).

There may be additional administrative cost implications for the State, although not necessarily for CSE. From the CSE perspective there would be little, if any, increased administrative cost. Instead of running three distribution systems—one for current AFDC recipients, one for former AFDC recipients (if any AFDC arrearages remain) and one for non-AFDC recipients, the CSE system would only run one distribution system—all child support would be received, recorded and forwarded to the family. States would still be required to track AFDC status on their data systems because information on collections for AFDC families would have to be forwarded to the AFDC program for automatic adjustment against the next AFDC payment. The Family Support Act required that all CSE systems have an automated interface with AFDC by 1995.

However, for the change in distribution to work efficiently, State AFDC automated systems would have to be able to accept the information from CSE and use it to automatically adjust the AFDC benefit amount to take into account the child support collections. Currently not all AFDC systems are able to adjust benefit payments based on this type of automated interface. Again, the Georgia Welfare Reform Demonstration would indicate that such an interface is neither particularly complicated or expensive when both the AFDC and CSE program are state-operated or when collection and check writing functions are centralized. It could be assumed, however, that with increasing work participation and other requirements resulting from welfare reform, improvements

and changes will be required of the existing AFDC automated systems to allow rapid adjustments in AFDC benefits due to earnings, disregards and sanctions. Within this context, any additional costs to improve AFDC automated systems to accept the automated CSE information would not be substantial.

**Would changing the distribution process adversely effect AFDC families?**

Any change in the distribution process could adversely effect some families. Eliminating the \$50 disregard in the AFDC program could result in some families having slightly less income or no longer being eligible for AFDC. However, the decision to change the disregard is not integral to the decision to change distribution. If all child support collections were passed through to the family, the disregard for calculating AFDC benefits could be eliminated, left at \$50, or changed to some other amount. Except for child support, all other income disregards in means-tested programs are based on income that the family receives directly and reports to the program eligibility workers.

There are two other situations, however, which could adversely effect families. Both situations are related to the irregular payment of child support. First, some families could periodically lose eligibility for AFDC due to child support payments and then have to reapply for AFDC when the next child support payment was reduced or missing. Some procedure would have to be developed to reduce the effect of churning due to sporadic spikes in incomes on the client and the AFDC program administration. With an automated system in place, it would be possible to treat such families as AFDC eligible but with zero payment for a number of months (for example, three months) before terminating the case. This would ensure that the increased payment was stable before any action was taken to close the case. Some additional Medicaid and child care costs might result from such a policy, but they would not be expected to be substantial and would be partially offset by reducing the AFDC administrative cost of the churning effect.

As a part of this policy consideration, there would also have to be a decision about how to treat lump-sum child support arrearage payments, such as tax-offset payments. Such payments could easily make families ineligible for AFDC benefits in the month of receipt or longer. Under current policy most non-reoccurring lump-sum payments make families ineligible for AFDC for a length of time equivalent to the lump-sum payment divided by the monthly benefit amount. The exception is income tax refunds, including EITC payments, which are treated as resources, rather than income, up to the allowable resource level.

The second problem area relates to irregular payments which would not change eligibility status, but would cause the AFDC benefit payment to fluctuate from month to month. If AFDC families were treated like all other families they would receive their child support on a periodic basis, within 15 days of receipt by the State. Because the AFDC payment would be adjusted for the receipt of child support in the following month, any reduction in child support would reduce the family income for the remainder of that month. Conversely, if the child support payment was higher than usual, the family would have to "save" the money until the next month to make-up for the reduction in the next AFDC benefit check. In Georgia and in Australia there is a two month lag between the child support payment and the benefit adjustment, i.e., child support paid in April is accounted for in the June benefit check. However, a calendar month does not have to be used. The lag time could be shortened by using an accounting period for child support that runs from the 20th to the 20th or some other comparable period which would accommodate the transfer of information to the AFDC program.

One alternative would be to "hold" the child support for AFDC families and pay the AFDC payment and child support at the same time. This would eliminate income uncertainty for the AFDC client and if the AFDC payment and child support were made as two separate payments (perhaps with two different color checks) the payment distinction could be maintained.

One objection to this alternative is that the advocacy groups fought long and hard to require States to make child support

payments to the family promptly upon receipt by the States. Their contention was that the money belonged to family and not to the State. States had used the argument of administrative simplicity and stability of income flow in support of a single child support payment date for all child support families, but the advocates were not convinced. Advocates wanted the same prompt payment standards to apply to the \$50 pass-through for AFDC families as well, although the Department did not make follow their recommendation in the final rule. Holding the child support payment for up to a month, even if the intent is to stabilize the income flow for AFDC families may be seen as a retreat from the prompt payment policy.

Over time fluctuating payments may become less of an issue. Over half of all AFDC child support is collected through wage withholding and the proportion of current support collected through wage-withholding is substantially higher. If, as a part of the welfare reform initiative, a new hire reporting system and long arm wage-withholding go into effect, payment irregularity and fluctuation may be limited to the self-employed and those with periodic unemployment.

#### E. Fees and Cost Recovery

In FY 1992 only two percent of administrative costs were reimbursed through fees and cost recovery, including interest. However, the rate of recovery varied significantly among the States, from zero recovery to about 17 percent of costs.

Currently, States must charge application fees to non-AFDC applicants for child support services. They may charge a flat fee of up to \$25 or develop a sliding fee schedule. The State may pay the fee itself out of State funds. Costs in excess of fees may be recovered from the custodial or non-custodial parent, e.g., genetic testing fees, tax offset fees. No fee or cost recovery is allowed against AFDC, Title IV-E Foster Care, and Medicaid-only recipients, nor can these individuals be charged an application fee for the continuation of child support services when they are no longer eligible for AFDC or Medicaid benefits.

Cost recovery due to interest results from the States placement of undistributed child support in interest bearing accounts.

A State may elect to recover from either parent any costs incurred in excess of any fees collected. Fees and recovered costs are subtracted from expenditures prior to application of the federal matching rate and the computation of the State's cost-effectiveness ratio. Fees and cost recovery represent a shared offset to expenditures and increase State incentives by reducing the cost of collections.

**Why is such a small amount of program expenditures recovered by the States?**

Collection of fees and cost recovery has not been a State priority. In the absence of a required minimum payment, many States have chosen to set their fees at a nominal amount and to pay the application and Federal Parent Locator Service fees from non-reimbursable State funds. Other program fees are optional (e.g., tax refund offset fees, genetic testing fees).

If universal services are a goal in child support, fees and cost recovery will become more important, as the costs of providing services could increase substantially. The two States that have substantially increased their fees and cost recoveries are States that have also chosen to incorporate most child support awards in their State CSE system.

**Are fees and cost recovery necessary?**

To charge or not to charge a fee has been a controversial issue from the beginning of the program. If the non-AFDC women who would use CSE services are primarily poor and near-poor women, hovering on the brink of welfare dependency, then charging fees would be counter-productive. Making it more difficult to receive CSE services could result in more families relying on welfare. Certainly the strong political support for mandating CSE services to non-AFDC women was in part generated by research in the late 70's and early 80's showing the feminization of poverty and by

national statistics indicating that non-payment of support was at least part of the reason for female headed-household poverty.

However, of the families that voluntarily use CSE services only 15 percent have incomes below the poverty line and an additional 10 percent have incomes between 100 and 150 percent of poverty. So three-quarters of the women using CSE are not poor or even near poor. For non-poor families who have the means, there may be less of a reason not to impose fees and recover costs to partially offset the costs of services provided. According to an OCSE funded study by Advanced Sciences, Inc., the cost avoidance for the government (Federal and State) of providing services to non-AFDC families is only \$1 avoided for every \$5 of expenditures.

The non-AFDC portion of the CSE caseload has grown substantially since passage of the 1984 Child Support Amendments which made services to non-AFDC families mandatory. In 1984 the non-AFDC caseload was 1.8 million, less than one third the size of the AFDC caseload. In 1992 the caseload had grown to 6.4 million about three-quarters of the size of the AFDC caseload of 8.7 million. As the non-AFDC caseload grows larger in comparison to the AFDC caseload, the government costs in relationship to the government savings will increase. Some states have responded to this explosion in the caseload by taking fee and cost recovery policies more seriously than they have in the past.

**How are fees and cost recovery treated in this paper?**

This paper does not incorporate fees and cost recovery into the proposed financing options. However, there is nothing in any of the options considered which precludes the charging of fees or allowing States to undertake cost recovery.

### III. OPTIONS FOR RESTRUCTURING CHILD SUPPORT ENFORCEMENT FINANCING

#### A. Assumptions

The fundamental premise underlying the options in this paper is that the purpose of the Child Support Enforcement program has changed, and that conforming changes therefore are needed in the financing structure to reflect and advance the program's new direction. Whereas when the program was created, it was designed to serve AFDC recipients and to generate revenue for the government which could be used to offset the cost of recipients' assistance payments, the Child Support program now serves as a vehicle to increase family well-being and economic stability for both AFDC and non-AFDC clients.

To this end, in developing options, a number of assumptions have been made, as discussed below:

- States need to be motivated to perform better. Despite having had a generous financing structure, including incentives, States have not worked a substantial portion of their caseloads, and their performance remains well below its potential. One focus of the options should be to devise a structure which more effectively induces States to provide services to more families so as to increase the number who are able to become self-sufficient.
- In motivating States to increase performance, the goal is to increase penetration for each activity, that is, to meet some absolute standard or making progress towards such a standard (e.g., establishing paternities in 75 percent of cases).
- Options should encourage States to reinvest resources in their IV-D programs and to simplify today's complex financing structure.

- No distinction is made between AFDC and non-AFDC families. The goal of the program is to increase the well-being of all families, helping those not on welfare to stay off, and those on the rolls to find their way to self-sufficiency. The emphasis needs to be placed on increasing the success of activities (e.g., paternity establishment, establishment of orders, increasing orders with collections) which benefit all individuals, rather than on activities for one group over another.
- Collections should go in their entirety to the families on whose behalf they were collected, and not be retained by the States or the Federal government. Consistent both with the effort to increase families' economic stability, and not to make distinctions between those on or off of AFDC, all of the options proposed below begin with the assumption of a 100 percent pass through of collections to all families.

In addition to these underlying assumptions, several areas were left unaddressed. None of the options preclude changes should decisions be made on these areas, nor are any of the options dependent on their inclusion. These are:

- Fees and Cost Recovery. No recommendation has been included on whether fees and cost recovery policy should be change. However, nothing in any option precludes the charging of fees or the recovery of costs.
- Universal Services. For the purposes of FFP and any incentives, all families will be treated alike. The issue of providing universal services is under review by other groups. However, should a decision be made to mandate child support services for everyone, the cost implications would need to be considered in terms of the options which have been developed.

- Treatment of Interstate Cases. For purposes of calculating incentives, some consideration will have to be made regarding the double counting of incentives. Given existing reported State data it is not possible to eliminate double-counting in estimating State performance or performance incentives.

## B. The Options

Building from the premise and assumptions above, four options were developed:

- Option 1: Expanded Performance Incentives--Reduce direct Federal matching and link Federal funding to specific performance incentives which reward States for successful action on more difficult cases;
- Option 2: Variable FFP With Incentives--States receive variable direct Federal matching dependent on their different economic and financial abilities to fund their IV-D programs. Incentives would be linked to collections. Families would receive a bonus to establish support orders.
- Option 3: High FFP--States receive very high direct Federal matching providing a reliable and predictable source of funding. This option has no separate performance incentives but would have increased Federal control; and,
- Option 4: Tiered FFP--All direct Federal matching for States would be variable, dependent on how well a State performed. (A matching rate floor would be established below which no State would fall). Since performance is built into the matching rates, this option has no separate structure of incentives.

A separate description and discussion of each follows.

## OPTION 1: EXPANDED PERFORMANCE INCENTIVES

### **Description**

Reduce direct Federal matching and in its place allow States to meet or exceed their costs through strong performance incentives which reward States for caseload penetration and successful action on more difficult cases.

### **Rationale and Current Problems Addressed**

Current incentives give States little encouragement or reward for investing resources in difficult cases. Every State receives a minimum incentive regardless of performance, and the spread between the minimum and the maximum incentive rates is small, limiting the marginal return from investment of additional dollars. Further, because direct Federal financial participation (FFP) at 66 percent is high, States have less need to generate additional dollars over and above their minimum incentive in order to cover their costs.

This option would correct the current situation by creating real incentives, paid only if a State achieves real performance-oriented goals. No longer would all States automatically receive a minimum incentive. Further, by decreasing the reimbursement States obtain from direct FFP, and increasing the amounts which can be paid out in incentives, earning incentives would become more far more important to States.

### **Discussion and Variations**

Types of Incentives. While any combination of incentives could be packaged under this option, five have been chosen which are also used in other options which include a performance incentives component. These would apply to all collections, AFDC and non-AFDC alike, and could be implemented directly or phased in over time. These five incentives include:

Total Cost-effectiveness (total collections divided by total expenditures);

Paternity Establishment (Percentage of Paternities Determined);

Order Establishment (Percentage of Cases with Orders);

Paying Cases (Percentage of Cases in a paying status); and,

AFDC Terminations (due, at least in part, to child support collections)

The recommended approach to computing these five performance incentives is to use "Weighted Ratios." That is, the Federal Government would pay each State the equivalent of a weighted percentage of their Federal share of AFDC collections. This amount would be based on States percentages (determined by each State) on each of the five performance incentives. For example, a State might receive no bonus for determining paternity in the first 25 percent of its case load. From this 25 percent mark, as the percentage penetration increases, the percentage incentive would increase. The incentive would be set at the highest level (and most performance enhancing) for deep penetration of the case load.

**Alternatives:** There are two alternatives to weighted ratios: Fixed Ratios and Bonuses. Under Fixed Ratios, each State would be paid a fixed percentage based on its percentage achieved on each of the five performance indicators. Under a Bonus system, each State would be paid a fixed amount for each occurrence (\$20 for each paternity established, etc.) Fixed Ratios and Bonuses have the advantage of simplicity--but they provide little inducement for States to work more difficult cases.

Reduction in FFP. For planning purposes, States need to know that they will have a fixed rate of Federal financial participation. This is currently 66 percent. Option One would phase in a gradual reduction in FFP, with gradual conversion to a strong system of performance incentives. Thus, FFP could be reduced to 60 percent in modest increments of 2 percent every 2 years. The first drop could be delayed anywhere from 1 to 3 years, depending on the magnitude of the other programmatic changes the States are

asked to make. Alternatively, a more rapid phase-in could be used, e.g., reduction of the FFP in larger increments to a lower final percentage, such as 50 percent.

#### **Pros**

- o Places an emphasis on performance, and provides strong financial rewards to States that can do so.
- o Eliminates existing floor on incentives which renders current incentives impotent.
- o Encourages and rewards States for working more difficult cases which results in increased caseload penetration.
- o States would be less likely to charge expenditures to the Child Support Enforcement program to take advantage of high FFP rates as compared with all other options; cost allocation problems would be minimized.

#### **Cons**

- o A less certain funding alternative for States, reducing the direct FFP on which they can count. Subjects State planning to the uncertainties of whether performance goals will be achieved. Fails to recognize that some States will be hampered by an inability to increase resources necessary to increase performance.
- o Relatively complex option, especially in terms of setting the incentives schedule.

### **OPTION 2: VARIABLE STATE FFP RATES WITH MODERATE INCENTIVES**

#### **Description**

States receive variable direct Federal matching reflecting their different economic and financial capacity to fund their IV-D programs. Incentives would be linked to collections. Families would receive a bonus to establish support orders.

## Rationale and Current Problems Addressed

The current financing system of fixed national match rates for expenditures clearly favors the larger and more affluent States. Since the poorer States have less money to allocate among all programs, they find it more difficult to appropriate the resources needed to correct problems and expand child support activities. In addition, the current disparity between Federal match rates applicable to shared expenditures and those applicable to shared AFDC collections confers a significant and unwarranted advantage to the more wealthy States.

Option 2 attempts to correct both of these inequities. In lieu of the current fixed matching rate system, Option 2 proposes the adoption of a variable State-specific FMAP match rate structure. Such a system would encourage poorer States to spend more State funds on child support enforcement activities. At the same time, it would also remove the disparities created because of the use of FMAP match rates for shared AFDC collections.

The current formula for determining incentive payments rewards both inefficient as well as efficient State program operations. All States -- no matter how low their ratio of gross collections to program expenditures -- receive a minimum incentive of 6 percent of AFDC collections received plus 6 percent of non-AFDC collections (capped at 115% of AFDC collections). In addition, the current system for calculating incentives tends to discourage States from pursuing the more difficult or less productive child support cases.

Option 2 would replace the current cumbersome formula for determining incentive payments with a simplified fixed percentage commission system based solely on collections. Since collections might be viewed as a proxy for other actions (e.g., paternity and order establishment), State performance in these areas would implicitly be encouraged. Priority would go to the collection of child support funds from non-caretaker parents rather than to the achievement of marginal increments in the cost-effectiveness of the program. States would be able to set collections targets knowing what the amount of their performance rebates would be.

Finally, in order to secure the cooperation of the caretaker parent in establishing paternity, locating the absent parent, and securing a court order, there would be an assured bonus payment of \$300 to the family once a final court order has been established. This bonus could be limited to AFDC families, if costs need to be constrained. Alternatively, the bonus could be given as a \$50 monthly supplement to the AFDC payment rather than through the Child Support Enforcement program.

### **Discussion and Variations**

This option has three principal components:

o **Federal Financial Participation**

Set State FFP matching rates for expenditures at the variable Federal Medical Assistance Percentage (FMAP) -- the same match rates as are currently being used to distribute child support collections between the Federal and State governments, and the same rates as are used to reimburse State AFDC benefit costs. (Nothing would preclude the alternative of using other variable rates.)

o **Performance Incentives**

Give each State a fixed commission percentage based on their collections as a performance incentive. The percentage amount could be applied to either total collections or differentially to AFDC and non-AFDC collections separately to produce the same level of Federal financial assistance. States could be mandated to reinvest all or part of the monies received into their child support programs or could be given flexibility in how these funds were used.

o **Reward Families for Achieving Results**

Give each caretaker parent a one-time \$300 payment for each court order established. This bonus would be equivalent to a \$50 time-limited pass-through for the first six months after a final court order has been secured. Alternatively, replace the current \$50 pass through with an assured \$50 bonus payment once the final court order is in effect.

**Pros**

- o Does not confer advantages to larger and more affluent States.
- o Uses match rates already being used in other programs (e.g., AFDC, Medicaid).
- o Recognizes differences in State financing capabilities.
- o Incentives would be simple to administer and target a primary desired outcome -- child support collections.
- o Incentives could be flexibly structured to apply to all or only certain types of collections and would not penalize States for working difficult cases.
- o The bonus to families would assure them a guaranteed amount unrelated to the amount of child support collected. It would also motivate States to pursue collections once court orders are secured.
- o Bonus payment is large enough to encourage cooperation and participation by the caretaker parent.

**Cons**

- o Some States may suffer a loss of Federal financing
- o Does nothing to assure that needed program services will be provided for difficult cases
- o Bonus approach penalizes families if court orders are delayed or difficult to obtain, and could be very costly.

### OPTION 3: HIGH FFP/NO INCENTIVES/SANCTIONS FOR NON-PERFORMANCE

#### **Description**

States would receive very high direct Federal matching providing a reliable and predictable source of funding. This option has no separate performance incentives but would have increased Federal control.

#### **Rationale and Current Problems Addressed**

This option is designed to eliminate the complaint that States lack sufficient funding for their child support enforcement programs, and therefore do not perform at high levels across all cases. By providing a very high level of direct Federal funding for the program, perhaps even funding at 100% of expenditures, States should be able to extend necessary services to all cases.

#### **Discussion and Variations**

This option could be structured to provide a base 82% funding level with variable rates increasing up to 100% to emphasize certain workload or administrative activities. The base 82% FFP funding level is roughly equivalent to the present funding structure of 66% FFP and incentives. In FY 1992, although the effective FFP rate for States in the aggregate was 82%, individual States received reimbursement under the current system of combined FFP and incentives that ranged from a high of 130% to a low of 71%.

- o FFP tiers could be created whereby certain activities are reimbursed at higher rates (e.g., FFP could be increased for paternity establishment activities from the 82% basic rate to 95%).
- o States could be given increased FFP to achieve certain goals such as develop a uniform CSE administrative process, centralize operations at the State level, develop a central registry system, develop uniform/compatible computer systems or develop uniform operating procedures.

**Alternative:** The Federal government could also provide total funding to States for all expenses necessary to administer their child support program operations. However, this would require increased Federal control through more extensive Federal monitoring involving both program oversight activities and audit activities (e.g., increased audit activities to control allowable costs).

Under this alternative, the program budget would be limited by an appropriation from Congress each year. However, the budget allocation for each State would be difficult to determine due to the variances in program administration among the States. To effectively implement this option, the States would have to have some uniformity in program administration so that a financial management system could be designed to develop State-by-State program budget estimates.

A successful example of this alternative is the joint administration of the disability program by the Social Security Administration (SSA) and the State Disability Determination Services (DDSs). SSA pays 100% of the costs (i.e., over \$1 billion) incurred by the States for performing this function while giving the States maximum managerial flexibility. To monitor the States, SSA has regulations which include standards for "acceptable" accuracy and timeliness of disability determinations and also give SSA authority to conduct technical management and assistance (TMA) on an optional or mandatory basis for poor performing DDSs. A recent GAO report concluded that the joint administration of the program was satisfactory while acknowledging that improvements could be made.

**Pros**

- o Simple to understand and simple to administer.
  
- o States retain full responsibility to manage and operate their programs with monitoring and oversight to be provided at the Federal level. States would still have some investment in the program, and would, therefore, be able to have influence over how the program is managed and operated.

- o Eliminates incentives that have historically distinguished AFDC and non-AFDC cases and treats all types of cases the same.
- o Provides a reliable and predictable source of funding for States, which would help States' Governors and legislatures to budget for the program. Also reduces the differences that States face in resource availability as a result of demographics. This type of approach has been advocated by the IV-D Directors and is being considered by the Congress.

#### Cons

- o Reduces States' investment in the program which could negatively affect their level of commitment.
- o Difficult to control costs as there is less incentive for States to limit costs or to improve cost-effectiveness. In addition, there may not be any corresponding improvements in program performance. Federal monitoring would significantly increase together with a corresponding increase in audits covering allowable costs; increased emphasis would be placed on Federal performance standards and operating procedures.
- o Resources needed at the Federal level for monitoring and oversight activities could be considerable and extensive. To justify their expenditures States could be requested to provide detailed information to include various workload reporting activities, staffing resources used, and reporting of administrative costs.
- o Federal level monitoring activities could be minimized or rendered ineffective if there is insufficient leverage provided to require States to meet certain minimal program performance requirements.
- o Approach is not performance-based which could make motivating States' performance more difficult, especially in terms of encouraging States to penetrate specific CSE workloads or concentrate on specific areas where performance improvements are needed.

- o Various FFP tiers ranging from 82% up to 100% FFP could create an administrative burden without a corresponding program improvement. For example, if 82% FFP were paid for one activity and 95% FFP paid for another activity, the percentage increase in FFP may not lead to any difference in State performance, and thus the additional administrative burden of differentiating costs and reimbursements may not be warranted.

#### OPTION 4: TIERED FFP (WITH INCENTIVES INCLUDED IN THE FFP RATE)

##### **Description**

All direct Federal matching for States would be variable. Higher FFP matching rates above the floor would be paid based on how well a State performed on a number of measures. (A matching rate floor would be established below which no State would fall). Since performance is built into the matching rates, this option has no separate structure of incentives.

##### **Rationale and Current Problems Addressed**

Current incentives give States little encouragement or reward for investing resources in their child support programs to improve State performance. Rather, every State receives a minimum incentive regardless of performance, and since the spread between the minimum and the maximum incentive rates is small, the marginal return from investment of additional dollars is limited.

This option would correct the current situation by linking FFP to performance. As States increased their performance, their Federal matching rate would also increase. As in option 1, performance would be measured across five scales: Total Cost-effectiveness, Paternity Establishment, Order Establishment, Paying Cases, and AFDC Terminations Due to Child Support Collections. Poor performing States would have less of their programs funded by Federal dollars but such States could always perform their way back to previous or higher FFP rates even after their FFP rate was reduced for poor performance.

This option will also encourage States to invest more money in their child support enforcement programs. States will only get money from the Federal government if they spend money on the IV-D program. This should be a strong incentive to invest in the kinds of activities that will maximize performance in such IV-D functions as paternity and order establishment, and to do so in a cost/effective manner. Where incentives are based on collections, working unprofitable cases is not a logical strategy for a State to follow. This option does not base its incentives on the magnitude of collections, but instead rewards the performance of the IV-D functions that are necessary to create a paying case.

Finally, this option would eliminate the current linkage of AFDC and non-AFDC collections, which is another problem with the current system. Presently, a State's performance in the area of non-AFDC collections may be constrained by its performance in the area of AFDC collections. Option 4 makes no distinction between the two types of collections. Option 4 would also simplify the incentive structure, since separate incentive payments would not be required. Further, the incentive under this option would be real, since it would stringently avoid paying States for non-performance.

#### Discussion

Under this option, each State would be scored on a scale consisting of each of the five performance measures. Each measure would account for 17 percent of the total possible points a State could get for maximizing that measure (100 percentage points divided equally among 5 measures). Thus, if a State established 80 percent of its paternities, it would receive  $80 \times .17$ , or 13.6 points for that measure. The five measures treated thus would add up to some number, with a ceiling of 100, that would represent that State's total FFP. If the State's total FFP score were below 50, then the State would receive whatever the floor was determined to be.

Theoretically, any of the five measures could be weighted differently than equally if policy determined it desirable to encourage paternity or orders or cost-effectiveness.

However, States would always be assured of a minimum Federal FFP match. A matching floor would be established, under which no State could fall, a State assurance for budget and planning purposes. Penetration of the hard-to-work cases would be the only way a State could successfully earn FFP above the designated floor. States would be audited to certify the reliability of the data on which their performance assessment and thus, FFP, are calculated.

FFP floors and ceilings would have to be revisited on some periodic basis in order to keep them realistic and meaningful. The system would establish an FFP floor that would be guaranteed to the State, but which could be set at different levels, but for purposes of exposition, say, at 50 percent. There would also be a ceiling that could likewise be set at different levels. It would be all or a portion of the percentage point distance between the floor and the ceiling that a State would earn and receive as an incentive for good performance.

**Alternatives:** Two alternatives to setting the ceiling at 100 percent include:

Ceiling at 85 percent FFP. Currently about 85 percent of the States' costs are paid by the Federal government, so this sub-option would be similar to what is done now, except that all Federal funding of the State programs in this option is done via the FFP rate, and nothing via special incentives. A State does not get full Federal funding unless it meets standards. The State could earn up to 35 percent additional FFP for its program if its performance were excellent.

Ceiling at 110 percent FFP. This sub-option would allow a still higher percentage for good performance with the possibility of a fully Federally funded program and a small bonus for exceptionally good performing States. Using the performance of the theoretical State above, and setting each of the measures equally at 22 percent (110 percent divided by 5 measures), the state would have earned an FFP rate of 67.32 percent.

## Pros

- o Increases establishment of paternity and support orders. A state will not do well in this measure unless it establishes paternity and support orders. In this way it is skewed toward attention to AFDC cases because they are the cases more likely to be lacking paternity and support orders. Likewise, the measure "AFDC cases going off of welfare" does the same thing.
- o Focuses on getting all non-custodial parents to pay something. The measures promote attention even to cases where the payment potential would not necessarily be great. Paternity and order establishment may or may not pay big dividends, but in Option 4 would count toward earning FFP. Thus, there would be no motivation to ignore difficult cases as not likely to pay off, as often happens now with teenaged father cases; a state that worked such cases might not get immediate large collections, but would receive credit for paternities and orders established.
- o This Option will encourage the states to go after these short-run "unprofitable" cases.
- o The states are rewarded strictly for performance. Compared to the way incentives are now figured, the system is relatively simple and easy to understand and operate.
- o Will not waste federal funds meant to encourage child support functions on poorly performing states.
- o Performance measures could be weighted differently to emphasize paternity or order establishment. The state's incentives are balanced across all of the functions that IV-D needs to perform and generally do not reward working one type of case over another. The total federal cost is limited to current levels of expenditure, leaving room for future initiatives so that a creative and targeted set of incentives could be designed that would encourage state performance in child support areas not now covered.

### Cons

- o States will have to work very hard to do well, and families may suffer from States inability or unwillingness to invest in their child support programs. States could, as they can now, decide the program level by deciding how much of it they are willing to underwrite. States do not always fund at the level that is needed to get the job done. This option would do nothing to change that fact, but the federal government would also not be putting money into the program in the absence of State commitment.
  
- o States would have to operate outstanding programs to achieve the level of federal funding that some of them now achieve under the current system, especially under the 85 percent ceiling sub-option.

### C. Summary

The four options reflect different philosophies about role of the Federal government in supporting the Child Support Enforcement Program and in the expected behavioral response on the part of the States. All of the options have strengths and weaknesses in relationship to the other options. The options have purposefully been presented in highlight their differences. Variations or hybrids could easily be developed. A table comparing major provisions is presented on the following page.

SUMMARY OF FOUR FINANCING OPTIONS

	Expanded Performance Incentives	Variable FFP With Incentives	High FFP	Tiered FFP
	<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>	<u>Option 4</u>
FFP Rate	Minimal	Variable	Very High	Variable
Incentives	High	Moderate	None	None
Federal Monitoring	Moderate	Moderate	High	High
Performance-Based	Yes	Yes	No	Yes
State Investment	High to Low	Variable	Very Low	High to Low

Option 1 (Expanded Incentives) and Option 4 (Tiered FFP) have the advantage of providing strong financial incentives for performance. For the States the incentive effect of Option 1 may be slightly greater since the amount of the incentive is unconstrained by state expenditures. Option 4 maximizes the Federal investment by limiting reimbursement to expenditures and ensures that all federal payments are invested in the program. Because both options have reduced FFP base rate of 50 percent this change could be perceived as a retreat by the Federal government from its strong support for Child Support Enforcement even though both provide the States with an opportunity to make up through improved performance any funds lost by the reduced FFP.

Option 2 attempts to address the problem of lower FFP in Options 1 and 4 with a balance between an incentive approach and the need to provide States with sufficient resources to operate a sound CSE program. The incentive is much simpler in Option 2 than in Options 1 and 4 because it is based solely on collections. However, other results oriented performance criteria would have

to be built into the program management structure to prevent creaming.

Option 2 is also the only option which specifically includes an incentive payment for the family, although continuation of the \$50 disregard is not precluded by the other options. The bonus payment in Option 2 specifically rewards families for establishing awards. This moves the incentive closer to an event that the custodial mother can control. The current pass-through is dependent on the non-custodial parents willingness and ability to pay child support.

In Option 2 and Option 4 the variable Federal share represent different cost sharing strategies. In Option 2 the variable FFP rate recognizes that States have differing economic circumstances that can make financing program services (or benefits) more difficult. The higher matching rate attempts to level the playing field for the poorer States. In Option 4 the variable FFP rate is the incentive, with the Federal government's share of the costs is proportional to performance. Thus, good performance is rewarded with progressively higher matching rates.

Option 3 (High FFP) provides the States with a very high match rate. The approach addresses State CSE Administrators' concerns that the fiscal and political atmosphere in some States prevents the program from accessing needed resources, even when it is likely that the State would be fully compensated for its efforts. If resource limitations at the State level are the major barrier to program improvement, this option would likely have the greatest impact on program improvement. It also requires the greatest level of Federal monitoring/auditing and a willingness to take stiff sanctions if performance standards are not met. While the financing of the program is not performance-based, it is assumed that program reviews and any resulting sanctions (negative incentives) would be based on results oriented performance criteria.

Cost shifting is a problem which often materializes when one, of a related group of programs, has a substantially higher matching rate. Option 1 with its low FFP rate would be less likely to

tempt States to load up expenditures on the CSE program, minimizing cost allocation problems.

What should be noted is that the difference between the options would play out more in how they affect behavioral responses, than in any initial dramatic change in funding. Each option can be designed to replace, at least in the aggregate, the existing level of Federal support for the CSE program. The options which rely heavily on incentives can be based only on how well a state meets an absolute standard or it can include maximum payment of incentives for substantial improvements. Additionally, it would also be expected that the implementation of the new funding formula would be phased in over a period of years, with the new funding formula gradually replacing the current financing structure. This would prevent a substantial disruption in the CSE program during the transition period.

## APPENDIX A

### PROPOSAL FOR A NATIONAL CHILD SUPPORT ENFORCEMENT REVOLVING FUND

Development of a National Child Support Enforcement Revolving Fund would serve two purposes. Most importantly, it would provide States (and their localities) with a source of funds which could be used for short term, high payoff operational improvements. Such improvements, despite their potential for immediate returns, often are not made, victims of the need to concentrate scarce resources on simply insuring the provision of basic, day-to-day services.

#### Discussion of the Revolving Loan Fund Proposal

Why is there a need to establish a special revolving fund? Currently, Federal reimbursement covers 66 percent of IV-D program costs. States also receive incentives based on cost efficiency and their level of collections. Nonetheless, additional funds, especially for program upgrades, must still come through State legislatures, which increasingly look askance at requests for additional funding.

For localities, especially counties, getting monies for improvements can be more difficult still. These jurisdictions may derive a large portion of their operating monies from the pass-through by States of incentive funding. Such funding may leave little money for improvements, especially where an up-front local match may be a prerequisite.

Options have been proposed in this paper which would modify the current Federal matching rate, the incentive structure, or both. This proposal could serve to replace incentive funds should changes be made in the incentives structure which eliminate separate incentive payments to States, as is proposed in Options 3 (High FFP) and 4 (Tiered FFP) in this paper. More to the point, a revolving fund would provide an additional means by which States could finance one-time program improvements

irrespective of the financing system which is ultimately selected to fund ongoing program operations.

**How might a revolving fund be structured?**

Loan funds, although not common at the Federal level, are administered by a number of Federal agencies, including the Departments of Agriculture, Education, Interior, State, Transportation, and Veterans Affairs, as well as smaller agencies like the Federal Emergency Management Agency and the Small Business Administration. Experience exists within HHS as well, which during the 1980's administered the Rural Development and the Community Development Credit Unions Revolving Loan Funds. Funds provided under current programs range from tens to hundreds of millions of dollars loaned annually. Various of these programs could be used as models in structuring a revolving fund for the Child Support program.

States can also provide relevant models. California, for instance, runs a state-wide revolving fund to provide its counties with "pump-priming" monies for child support program improvements. Taking this program as a model, a national revolving fund could be established using either appropriated funds, or monies from fees and cost recovery to provide initial capitalization (approximately \$100 million). A goal could be set to increase this total amount over time to a more viable level of \$250 million, which would allow maximum grants to States of \$5 million. These subsequent increases could also come from fees and cost recovery; alternatively, subsequent monies could be derived by retaining and allocating to the fund a percentage of the funds due to States as reimbursement for their ongoing program operations under the Federal matching provisions. States could also be encouraged to supplement these Federal funds with resources of their own. (California's program currently provides its counties with approximately \$10 million annually out of combined Federal, State and county funds.)

Administered by the Federal Office of Child Support Enforcement, the revolving funds would provide interested States with funds for "pump-priming activities." For purposes of illustration, most projects might be assumed to require from \$100,000 to

\$300,000. This is consistent with California's experience where, in FYs 1992-93, projects funding ranged from \$5,400 to \$3.6 million with median funding of \$90,000. A maximum limit of \$5 million per State and \$1 million per project is suggested, which would provide larger jurisdictions sufficient funds to undertake serious projects. Funds should be available for a maximum of three years. This will insure regular turnover and an ongoing stream of projects.

**Who would receive the funds?**

States would be responsible for review and approval of any local level projects, and serve as conduits for funding going to the local level. To do otherwise would be unwieldy, perhaps unmanageable, since counties and other local jurisdictions do not normally interact directly with the Federal government under the IV-D system.

However, where States themselves seek to apply for funds for Statewide projects the issue arises regarding who is responsible for choosing and approving what to fund. Such determinations could be retained at the local level or delegated to groups at the State level. One way of addressing this issue is to allow States where the child support program is State-administered and State-run to apply for funds to make Statewide changes or to propose projects which would only affect some of their subdivisions. And in State-administered, county-run programs, States could be allowed to apply for funds for Statewide changes, but be required to make a portion (e.g., 25 percent) of funds available to counties or similar subdivisions responsible for the IV-D program at the local level.

**What activities should be allowable?**

To have the greatest impact, this fund should focus on providing seed money to get projects going from which, once in place, States and localities will immediately benefit and incorporate into their ongoing program operations. Two criteria should be applied in deciding which projects will be funded: whether alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States should have maximum flexibility in deciding which projects to fund.

Suggested activities include: implementation of best practice approaches, provision of additional training, implementation of changes to meet identified audit deficiencies, improvements to reduce case backlogs, or administrative changes (e.g., addition of staff, installation of voice response systems, increases in service of process, or expansion of management information or analysis systems).

**What issues still need to be resolved?**

A key issue remains: If States receive these funds as loans, how will they repay them at the end of the three year project period? Further key considerations include whether to charge interest, and if so, at what rate.

In California, counties must currently repay the funds each receives out of the increased collections on behalf of AFDC families which are generated by their projects. Each California county is required to project the amount by which its project will increase collections during the project period. Counties realizing increases use their share to repay the fund; counties with projects which fail to generate the projected increase in collections must directly repay the amount provided by the State out of their own resources.

However, all of the options in this paper assume that AFDC collections will be passed directly through to AFDC families. This approach will remove such collections as a revenue source for purposes of this proposal. One alternative is to allow repayment out of incentive payments, assuming that projects will result in higher performance, and thus larger incentives. This would be a viable alternative under Options 1 and 2. However, there are no separate incentives paid to States under options 3 and 4. In these cases, an alternative approach might be to again tap some portion of child support fees, or more simply, to recoup the funds through equal reductions in the State's Federal matching funds over the following four quarters.

## APPENDIX B

### PERFORMANCE INDICATORS FOR PAYING INCENTIVES

Five performance indicators have been considered in this paper replacing the cost-effectiveness incentive for AFDC and non-AFDC collections. These performance indicators are:

Total Cost-effectiveness (total collections divided by total expenditures)

Paternity Establishment (Percentage of Paternities Determined)

Order Establishment (Percentage of Cases with Orders)

Paying Cases (Percentage of Cases in a paying status)

AFDC Terminations (due, at least in part, to child support collections)

These five incentives represent performance measures for processing a child support case from case start (paternity) to case closure (AFDC termination)--an advantage. The downside of having five indicators is the increased complexity of the financing system, especially if the incentives are weighted to encourage States to make deep penetration into their caseloads by working the more difficult cases. Using only the first three indicators would simplify the structure.

The Welfare Reform enforcement work group concluded that anywhere from three-fifths to three fourths of current IV-D cases with orders would be enforceable by wage withholding. The Paying Cases indicator could reward the States for an action that is fairly automatic, given a support order and an employer's address. If the Paying cases indicator were to be changed to encourage States to go after the self-employed (and other cases that don't lend themselves to wage withholding), the incentive would encourage States to use alternative methods to wage withholding--a action we certainly don't want the States to take.

If this indicator is used, the starting percentage for incentive computations (below which States would not receive any Paying Cases incentive) should be around 50 percent--which will encourage States to pursue the more difficult enforcement cases without discouraging them from pursuing wage withholding as the first choice enforcement remedy. An absolute standard for the Paying Cases indicator may not be appropriate unless the standard is set very high, e.g. 90 percent of cases with orders.

The incentive for AFDC termination has two problems. First, it is based upon data that is very shaky in many States. Second, it rewards State child support programs for occurrences that are to a large extent beyond their control. Data collection on this element would have to be improved before it could be used as a performance indicator.

## APPENDIX C

### POTENTIAL IMPACT OF NEGATIVE INCENTIVES

#### EFFECT OF AUDIT PENALTY ON STATE CHILD SUPPORT PROGRAMS (as of June 1993)

The audit and penalty provisions of the child support legislation have significantly improved the States' ability to operate effective child support programs. This is true even for States where no financial sanction has been imposed. In general, the audit penalty as a tool to motivate improvements in State programs has been more effective than any other mechanism used in the past, including incentive payments. Major improvement attributed to the audit did not occur, however, until after the first penalty was imposed on December 2, 1988.

The audit provisions in the child support legislation were implemented in 1978 and the first audits covered Fiscal Year 1977. Audit reports issued in these early years cited numerous program deficiencies, including many of which were recurring from one year to the next. States took minimal action to correct problems disclosed by audit because, at the time, Congress had imposed a moratorium on enforcing the penalty. Consequently, States most often ignored the audits.

The 1984 Child Support Amendments strengthened the audit provisions considerably by making them more reasonable and fair. The improvements included: the opportunity for States to take corrective action and avoid the penalty, changes in audit frequency, more precise evaluation standards, a definition for substantial compliance with Federal program requirements, and a sound statistical basis for evaluating results. Since these changes, 87 penalty notices have been sent to 52 different States and territories for one more audit criteria not in compliance with Federal requirements. In all cases, States elected the option of corrective action which suspends the penalty. Most States successfully corrected the program deficiency cited in the notice of substantial noncompliance. To date, 15 penalties have been imposed on eight States. Six of the eight States were

penalized in consecutive years, including one for three consecutive years.

In most cases where the penalty was imposed, States appealed the findings to the Departmental Appeals Board (DAB) and then later, in some instances, filed suit in District or Circuit court. None of the appeals or lawsuits were successful in challenging either the results in the audit reports or the audit methodology. One audit was not upheld by the Board, however, because the audit results had to be based on a judgmental rather than statistical case sample due to the inability of the State to furnish a case universe. The total amount available for collection from penalties to date after resolution of legal challenges is \$23.3 million, including \$1.8 million in interest.

Taking the penalty and successfully defending State legal challenges generated a new attitude and a healthy respect for the consequences of not complying with Federal program requirements. Unlike what happened after the early audits, States are making serious efforts to resolve problems. The numbers above, i.e., 44 States avoided the penalty by taking corrective action, show the extent of this effort. One State, for example, responded to the audit by significantly reorganizing its program, including moving the program to a different State department and eliminating ineffective cooperative agreements. Audit statistics updated in June 1993 show that in 72 percent of all audits, States failed one or more audit criteria. However, only 9 percent of the States continued to fail the audit after the corrective action period and Follow-up review.

Even after the penalty, the record suggests that States continue their corrective actions and improve their programs in order to eliminate the penalty. Several States in the penalty category have undergone extensive legislative and other reform in order to meet the minimum standards for operating a program in compliance with Federal requirements.

The audit and related penalty provisions of the child support legislation also greatly benefit the program by helping to ensure uniform and consistent delivery of all basic child support

services. In the early 1980s, States received incentive payments of 15 percent of AFDC collections. As a result, the more difficult functions of establishing paternity and support orders received a low staff priority to the more lucrative work of enforcing cases with existing AFDC child support orders. Audit disclosures of continuing problems in these areas led to legislative and programmatic changes to focus more uniform treatment on paternity and non-AFDC cases. Without the audit to disclose such trends and the penalty to enforce compliance, uniform treatment would be dependent upon the varying State assessments of the importance of individual child support functions.

## APPENDIX D

### DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

Currently, child support enforcement (IV-D) services are provided to AFDC, title IV-E foster care, and Medicaid applicants and recipients referred to the IV-D agency. Services are also provided to former AFDC, title IV-E foster care, and Medicaid recipients who wish to continue to receive such services. In addition, services are available to any individual not otherwise eligible who files an application for IV-D services and pays the application fee if the State does not pay the fee itself.

Except for amounts collected through the Federal and State income tax refund offset process, amounts collected shall be treated first as payment on the support obligation for the month in which the support was collected. Amounts collected in excess of the required support obligation shall be treated as an amount which represents payment on the required support obligation for previous months.

Federal and State tax offset processes are used to enforce child support arrears. Under these processes, the State IV-D agency certifies arrears to the State tax agency and/or the IRS for offset. Amounts collected through tax offset may only be applied to arrears certified to the agency that performed the offset. Collections made through the Federal tax offset process must be applied first to AFDC and Title IV-E foster care arrears certified for offset. Collections made through the State tax offset process must be applied to certified arrears in accordance with the State's non-AFDC distribution policy when both AFDC and non-AFDC arrears were certified for offset. Amounts received through either tax offset process that exceed certified arrears must be paid to the non-custodial parent unless that individual agrees to have the excess amount applied to other arrears.

When a family applies for AFDC, an assignment of support rights is made to the State by the custodial parent on behalf of that parent and any child eligible for AFDC. The assignment includes current, past and future support rights so long as the family

remains on AFDC. Under Federal distribution requirements, the State pays an amount up to the first \$50 of current support to the family. Current support (child and spousal) in excess of the \$50 pass-through is retained by the State to reimburse the assistance payment made to the family for the current or next month. The State pays any remaining current support (child and spousal) to the family. Current support (specific dollar amount medical support) in excess of the \$50 pass-through) is paid to the State Medicaid agency to reimburse Medicaid expenditures incurred on behalf of the family. Support in excess of these expenditures is paid to the family.

Support (child and spousal) collected in excess of the current support obligation is applied to assigned AFDC arrears and retained by the State to reimburse past assistance payments made to the family. Collections in excess of past assistance payments are paid to the family. Support collected in excess of the current support obligation that is applied to assigned specific dollar amount medical support arrears is paid to the Medicaid agency to reimburse Medicaid expenditures incurred on behalf of the family. Collections in excess of these expenditures are paid to the family. If an amount is collected which represents payment on the required support obligation for future month(s), such amounts shall be applied to those months only when all prior support obligations have been satisfied.

When a child becomes a participant in the State's title IV-E foster care program, the State makes an assignment of support rights on behalf of the child to itself. The assignment includes current, past and future support rights so long as the child remains in IV-E foster care. Under Federal distribution requirements, current support (child and spousal) is retained by the State to reimburse itself for that month's foster care maintenance payment. The State pays any remaining current support (child and spousal) to the State agency responsible for supervising the child's placement and care for use in a manner that is in the best interest of the child. Current support (specific dollar amount medical support) is paid to the Medicaid agency to reimburse Medicaid expenditures incurred on behalf of

the family. Support in excess of these expenditures is paid to the family.

Child and spousal support collections in excess of the current support obligation are applied to assigned foster care arrears or assigned AFDC arrears and retained by the State to reimburse past foster care maintenance payments or past AFDC assistance payments. Collections in excess of these payments are paid to the State agency responsible for supervising the child's placement and care for use in a manner that is in the best interest of the child. Collections in excess of the current support obligation applied to assigned specific dollar amount medical support arrears are paid to the Medicaid agency to reimburse Medicaid expenditures incurred on behalf of the family. Collections in excess of these expenditures are paid to the family. If an amount is collected which represents payment on the required support obligation for future months, such amount shall be applied to those months only when all prior support obligations have been satisfied.

When a family applies for IV-D services, receives IV-D services as a Medicaid-only case with an assignment of support rights, or is a former AFDC, title IV-E foster care, or Medicaid recipient who continues to receive IV-D services, support collections are distributed as follows for these non-AFDC cases. Current support is paid to the family with the following exception. When the family is a Medicaid-only recipient, current support (specific dollar amount medical support) is paid to the Medicaid agency to reimburse Medicaid expenditures incurred on behalf of the family. Support in excess of these expenditures is paid to the family. Collections in excess of the current support obligation are, at State option on a state-wide basis, applied to non-AFDC arrears, including specific dollar amount medical support arrears assigned to the State by a non-AFDC Medicaid-only recipient, or to assigned AFDC or foster care arrears.

Collections applied to non-AFDC arrears are paid to the family with the following exception. Collections applied to specific dollar amount medical support arrears assigned to the State are paid to the Medicaid agency to reimburse Medicaid expenditures

incurred on behalf of the family. Support in excess of these expenditures is paid to the family. Collections applied to assigned AFDC arrears or assigned foster care arrears are retained by the State to reimburse past AFDC assistance payments or past foster care maintenance payments. Collections in excess of these payments are paid to the family (excess AFDC arrears), or paid to the State agency responsible for supervising the child's placement and care (excess foster care arrears).

## APPENDIX E

### DISTRIBUTION OPTIONS

We have identified several options for revising the current process for distributing child support collections. These options described below include the advantages and disadvantages of each. Under each option, all child support paid to an AFDC family would be reported to the State IV-A agency. Support payments would be used by the IV-A agency in redetermining the family's eligibility for and amount of assistance under the AFDC program. In addition, specific dollar amount medical support collections assigned to the State would continue to be paid to the State Medicaid agency. Also, collections made on behalf of children placed in foster care under the title IV-E program will continue to be paid to the State IV-E agency.

**Option 1:** State pays all child support collections to the family. Under this approach, the State would pay child and any spousal support collections to the AFDC family, and any other family receiving child support services. Medical support collections not assigned to the State would be paid to the family. The AFDC assignment of support rights would be replaced by a requirement that all support be paid to the State. Amounts collected in excess of the current support obligation would be applied to arrears in accordance with a state-wide distribution policy. Tax offset collections would be applied to certified arrears under a similar policy.

#### Advantages:

- The distribution process is simplified. Caseworkers will find it easier to understand and explain to child support recipients
- Costs related to the use and maintenance of State automated distribution systems would be significantly reduced
- The non-custodial parent may be more likely to comply with the support obligation because child support is going directly to the family

-Family responsibility and non-custodial parent relationship with the child are fostered by the payment of support to the family

Disadvantages:

-The AFDC grant would have to be adjusted on a more frequent basis because support payments are often not paid on a regular basis, and the amount of each payment may vary. As a result, AFDC administrative costs would increase

-States would have to reprogram their automated distribution systems to implement the new distribution process

-AFDC family receives more income if the non-custodial parent does not pay on time. For example, the non-custodial parent has a support obligation of \$200 a month. During January, February, and March, the non-custodial parent does not pay any child support. The family receives an AFDC grant of \$300 a month during each of these months (\$900). The non-custodial parent pays \$600 near the end of March which satisfies his current support obligation and arrears. The family receives the \$600 and goes off AFDC. If the non-custodial parent had paid the current support obligation during January and February, the State would have saved \$200 a month (\$400) in assistance payments to the family if the child support reduces dollar for dollar the amount of the grant to the family.

-AFDC collections currently made by the State are split between the State and Federal government to reimburse the cost of assistance payments made to AFDC families. Because all child support collections would be paid to the AFDC family under this option, the Federal government would have to come up with another funding source for incentive payments to the State

**Option 2:** State would pay current child and any spousal support collections to the AFDC family and any other family receiving child support services. Current medical support collections not assigned to the State would also be paid to the family. Any excess amount collected would first be applied to arrears owed to

the family, including arrears that accrued before the family went on AFDC, or the child was placed in title IV-E foster care. Under this approach, a assignment of support rights would only be in affect while the family was on AFDC, or Medicaid-only, or the child is in IV-E foster care. Assigned arrears would only be satisfied after all arrears owed to the family were satisfied. Tax offset collections would first be applied to certified arrears owed to the family.

Advantages:

- Costs related to the use and maintenance of State automated distribution systems would be reduced
- Family would receive any current child and spousal support payment made while the family is on AFDC, and any payment on child or spousal support arrears that accrued before the family went on AFDC. These arrears would be satisfied before arrears that accrued while the family is on AFDC
- The non-custodial parent may be more likely to pay support in a timely manner because all current child support payments go directly to the family
- Fosters family responsibility and the parent child relationship because the family receives all child support payments made in a timely manner
- The State would retain any support payments applied to AFDC arrears to reimburse the State and Federal government for assistance payments made to the family
- The Federal government could continue to use the Federal share of payments on AFDC arrears as a funding source for incentive payments to the State

Disadvantages:

- The AFDC grant would have to be adjusted on a more frequent basis because support payments are often not paid on a regular

basis, and the amount of each payment may vary. As a result, AFDC administrative costs would increase

- States would have to reprogram their automated distribution systems to implement the new distribution process
- The AFDC family does not receive any excess payments applied to AFDC arrears
  
- The Federal share of payments on AFDC arrears may not be a sufficient funding source for incentive payments to the State

**Option 3:** State would pay current child and any spousal support collections to the AFDC family and any other family receiving child support services. Current medical support collections not assigned to the State would also be paid to the family. The State would have flexibility regarding the treatment of excess payments. Under this approach, the State would establish a state-wide policy regarding the distribution of payments that exceed the current month support obligation. Excess payments could be applied first to arrears owed to the family, arrears owed to the State, or some other method applied to all cases. Tax offset collections would be applied to certified arrears in accordance with the State's policy for distributing payments in excess of current support.

**Advantages:**

- Costs related to the use and maintenance of State automated distribution systems would be reduced
  
- The family would receive any current child and spousal support payments made while the family is on AFDC
  
- The non-custodial parent may be more likely to pay support in a timely manner because all current support payments go directly to the family

-Fosters family responsibility and the parent child relationship because the family receives all child support payments made in a timely manner

-The State would retain any support payments applied to AFDC arrears to reimburse the State and Federal government for assistance payments made to the family

-The Federal government could continue to use the Federal share of payments on AFDC arrears as a funding source for incentive payments to the State

Disadvantages:

-The AFDC grant would have to be adjusted on a more frequent basis because support payments are often not paid on a regular basis, and the amount of each payment may vary. As a result, AFDC administrative costs would increase

-States would have to reprogram their automated distribution systems to implement the new distribution process

-The family would not receive payments applied to child and spousal support arrears that accrued before the family went on AFDC

-A State could elect first to apply all excess payments to AFDC arrears in order to give priority to the reimbursement of assistance payments made to the family

-The distribution of excess payments when both arrears are owed to the family and arrears are owed to the State would depend upon State policy. Therefore, a family in one State may not receive the same amount of child support as a family in another State under the same circumstances

-The Federal share of payments on AFDC arrears may not be a sufficient funding source for incentive payments to the State

**Option 4:** State continues to retain current child and certain spousal support to reimburse the AFDC grant with the AFDC family receiving the \$50 pass-through. Current child and any spousal support is paid to any other family receiving child support services. Current medical support collections not assigned to the State would also be paid to the family. Any excess amount collected would first be applied to arrears owed to the family, including arrears that accrued before the family went on AFDC, or the child was placed in IV-E foster care. Under this option, an assignment of support rights would only be in effect while the family is on AFDC, Medicaid-only, or the child is in title IV-E foster care. Tax offset collections must first be applied to certified arrears owed to the family.

**Advantages:**

- States would have to make minimal changes to their automated distribution systems to implement the new distribution system
- Family would receive any payment on child or spousal support arrears that accrued before the family went on AFDC. These arrears would be satisfied before arrears that accrued while the family is on AFDC.
- The Federal government could continue to use the Federal share of AFDC collections retained by the State as a funding source for incentive payments to the State

**Disadvantages:**

- The distribution process would continue to be complex and difficult for caseworkers and clients to understand
- Current child and spousal support payments would continue to be treated differently for families on AFDC and families otherwise receiving child support services
- Costs related to the use and maintenance of State distribution systems would be significant



# CHILD SUPPORT ENFORCEMENT PROGRAM ACCOUNTABILITY

## EXECUTIVE SUMMARY

This paper outlines an outcome-oriented approach to child support enforcement program accountability and responsibility. The proposed option balances the Federal government's oversight responsibility with States' responsibilities for child support service delivery and fiscal accountability. It focuses on results, not procedures. It provides for performance measures and standards which encourage program improvement. It also ensures adequate scrutiny of State management control systems because, while the effectiveness of the program is our primary goal, efficiency and economy are integral to that end. The option has four elements:

Results-oriented performance measures and standards. First, a limited number of results-oriented performance measures would be developed and standards of performance set. States that meet or exceed the performance standards for each of the performance measures would receive an economic reward. Failure to meet the goals would preclude enhanced Federal funding or could result in reduced levels of funding.

Enhanced technical assistance. Because of the large proportion of interstate child support cases, this option would recognize the need for continued Federal mandates to ensure consistent paternity and support laws across State lines. It would enhance Federal scrutiny of State laws to ensure States have the proven, effective tools and structures to work cases. This option would enhance the Federal role and capabilities in providing technical assistance, training and dissemination of useful information to States.

State self-monitoring. Instead of Federal audit scrutiny of detailed statutory and regulatory case processing requirements, States would be responsible for ensuring that their programs operate under approved procedures. States would accomplish this through periodic reviews of program operations and the establishment of advisory committees, ombudsman programs and administrative grievance procedures to handle specific

individual's concerns.

Federal stewardship. States are responsible for creating and maintaining accurate automated and manual financial and case processing systems. With State responsibility clearly defined, the Federal audit could focus on evaluating the States' own verification systems and conducting those audits and tests determined to be essential to ensure fiscal accountability and accuracy of programmatic data.

## ACCOUNTABILITY WITHIN THE CHILD SUPPORT ENFORCEMENT PROGRAM

### Introduction

This paper proposes an approach to ensuring program accountability and responsibility which is much more outcome-oriented than the current detailed scrutiny of State child support enforcement programs. It retains aspects of the current process that are consistent with the new focus on effective and timely delivery of services to our customers. It presents opportunities for problem identification as a starting point for enhanced technical assistance to States. It balances the Federal government's oversight responsibility with States' responsibilities for child support service delivery and fiscal accountability. It draws on Vice President Gore's National Performance Review (NPR) report recommendations with respect to reorienting the focus of the Inspectors General and empowering State and local governments. It assumes maximum use of the latest technology to help get the job done. Finally, it recognizes that State-generated programmatic data must be accurate and reliable, which is critical to any evaluation of program performance.

### Current process

First, the current process will be briefly described because aspects of that process are enhanced and retained under the proposed option outlined in this paper. Under current statute and practice, State program performance and compliance with Federal requirements are evaluated in four ways.

Scrutiny of State law and procedures. States submit plans certifying that the State meets Federal requirements for program operation and attach mandated State laws and procedures. Federal regional offices scrutinize the laws and procedures and approve plans which meet Federal mandates. A decision to disapprove a State plan or amendment can be made only after consultation with the Secretary of the Department of Health and Human Services, because disapproval would result in the loss of all Federal funding of a State's child support enforcement program, and the

possible loss of a portion of the State's AFDC program. Due to the severe consequences of State plan disapproval, no plan has ever been disapproved. The threat of disapproval has generally been sufficient to convince recalcitrant States to enact mandated paternity and child support laws. This can be a drawn-out process and does not always ensure that adequate laws and procedures are in place.

Audit and penalty process. The Federal statute also mandates periodic comprehensive Federal audits of State programs to ensure substantial compliance with all Federal requirements. States are audited at least once every three years, or annually should they fail an audit and not correct identified problems during their corrective action period. If deficiencies identified in an audit are not corrected, States face a mandatory fiscal penalty of at least one percent of the Federal share of the State's AFDC program funding. The penalty increases to up to 5 percent with repeated failure because of the same deficiency(ies). Once an audit determines substantial compliance with previously identified deficiencies, the penalty is lifted.

Driven by the statutory and regulatory specificity, the audit has grown to look at almost every aspect of the child support enforcement program to determine substantial compliance with detailed regulatory requirements. For this reason, as well as the organizational fragmentation and inadequate recordkeeping that have characterized many State support enforcement programs, the audit is a time-consuming and labor intensive process for both Federal auditors and the States. This, in turn, has led to criticism from State officials and client advocacy groups.

Federal monitoring. In addition to the State plan review process discussed above, Regional offices are responsible for providing policy guidance and technical assistance to States and for monitoring State programs. They review State procedures, conduct program reviews, and otherwise oversee program operations to help States adopt procedures and practices that increase the efficiency and effectiveness of their programs. The extent and impact of this monitoring varies, depending on priorities and the allocation of resources.

Financial reviews/audits. Regional offices are responsible for acting upon claims for Federal financial participation in State administrative expenditures and monitoring the resolution of financial and programmatic deficiencies identified in audits. To the limited extent that resources permit, Federal auditors conduct full-scope administrative cost audits of State programs to assess the adequacy and security of financial operations and conduct other audits of program operations as requested for the purpose of improving the efficiency, effectiveness and economy of State child support activities.

### Considerations

The Federal government's oversight responsibility requires that States be held accountable for providing child support and paternity services to children. How should States be held accountable for operating their child support programs? Any approach should ensure that the most fundamental goal of the program is met: delivery of adequate and timely services to as many children (customers) as possible.

Second, the level of State performance in achieving that fundamental goal must be measured and standards of performance set which encourage improvement in all State programs. The focus should be on results, rather than the details of how States process cases to reach those desired results. The performance measures and standards should encourage States to be innovative and to adopt new approaches in order to achieve the desired results of the program -- establishing paternities and support orders and collecting support for children. This is consistent with Vice President Gore's National Performance Review goal of cutting red tape, most particularly with respect to helping improve State programs and empowering State and local governments.

The Federal government must ensure fiscal and programmatic accountability and responsibility. Given the Federal funding levels of the child support program, adequate scrutiny of State management control systems will ensure the appropriateness and

integrity of those systems. While the effectiveness of the program is our primary goal, efficiency and economy are integral to that end.

#### Proposed option

The option outlined here addresses each of the considerations just discussed: Providing adequate and timely services; evaluating and improving the level of State program performance; focusing on results, not procedures; and ensuring fiscal and programmatic responsibility. It ensures consistent paternity and support laws across State lines. It eliminates the current audit of detailed statutory and regulatory case processing requirements; audits instead would focus on ensuring the reliability of data used to measure performance. It also assumes maximum use of technology to help States and the Federal government meet their responsibilities to children. This means there must be operational automated child support enforcement case processing systems which possess adequate internal controls and permit self-evaluation as well as testing and evaluation of State data to ensure effective and appropriate provision of services.

Results-oriented performance measures and standards. To measure the effectiveness of the program in delivering services to children and to create incentives to States to improve their program performance, the first step would be to develop a limited number of results-oriented performance measures focused on the core functions of the program. Performance measures might include the penetration rate and timeliness of services delivered, e.g., what percentage of the paternities needed were established within a reasonable period of time, or what percentage of support ordered was collected? Next, standards of performance would be set; for example, States would be expected to establish paternity within a specified time period in 75 percent of cases needing paternity established.

States that meet or exceed the performance standards for each of the performance measures would receive an economic reward. For example, if the Federal reimbursement rate for program

expenditures is set at, say, 70 percent, a State might receive an additional 5 percent in Federal funding for every performance standard met. If three standards are met, the Federal funding level would be 85 percent. In this way, States would be encouraged to reach performance goals in service delivery and would be rewarded financially for doing so. Failure to meet the goals would preclude enhanced Federal funding, or might result in reduced levels of funding.

Clearly, this approach requires that meaningful reporting requirements must be developed which ensure that the data necessary to measure program performance and evaluate the program are maintained and accessible for testing. There must be a balance between necessity and burden, but it will be the State's responsibility (and to its ultimate advantage) to establish accurate and verifiable reporting mechanisms.

Enhanced technical assistance. With redirection of the Federal audit, enhancement of the Federal role and capabilities in providing technical assistance, training and dissemination of useful information to States and in scrutinizing their laws and procedures to determine that they meet Federal mandates are essential. It is critical that States have and employ the tools for successful child support enforcement. Federal agency efforts to ensure that States enacted proven effective laws and procedures to meet the detailed requirements of the 1984 and 1988 Amendments have paid off: most States have the framework and tools for an effective program in place. Problems remain in simplifying and completing this framework and translating laws and policies into day-to-day operational practice.

The direction of Federal involvement in the child support presents an interesting contrast to the general direction taken in the NPR Report, that of reducing the number of Federal mandates. On the contrary, the number of mandates being imposed on the States in the area of child support enforcement has increased. This trend will likely continue, in part because of the need of program consistency to address the particular problems in providing services to the 30+ percent of children whose responsible parents live in different States. Children

have a right to receive the support they are due, regardless of where they, or their noncustodial parents, live. The certainty of receiving that support should be assured by laws and procedures which are similar across State lines.

Nevertheless, continuing to impose detailed procedural requirements on State programs is inconsistent with a performance-oriented process which focuses on results. The option outlined here creates a balance which ensures consistency and measures results. The Federal government could require States to enact proven effective laws and procedures for the program without specifying detailed case processing requirements in regulations. For example, States could be required to enact laws mandating State-level administrative enforcement remedies and centralized collections, leaving the procedural details to the States. The audit to determine whether cases were processed in accordance with detailed regulatory requirements could be eliminated, in favor of measuring program results. Therefore, within a basic statutory framework, specific case processing decisions are left to the States while accountability is a function of performance levels which ensure that appropriate services are provided to children. And, rather than continue to publish and audit detailed, process-oriented requirements, the Federal government could provide that detail in the form of technical assistance and written guidance on innovative approaches to successful delivery of services. There would also be economic inducements for continuing, verifiable State performance improvement.

State self-monitoring. The first two elements of the option outlined here will ensure that State programs have the essential tools for an effective child support program and that State performance is measured against results-oriented goals, with financial incentives for improving program performance. However, in the absence of the current audit scrutiny of case processing, whether those tools are used and cases are processed appropriately must be determined, objectively and effectively.

States will have the inherent responsibility for ensuring that their programs operate under approved procedures. Rather than

having the Federal audit scrutinize overall State compliance with the detailed, case processing requirements, States could be required to conduct periodic reviews of program operations and to establish advisory committees, ombudsman programs and administrative grievance procedures to handle specific individual's concerns about program operations and case processing.

This aspect of the option outlined here would be responsive to anticipated advocacy concerns that States will fail to use the tools and procedures the Congress has determined are essential for successful delivery of services. A number of States already have advisory committees, administrative procedures to handle specific case complaints; or both.

Federal stewardship. The final critical element of this option would ensure fiscal accountability and accuracy of programmatic data. The need for fiscal accountability is basic. Equally important, however, is ensuring the accuracy of programmatic data upon which performance measures, standards and levels of program funding would be based. The current audit process was carefully crafted to ensure that it produces statistically valid and legally sustainable findings. These procedures have met with great success, and they have served as an important stimulus to promote significant change and improvement in many States' programs. If we refocus the audit and move to results-oriented measures which are determined based on State-produced program data, the integrity and accuracy of that data are critical. Without reliable data, any decision based on that data is subject to challenge. How do we ensure the validity of programmatic data?

The States are responsible for creating and maintaining accurate automated and manual financial and case processing systems. Mechanisms for testing the validity of systems and data should be required, making maximum use of available technology and meeting General Accounting Office audit standards. With State responsibility clearly defined, the Federal audit could focus on evaluating the States' own verification systems, and conducting those audits and tests determined to be essential to ensure

fiscal accountability and accuracy of programmatic data.

The NPR report recommends reorienting the Inspectors General focus from strict compliance auditing to evaluating management control systems so as to prevent waste, fraud and abuse, and to ensure efficient, effective service. This basic premise should guide the Federal audit function in the child support arena as well. The examination of these management control systems and opinions rendered must continue to be based upon a critical examination of the evidence maintained by the State. Whatever form this evidence takes, it must be sufficient, competent and relevant to enable sound determinations of the reliability of the management control system.

#### **Workgroup to develop details of this option**

This paper presents the outline of an option for ensuring accountability of State child support programs. The details of each aspect of the option are best defined by those interested in ensuring the success of the program. To draw on existing expertise, to forge consensus, and to ensure the resulting process is accepted by those who will implement it, the workgroup should include both State and Federal program representatives. An approach crafted through such a partnership can be successful.



**CHILD SUPPORT ENFORCEMENT TRAINING**

**October 1993**

## EXECUTIVE SUMMARY

The Federal Government's spending on CSE training, both for its own employees and for State staff, lags behind private business spending as a percent of budget. The Office of Child Support Enforcement (OCSE) assessments of States' CSE training programs have found them to be in substantial need of improvement.

Reasons include large caseloads, high staff turnover, the variety of staff to be trained--ranging from new front-line workers to experienced judges, and changes in the complexity and technical nature of the CSE Program over the past 10 years.

OCSE funded several large training contracts through most of the 1980s but, because of budget constraints and lacking hard data as to their effectiveness, discontinued all but one of them starting in the late '80s. The National Training Center (NTC), within OCSE's Division of Program Operations, was established to help fill the gap caused by the loss of these training contracts.

With a staff of just five professionals and one support, however, NTC has not had the resources to be a major factor in the States' training efforts.

A new approach is needed which takes advantage of the improvements in technology over the past decade and is backed by funding which permits simultaneous approaches along several lines: videotapes, teleconferencing, computer based training, and, where appropriate, contracting out of specific tasks.

Options presented include changing Federal laws to recognize the importance of training; mandating training at the Federal and State level; developing a core CSE curriculum; implementing a State Trainer Certification Program; and providing adequate funding for training activities.

The conclusion: training will continue to lag without an infusion of new funds and the aggressive support of agency heads.

## CHILD SUPPORT ENFORCEMENT TRAINING

### BACKGROUND

In 1991 the National Governors' Association issued the following pronouncement: "The Governors believe that a major factor in operating successful child support enforcement programs is adequately trained staff." In spite of this endorsement, few States have appropriated funds adequate to the task.

State child support enforcement staff from top to bottom, from directors of programs to new front-line workers, face an urgent need for training. In the face of this need, meager resources are devoted almost exclusively to orienting new staff, with little follow-up or on-going training efforts.

Two negative consequences flow from this: line staff consistently demonstrate a poor understanding of even the most basic techniques of child support enforcement; and offices lack up-to-date manuals and other reference materials necessary for explaining policies and procedures to staff.

It is easy to find proponents of training when support is limited to the spoken word but much harder when funding is under discussion. The fact is that training is likely to be funded, if at all, only in flush times. At the first sign of fiscal trouble, the plug is pulled.

The National Commission on the Public Service reports that private businesses spend 3 to 5 percent of their budgets on training, retraining, and upgrading employee skills. That may not seem like much until comparison is made with the Federal Government, which spends less than one percent. The same can probably be said of State child support enforcement programs.

One reason for this discrepancy may have been a reluctance to fund evaluation of training programs. Without evaluation, it's difficult to show a relationship between training and increased productivity. Generally, however, Federal officials have only enough funding for one or the other--not both. It amounts to a Hobson's choice.

Training may get the funding but since it is seldom, if ever, evaluated no one knows whether it makes employees more efficient and/or increases productivity.

When money is tight, training budgets are among the first to be hit. Even the Office of Child Support Enforcement (OCSE), which has a better record of support for training than many other Federal agencies, cut back severely on its training contracts in the late '80s as budgets were being reduced.

To speak to this issue, OCSE is awarding a demonstration grant to develop a process for determining the impact of training on child support managers and front-line workers. The intent is to begin gathering information about the impact of training on both new and existing workers--does it, for example, improve the productivity of workers and quality of service to the public--relative to cost.

## **STATE TRAINING ASSESSMENTS**

The record of States in support of training is no better than the Federal Government's. In 1991, OCSE carried out an assessment of States' training programs. The conclusion: in a period characterized by complex legal, economic, and social issues, CSE training activities were given low priority for developing staff and imparting program knowledge. Comprehensive training programs at the State level were largely ignored in favor of less costly supervisory orientation and on-the-job training.

Part of the difficulty for States is the enormous increase in the complexity and technical nature of the Child Support Enforcement (CSE) Program over the past 10 years. Legislative changes such as the CSE Amendments of 1984 and the Family Support Act of 1988, as well as initiatives like the Federal CSENet project, have reinforced the need for regular, professional training of CSE managers and front-line workers at the very time many States are reducing CSE staff or doubling up on responsibilities.

How a State is organized to deliver CSE services may also present obstacles to trainers. One IV-D director, for example, has noted how, under a centralized, State-

administered program, he could easily mandate training for all State staff. The situation is very different in county administered States.

Standardization of procedures, centrally administered, would reduce fragmentation and duplication of effort, enabling the efficient production and distribution of uniform training programs, core curricula, and other materials. State and local practices now vary so significantly that curricula must be tailored to individual States.

Other problems which frustrate the capability of States to provide regular training are the large caseloads--workers typically carry in excess of 1,000 cases and can barely keep pace with the workload let alone find time to be trained; the high turnover of staff--estimated to be in the twenty percent range for the 37,000 caseworkers nationwide (and probably much higher in urban jurisdictions); and the broad mix of staff to be trained--ranging from new front-line workers to judges who rotate assignments frequently and IV-D directors.

The training needs (and wants) of each of these audiences is different and must be met in different ways. Judges believe they are special and do not like to have IV-D officials in their training sessions. They prefer to be trained by other judges--not "trainers." Line workers tend to be uncomfortable when, as happens frequently, supervisory staff are included as part of their training. Also, in their efforts to attract these diverse audiences, training organizers must confront competition from other programs, interests, and demands.

An updated look at State training programs, this one a survey conducted by the National Council of State Child Support Enforcement Administrators in 1993, continues to point up problems for CSE training programs. A number of States with large caseloads, including California, Florida, Ohio, New Jersey, New York, and Pennsylvania did not respond--which may suggest they had little to report in terms of training activities.

Of the 34 States that did respond, three quarters said they provide orientation courses for new employees. Many of these, however, are of short duration--a day or two or even, in some instances, only a few hours. Every State but one reported having a

designated official responsible for training. But many of these individuals are responsible for other areas as well, such as policy, and spend only a fraction of their time on training activities.

Nearly two-thirds of the 34 States said they hold annual training conferences (either State or Association sponsored). But the typical attendance pattern for these conferences is for the same staff to go year after year. It is doubtful that more than a quarter of any State's CSE staff receives training over the course of a year.

While each of the 34 indicated that a substantial amount of training in the past 12 months had taken place on topics ranging from enforcement techniques to systems, responses were weak concerning the availability of training for legal staff; use of videotapes and other state-of-the-art training technology; regular contact and exchanges of information with trainers in other States; regular use of formal curriculum; and links with private sector suppliers, including colleges and universities, as sources for training.

Evidence that States see a continuing need for Federal training assistance can be found in the substantial list of course topics and related materials requested from OCSE:

- interstate and UIFSA;
- review and adjustment of orders;
- mid-level management;
- program standards;
- medical support;
- in-hospital paternity establishment; and
- training for new IV-D directors.

A survey made of Regional Office (RO) CSE Program Managers by OCSE's National Training Center, also in 1993, found, with one important exception, a similar identification of need. The exception: RO Program Managers identified mid-level management training for States as a low priority. This survey also documented continuing requests by States for training courses "such as those previously delivered by the National Institute for Child Support Enforcement (NICSE)," a request recalling the halcyon days of OCSE training in the early and mid-1980s.

### **OCSE ROLE IN TRAINING**

From 1979 through the late 1980s OCSE contracted with outside organizations, at an aggregate commitment of \$1 to 2 million per year, to provide on-site training to States across a broad range of topics, including legal/judicial. These organizations included, along with the flagship NICSE, the American Bar Association (ABA), the Child Support Technology Transfer Project, the National Center for State Courts, the National Conference of State Legislatures, the National Council of Juvenile and Family Court Judges, the National District Attorneys' Association, and the National Governors' Association.

All of these contracts, with the exception of the one with ABA, were allowed to lapse in the face of budget constraints faced by the Federal Government during the late '80s. The ABA continues to provide training to the public and private bars at an annual cost of \$300 to \$350 thousand. But this training, while valuable, covers only a narrow band of CSE staff (attorneys and a few caseworkers and managers) when compared with what was formerly available.

Wanting to help fill the gap caused by loss of these contracts, in early 1991 OCSE established the National Training Center (NTC) within its Division of Program Operations. This decision was based partly on the recommendations of a training advisory group which met several times in late 1990 and early '91. The group's members included 15 experts from State and local child support enforcement programs and national associations.

The purpose of the Center--which is staffed with five full-time professionals and one support staff, is to bolster States' training initiatives through a variety of means: curriculum design/development; dissemination of information and materials; and, to the extent that resources allow, the conduct of direct training. The Center's training budget: less than \$1,000 a year. Center staff coordinate their efforts with those of training managers in the States to keep duplication to a minimum.

The Center is assisted in its goals by designated training liaisons in each Regional Office, who serve as the primary training link between Central and Regional Offices. Regional Training Liaisons work with NTC staff in identifying training materials and resources, provide periodic briefings to Regional staff on training issues, and are active participants in NTC's National Training Workshops.

During its first two and one-half years of operation, NTC has delivered three national training workshops, several training of trainer workshops for State trainers, and a few on-site presentations at State CSE conferences. The Center has also distributed some training curricula to States and prepared a number of articles on training for publication in the OCSE newsletter, "Child Support Report."

In no meaningful sense, however, can the efforts of the National Training Center be said to be meeting States' training needs. The job is simply too big to be handled by a few conferences and a small number of publications. Even if OCSE were still funding training contracts in the \$1 to \$2 million range, however, it would still not be enough. The CSE landscape in 1993 bears little or no relationship to the one of a decade ago, and training units, like other parts of the organization, must adjust.

## **A NEW APPROACH**

What is needed is a new approach which takes advantage of the improvements made in technology over the past decade and is backed by funding which permits simultaneous approaches along several lines: videotapes, teleconferencing, computer based training, and, where appropriate, contracting out of specific tasks.

Teleconferencing holds promise as an effective means of reaching large audiences at reasonable cost per participant. Videotapes can supplement and update, and in some instances replace, publications and curricula which take considerable time to produce and, because of the speed of change in the Program, tend quickly to become dated.

This approach requires training to be available to Federal as well as State staff. OCSE should be the leader in CSE training, but, in fact, training is rarely available to its own staff. This leads inevitably to feelings on the part of Federal staff that managers considers training to be a matter of low priority. In particular, as the CSE Program continues to evolve into areas of high tech, it becomes doubly important for Federal staff who work with State trainers to keep up-to-date, since advances in technology may well hold the most promise for helping States.

## **ROLE OF TECHNOLOGY**

To ensure that the training needs of staff are met, regardless of which facet of the CSE Program they represent, while providing training in the most cost-effective and efficient manner, OCSE must take the lead in developing state-of-the-art training methods. This is especially true as States design and implement statewide automated systems. One example of state-of-the-art training is computer based training technology (CBT).

Developing curriculum with the use of this technology has several advantages over conventional methods. First, CBT is ideal for self-instructional courses. Besides doing away with the need for--and saving the cost of--a live trainer, CBT enables staff to coordinate their own training when it is most suited to their schedules and pace themselves through the curriculum on an individual basis.

Second, CBT courses ensure consistency of information. While different live trainers may present the same information in ways that leave room for interpretation, everyone hears the same message in the same words from CBT.

Third, CBT offers an important indirect advantage. As more training is designed and developed that requires upgraded computer hardware and software, States become more willing to invest funds in the necessary equipment. That is, state-of-the-art training "pushes" technology.

This type of behavior was observed in 1991 when OCSE developed a software package that generated automated interstate forms. As States became aware of this product and realized what a potential time saver it could be, many purchased additional upgraded printers so staff could use the software.

Technology by itself, however, is not the cure-all for what ails States' CSE training programs. Even those States with advanced automated systems seldom use them to full advantage in child support enforcement caseloads. For example, with respect to locating noncustodial parents and their resources, access to data may be plentiful but only for the relative few who know how to use the system well.

The continuing automation of the Program, like other changes, presents training challenges as well as opportunities: challenges to assist States in their efforts to acquire necessary training in the use of systems hardware and software; opportunities to blend state-of-the-art training, including, as mentioned earlier, computer based training technology, into training sessions for both managers and front-line staff.

## OPTIONS

The combination of high caseloads and insufficient training resources led the U.S. Commission on Interstate Child Support in its Report to Congress, "Supporting Our Children: A Blueprint for Reform," to make a number of recommendations concerning training, including:

- that Federal law be changed to recognize the importance of training to the effective, efficient operation of the Program.

- that the Federal Government promulgate regulations that require States to have minimum standards in their plans for training that include initial and ongoing training for all persons involved in the Child Support Enforcement Program under Title IV-D.

Minimum standards could be defined by convening a State/Federal Work Group, similar to the already-mentioned training advisory group, to study the issue and make recommendations to OCSE.

Frequently overlooked in training plans are State IV-D directors. But this group is among the most "needy" in terms of training. First of all, the turnover rate among directors of child support enforcement programs is very high--perhaps 25 to 30 percent a year. Secondly, a State's performance is influenced by the leadership and management ability of those at the top. Training which focused on leadership, including, for example, sessions on how to draft effective legislation, work with individual legislators to obtain support for the Program, and make strong presentations before legislative committees could pay off in increased support.

New IV-D directors in particular could benefit from an intensive 3-5 day course which included, besides leadership/management styles and a legislative component, attention to such topics as allocation of resources, personnel policies, and media and public relations. Follow-up training for this audience could be provided by making arrangements for time on the agendas of regularly scheduled meetings and conferences of IV-D directors.

Other Commission recommendations:

- that States be required to offer a minimum number of hours of training each year to their CSE employees.
- that OCSE be required to train all Federal employees upon initial employment on the operation of the program and on changes in Federal laws, policies, and procedures as they occur.

- that OCSE provide a federally funded core curriculum, with annual updates, to all States for use in developing state-specific training guides, since each State's laws and requirements are different.

## **TRAINER CERTIFICATION PROGRAM**

One way to ensure that minimum training standards would be met, would be to establish a Trainer Certification Program. This could either be Federally administered or State administered in accordance with Federal regulations. Such a program could provide for increased management and worker training, as well as encourage a greater commitment to training on the part of States. Key elements of such a plan would include:

- development of certification standards appropriate for both managers and front-line staff, which could be accomplished by a joint Federal/State Work Group;
- design and development of a training curriculum based on those certification standards;
- a pilot test of the curriculum, drawing staff from several States to provide sufficient variety of background and experience; and
- design and implementation of a formal evaluation process to assess the impact of the certification program on improving operating performance.

This program, like those of other professions such as family counseling, accountancy, and law, also would require a stated number of hours of training each year to retain certification.

## **FUNDING**

As mentioned, the Federal Government spends less than one percent of its budget on training. The reason, according to the Vice President's National Performance Review:

Federal managers tend to view training as a **cost**, in contrast to corporate CEOs who view it as an **investment**. Here again, this may be true of government as a whole.

During the final two years of the NICSE contract, however, States paid \$1,000 for each course delivered by NICSE trainers. Prior to implementation of this policy, courses were provided without cost. There was a reduction in requests for courses after the fee was installed, but States generally showed a willingness to pay for training they believed to be worthwhile, so long as the expenditure qualified for Federal Financial Participation (FFP).

We should not, however, fool ourselves into thinking that a serious training effort can be mounted without significant new expenditures. All plans for CSE training, in the final analysis, stand or fall on adequate funding. The idea that training can be provided to States or anyone else without a realistic funding base carries about the same chance for success as undercapitalized new businesses.

In summary, the need for training clearly exists at the State level, as does the willingness to support it at the Federal program level. But if any lasting results are to be achieved, training must be adequately funded. States may well be willing to put up limited amounts of money for training (during good times and with assured FFP), but no substantial amount of training is likely ever to take place without a fresh infusion of Federal funds earmarked for training and supported by heads of agencies.



**CHILD SUPPORT ENFORCEMENT STAFFING ISSUES**

**September 1993**

## EXECUTIVE SUMMARY

Since its inception in 1975, the Child Support Enforcement (CSE) Program has become increasingly more complex. State and local organizational structures and operations vary widely. IV-D caseloads have grown while staffing has not kept pace and lean budgets at every level of government as well as State staffing ceilings limit IV-D hiring.

An array of Federal, State, and local data show that IV-D staffing levels are inadequate and that worker to caseload ratios are frequently over 1,000. However, because comprehensive data on national staffing of the CSE Program is almost nonexistent, further study is urgently needed.

Two approaches, which differ in scope and depth, are described. One approach is to conduct a comprehensive national study. The second approach is to conduct individual studies of each State CSE program. Under both options, not only staffing but the factors which impact it must be examined. As part of the national study a staffing simulation model that would accommodate major program variables and forecast optimum staffing levels could be developed.

Regardless of which option is selected, we must encourage States to undertake their own internal operations analysis and make program improvements. States will need hands-on technical assistance to do this and this may require the provision of enhanced funding and the redeployment of OCSE resources. If, despite all of these efforts, substantial deficiencies continue to be identified, or if State authorities are unable or unwilling to hire additional staff, OCSE could mandate staffing standards.

In summary, substantial improvement in State staffing levels and program performance will require both the commitment of States to evaluate and reengineer their programs and the provision of adequate technical assistance under Federal leadership.

## STATEMENT OF THE PROBLEM

Since its inception in 1975, the Child Support Enforcement Program has become increasingly more complex. IV-D caseloads have grown while staffing has not kept pace. Although Congress gave the Office of Child Support Enforcement (OCSE) the authority to establish minimum organizational and staffing requirements for IV-D programs, this has only been done on a very limited basis because of the difficulty of establishing minimum staffing standards when State and local organizational structure and operations vary so widely.

## BACKGROUND

The Child Support Enforcement Program has grown increasingly more complex since 1975. The CSE Amendments of 1984 and the Family Support Act of 1988 mandated a wide variety of far reaching and complex requirements. For example, in response to the requirement that States use expedited processes, State programs have moved away from exclusive use of the court system for establishing and enforcing child support obligations to using quasi-judicial and administrative processes. IV-D staff in States with administrative process have additional responsibilities and are called upon to make more decisions about what actions to take on cases. This increase in both program scope and complexity necessitates a lower caseload to staff ratio.

A primary fact of life is the current fiscal climate. Governments are dealing with budgetary shortfalls at all levels-- national, State, and local. This is occurring at a time when additional IV-D requirements are being added such as non-IV-D income withholding, periodic review and adjustment of orders, increased paternity establishment, and medical support. For example, a recent report calculated that the average time it takes to modify one child support order is 48.5 hours.

A related constraint which States frequently face is a staffing ceiling above which they cannot hire. Some then hire contractors to get around this requirement. Hiring contractors and/or

privatizing parts of the program, of course, has both pros and cons but is another issue which must be considered when analyzing staffing.

Despite all of the improvements that have been made in the CSE Program and all of the Federal and State funds that have been invested, staffing levels remain totally inadequate. Strengthening the laws related to CSE will only benefit the Program and the public if States have adequate staff to implement and enforce the laws.

#### THE NEED FOR NATIONAL CASELOAD STANDARDS

Comprehensive data on national staffing of the CSE Program is almost nonexistent. However, DHHS's Preliminary Data Report for FY '92 showed:

- the IV-D caseload increased 13 percent nationally to an all-time high of 15 million;
- the national caseload has grown almost 37 percent since 1988;
- the number of cases per FTE, which dropped slightly in FY '91, increased to 368; and
- even though States have continually set records in some areas, the percentage of paying cases has remained essentially the same for several years; only 19 percent of the national IV-D caseload are paying cases.

For GAO's February 1992 report, "Interstate Child Support - Wage Withholding Not Fulfilling Expectations," they interviewed a sample of 136 offices that serve counties with more than 100,000 population. GAO asked these offices "to rank the top three factors that might contribute to the time it takes to obtain wage withholding." The size of the caseworkers' caseloads is ranked as the third highest cause.

In January 1989, under contract to OCSE, the National Governors' Association published an issue of their newsletter, Capital Ideas, entitled, "Staffing Deficiencies in the Child Support Enforcement Program." Some relevant highlights of this publication are:

- The national average caseload for an AFDC worker is 66 while for a CSE worker it is 361.
- As many as half of the FTEs (in child support) do not work on cases; they are supervisors, policy analysts, clerical staff, accountants, and trainers. Net them out of the equation, and the caseloads would look even more burdensome.
- Staff turnover in the CSE Program is a major hurdle facing CSE directors, and that constant turnover wastes training funds.

State data further illustrate the current situation.

- In 1991, the IV-D caseload in Washington, DC was approximately 65,000. The staffing ceiling was 140 but only 107 positions are filled. Therefore, each DC caseworker had a caseload of over 1,200 cases.
- In late 1992, OCSE staff provided onsite technical assistance to the Domestic Relations Branch (DRB) of the Philadelphia Family Court. Staffing was found to be a major problem. The resulting report concluded that:
  - In the past 2 years, the DRB caseload had increased by 12,000 cases while the enforcement unit had experienced a 40% reduction in staff.
  - The DRB's caseload was 328,249. Their full-time equivalent staff was 286. This yielded a staff to caseload ratio of 1:1,148.

It is good to keep in mind that there is considerable skepticism about State caseload data as reported for various reasons. An example which demonstrates how difficult it is to gather meaningful and comparable data is that jurisdictions vary in how they define a case. In some States, a noncustodial parent and child constitute a case. In other States, a custodial parent and child constitute a case. One noncustodial parent may have several cases with various children and custodial parents. Sometimes the same family will have both a AFDC and a non-AFDC case.

The US Interstate Commission report contained two recommendations on staffing.

- The Federal Office of Child Support Enforcement should be required to conduct staffing studies for each State child support program and report such results to Congress and State officials. As a condition of receiving Federal funding, States should be required to provide staff at the level recommended in the study.
- Each study should include a staffing standard for each agency and court involved in the IV-D child support process. All such studies should include a review of the automated case processing system and include methodology for review of staffing standards when systems are implemented. The Commission recommends that the report address space, systems, and other nonstaff resources needed to support additional staff.

OCSE has long been aware of staffing problems in State and local IV-D programs and is very close to awarding a program improvement grant to develop and test a methodology to determine the appropriate staffing standards for child support offices, related contractor services, or discrete functions within a child support office. This includes an examination and analysis of the way the program is organized, the way cases are processed, the level of automation, the level and use of administrative procedures and the extent of program fragmentation. This is a first step in addressing the staffing issue.

Two options to address IV-D staffing nationally follow.

### OPTIONS

Below are two options designed to address the inadequacy of IV-D staffing nationally. Because data is lacking, both recommend studying the issue further. The first option is to undertake a national staffing study. A possible product of this study could be a staffing simulation model. The second option echoes the staffing recommendations of the Interstate Commission. Both options require that States do their part in conducting internal operations analysis and advocate technical assistance to States.

#### **OPTION #1. UNDERTAKE A NATIONAL STAFFING STUDY.**

A comprehensive, national staffing assessment has never been made. Given the great diversity in State and local program structure and operations and the lack of data, further study is urgently needed.

A national staffing study would need to examine a wide range of management and organizational issues not just staffing. Poor management, inefficient use of resources, lack of training, and duplicative procedures aggravate staffing problems. Management literature recognizes that productivity does not increase in a direct ratio to the size of the project team and that excessive, misplaced resources actually cause productivity and efficiency to decrease.

#### Implementing Activities for Option #1.

The following four components--development of a staffing model, State internal reviews, provision of technical assistance, and possibly mandating staffing standards--are integral to implementing option #1.

- A staffing simulation model to forecast optimum staffing levels and configurations could be developed.

## Discussion

The model could accommodate variables such as the degree of program centralization, organizational structure, urban versus rural, the various levels of automation, and other factors deemed appropriate. The model might also identify staffing levels and configurations that impact most positively on productivity in the varying environments.

- **States must conduct internal operations analysis and reengineer their IV-D programs.**

## Discussion

At the same time that the national staffing study is being conducted, States should be encouraged to conduct their own comprehensive, internal analysis. State and local IV-D officials must examine and work to improve their organizational structure, case flow, administrative procedures, and address the full array of management considerations. They must increase efficiency and effectiveness, reduce duplication and waste, and improve client service. The current national move toward provision of universal CSE services makes this "clean up" effort even more critical.

In order to accomplish this objective and have every State examine and reengineer its IV-D program, enhanced funding may be necessary. Enhanced FFP at the rate of 90 percent is currently available to States for automated systems and genetic testing. The anticipated payoff makes the investment in these two critical areas worthwhile. This is in addition to the 66 percent Federal match for administrative costs. If State inefficiencies are allowed to flourish and continue to bog down case processing and client service, much of the anticipated benefits will not be realized. State operations analysis will ensure that all invested resources will be maximized and yield benefits for all parties.

Providing the enhanced funding and conducting the internal analysis should be done in concert with the statewide automated systems process. Simplifying and streamlining procedures and eliminating duplication will complement the development and implementation of the automated system. Automation of inefficient procedures must be avoided.

- Provide comprehensive technical assistance to States.

### Discussion

A national effort to assist States is critical. A full range of technical assistance is needed in management, programmatic, systems, and administrative functions. OCSE does not currently possess sufficient resources to offer such assistance. In the spirit of the Vice President's NPR report recommendation to reorient the Inspectors' General focus from strict compliance auditing to evaluating management control systems to prevent waste and ensure efficient, effective service, refocusing OCSE's areas of emphasis and shifting OCSE resources could help to address the provision of technical assistance to States.

Providing adequate technical assistance to States is a huge undertaking and will require the commitment of substantial resources, both financial and human. Funds must be made available to enable Federal, State, and contractor staff to work onsite. In order to avoid reinventing the wheel and conserve resources, a technology transfer system could be used to share best practices among States.

OCSE's past experience with technical assistance has been very positive. In the late 1970s and the early 1980s, OCSE invested considerable resources in conducting onsite management studies. At that time, there was considerable feedback that these studies were very helpful in promoting program efficiencies. Under OCSE's Technology Transfer contract, onsite technical assistance and analysis of management and staffing issues were provided to jurisdictions including Washington, DC and Mississippi.

More recently, OCSE staff provided onsite technical assistance in locate and enforcement to Philadelphia and to Prince Georges County, MD.

- Consider mandating staffing standards.

#### Discussion

If substantial deficiencies continue to be identified or if State authorities are unable or unwilling to hire additional staff, OCSE could impose the requirement that those States hire additional staff. The actual number of mandated staff would be based on data from the national staffing study, the results of the State staffing demonstration grant, and projections based on the simulation model.

Mandating staffing standards has both pros and cons. Sometimes Federal mandates are helpful to IV-D agencies because they cannot be ignored by State legislators. Mandates will ensure improved staffing levels and provide better service to families. It will, however, be costly to the Federal government under the current funding structure. In addition, States may resent yet another Federal mandate even though they will realize additional revenue from increased child support collections.

#### Conclusion for Option #1.

State program performance cannot be optimized without the investment of substantial resources. OCSE cannot be a full partner in this effort without shifting resources to refocus on these objectives. With an eye toward assisting States rather than punishing them, these resources must be invested wisely. The activities described under option #1--the internal State analysis, technical assistance, and a staff forecasting model-- will result in greatly improved program performance in all States.

**OPTION #2. IMPLEMENT THE RECOMMENDATIONS OF THE US INTERSTATE COMMISSION TO CONDUCT STATE STAFFING STUDIES FOR EACH STATE CSE PROGRAM.**

The Interstate Commission recommends that each State study should include a staffing standard for each agency and court involved in the IV-D process as well as a review of the automated case processing system, and an analysis of relevant nonstaff resources. (See page 6 for full text of recommendations.)

This indepth approach of conducting an individual, comprehensive staffing study in each State may require even more resources than undertaking a national study as described in option #1. Given sufficient resources, some or all of the State studies could be done under contract. OCSE could, in conjunction with contractors, conduct some of the studies.

In addition to reviewing each State's automated system during the study, a methodology must be developed to reassess staffing after the automated system is implemented. As a State progresses through the various stages of automation, frequent realignment of staff may be necessary to maximize benefits. Other factors which impact on staff such as space, currency of policy and procedures, and sufficiency of training must also be examined.

An additional consideration is that conducting studies in and mandating staffing standards for program components outside of the IV-D agency may well be problematic. OCSE has no authority to set standards for courts or for agencies within county government such as the sheriff's office. If both parties do not agree to execute a cooperative agreement, IV-D has no authority to mandate requirements. As discussed above, mandating staffing standards for IV-D agencies has both pros and cons.

Implementing Activities for Option #2.

Since there is considerable similarity between option #1 and option #2, much of the discussion of State internal analysis and technical assistance under option #1 is also relevant to option

#2. To avoid duplication, this discussion has been shortened under option #2.

- States must conduct internal operations analysis and reengineer their IV-D programs.

#### Discussion

The sooner that State inefficiencies are minimized the sooner will resources be conserved and client service improved. State operations analysis leading to program improvements will help to ensure that all invested resources will be maximized and yield benefits for all parties.

- Provide technical assistance to States.

#### Discussion

Again, a national effort to assist States is critical to success. A full range of technical assistance is needed in management, programmatic, systems, and administrative functions.

#### Conclusion for Option #2.

As in option #1, requiring States to "clean up" their programs and providing them with adequate technical assistance to do so will yield program improvements in all States.

#### CONCLUSION

Staffing levels impact all parts of the CSE Program and child support is a critical component of welfare reform. The great diversity among State and local programs and the lack of data, necessitate further study.

Bringing State staffing levels and program performance up to where they should be and up to public expectation is a mammoth undertaking. States must do their part to analyze and reengineer

their programs and substantial technical assistance is critical to this effort. States cannot do this alone. OCSE must take the lead.