



CENTER FOR FAMILY POLICY AND PRACTICE



RACHEL DURFEE

A Look at Arrests of Low-Income Fathers
for Child Support Nonpayment
Enforcement, Court and Program Practices

JANUARY 2005

BY REBECCA MAY AND MARGUERITE ROULET



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INTRODUCTION

There has been a growing national emphasis over recent years on increasing fathers' (and particularly, noncustodial fathers') involvement with their families, an emphasis that focuses on everything from financial support to emotional nurture. However, it has become apparent that low-income noncustodial fathers have been affected very differently by these efforts than have been wealthier fathers. Many of the recent legislative and policy initiatives have been directed at augmenting noncustodial fathers' financial support of their children. For fathers whose children receive (or have received) public assistance, this emphasis is coupled with the belief that such support will reduce the dependence of children and their custodial parents on public assistance. However, recent research shows that a large number of fathers whose children receive assistance are themselves in need of assistance.¹ Many of these fathers are poorly educated young men who have few job skills and few prospects for secure, long-term employment. Many also face a variety of other issues that create further instability in their lives (e.g., health issues). Without support, these fathers are unlikely to be able to effectively replace a system of public assistance and meet the financial needs of their children. At the same time, they are negatively affected by laws and policies that are designed to enforce financial support from noncustodial fathers who are able but unwilling to provide such support.

One of the issues of particular concern to low-income noncustodial fathers is the relationship between child support enforcement and incarceration, and the effect of both on their lives and their families. There are distinct ways in which child support enforcement and incarceration are linked: first, there has been an increasing effort by states to criminalize the nonpayment of support (both as misdemeanors and as felonies), and, second, incarceration for any reason has an impact on existing child support obligations and debt.

Both of these issues have a disproportionate effect on low-income noncustodial parents. Using the threat or practice of incarceration for nonpayment of child support is most likely to encourage compliance from noncustodial parents who have the financial means to avoid incarceration with the help of legal representation or by meeting their outstanding support obligation. Low-income noncustodial parents by contrast are less likely to be able to secure legal representation to address child support issues or represent them in a criminal nonsupport case, or to make payments to avoid imprisonment. Similarly, incarceration for other offenses disproportionately affects low-income individuals and exacerbates the financial vulnerability of low-income noncustodial parents and their families. For most of these parents, their support orders will not be reduced while they are incarcerated and (unless they find some other means of continuing to pay during their incarceration), they will accumulate arrears and interest on these arrears. Moreover, in most states, if the custodial parent and child receive public assistance, the child support arrears are not owed to the child and custodial parents but to the state, and thus are of no direct benefit to the child, and cannot be forgiven by the custodial parent.

The long-term consequences of these practices on individuals can be enormous. Whether they have been incarcerated for nonpayment of child support or on other grounds, the fact of having been incarcerated and having a criminal record, coupled with a large debt that can quickly reach an unpayable amount can make it virtually impossible for noncustodial parents to secure and maintain employment or to establish stability upon release. The lack of employment and continuing escalation of debt in turn greatly increase the likelihood that the noncustodial parents will be re-incarcerated for nonpayment of child support.²

This series of papers explores three distinct aspects of practices related to arrests for nonpayment. In the first, we looked at the incidence of arrests

using any documentation that could be found for each state. We collected articles from newspapers using an internet search, searched the web for any statistics or reports made public by county sheriffs or police departments, local or state child support agencies, and for certain jurisdictions, we gathered data made available by request. Overall, these pieces of information provide ample evidence that in the majority of states nonpayment of support results in jail time for noncustodial parents. The second paper focuses on the court process and is based on observations of courtroom practices in several areas. We looked at what may even be considered trivial aspects of the courtroom for noncustodial parents, but aspects that taken together have the effect of either discouraging parents from appearing in court or preventing them from being given a fair hearing. For the third, we highlight several programs that have found innovative ways of addressing these issues. There is no model for eliminating the poverty and debt that poor noncustodial parents have to battle daily, but these programs take on certain aspects of the barriers faced by such families and in so doing are creating a viable option for positive change.

The papers provide a snapshot of the real world for noncustodial parents. They are not exhaustive, but are representative. They do not provide a definitive portrait of a uniform system, because there is no such uniformity. They do, however, provide a candid picture of a system's impact on poor families that is not often viewed outside of the circle of individuals immediately involved.

Arresting for Nonpayment of Child Support

A Look at State and Local Practices

BY REBECCA MAY

INTRODUCTION

Our investigation of practices related to the arrest of parents for nonpayment of child support has included interviews and focus groups held with parents and caseworkers, reviews of literature on the topic, monitoring court systems, seeking out programs addressing the issues for noncustodial parents, and for this report, the collection and review of any available data and articles that described incidents of arrests for nonpayment.

The child support system, a necessary vehicle for obtaining support for children when parents live separately, is often criticized for inefficiencies in pursuing delinquent parents, collecting child support from them and distributing it to the custodial parent and children. Viewing this system from the standpoint of the noncustodial parent conjures images of deadbeat fathers hiding their assets and neglecting their children. These parents are most deserving of strict child support enforcement measures, and most likely to respond to them by paying their child support.

There is another system at play, however, for poor noncustodial parents. In this system, child support orders are set whether the parent has the ability to pay or not, and often they are set in default, without the presence of the noncustodial parent. The system's goal shifts for poor families who are on welfare from responding to the request of the custodial parent for child support that would directly benefit her children, to pursuing the noncustodial parent as a resource to repay government expenditures on welfare regardless of the wishes of the custodial parent. For these fathers, employment is spotty and unstable, housing even more so, and child support orders

can quickly become a debt that they are unable to manage or pay. Word gets out that “turning yourself in” to child support means facing a system that will force you to pay what you don’t have or go to jail, so parents avoid courts and end up further behind and at risk of incarceration. The work of the Center on this project has focused exclusively on these parents.

Parents who are poor can fall quickly into debt for child support for many reasons. The order might be set imputing (ascribing) a wage that is beyond their actual earning capacity, which is extremely limited for most noncustodial parents who do not pay child support. The federal Office of Child Support Enforcement reports that of the more than \$70 billion in child support debt nationally, 70% is owed by noncustodial parents who have no quarterly earnings or with annual earnings of less than \$10,000. Only 4% of child support arrears are held by noncustodial parents with more than \$40,000 in annual income.³

Many states charge fees such as the cost for the birth of the child, or start arrearages climbing immediately with the imposition of retroactive child support that dates as far back as the birth of the child in some states, or in others, to the beginning of welfare receipt. Interest on unpaid child support is as high as 12% annually in many states.⁴ The longer a parent continues avoiding the system and its enforcement measures, the more at risk he becomes of serving a term in jail for nonpayment. It goes without saying that the period of time spent in jail adds to the child support debt and makes it harder to obtain employment upon release.

As a part of the project, we have attempted to get a realistic depiction of the incidence of arrests for child support nonpayment. This task has proven to be quite challenging. On the one hand, every focus group and interview we have conducted across the country has provided ample testimony by low-income noncustodial parents of spending time in jail for the nonpayment of child support. On the other hand, there is little evidence in the literature on the numbers of parents who have been arrested on such charges. A review of literature on child support or low-income noncustodial parents yields so little information on it that one might be led to believe that arrests were used rarely if at all, and that they are used primarily as a tool to spur payments from parents who can afford to pay but don’t.

The extent to which parents are arrested for nonpayment is important because it is through the experience of serving jail time that low-income families undergo the most hardship related to child support enforcement.

On the one hand, every focus group and interview we have conducted across the country has provided ample testimony by low-income noncustodial parents of spending time in jail for the nonpayment of child support. On the other hand, there is little evidence in the literature on the numbers of parents who have been arrested on such charges.

When a parent has little or no income, they are without the means to make necessary child support payments that could keep them out of jail, and yet they are the most likely to serve a jail sentence for nonpayment. For these very families, the custodial parent and children are in turn unlikely to gain from any payments that the noncustodial parent can muster up because of the state's practice of retaining child support payments to reimburse welfare costs. Arresting poor parents for not paying child support leaves each of the goals of the child support enforcement system unmet: children don't get child support when a parent is incarcerated; noncustodial parents' chances at succeeding in the job market are dealt a blow; and custodial parents are left to contend with parenting and surviving without any chance of assistance from their partner.

The reviewed articles provide a glimpse into the most common perceptions at the local level. The most common comments from officials concern the importance of compelling parents to pay child support, even if it means jail sentences for those who don't, because children suffer when child support is not paid. Such comments make it clear that when judges, attorneys or law enforcement officials push for strict enforcement of child support, they are not accounting for the fact that, for poor families, much of the child support arrearage may be owed to the state and not the family. In a typical statement, a district court judge in Alabama stated in defense of a proposed state law to make nonpayment a felony, "I believe we should take care of children first. Adults are grownups. They make their own decisions. Children are innocent. All grownups should take care of their children first." Such statements are made repeatedly, in spite of the state's policy to retain child support as welfare repayment. In fact, 49% of the total amount of child support debt nationally is owed to the government as repayment of the custodial parent's welfare benefits, and not to the custodial parent.⁵

If it were known how extensively the practice of arresting parents for nonpayment is utilized, it would add a critical component to the understanding of noncustodial parents' experiences.

Documentation of Arrests for Nonpayment

This report will summarize our findings from two different sources of information on arrests. The first is a collection of newspaper references to arrests from across the country, dating back to the 1990's but primarily from

the last two to three years. While the collected articles are not exhaustive, they are quite thorough thanks to the capacity of the internet to regularly locate articles referring to child support. The articles vary in the amount and type of information they contain, and were not checked for accuracy beyond what was published by the newspaper. This method of collecting information is likely to underestimate the incidence of arrests. It is logical that there would be far more arrests that occur for nonpayment than there are news stories reporting them, and that we would not be capable of uncovering all incidents of arrests. For example, in the City of St. Louis (which is not administered as part of St. Louis County), a caseworker with a fatherhood program told us that fathers in his program regularly face either one year in jail or several years of probation for nonpayment. He advises them to take the year in jail because probation carries conditions that will often lead to jail time at a later point. We could find no explicit documentation of arrests in St. Louis, however. In Cook County, Illinois, we observed courtrooms in which fathers appeared before the judge who were serving jail sentences for nonpayment, but little information was available on arrests in Illinois. On the other hand, when there is documentation, it confirms that the jurisdiction (state or local) in which the arrests take place is in the practice of implementing such enforcement tactics in some measure.

Enforcement practices are primarily county-driven, and there is little reporting specific to nonpayment arrests and outcomes. While all states have statutes that allow for the arrest of child support obligors who do not pay child support⁶, states may or may not regularly implement this law, depending on state and local strategies. In addition, civil contempt arrests and incarceration outnumber criminal nonsupport arrests in many if not most jurisdictions.

Child support agencies do not typically track arrests for nonpayment, so finding documentation often depends on the record-keeping of sheriff's or prosecuting attorney's offices, and the meaning of the records is not always clear. For example, warrants for the arrest of nonpayers do not necessarily result in actual arrests unless the subject of the warrant fails to appear and/or to comply with payment of the child support arrearage or an accepted payment plan. A high number of warrants, however, are a strong indication that a jurisdiction takes an aggressive stance toward nonpayment and very likely has many warrants that result in arrests. Where a law enforcement office records a high number of warrants for nonpayment, we were often

able to find other indicators of arrests, such as actual arrest numbers or newspaper documentation.

The news being reported below ranges from incidents involving one or more arrests, to a sting operation in which many parents were arrested, and sometimes include an overview of the county's or state's efforts in collecting child support.

The review found 36 states with arrests for nonpayment of child support that were reported in the press. In some areas, arrests are far more common than in others. For many of the states, there were reports from several counties within the state. The number of articles reporting arrests and their content often create a clear picture of an aggressive approach to using arrests for nonpayment. Other times, it is not clear whether or not the arrests are few and noteworthy or part of a larger practice of arrests that go unreported.

In some cases, notices of amnesty programs, in which noncustodial parents who are behind in child support payments are given a window of time to come forward and begin making arrangements to pay in return for a suspension of enforcement, provided a wealth of information on outstanding warrants and typical practices. One Ohio county child support enforcement agency described their amnesty program as providing a basis on which to refute reasons given by fathers who subsequently appeared in court after failing to pay child support: "For those who were arrested in August, we could say, 'We had an amnesty program in July—why didn't you come forward and work with us? You had your chance.'"⁷

Celebrities who fail to pay support and are arrested as a result receive press coverage that would not be given to most arrested noncustodial parents. Such reports are included here because they are an indication that, if these parents are being arrested, parents with fewer legal resources are likely to be arrested in that area in greater numbers.

When a locality is covered in the press for its aggressive program of arresting parents who are behind in child support, the prosecuting attorneys or child support officials often represent their efforts as being targeted only at those "deadbeat" parents who can afford to pay but don't. In fact, however, the same article often includes information that belies this characterization, describing those who are arrested as very poor parents or parents who have hit bottom. The rationale for pursuing these cases, that the children

suffer when child support goes unpaid, fails to take into account the poverty and circumstances of poor noncustodial parents. For parents whose families have ever received public assistance, the Herculean goal of paying off sometimes staggering child support arrearages would result in much if not most of the payment going to the state as reimbursement for welfare.

The following list of states and the evidence we could find from each is our best way of getting a picture of the extent to which arrests for nonpayment are happening nationally. Our hope is that this initial documentation can provide a basis on which to further explore both the extent that low-income parents are spending time in jail for unpaid child support and other more constructive means to assist poor families when the noncustodial parent gets behind in child support payments.

State-by-State Findings

1. ALABAMA

- In July 2004, a roundup in Marshall County led to the arrest of 34 people after a month-long moratorium on arrests during which 10 cases were settled by making payments or payment plans. The 34 who were arrested were required to pay approximately 25 percent of the owed support before being released from jail. ARRESTS, PAST-DUE CHILD SUPPORT PAID IN CRACKDOWN, July 3, 2004. www.ledger-enquirer.com.
- In a report in the Tuscaloosa web magazine *Dateline Alabama*, retiring federal prosecutor Eric Ruschky states that he is most proud of prosecuting about 200 parents over the past 11 years who didn't pay child support. The report quotes Ruschky as saying, "One of the God-ordained functions of government is to punish evildoers." <http://www.tuscaloosaneews.com/apps/pbcs.dll/article?AID=/20041014/APN/410140765&cachetime=3&template=dateline>.
- In Marshall County, Alabama the District Attorney and the County Department of Human Resources worked together in May 2004 to "round up" 75 noncustodial parents with child support arrears. DHR Director Wayne Sellers states in the article, "Some time behind bars might do these parents some good. Sometimes it takes that to get their attention that their children are living in poverty." About two-thirds of the county's child support cases are reported in the article as being in arrears. The arti-

cle also describes a “Deadbeat Dads” advertisement put out by a former Alabama Governor that referred to the parents as “dogs.”

- A July 2004 article in the *Daily Home*, an on-line newspaper for Talladega, Pell City and Sylacauga Alabama, describes a day in the courtroom of Talladega County District Judge George Sims:

At least three times during the court proceedings, Sims ordered three fathers to jail for failure to pay support. “I don’t know what else to do, but put you in jail. You haven’t paid your support in some time,” Sims said to one. An attorney defending one of the fathers said child support is not the only issue these fathers—and mothers—face when they get behind on their child support. “There are a lot more issues here than just child support not being paid,” he said. As the judge listened, fathers told of not having a job, no driver license and losing their cars or homes because of no income. Wilkins, who has worked more than 16 years in the DA’s office on child support cases, said the end result will be they either pay or end up in jail.

Mary Ashcraft, director of the Talladega County Department of Human Resources, points out that if the parent doesn’t pay child support, “It just gets bigger and bigger. It’s like a big ball of yarn because the interest keeps adding up on the support not paid,” she said. Susan Bobo, child support supervisor for St. Clair County, said 12 percent interest is added to the child support payment when it isn’t paid. Some get so far behind, they may never pay all the child support. One of the reasons is interest. Alabama has a 12 percent interest rate. “That can add up,” Bobo said. COLLECTING CHILD SUPPORT DIFFICULT TASK, July 18, 2004. *Daily Home* online, www.dailyhome.com.

- A Sheriff’s Department report for the Clarke County Democrat in Grove Hill, Alabama regularly lists arrests for contempt for nonpayment of child support. www.clarkecountymocrat.com, *Front Page*.
- Overcrowding of county jails is a growing and dangerous problem for the State of Alabama, where conditions such as sleeping on floors, and unsanitary cells, linens and food have been reported. A Morgan County jail built for 96 housed 256 in one report . *The New York Times Archives*, CROWDED JAILS CREATE CRISIS FOR PRISONS IN ALABAMA, April 26, 2001.
- The *Andalusia Star* reports that at the Covington County Jail, violent and non-violent offenders are housed together, despite the work release privi-

leges of some inmates. The article states that, “Only inmates who have committed or been charged with non-violent offenses are eligible for work release duties. Those in jail for breaking child support obligations, inmates incarcerated on failure to appear charges, bad checks, and others in similar situations are examples.” <http://www.tuscaloosanews.com/apps/pbcs.dll/article?AID=/20041014/APN/410140765&cachetime=3&template=dateline>.

2. ALASKA

HB 514 was signed into law by Alaska Governor Murkowski on June 29, 2004. The new legislation makes nonpayment of child support a felony punishable by a sentence of up to five years. It also makes aiding the nonpayment of child support a felony subject to the same penalties as nonpayment. Alaska currently has more than 14,000 cases where a parent is more than \$10,000 in arrears or has failed to make a payment for more than 24 months. The final bill includes a requirement that the child support agency create an arrears forgiveness program as an incentive for the noncustodial parent to make payments.

- A State Department of Revenue press release announces the first use of the state’s new law that allows for criminal prosecution of individuals who assist parents in avoiding child support payments. Two persons were arrested under these charges. www.csed.state.ak.us/PressReleases/4CriminalCharges.html.

3. ARIZONA

- Seventy-seven officers from the Pima County Sheriff’s Department sought 140 persons with arrest warrants for nonpayment in a one-day sweep. Of 40 persons arrested, 37 were taken to jail until they could make the child support payments. CHILD SUPPORT SWEEP NABS 40, April 2, 2004. <http://www.dailystar.com/dailystar/relatedarticles/16446.php>.
- The Maricopa County Sheriff’s Office describes the Child Support Arrest Warrant Team as “an assignment within the Warrant Service Unit, responsible for serving Child Support Arrest Warrants and maintaining the MCSO Deadbeat Parent “Tip Line.” In addition, the Child Support team regularly coordinates the Sheriff’s Office “Deadbeat Parent Roundup Operations.” <http://www.mcso.org/submenu.asp?file=warrantsdivision>.

- A Pima County child support sweep was conducted in April, 2004, resulting in 40 parents who were brought in to court to face charges of unpaid child support. Authorities had warrants for 140 people. The state is reported to have 250 warrants for nonsupport in Pima County. 40 SERVED OVER UNPAID CHILD SUPPORT, April 2, 2004, *The Tucson Citizen*, www.tucson-citizen.com.
- The *Fountain Hills Times* reported that Maricopa County Sheriff Joe Arpaio received an award in August 2004 from the U.S. Department of Health and Human Services for “his efforts in arresting deadbeats.” Sheriff Arpaio initiated “one-day round-ups” that resulted in more than 200 arrests since 2000. His practice, called the “deck of cards” technique, designates parents with the highest unpaid child support amounts as aces, kings and queens. <http://www.fhtimes.com/times/2004archives/8-18-04/arpaio.htm>.

4. ARKANSAS

Prior to 1997, Arkansas law held that the offense of criminal nonsupport [Ark. Code Ann. § 5-26-401 (Repl. 1997)] was a Class A misdemeanor, except that it became a Class D felony if the person left Arkansas to avoid the duty to support, or had previously been convicted of nonsupport. However, the statute was amended in 1997 to provide that the offense be a Class D felony where the amount owed is more than \$5,000 and a Class B felony where the amount owed is more than \$25,000.

- One couple whose divorce has led to jail for the father is said by attorneys in a *Bentonville Morning News* report to represent one case among hundreds in which parents get behind and spend time in jail. A circuit judge states, “Trouble keeping a job, and not having a job in this area is not an excuse.” Another circuit judge says of jailing nonpayers, a practice he says he uses “on many a week,” that “for us, it works very well. They go to jail and money flies out of the woodwork.” COURTS USING JAIL TO ENFORCE CHILD SUPPORT, April 18, 2004, www.razorbackcentral.com.
- In a November 3, 2004 Circuit Court of Appeals decision, *Bobby Morris v. Hon. Lance Hanshaw*, a conviction of Mr. Morris for Class B felony nonsupport was upheld, and Mr. Morris was sentenced to serve 40 years in state prison for the nonpayment of child support. Mr. Morris argued that the trial court erred in failing to dismiss the felony charges because the statute of limitations for a Class B felony is three years, and his convic-

tion was based on arrearages that dated back more than three years from the time he was charged with nonsupport. His child support arrearages would not have reached the Class B felony level if the three-year statute of limitations had been applied. <http://courts.state.ar.us/opinions/2004b/20041103/aro31347.wpd>.

- A former state basketball star, Corey Beck, was jailed for the third time in the last two years for failure to pay child support on November 2, 2004. Mr. Beck was booked into Washington County Detention Center and will serve a 90-day sentence that could be shortened through a work release program. On his original charge of nonpayment in 2002, he was sentenced to 10 years of probation during which he was required to remain current on his support payments, maintain steady employment and pay his probation fees. BECK JAILED FOR PROBATION VIOLATION, November 2, 2004. *The Morning News/Razorback Central*.

5. CALIFORNIA

- The Butte County District Attorney's Office is reported by the *Chico News and Review* to use Father's Day weekend each year to round up and arrest "deadbeat dads." FATHER'S DAY SWEEP NETS FIVE 'DEADBEAT DADS, June 21, 2001. <http://www.newsreview.com/issues/chico/2001-06-21/coun-ty2.asp>.
- The Los Angeles County Child Support Services Department answers a question in a "Frequently Asked Questions" section regarding jail time for a noncustodial parent who misses payments this way: "The department uses both civil and criminal actions to enforce the payment of child support. Our primary goal is to collect the child support for the children. However, if an NCP has demonstrated that he will not pay child support, then the case may be reviewed for a criminal prosecution. Conviction on a misdemeanor charge of 'Willful Failure to Provide' (Penal Code Section 270) carries a penalty of up to one year in the county jail." <http://childsupport.co.la.ca.us/faq.htm#seventeen>.
- According to the Shasta County District Attorney's Office Bureau of Investigations, "Allegations of the criminal willful failure of a parent to support their minor child is another of the areas investigated by members of the Bureau of Investigation. Non-supporting parents can be charged with failure to provide under Penal Code Section 270 or abandonment

under Penal Code Section 271. In many instances a family court order regarding custody, visitation, and support has already been issued. In these situations, a parent who is not supporting their children can also be charged with a violation of a court order under Penal Code Section 166(a)(4). Investigations into allegations of criminal non-support are conducted by DA Investigators on behalf of the Department of Child Support Services and are in addition to the various civil court procedures that may have already been attempted in order to have the parent support the minor child. <http://da.co.shasta.ca.us/investigations.shtml#non-support>.

6. CONNECTICUT

- A story in the *Hartford Advocate* describes a state marshal in Hartford County, Connecticut as he makes rounds arresting parents for nonpayment of child support. One father works full-time and describes his love for his four kids but is wanted on two warrants for failure to appear in court and will have to pay at least \$9,000 cash in bond or stay in jail. The father is sure he will be held for two weeks and lose his job. Another father arrested on this day believes we will lose his job and spend weeks in the “can.” The state marshall says that his quarry are more often down on their luck and disorganized, rather than heartless jerks who care nothing for their children. “In other words, they’re poor.” The article states that thousands of warrants for failure to appear in court for nonsupport need to be served across the state. IT’S A DEADLINE FOR DEADBEAT DADS, January 8, 2004, *The Hartford Advocate*. <http://hartfordadvocate.com/gbase/news/content?oid=oid:49157>.
- One hundred child support delinquents were tracked down in a weekend statewide sweep by sheriffs in 1997. The sheriffs had 554 civil arrest warrants. The same sweep in 1999 netted 33 arrests on 371 arrest warrants. <http://www.cslib.org/attygenl/press/>.

7. FLORIDA

- Police in Ocala are reported to be searching for 74 men and women who have failed to make child support payments. Ocala Police Department spokesman Sgt. Russ Kern states, “These individuals have three choices. They can pay the people they owe, they can turn themselves in or, they can go to jail.” The Marion County Sheriff’s Office reports that it takes

into custody 20-25 people each month for failing to pay child support.

POLICE GET STRICT ON DEADBEAT PARENTS, November 19, 2003, www.starbanner.com.

- A legal update from The Police Law Institute in 2004 includes a summary of changes for law enforcement officers. The update states that “there is a mandatory 15-day jail sentence for anyone who, having been noticed by the State Attorney’s Office and been previously adjudged in contempt for failure to comply with a support order willfully fails to provide support which he/she has the ability to provide to a child or a spouse whom the person knows he/she is legally obligated to support. <http://www.floridapolice.org/>.

8. GEORGIA

- The *Savannah Morning News* regularly publishes a “Child Support Docket.” The docket lists names and dispositions of court cases for nonpayment of child support from the docket of one judge over the course of approximately one week. On a typical docket, approximately 6 to 23 individuals are listed as incarcerated and 3 to 10 warrants are issued for failure to appear. The amount of unpaid child support, including interest on the arrears, of those who were incarcerated ranged from \$1,132 to nearly \$36,000. <http://www.savannahnow.com>.
- Georgia State Senator Regina Thomas held a town hall meeting in Savannah to discuss child support because of the level of complaints she had been getting. Thomas states that, “From the non-custodial parents, I’m hearing ‘I’m doing all I can, I’m paying something and they still want to put me in jail.’” TOWN HALL MEETING ON CHILD SUPPORT, September 28, 2004. www.wtctv.com.
- A state amnesty program was announced beginning December 1, 2004. Parents behind in child support were urged to come forward and work out a payment plan. The article states that, “those who don’t pay during an amnesty period could end up in court or even behind bars.” CHILD SUPPORT AMNESTY BEGINS, December 1, 2004. *WALB News*, www.walb.com.
- Forty people were arrested in Tift County in June 2003 for not paying child support, and the Child Support Office reported having warrants for more. <http://64.233.167.104/search?q=cache:Gc1HYMuBmh4J:www.tifton->

gazette.com/articles/2003/06/14/news/news1.txt+tift+county+%22child+support%22+roundup&hl=en.

- A Bail Enforcement Agent reports on his website: “In 1998 B.R.S. became the first Private Service to contract with a District Attorney’s Office of Child Support Enforcement (Tift Judicial Circuit) for the purpose of locating, locating and serving, and locating and causing the arrest of delinquent, absentee parents. This was a milestone. At the time, it was unheard of that a branch of the State District Attorney’s office would even consider using bounty hunters. We got our first set of orders two weeks before Christmas and on December 23rd we started picking them up. We made sure that 35 Deadbeat Dads spent their Christmas in the Tift County Jail.” <http://home.mindspring.com/~traici/id7.html>.

9. INDIANA

- Lake County Prosecutor Bernard Carter provided a 30-day period of amnesty for parents owing child support in November 2003. When only one person came in to pay, the prosecutor had police serve 60 warrants, and County Sheriff Rogelio Dominguez approved overtime pay for officers to work off-duty hours to serve the warrants. Carter stated that, “The law gives us the right to file criminal charges. It’s not when you get that good job you have to pay, it’s if you work even part time for any two-week period.” Sheriff Dominguez states in the article that “voluntary nonpayment is a form of child abuse.” *Northwest Indiana News*, PARENTS TARGETED FOR BACK PAYMENTS, November 11, 2003. www.nwitimes.com.
- In a meeting of the Indiana Child Custody and Support Advisory Committee, the Assistant Chief Deputy Prosecutor for the Marion County Child Support Division reported that out of 80,000 to 100,000 open child support cases each year, about 3%, or 2,400 to 3,300 result in incarceration for nonpayment. Roughly 15—20 of these are criminal charges, and the rest are civil contempt. According to the child support prosecutor, “Civil enforcement is typically a more efficient way to collect a child support arrearage.” INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE, MEETING MINUTES, September 30, 2002. www.in.gov/legislative/interim/committee/ccsa.html.
- The *Johnson County Daily Journal* reports that child support enforcers in the county “scour internet databases to track down deadbeat parents. Once

they find them, prosecutors can try to jail nonpaying parents to coerce them to pay the child support they owe.” The article states that continued nonpayment will end in the person serving a jail sentence, and “if the threat of going to jail for civil contempt still doesn’t coerce payment, Gaunt also can file a criminal charge of Class D felony nonsupport of a dependent.” IF YOU DON’T PAY SUPPORT, INVESTIGATORS WILL FIND YOU, March 16, 2004. www.thejournalnet.com.

- The Monroe County Child Support Division describes their role in filing and prosecuting cases of nonsupport on a regular basis. The sentence in such cases “depends on the facts of that particular case; however, defendants are normally placed on probation under detailed terms, including, of course, the requirement that they pay current support as well as an amount toward the support arrearage. If a defendant fails to abide by the terms of probation, that defendant may serve time in the Monroe County Jail or the Indiana Department of Corrections. http://www.co.monroe.in.us/prosecutor/Child_Support.html.
- Kosciusko County prosecuting attorney’s sweep led to the arrest of 10 parents on one night. The sweep was described as part of the prosecutor’s war on deadbeat parents. Twenty-five Class D felony charges of nonsupport were filed against 21 individuals in a “stepped-up campaign to collect delinquent child support.” <http://www.timeswrs.com/archive/1996/No829961.HTM>.

10. KENTUCKY

- A December 2002 article describes the release of 567 non-violent offenders from county jails in the state of Kentucky due to budget problems. The prisoners being released had charges dealing with drugs, theft, receiving stolen property and nonsupport. KENTUCKY RELEASES INMATES DUE TO BUDGET TROUBLES, December 18, 2002. www.wcpo.com.
- In Campbell County, Kentucky, Judge D. Michael Foellger has adopted a policy of giving fathers who are facing jail for the nonpayment of child support a choice of either serving their 30-day term in jail or having a vasectomy. Judge Foellger applies the choice in civil contempt cases to fathers who are more than \$10,000 behind in court-ordered child support and who have had several children with different women. Thus far, the option has been given to six or seven men. All except one have chosen

the vasectomy. None have appealed the order, so no higher court has reviewed the cases. Judge Foellger has suggested to some women under similar circumstances that they have a tubal ligation. <http://www.kypost.com/2004/05/06/judge050604.html>.

- Kentucky's top environmental enforcement officer was arrested for non-payment of child support, triggering his resignation. James P. Kirby II was arrested in his office by sheriff's deputies on a contempt of court order. He was \$4,100 behind in child support. Kirby, who earned \$68,000 was able to make arrangements to pay the back child support and have the contempt order dropped. STATE ENVIRONMENTAL OFFICIAL RESIGNS AFTER ARREST, September 28, 2004. www.courier-journal.com.

11. LOUISIANA

Louisiana Senate Bill 633 was approved in 2004 by the House and Senate. The bill makes nonpayment of child support a felony if a parent is more than a year behind on child support payments or owes more than \$5,000 in child support.

- Criminal charges were prepared on December 8, 2004 in Ouachita Parish against the first parent to become subject to the state's new criminal penalties. The parent built up more than \$5,000 in past-due child support since a new state law went into effect Aug. 15, 2004. The article states that, "Previously, civil prosecution could drag on for years before a parent might be subject to jail time for neglect or contempt of court. 'We'll be in court sooner than later,' said Ouachita Parish District Attorney Jerry Jones. STATE RAISES FOCUS ON CHILD SUPPORT, December 8, 2004. *The Advocate News*, www.theadvocate.com.
- A *Times Picayune* story includes the fact that if a parent fails to pay child support or misses a meeting with the probation officer, he/she may end up back in jail for 22 months. REVOLVING DOOR COSTS US DEARLY, January 8, 2004. www.nola.com.
- *The Advertiser* of Lafayette regularly publishes a list of individuals who have been booked at the Lafayette Parish Correctional Center. The list contains individuals who have been arrested for nonsupport. <http://www.acadiananow.com/localarrests/html/BBDC934E-5127-4135-88CA-F7CD495CAADA.shtml>.

- The Police Beat section of the *St. Landry Parish Daily World* regularly lists bookings for nonsupport. <http://www.dailyworld.com/html/38FoF7FA-58Fo-472F-A3C2-F32B2314B681.shtml>.

12. MARYLAND

- The Montgomery County Sheriff's Office reports that it receives over 3,500 child support cases of which 86% of the noncustodial parents are "located and served." The Sheriff's Office last year arrested approximately 350 noncustodial parents on Child Support Warrants. <http://www.mcsheriff.com/childsupport.htm>.
- The *Baltimore Sun* reported in May 2004 that Baltimore County was serving more nonsupport warrants than ever before, and that prosecutors were beginning to charge nonpaying parents criminally. County Sheriff R. Jay Fisher states that when he took the job in 2003 he decided to make serving the warrants a priority. In the first three months of 2004, deputies served almost 70 percent more warrants than they had during the same time the year before. In addition, 20 people had been charged with criminal nonsupport, an offense that carries a potential three-year jail sentence, in the prior six months. www.baltimoresun.com.

13. MASSACHUSETTS

- The state Department of Revenue issues a Most Wanted list of parents who owe child support. The list contains the names of over 20,000 parents who owe at least \$10,000. Nonpayment of child support is punishable in the state by up to two and a half years in prison and a \$5,000 fine. The state also maintains a list of the ten most wanted parents, and 85 of the parents on this list had either surrendered or been arrested as of February 2004. www.tauntongazette.com.
- In Dedham, former New England Patriots football player Dave Meggett was ordered jailed in September 2004 for six months for failing to pay \$191,600 in child support. Meggett surrendered to authorities after a warrant was issued for his arrest. <http://sfgate.com/cgi-bin/article.cgi?file=/news/archive/2004/09/17/sports1155EDT0232.DTL>.

- Twenty men were sought on warrants in a Hamden County child support sweep in 1997 as part of a crackdown by the state Department of Revenue. Nine were arrested and unless child support was paid, would spend time in jail. <http://www.constable.com/press.html>.

14. MICHIGAN

Michigan appears to be particularly aggressive in pursuing and arresting parents who owe child support. State Attorney General Michael Cox has made the enforcement of child support a priority. Since taking office in 1993, he has assembled a child support enforcement team of lawyers and investigators that have gone after “deadbeats” with felony warrants and a public awareness media campaign. The state legislature has followed suit by passing a package of bills that increase the penalties for nonpayment.

Nearly 800 warrants for felony nonpayment of child support have been issued so far in the state in 2004. Failure to respond to the warrants with an accepted agreement to pay the child support debt results in up to four years in prison.

- In Ingham County, Michigan, there are 2,900 outstanding warrants for nonpayment, and 800 have been executed since the beginning of the Attorney General’s campaign. Since 2000, 67 parents have been charged with felony nonpayment in the county. Ingham County Friend of the Court Donald Reisig praised the hard-line approach, quoting mobster Al Capone: “you can get so much more with a smile and a gun than with just a smile.” Tough Stance Is Paying Off, October 10, 2004. *Lansing State Journal*, www.lsj.com.
- In one case in Jackson County, a homeless father was extradited from Texas on felony nonsupport charges. The father had a history of alcohol and substance abuse and was almost \$133,000 in arrears on his child support. \$38,000 of the unpaid support was owed to the state of Michigan for welfare reimbursement.
- *The Detroit News* reports that, since Wayne County Prosecutor Michael Duggan and Attorney General Mike Cox announced a “deadbeat campaign” in April 2003, authorities have arrested 313 parents who were behind in child support payments. The article also reports 508 felony warrants were issued for nonsupport as of July 2003. DUGGAN TACKLES DETROIT SOCIAL ILLS, July 28, 2003. *The Detroit News*, www.detnews.com. In

announcing the campaign in April, Duggan promised that his new five-lawyer child support enforcement unit would prosecute 1,000 deadbeat parents this year for nonpayment of child support. *Child support abuse is targeted*, April 23, 2003. Detroit Free Press, www.freep.com.

- According to the Wayne County Sheriff Warren Evans, more than 700 civil arrests for nonpayment of child support are made in the county each month. Approximately 100 of these are found through investigations, and the remaining 600 are identified when stopped by police for an unrelated reason. Friend of the Court data reveal that out of 340,000 active child support cases in the county, 28,255 have an active civil warrant for nonpayment. *New Sheriff's unit tracks down felony child support "deadbeats,"* <http://www.co.wayne.mi.us/sheriff/community/felonyFOC.htm>.
- The Lansing State Journal's April 2003 Special Report, *Failure to Support*, was a series of articles on child support enforcement. The series included the following information:
 - Ingham County deputies organize one-day sweeps for "deadbeats" approximately once per year. A February 2003 roundup netted 11 arrests.
 - Ingham County Sheriff Chief Deputy Vicki Harrison reported that in April 2003, 35 of 562 inmates in Ingham County jail were there strictly for refusing to pay child support.
 - In Ingham County, bench warrants were out for 3,700 parents for failing to pay child support.
 - Forty-three parents were jailed in one week in Ingham County for failing to pay child support. Prior to the recent increase in arrests, no more than 18 were arrested weekly for delinquent child support.
 - According to Ingham County Friend of the Court Donald Reisig, in a typical year authorities arrest up to 1,000 averaging about 80 per month.
 - According to state figures, parents earning less than \$20,000 per year owe approximately 75% of Michigan's \$7 billion child support debt. About half of the debt is owed to the government as repayment for welfare assistance received by the custodial parent and children. A complete listing by county of child support owed to the state and to the custodial parent is available at <http://www.paykids.com/CountyStatistics.asp>.

POLICE CHARGED WITH ROUNDING UP DEADBEATS, April 13, 2003; DEADBEAT PARENTS, SYSTEM FAIL CHILDREN, April 13, 2003; IS JAIL THE ANSWER FOR DEADBEATS? April 13, 2003; ATTORNEY GENERAL PUSHES FOR OVERHAUL OF CHILD SUPPORT SYSTEM, April 14, 2003; FELONY WARRANTS CAN PUT NONPAYERS IN PRISON, April 14, 2003; INGHAM JAILS 43 DEADBEATS OVER ARREARS, April 27, 2003; POLICE NABBING MORE DEADBEATS, June 28, 2003; WHEN THE POOREST OWE THE MOST CHILD SUPPORT, June 29, 2003. *Lansing State Journal*, www.lsj.com.

- In Macomb County, 947 arrest warrants were served, 586 of which were civil warrants, for failure to pay child support in 2002. Reported in a conversation with the Friend of the Court Detective Sergeant.
- An Antrim County man was sentenced to two to three years in prison for a \$17,000 child support debt. The parent owed child support through 1997. His child was adopted in that year, meaning that his parental rights were relinquished. CHILD SUPPORT JAIL TIME IS FAIR, January 26, 2004. *Traverse City Record-Eagle*, www.record-eagle.com.
- Felony arrest warrants were issued for 27 people by the St. Clair County prosecutor's office in April 2004. The warrants were announced by Attorney General Mike Cox as the first in a reinforced effort to collect unpaid child support. The warrants carry a maximum penalty of four years, but some people will face longer sentences if they are charged as habitual offenders. WARRANTS SEEK CHILD SUPPORT, April 23, 2004, *The Times Herald*, www.thetimesherald.com.

15. MINNESOTA

- An arrest of a father in St. Paul who could be sentenced to up to two years in prison if convicted is described as one of the most egregious cases in Ramsey County in recent years. The father owed more than \$44,000 and was confined previously for 90 days in the county workhouse for civil contempt for not paying child support.
- In Clay County, a man was sentenced to two years for failing to pay on his child support arrears of \$97,000. The sentence is the longest ever imposed in the state for nonpayment of child support. Assistance Clay County Attorney Gregg Jensen said it is unlikely that the man's grown children will ever see the support, and that once the sentence it served, it will likely be

reduced to a civil judgment. The state Department of Corrections reports that seven people have been sent to correctional facilities on similar charges. Lengthy sentences appear to be rare in the state. SENTENCE IN CLAY CASE SETS RECORD, August 25, 2002, <http://trishymouse.net/record.html>.

16. MISSISSIPPI

- The “You Can Run But You Can’t Hide” program is a unit of the Mississippi Attorney General’s Office that is “dedicated to the criminal prosecution of the deadbeat parents of Mississippi children.” The requirements for criminal prosecution are that the child is or was a resident of Mississippi, there is an existing child support order, the criminal charges are brought within 24 months of the child’s 18th birthday and previous attempts to collect child support through the courts and/or the state have failed. <http://www.mississippi.gov/frameset.jsp?URL=http%3A%2F%2Fwww.ago.state.ms.us%2F>
- The Mississippi Division of Child Support webpage states that contempt actions are among their enforcement methods. “A noncustodial parent can be taken to court for noncompliance with the court order. This action can result in the court ordering the noncustodial parent to be incarcerated.” www.mdhs.state.ms.us/csemdhs.html

17. MISSOURI

- In Buchanan County, which has a population of approximately 86,000, criminal nonsupport charges were filed against 900 parents in 2002. In 1990, 89 such charges were filed. The increase is due to an aggressive program put into place by Buchanan County Prosecuting Attorney Dwight Scroggins. If found guilty of a felony, a defendant faces up to four years in prison. For a misdemeanor, the sentence may be up to one year. About 1,200 Buchanan County parents are on probation for not paying regularly, and of the 172 inmates in the Buchanan County jail in July 2003, 25 were serving nonsupport sentences and 18 were awaiting court proceedings for not paying their child support. CHILD SUPPORT A TOP PRIORITY, July 20, 2003. *St. Joseph News-Press*, www.stjoenews-press.com.
- A Criminal Non-Support report from the state Prosecuting Attorney’s office shows that in Fiscal Year 2001:

- In Clay County, there were 162 criminal non-support charges filed and 98 convictions.
- In Jackson County, there were 410 criminal non-support charges filed and 382 convictions.
- In St. Louis County, there were 539 criminal non-support charges filed and 488 convictions.
- Total state charges for criminal non-support were 1,644 with 1,330 convictions.

Criminal Non-Support Statistics for Fiscal Year 2001, data provided by Buchanan County Prosecutor's Office.

- A woman was charged with criminal nonsupport for the first time in Jefferson County in December 1994. County Prosecutor George McElroy says that the father is usually the one charged with non-support, but that other women probably would be charged soon. MOTHER OF THREE IS CHARGED WITH CRIMINAL NON-SUPPORT, December 13, 1994, *St. Louis Post-Dispatch*.
- Cape Girardeau judges are reported to be increasingly willing to sentence parents who fail to pay child support to 3-4 year sentences in prison. Overcrowding at Missouri's Department of Corrections has discouraged judges in the past from handing out such sentences, opting for probation when a parent is convicted of criminal nonsupport instead. PUNISHING DEADBEATS, December 6, 2003, *Southeast Missourian*, www.semissourian.com.

18. NEBRASKA

- A list of outstanding warrants in Cass County includes 26 warrants for "Failure to Obey a Child Support Order," and four warrants for criminal nonsupport. <http://www.cassne.org/wanted.asp>.

19. NEVADA

- The *Lahontan Valley News* reports that Jerome B. Voss was paroled after serving four months in prison for child support nonpayment. Voss was one of a dozen men listed on Nevada's 10 most wanted list for failure to pay child support in 1998. He was apprehended in Washington and extradited to Churchill County, Nevada. MAN WHO OWED \$75,000 IN CHILD SUPPORT PAROLED, November 10, 2004. *Lahontan Valley News*, www.lahontanvalleynews.com/.

20. NEW HAMPSHIRE

- The Sheriff's Arrest Log of the *Portsmouth Herald* regularly lists arrests for criminal nonsupport. http://www.seacoastonline.com/2003news/12042003/police_1/63811.htm

21. NEW JERSEY

- A May 2003, Superior Court ruling prohibited judges from incarcerating indigent noncustodial parents for failing to pay child support if they were not provided with a court appointed lawyer. The ruling was expected to result in the release of approximately 300 New Jersey parents. *Anne Pasqua, et al v. Hon. Gerald J. Council*, A-6875-02T3 New Jersey Superior Court, Appellate Division.
- In May 2004, a mother who was arrested for failure to appear in court for unpaid child support died in jail while waiting to have her case heard by a judge. The mother owed child support for two children and was the subject of three arrest warrants. Her mother had custody of the children. The woman worked at several diners in the area but was unemployed at the time of arrest. Chief probation officer John Higgins stated that the woman would not have been held in jail for an extended period had she survived, because, "the law requires that she should have been heard before a judge within 72 hours." Higgins added that, "this law is not targeted at poor people. She would have seen a judge and then established a way to pay the child support. She would have been released after that." MOM WHO DIED IN JAIL WAS SLATED FOR RELEASE. *Bridgewater Courier News*, May 9, 2004. www.c-n.com.
- In September, 2004, a statewide nonsupport sweep resulted in the apprehension of 401 parents delinquent in child support payments. Also targeted were parents who failed to appear at court hearings to establish a child support order or order for medical support. Notes Sheriff Joseph W. Oxley, "Although this one day event focuses attention on the apprehension of non-support offenders, sheriff's offices in every county in New Jersey find and arrest non-support offenders 7 days a week, 365 days a year." SHERIFF'S ASSOCIATION OF NEW JERSEY CONDUCTS STATEWIDE NONSUPPORT SWEEP, September 30, 2004. http://www.ahherald.com/news/2004/0930/child_nonsupport_sweep.htm.

- *The Bridgeton News* Sheriff's Blotter regularly reports instances of arrests for overdue child support. http://www.nj.com/search/index.ssf?/base/news-9/109930443717910.xml?bridgeton?local_news.
- *The Daily Journal* for Cumberland County Police Beat regularly lists arrests by the Cumberland County Sheriff's Dept. for failure to pay child support. Police Beat, *The Daily Journal*, www.thedailyjournal.com.
- Tennis player Roscoe Tanner was arrested for failure to pay more than \$82,000 in child support. Tanner was wanted on a state warrant that was forwarded to the Orange County Sheriff's Department, and was being held in the Orange County jail on \$50,000 bail. http://www.tennis-forum.net/tennis/Roscoe_Tanner_arrested_again_377580.html.
- In a September, 2004 Cumberland County "sweep," sheriff's officers teamed up with police departments from throughout the county for a roundup to arrest those with warrants against them for nonpayment of child support. According to sheriff's department Lt. Terry Pangbum, "All deals are off. We're going to round them up and put them in jail." Cumberland County had 1,623 active warrants in September for those in arrears. 29 HELD FOR CHILD SUPPORT \$\$, September 30, 2004. www.nj.com/news/bridgeton/.

22. NEW MEXICO

- Eight arrest warrants were served in Santa Fe County in one week in January 2004. www.kobtv.com/process.

23. NORTH CAROLINA

- Of 331 records of arrest warrants listed by the Cabarrus County Sheriff's Office, 70 were for nonsupport. http://www.cabarruslaw.us/warrant_results.asp.
- The Durham County Sheriff reports that, "from July 1999 to June 2000, \$758,304 was collected in back child support, 326 Child Support OFA's (Orders for Arrest) were served, with 2114 attempts being made." http://www.co.durham.nc.us/departments/cannonball.cfm?ID=10&deptPage=Operations/Records/Child_Support_Enforcement.cfm.
- A father who was captured in Kuwait in 1990 and spent nearly five months

as an Iraqi hostage was arrested the night after he returned home to North Carolina for nonpayment of \$1,425 in child support while he was a hostage. CHILD-SUPPORT-LAW AMENDMENT COMES TO ATTENTION OF HILL, April 27, 1999. www.washtimes.com.

- A Wake County judge has adopted the use of house arrest as an alternative to jail for parents who do not pay child support. Citing overcrowded jails and the cost of housing nonpaying parents, the judge says the house arrest program frees up jail space and costs and allows parents to work to support their children instead of falling further behind in payments. WAKE HOUSE ARREST PROGRAM PAYING OFF FOR CHILD SUPPORT SYSTEM, TAXPAYERS, October 14, 2003, www.wral.com.
- Nineteen parents were arrested in a round-up in Edgecombe County on November 7, 2004. www.rockymounttelegram.com.
- In an article on rising medical costs for inmates, individuals incarcerated for failure to pay child support are cited as one of the reasons for increased jail populations and associated costs. Bladen County Attorney Leslie Johnson said that, “You can’t let them go, but you can’t keep them in. In jail they are fed and get medical care when they need it. We need to find a way to get these people through the court system quicker.” COST OF INMATE MEDICAL CARE SKYROCKETING, January 27, 2004. www.bladenjournal.com.

24. NORTH DAKOTA

- The Grand Fork’s County Warrants List of the Sheriff’s Office lists 73 individuals with warrants for child support nonpayment. <http://www.grandforkscounty.net/sheriff/warrants.xls>.

25. OHIO

- The Hamilton County, Ohio Prosecutor’s Office Criminal Non-Support Division indicted 1,720 persons for felony non-support as of February 2003. The Division reports a conviction rate of over 96% and that about one-half of the defendants are sentenced to a term in prison, with the remainder being placed on Community Control or Probation and having to provide support in order to stay out of prison. www.hcpros.org/divisions/crimnon-support/.

- One article describes a man who was sentenced to four years of community controlled sanctions under intensive supervised probation, which includes 90 days in jail, after he pled guilty to a charge of criminal non-support. The man “was also ordered to keep his child support payments current and make payments toward his arrearages. If he violates the terms of his sanctions, he could be sentenced to as much as 11 months in prison.” <http://www.irontribune.com/articles/2004/01/10/news/newso4.txt>.
- The child support website for Sandusky County, Ohio lists current active civil and criminal warrants for failing to appear at court proceedings. Twenty-six warrants were active at the latest update. <http://www.sanduskycountydjfs.org/CSEA/warrants.htm>.
- The *Dayton Daily News* reports on a new Non-Support Court run by Judge John W. Kessler. On the first day of the court, one defendant with a bandaged arm and under a doctor’s care was ordered to three days in jail and sheriff’s work detail. When the defendant claimed that he was under a doctor’s care and unable to work, Kessler stated, “I don’t see anything wrong with your other hand.” He also ‘waved off’ a defense attorney and told him, “You have no place here.” Twenty-two men convicted of felony nonsupport were seen in his court on that day. NON-SUPPORT COURT TOUGH ON OFFENDERS, January 13, 2004. http://www.mcsea.org/support-courtkessler_1.pdf.
- As an indication that one county has a practice of arresting child support obligors, an Athens County candidate for sheriff was revealed to have been arrested for child support and spent time in jail almost 20 years ago. http://www.athensnews.com/issue/article.php3?story_id=18542.
- A Franklin County child support “roundup” resulted in the arrest of 11 parents in May 2003. The county press release announcing the roundup states that, “The Franklin County Commissioners and Franklin County sheriff have partnered since 1992 to aggressively pursue outstanding child support warrants. The Sheriff’s Department provides two full-time deputies under contract with the CSEA [Child Support Enforcement Agency] to arrest child support offenders. Two thousand six hundred twenty individuals have been apprehended under this partnership since 1992.” FRANKLIN COUNTY CONTINUES TARGETING CHILD SUPPORT OFFENDERS, May 23, 2003. <http://www.franklincountyohio.gov/Commissioners2/csea/news/>.

- In December 2003, Butler County Judge David Niehaus held what he called a “Christmas child support docket” which resulted in 19 parents being sentenced to jail for failing to pay child support. The judge holds the hearings just before the holidays to make the threat of jail more intimidating. One father brought receipts showing about half of his paycheck was being docked each month for child support, but he was still more than \$1,000 behind. The judge sentenced him to jail, stating, “We’re not playing games. You owe a lot of money. You knew what you had to do when you came in here.” COURT JAILS 14, COLLECTS THOUSANDS IN CHILD SUPPORT, December 17, 2003, www.journal-news.com.
- Hancock County announced its first two convictions for criminal nonsupport in 1997. A child support attorney for the county states in the article that local child support matters are usually handled through civil proceedings. At such hearings, a person accused of failing to make child support payments appears before a judge or magistrate. If the accused fails to make an effort to pay the arrearages, he can be sentenced to up to 90 days in jail. Also mentioned is that other Ohio counties have been pursuing felony convictions for years. Wood County indicts an average of 20 people per year on felony nonsupport charges. Under Ohio law, a person can be charged with a felony nonsupport offense if he fails to make support payments during any 26 weeks during a two-year period. The 26 weeks do not have to be consecutive. FELONY CHARGES FILED IN TWO SUPPORT CASES, June 19, 1997. *The Courier News*, www.thecourier.com/issues/1997/Jun/061997.htm.

26. OKLAHOMA

- A full-time investigator with 17 years of experience in law enforcement was assigned to the Child Support Enforcement Division for four counties in the state. After two months on the job, 44 parents had been picked up on bench warrants for failing to pay child support. Oklahoma District 27 District Attorney Richard Gray states, “We are not afraid to jail parents who have outstanding bench warrants.” CHILD SUPPORT AGENCY CRACKS DOWN, December 7, 2004. *Muskogee Daily Phoenix*, www.muskogeephoe-nix.com.

27. OREGON

- The State Court of Appeals reversed a felony criminal nonsupport conviction in August 2004. At trial, a Washington County child support specialist testified that the county has a “policy to look for missing obligors in the law enforcement data system to see if they have been convicted of [any] crimes.” She also testified that part of her job is to conduct inquiries with other state agencies to determine if the obligor is incarcerated or on public assistance during the period of nonpayment. If the obligor was neither incarcerated nor on public assistance, the state infers that the obligor is “without lawful excuse” in not paying child support. The state relies on the obligor’s child support file to make this inference, but the Appeals Court noted that no criminal history search or public assistance verification had been requested, and that there were no facts on which to base this inference. <http://www.publications.ojd.state.or.us/A120133.htm>.

28. PENNSYLVANIA

- In Montgomery County, an amnesty program was announced on October 13, 2004 that would run for one week ending October 22. According to the article, “during those days, parents who owe back child support can avoid arrest, imprisonment and other penalties by reporting in person to domestic relations or the sheriff’s department and making payment arrangements.” Amnesty notification letters were mailed out in September to about 800 parents who have bench warrants for not paying about \$11.5 million in back child support. PARENTS WHO OWE CAN GET AMNESTY NEXT WEEK TO ARRANGE PAYMENTS, October 13, 2004, *The Morning Call*. http://www.mcall.com/news/local/all-bl_2amnestyoct13,0,2318009.story?coll=all-newslocal-hed.
- A Dauphin County resident was reported to have been homeless when he was incarcerated twice and served 6-month jail terms for failing to pay child support. HOMELESS NO MORE, HANDYMAN LOOKS TO FUTURE, *The Patriot News*, October 25, 2004. www.wjettv.com.
- Erie County sheriff’s deputies spent several weeks in August, 2004 serving warrants and arresting more than 600 parents who owed back child support. The sweep is described as the fourth of the year. CRACKDOWN TO BEGIN ON PARENTS BEHIND IN CHILD SUPPORT, August 11, 2004, www.wjettv.com.

29. SOUTH CAROLINA

- A report on Charleston County jail overcrowding describes deplorable conditions at the county jail, where 1,261 people were crowded into facilities meant for 800. Among the incarcerated are 150-200 men and women serving sentences for unpaid child support. In 1990, just 24 were in jail on child support charges. A Project Restore caseworker states, “A lot of people call them deadbeat dads, but I have a problem with that term. A lot of these men are just down and out, or because of their educational status, they don’t know how the system operates and they get in trouble.” 450 INMATES TOO MANY . . . ‘WE’RE UP ON EACH OTHER LIKE FLIES,’ October 19, 2003, www.charleston.net.

30. TENNESSEE

- The Coffee County Arrest Report regularly lists arrests for failure to pay child support. *Coffee County Arrest Report*, <http://www.tullahoma.net>.

31. TEXAS

- Texas Attorney General Greg Abbott regularly publishes news releases that announce the arrest of child support evaders and child support round-ups. As of December 2004, a total of 56 parents had been arrested by the Attorney General since he first took office in December 2002. www.oag.state.tx.us/oagnews.
- *The Victoria Advocate* reports a “round-up” of 18 parents who were arrested on contempt-of-court charges for failing to appear in court and pay child support. The parents face sentences of up to six months in jail if they cannot pay child support in full and on time. Sheriff Mike Ratcliff stated that this was a small sampling of the number of child support warrants that come through his office. ROUNDUP NABS 18 PARENTS ACCUSED OF NOT MAKING CHILD SUPPORT PAYMENTS, October 8, 2004. www.thevictoriaadvocate.com.
- Former NFL player Cris Dishman was jailed in Fort Bend County on charges of failing to pay child support. The warrant was discovered during a traffic stop. FORMER NFL PLAYER ACCUSED OF FAILING TO PAY CHILD SUPPORT, KGBT 4-TV, Harlingen, TX.

- A Dallas County Sheriff reported in a phone conversation that there were 700 warrants in the county for failure to pay support. He related that there were only two officers dedicated to tracking down these offenders, and that as a result arrests were “not common enough.”
- The Travis County Legal Division of Domestic Relations describes its services related to child support this way: “Teams of attorneys, a paralegal, enforcement officers, and legal secretaries perform enforcement of child support and medical support. Methods used include: telephone and letter collection, driver’s license, hunting and fishing license and professional license suspension, contempt of court, community supervision (probation), incarceration, administrative income withholding, and criminal nonsupport referrals to the Travis County District Attorney’s Office.” http://www.co.travis.tx.us/dro/enforce_support.asp.
- *The Daily Sentinel* in Nacogdoches provides a regular Police Report that includes warrants for criminal nonsupport. <http://www.dailysentinel.com/news/newsfd/auto/feed/news/2004/10/08/1097209587.18121.5749.3604.html>

32. UTAH

- In the notorious case of bigamist Tom Green, who was convicted of four counts of bigamy in 2003, child support was also an issue. Mr. Green was charged with criminal nonsupport for failing to pay the state \$54,000 in child support after his wives received public assistance. Green was sentenced to five years in the Utah state prison for bigamy and nonpayment. <http://www.nephitimesnews.com/0802/082102/1.htm>.

33. VIRGINIA

- A “Crime Solvers” section of the Fredericksburg newspaper lists persons who are wanted on charges of owing child support bi-weekly, and offers a reward for information leading to an arrest. <http://fredericksburg.com/News/FLS/2004/102004/10272004/1544361>.
- The Washington County Sheriff’s Office lists current outstanding warrants by name. On November 10, the county listed five outstanding warrants for “Desertion and Nonsupport.” A large proportion of the warrants are listed as “Parole Violation,” “Failure to Appear in Court,” and “Con-

tempt of Court,” charges that could also be related to child support non-payment. <http://www.washcova.com/departments/sheriff/warrants.php>.

34. WASHINGTON

- Pierce County Sheriff’s Deputies from the Warrant Unit formed a Fugitive Task Force to round up and arrest more than 40 parents behind in child support payments in June 2002. The story was covered by a local television station. *Pay Up, Or Else!* June 7, 2002. www.komotv.com.
- The King County Sheriff’s Support Enforcement Unit conducted a month-long sweep of parents delinquent in payments in June 2004. The Unit had 779 active warrants at the beginning of the sweep, and 61 were arrested in the first two weeks of the sweep. Parents were offered an amnesty in the month before the sweep whereby if the parent contacted the child support agency and agreed to a payment plan, the arrest warrant would be quashed. Seventy-one warrants were quashed in this way. <http://www.metrokc.gov/sheriff/news/article.aspx?id=65>.

35. WISCONSIN

- The Wisconsin Department of Corrections reports that from 1999 to 2003, there were 435 admissions to state prison for the non-payment of child support. Of these, 261 were convicted of nonpayment plus some other criminal conviction and 174 were convicted solely for nonpayment. Information received by e-mail correspondence from the Wisconsin Department of Corrections.
- In Dane County there were 2,899 bookings to jail for nonpayment of child support (felony, misdemeanor, and civil contempt) from January 2000 to August 2003. Of these, more than 1,400 or 48% were African-American and 50% were white. Another set of data reveal that from January to August 11, 2000, there were 365 jail bookings for felony or misdemeanor child support nonpayment (not including civil contempt). Of these, 147 were of African-Americans. Data obtained from Dane County Sheriff’s Office.
- In Milwaukee County, from April 1999 to April 2001, over 6,200 people who were booked to the county jail had nonpayment of child support listed as one of their offenses. Unlike the Dane County arrest numbers, child support delinquency was not necessarily the initial reason for apprehen-

sion or arrest, however. Once arrested on one charge, warrants for non-payment of child support were discovered, and penalties applied.⁸

- The Eau Claire (Wisconsin) Leader-Telegram reports that a noncustodial father with child support arrearages exceeding \$25,000 is facing 18 counts for failing to pay child support, seventeen of which are felonies. The father has one child who was born in 1990 and failed to pay child support from January 1996 to August 1999, and from September 2000 through December 2002. If convicted on all counts, he could be sentenced to 34 years in prison.
- The Racine County Child Support Division describes its enforcement services: “When a payer is 30 days or greater behind in child support payments, court action may be considered. Court enforcement action includes an Order to Show Cause being filed and heard before the Judge which may result in charges of contempt. Criminal Nonsupport enforcement is a crime, which is prosecuted by the District Attorneys Office and results from a failure to pay court ordered child support. A custodial parent may file a complaint directly with the District Attorney’s office or through the Child Support Division once all other enforcement options have been taken.” <http://www.racineco.com/childsupport/index.aspx>.
- In Wood County, three men were sentenced to terms ranging from two to three years for failing to pay child support. The article describes the Wood County Child Support Office and Sheriff’s Department as working together to increase efforts to find parents behind in child support. THREE DEAD-BEAT DADS SENTENCED, October 23, 2004. www.marshfieldnews herald.com.

36. WEST VIRGINIA

- The Harrison County Prosecutor’s Office handled 40 court cases for child support contempt in 2003, according to Harrison County Prosecuting Attorney Joe Shaffer. Some of those cases were felony cases that cost about \$5,000 each to prosecute, Shaffer said. The others were misdemeanors that cost \$1,500-\$2,000 each, Shaffer said. So far this year, Shaffer’s office has handled about 35 child support contempt prosecutions, he said. PAST-DUE CHILD SUPPORT PAYMENTS OFTEN ADD UP TO MILLIONS, *Clarksburg Exponent Telegram*, December 7, 2004. <http://www.cpubco.com>.

Notes from Child Support Courts

Process and Issues

BY REBECCA MAY

INTRODUCTION

In the course of investigating child support enforcement practices, we conducted courtroom observations in several states as child support cases were heard. This brief report is intended to describe the environment and the workings of the courtroom, for those who may work with parents on these issues, but are not a part of the legal profession and do not typically witness the court process. In the few courtrooms that we monitored, we noted several practices that might not be a part of formal courtroom policy, but that can have a determining effect on outcomes for poor families. At a minimum, these practices and their impact on outcomes bear further analysis.

The child support system has become increasingly efficient at finding parents who do not pay child support. Through such new tools as wage garnishment and the National Directory of New Hires, as well as stronger enforcement tools such as liens on property, license suspensions and the threat of incarceration, the system is poised to root out nonpayers and ensure that they pay their child support order. But the tools were established with enforcement against parents who are able to pay but don't pay in mind. These financially-able parents are justly made more accountable to their families by the system. But the most aggressive child support enforcement policies tend to have the greatest impact on the poorest parents who are unable to pay. Poor parents are most likely to have default child support orders that overestimate their true earning capacity, and are the least likely to be able to afford legal representation.

Low-income and even no-income parents have been acknowledged by the U.S. Office of Child Support Enforcement (OCSE) to be responsible for the greatest portion of unpaid child support. According to OCSE, of the more than \$70 billion in child support debt nationally, 70% is owed by non-custodial parents who have no quarterly earnings or with annual earnings

While there are many institutions and systems that affect the livelihood of poor noncustodial parents, the courtroom is the center of some of the most stressful elements with which parents must contend.

of less than \$10,000. Only 4% of child support arrears are held by noncustodial parents with more than \$40,000 in annual income.⁹

While there are many institutions and systems that affect the livelihood of poor noncustodial parents, the courtroom is the center of some of the most stressful elements with which parents must contend. How do these individuals end up so involved in the courts by virtue of their parenthood? For a low-income couple, the most common scenario is one in which the custodial parent relies on any of a number of sources of public assistance that require her to cooperate with child support in identifying and locating her child's father in order to receive benefits. This cooperation may not be voluntary. Also, it is most important to bear in mind that identifying the father may not hold even the prospect of income support for a custodial parent and her children. If she receives welfare, in most states, any child support paid will be retained by the state as reimbursement for welfare costs. It is clear from our previous work in this area that many families are better off financially when they circumvent the system and the noncustodial parent pays the mother directly and informally.

Often the custodial parent provides just enough information for the child support system to serve a summons to the noncustodial parent to appear in court for paternity and child support order establishment. But poor noncustodial parents have extremely unstable housing situations, and for this and many other reasons are likely to either not receive or to not respond to the summons. This sets off a series of events, including a default paternity establishment and a child support order that is often based on an imputed minimum wage that exceeds the parent's actual earnings. So, while child support debt is growing quickly, particularly in states that apply interest to the debt, a parent may be unaware of the debt until he is served with an arrest warrant. Even when the parent is aware that the debt is rising, he may be unable to contend with the system in order to attempt a modification to a lower order—a move that is exceedingly difficult and unlikely to result in a downward modification, and that will not reduce the amount of already accumulated child support arrears.

There are very few employment opportunities for parents with weak work histories and education or training who live in neighborhoods of poverty. Parents with barriers such as a criminal record or substance abuse may form a large core of the noncustodial parents who are deeply in debt, and for these parents the court system is extremely intimidating.

Process

Every local jurisdiction has its own particular process for handling non-custodial parents who are behind in child support payments. Enforcement can be initiated primarily by state administrative staff from the child support agency, or by prosecuting attorney's offices. In many communities, low-income noncustodial parents rarely see a judge no matter the process, unless they are sentenced to jail or prison for nonpayment.

In Cook County, Illinois, child support cases are heard in a central child support office in downtown Chicago. Most child support activities are carried out by a hearing officer who is not a judge. Only if parents cannot agree or if the noncustodial parent requests it, is the case likely to come before a judge. In most cases, the hearing officer makes a recommendation to the judge who reviews the recommendation without a hearing. Although the court cases are public, they are not commonly monitored. From our experience, it is not easy for observers who are not family members or support people to be allowed in the courtroom, despite their right to be present.

In Buchanan County, Missouri, child support enforcement is handled by the county prosecuting attorney's office. Buchanan County is particularly aggressive in enforcing child support. According to service providers we spoke to in that county, and the prosecuting attorney himself, the office prides itself on its efficiency in finding and prosecuting nonpayers before their arrearages get too high. Though small (its total population is approximately 86,000), Buchanan County accounts for a high proportion of arrests statewide for nonpayment. In 2002, 900 arrests for nonpayment of child support were made in the county. Perhaps because criminal charges are brought regularly and dockets are devoted exclusively to hearing the cases on particular days, hearings are open to the public. It appeared, however, that only persons with an immediate interest in the case were present on the day we observed.

In the state of Michigan, the Friend of the Court office handles most child support enforcement activities. The Michigan Family Independence Agency makes referrals for court orders for child support to the county prosecutor. After the written support order is signed by the judge and filed with the court clerk, the case is typically handled by the Friend of the Court office. The Friend of the Court is mandated to make recommendations to the circuit court judge on initial child support orders and to initi-

ate child support enforcement actions, including petitioning for an order to show cause requiring the noncustodial parent to appear in court for nonpayment. In spite of the judicial nature of the process, it is difficult for interested individuals to hear the cases and the dispositions. This is because much of the substance of the process happens during a meeting between the child support attorney and the client, who usually does not have a lawyer to represent him. The typical result of the meeting is a signed stipulation which is then sent to the judge for signature.

In Wayne County, Michigan, certain days are set aside for warrant court during which all cases involving contempt for nonpayment are heard. Approximately 50 parents appeared on the day we visited. Each case was called to a private meeting in the order in which they arrived.

In Dane County, Wisconsin parents first meet with the child support attorney who also seeks a stipulation that can be sent to a Family Court Commissioner. Family Court Commissioners hear cases and make judgments but are not judges. Wisconsin has a history of closing paternity cases from public view, and continues to do so through the child support issues of the case. A written request from the Center for permission to monitor paternity cases was denied by a Family Court Commissioner.

In the courtrooms we visited, we noted the following:

- It appeared to be extremely unusual for there to be any monitoring of the child support courts by persons without a direct interest in the cases. In fact, child support enforcement cases that go to court are so rarely monitored that in Chicago we were first told that the cases were private. Only when we asked to see the state law that provided for this privacy and a supervisor was consulted, was it confirmed that in fact the hearings were open to the public and we were allowed access to the courts. Most cases are heard without oversight from the public.
- Persons with legal representation were seen in the same courtroom as those without, but their cases were heard first. Although this may make sense logistically for the lawyers' workload, it results in a process that requires a much longer period of time away from work to contend with child support issues for those who cannot afford a lawyer and are likely to have the most tenuous jobs.
- Judges control every aspect of the process and the environment in the courtroom. This means that the treatment of persons can vary by the per-

sonality and mood of the judge or by his/her viewpoints outside of the actual case circumstances.

- When judges hear child support cases regularly, they are more likely to become jaded to the “excuses” of parents who have not paid their child support obligations. Such excuses must seem repetitious and insincere when heard consistently. In addition, judges are not necessarily aware of how the child support agency works as a practical matter with regard to welfare families, assuming that not paying child support strips children of needed resources when in many of these cases the child support payments are kept by the state as repayment for welfare costs.
- Judges were observed chastising clients in sometimes inappropriate ways. One client who had obtained a GED and a low-wage job, was told by a judge, “I’m sure you think your life’s going good right now—but being 25 and in prison isn’t something to look forward to.” Another client was told, “I have my own kids to worry about. I don’t need to be worrying about yours, too.”
- In this same courtroom, one father arrived late and, when asked to explain, responded to the judge that he didn’t get off work until 3:15 pm, and that he could not get to the court by the designated time of 3:00 pm. The judge responded, “Too bad. You’re under arrest,” and had the father move to the other side of the courtroom to be arrested. Only then, after a chilling few minutes for the father, did the judge tell him that he wasn’t really under arrest but that, “you should know—if you’d been a few minutes later or I was in a bad mood, you’d be under arrest, you understand?” The judge later told the father that if he had not been late to court, “I could have been at the club watching my kids play tennis.” This father had started a job that would allow him to begin making payments but stated that the employer would not let him off for his court date. He was also the only African-American father seen by the judge for child support on this day.
- In Chicago, defendants who had a lawyer were seen first, followed by those who had no lawyer. Last seen were those who had been arrested for nonpayment and had spent some time in jail because they could not afford the purge bond necessary to gain their freedom. These clients were male and mostly minority. Each one attested to the fact that he did not have the money to pay child support, could not raise the money from family or acquaintances and stated that as long as he was held in jail, he would be

unable to earn the money necessary to pay child support. In spite of this repeated scenario, each such defendant was returned to jail for two additional weeks and a hearing before another judge was set for that date.

- Parents facing incarceration for nonpayment of child support often contend with the system in a closed setting with no oversight or monitoring by the public or a legal professional.
- Clients who appeared to be from other countries were consistently asked about their legal status. In one case, the judge threatened that he could have the client deported despite the fact that the client had lived in the United States since he was 12 years old.
- One African-American parent in Madison was waiting in a hallway for his attorney who was informally discussing his case with the Family Court Commissioner. Another commissioner told him to “get out of the hallway”, clearly not expecting that he was represented and so assuming that he did not belong there.
- A judge’s visitation decision in Chicago involved a situation in which the mother suggested that there was possible danger to the child. In this case, the mother spoke no English and her lawyer had failed to appear. The judge asked both the mother and father if they preferred to continue and the mother answered that she did not. She explained that she wanted her lawyer present and that she had reason to fear for her daughter, but was cut off by the judge who ordered unsupervised visitation for the daughter with her father.

Fees

A striking observation in several courtrooms was the apparent priority placed by different stakeholders in obtaining payment from noncustodial parents for fees related to their services.

- Judges seemed to have the payment of court fees as a high priority. The presiding judge in Missouri made the payment of court fees by a particular date a condition of letting a noncustodial parent leave the courtroom. He repeatedly asked the parent for a date by which the court fees (not the child support payments) could be made, and stated that if the fees were not paid by that date, there would be a warrant for the parent’s arrest.

- For prosecuting attorneys, payment of child support is clearly the priority.
- In Michigan, the friend of the court is required by law to charge a yearly fee to be paid by the noncustodial parent with a child support order.
- Noncustodial parents who are intimidated by the court system are easily persuaded to use scarce financial resources to hire private attorneys. Payment of attorney fees can cause severe hardship particularly when added to the other fees imposed during the process of contending with child support enforcement agencies.
- For many parents, yet more fees are charged related to incarceration work-release privileges, jail costs, probation fees and other locally mandated fees, the payment of which might all be a condition of probation or parole.

Legal Representation

In most jurisdictions there are private attorneys who specialize in child support cases, know each other well but often have large caseloads that prevent them from knowing their clients. In many of the courtrooms we watched, these attorneys would call out their client's name as the courtroom filled with cases, meeting the client for the first time just prior to the hearing. We overheard communication with clients that ranged from straightforward sharing of information to unsympathetic and even incorrect advice. In one case, a lawyer told her client, who said that he was sure that he was not the father, "You keep saying that, but you are until you find the real father." This lawyer's immediate reply failed to mention a genetic test that the father had a right to request. "Finding the real father" is not part of his legal responsibility.

For low-income parents, the choice to hire a lawyer means taking a risk of getting deeper into debt in the hope that having legal representation will improve the outcome of the case. For many noncustodial parents, however, the costs add to an existing burden without a tangible gain. Lawyers with a high turnover in cases who have little time to get to know their clients stand little chance of building a case that could persuade a judge to be lenient, even when the facts of the case might merit leniency.

Depending on the jurisdiction, when parents are facing a jail sentence for nonpayment, they usually (but not always) are given the right to a public defender if they cannot afford a lawyer. In practice, however, public

defenders have even larger caseloads, and obtaining their services can be challenging. Extremely low-income cut-offs for eligibility prevent many parents from obtaining a public defender.

Conclusions

It is particularly frustrating that outcomes for noncustodial parents in the courtroom depend on persuading a judge or attorney that they are legitimately trying but unable to find work, are painfully aware of the important role they play in the lives of their children, or are attempting to turn a lifetime of poor choices around for the sake of their children. All of these circumstances would merit leniency and support, and yet they are the most difficult to decipher. Is this particular parent using excuses simply to avoid paying child support, or is this a legitimate reason to provide another chance? When staff are overextended and hear the same excuses on a regular basis, it becomes more and more likely that they will increasingly find them to be just another excuse. The climate that results only discourages noncustodial parents from coming forward in the first place.

Another unfortunate aspect of the system for noncustodial parents is the high caseloads carried by child support staff, attorneys and judges. High caseloads lead to an increased likelihood that noncustodial parents will be viewed as “all the same,” as making excuses, and not credible in their reasons for being unable to pay child support. In counties where arresting noncustodial parents for nonpayment is a high priority or a common practice, bringing more parents into the offices and courtrooms and increasing caseloads would likely increase the tendency to become jaded toward these parents.

The courtroom has such power over citizens who are unable to pay child support by virtue of poverty that it is an important place to focus efforts that might change some of the status quo. A more consistently open process that is easily monitored would provide some assistance, as would a program for educating judges and other persons involved in the system on the consequences of child support system practices for low-income parents. Some judges and other decision-makers are not aware of welfare policies such as reimbursement, believing that any money they can extract from a noncustodial parent will directly benefit the children. Training of courtroom personnel by persons familiar with the barriers faced by low-income parents might provide an alternate viewpoint on which more fair decisions could be made.

Promising Practices for Low-Income Parents

BY MARGUERITE ROULET

As the first paper in this series documents, the vast majority of states have begun to implement harsh enforcement measures for nonpayment of child support, including the filing of criminal charges and the use of incarceration. As noted above, these measures, while useful in securing payments from noncustodial parents with the means to pay, can have devastating consequences for low-income noncustodial parents who do not have the financial capacity to meet their child support obligations. Given these consequences, even as most states are employing more stringent and punitive enforcement measures, a few localities and states throughout the country are beginning to look into alternative practices and policies, in order to mitigate some of the more devastating consequences these are having for low-income parents and their families.

In June 2004 CFFPP sponsored a meeting with representatives from some of these programs. The goal of the meeting was to gain a better understanding of the program objectives and the services they provide as they address the intersection of child support and incarceration policies. All of the participating programs provide some form of comprehensive services that assist low-income noncustodial parents in stabilizing their child support situations and avoiding incarceration and/or in addressing child support and other issues during and after incarceration. The programs include:

- Program Protect (OK),
- Parents' Fair Share (MO),
- Fathers Support Center (MO),
- Project Impact (CA),
- Marin County Department of Child Support (CA),
- My Home Inc. (MN),

While the situations of individual programs vary, and the kinds of services they can provide vary accordingly, the discussion brought to light several avenues programs can pursue as they work with low-income noncustodial parents and their families.

- The Urban League of Greater Madison (WI),
- Legal Action of Wisconsin (WI),
- Southeast Ministry (DC).

The programs take a variety of approaches to these issues, from both a structural and programming point of view. While some programs are community-based (e.g., My Home Inc., Southeast Ministry), others represent collaborations among state agencies (Project Protect) or between private and public entities (Project Impact and Marin County Department of Child Support Services). Not all of the programs are able to provide the full array of services discussed—for example, Southeast Ministry’s work with clients from the District of Columbia does not allow for a state focus in their work as they operate within a federal rather than state context; some agencies cannot address specific issues because the local child support agency is unwilling to participate, etc. However, while the situations of individual programs vary, and the kinds of services they can provide vary accordingly, the discussion brought to light several avenues programs can pursue as they work with low-income noncustodial parents and their families.

Overall, the kinds of services provided by these programs include:

- services in communities to assist individuals in overcoming child support and employment barriers to avoid the threat of incarceration;
- services immediately upon incarceration to help individuals who have child support orders try to modify or otherwise address these as soon as possible;
- pre-release services to assist individuals in addressing outstanding matters and acquiring credentials that will be necessary upon release (e.g., state ids);
- post-release services to assist individuals in securing employment and other matters necessary to establishing stability and to assist with ongoing child support issues.

The ultimate aim of all of these efforts is to enhance the ability of low-income noncustodial parents to establish stable lives and support their children over the long term. The following section highlights several of the programs and some of the innovations they have developed. (While all of the programs provide valuable resources and services, and most of them address child support and incarceration issues, we do not describe all of them here. Rather, our effort is to focus on three to four programs that

provide specific services pertaining to the intersection of child support and incarceration policies or that provide program services to help clients avoid incarceration for nonpayment of child support.)

Brief Program Descriptions

PROJECT: PROTECT

Partnership for Reintegration of Offenders Through Employment and Community Treatment

Project Protect is a pilot project in Oklahoma funded through the Department of Justice's offender re-entry initiative. It is a collaboration of numerous state agencies, including the Office of Child Support Enforcement, Department of Corrections, Workforce Oklahoma, and the Child Welfare Office.

The project is directed at incarcerated noncustodial parents and provides a variety of services related to employment, child support, parenting, AODA, health, housing, transportation, and family reunification. A primary component of this collaboration is identifying child support issues faced by incarcerated noncustodial parents and addressing these both during the period of incarceration and after release. While the project currently targets incarcerated parents two years prior to their release date, the ultimate objective is to identify individuals' child support concerns immediately upon incarceration and prevent the accumulation of arrearage debt. To this end, the Oklahoma Office of Child Support Enforcement has provided training on child support matters to transition workers who have been hired through the project to work with incarcerated noncustodial parents who are participating in the project. These staff, in turn, have access to participant parents' child support records and can work with these parents while they are incarcerated.

Currently, project participants—who are two years from their release date—meet with the transition workers to review their child support situation, and their child support orders may be modified to reflect prison wages. During this period, individuals also participate in a variety of programming in the areas listed above. (These may be provided either in prison or at a halfway house.) Upon release, the individual continues to work with a child support worker as well as a probation officer, and to receive services through

these and other agencies. For the first 90 days after release, certain child support enforcement remedies may be stayed, as the noncustodial parent seeks employment. While the state cannot eliminate all existing arrearage debt, it can negotiate that which is owed to the state, and custodial parents can forgive any arrears owed to them. Noncustodial parents continue to receive services and maintain connections with the Office of Child Support Enforcement after release.

The ultimate objectives of the project, as outlined by the state, are to:

- Provide an array of services to noncustodial parents both during incarceration and after release,
- Reduce recidivism, and
- Increase current monthly child support payments of incarcerated noncustodial parents in order to prevent the accumulation of arrears and ultimately increase child support collections from noncustodial parents upon release.

This last effort is further defined by emphasizing the need to focus on evaluating the earning potential and the debt level of participants and setting orders that accurately reflect the former, while working to reduce or eliminate the latter.

PROJECT: I.M.P.A.C.T.

MARIN COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES

Like Project Protect, the collaboration between Project IMPACT and the Marin County Department of Child Support Services is directed at noncustodial parents who are incarcerated. It is currently directed at fathers, but is ultimately aimed also at noncustodial mothers.

Project I.M.P.A.C.T. (Incarcerated Men Putting Away Childish Things) was established in 1995 in San Quentin Prison under the leadership of Chaplain Earl Smith. The program addresses numerous issues faced by incarcerated fathers and provides programming and services in such areas as relationship building, conflict resolution, life skills, substance abuse and violence prevention and provides referral services in the areas of housing, family law, and child support.

In early 2003 Project I.M.P.A.C.T. began to work directly with the

Department of Child Support Services and the Marin County Family Law Facilitator's Office to provide direct information about child support to incarcerated parents. Representatives from the Marin County Department of Child Support Services and Family Law Facilitators gave monthly presentations to inmates that included both a general overview of California child support policy and direct consultation with individuals to answer questions about their specific situations. The purpose of these presentations was, on the one hand, to inform incarcerated parents about their child support obligations and encourage them to address these, and, on the other, to simplify and expedite the process of modifying orders in order to prevent the accrual of arrears. The Marin County Department of Child Support Services received the simplified modification requests and disbursed them to appropriate local child support agencies within the state. State approval of the form and prioritization of these modification requests is designed to ensure that cooperating parents receive attention and are more likely to be able to adjust their orders to reflect their current financial status.

Over the course of the collaboration, representatives have found that the direct one-on-one interaction with noncustodial parents, during which they can address some of their specific questions, has been more successful (in terms of responses from noncustodial parents) than making forms and information widely available within the prison system. Consequently, the project has begun to enlist more representatives from the surrounding Bay Area to help provide regular information sessions in the prison. Secondly, the project aims to begin providing presentations to the inmates just entering the prison system to facilitate earlier intercession. The ultimate goal of the project is to expand to other prisons and jails within the state, with the overall objective of addressing the extremely high level of child support arrears that are currently owed within the state.

In addition to the child support and other services provided to noncustodial parents during incarceration, Project I.M.P.A.C.T. also provides services to noncustodial parents once they have been released.

PARENTS' FAIR SHARE

FATHERS SUPPORT CENTER

The Parents' Fair Share program is a Missouri program directed at low-income noncustodial parents who are struggling to meet their child support

obligations. Begun as part of a national demonstration project working with noncustodial parents, in 1993 Parents' Fair Share became the statewide program to work with noncustodial parents in Missouri. The program is state-run—originally operated through the Division of Child Support Enforcement, it is administered by the Division of Workforce Development within the Missouri Department of Economic Development. The program serves as a referral for, and collaborates with, other state agencies (e.g., the Department of Corrections, Department of Social Services, and Department of Elementary and Secondary Education). In addition, some of the local PFS programs have also developed relationships with other, private agencies serving low-income noncustodial parents, such as the Fathers Support Center in St. Louis. Both the state-run PFS program and the community-based Fathers Support Center provide services to low-income noncustodial fathers who are struggling with child support debt. While they work with parents who have been incarcerated, this is not their primary focus, and services are not exclusively directed at them.

PFS works with un- or underemployed noncustodial parents with child support orders who are eighteen years or older and provides a variety of services aimed at increasing their financial security and ability to support their children. The program provides educational GED services and vocational training, employment services, parenting and mediation services, peer support, and financial assistance for specific training or educational or other employment needs. In addition, while parents are enrolled in the program, their child support payment amounts can be reduced temporarily, and the PFS program will coordinate with the office of child support enforcement to suspend enforcement measures.

The program is broadly based, drawing funding from numerous state and federal programs (e.g., Department of Labor, Department of Social Services, etc.) and working with a broad array of state agencies (e.g., Career Centers, Workforce Investment Boards, WIA partner agencies, DOC, etc.). As such, the program can serve individuals who are facing very different situations and can be flexible in terms of the kinds of services that can be provided. One of the more striking aspects of the program is its capacity to provide paid training to noncustodial parents. Program participants are required to seek and obtain part-time employment while completing a Missouri Department of Elementary and Secondary approved training program funded by PFS. Parents' Fair Share participants can receive TRE (trans-

portation related expense) for up to \$10 per day while being involved in a training program and also looking for part-time employment. The expectation of each participant is that child support be paid from authorized TRE, although payments are not mandated. The Missouri PFS program is unusual in that it not only offers paid training, but also coordinates its efforts with offices of child support enforcement to adjust child support orders and enforcement measures during the period of enrollment in the program.

The Fathers Support Center is not as specifically directed at child support issues as the PFS program but mandates that \$25 per week is applied to child support payments for each dually enrolled participant. The Fathers Support Center focuses on supporting low-income noncustodial fathers in their efforts to be involved with their children. However, recognizing that child support often presents a barrier to such involvement, the program does provide services aimed at securing employment and enhancing financial stability, as well as legal and other assistance in addressing child support matters.

The program is an intensive, voluntary program that meets from 8 am until 4 pm, five days a week, for eight weeks. The program includes services that address personal life choices, relationship building, parenting, anger management, spousal abuse, job readiness, and job placement. The program also provides limited job training and housing assistance, legal assistance to program participants on matters of poverty and family law, peer support, and intensive case management. Program staff remain in contact with participants on a monthly basis for a year after they have completed the program and remain available as a resource for former participants. As such the Fathers Support Center represents a critical community resource that fathers and their families can turn to repeatedly as needed as they work to financially and/or socially enhance their lives.

Critical Program Components

Each of the programs described above incorporates numerous components that can be useful in assisting low-income noncustodial parents during and after incarceration. The following list identifies some of the program components other programs may wish to consider implementing. While some of these may be easily replicable, others may require considerable organizational planning (e.g., collaborations among agencies), or may not be possible in a given locality (e.g., developing special arrangements with child

support enforcement agencies). To assist others in learning more about the programs or about specific program aspects in greater detail, we have also included contact information for each of the programs.

PROJECT: PROTECT

- The project entails carefully developed collaborations among agencies that include cross training and access to records as appropriate.
- The project operates long term (two years) providing a broad range of services that can be accessed either in prison or at a halfway house, providing more opportunity for individuals to benefit from the services.
- Currently the project focuses on noncustodial parents who will be released from prison in two years. However, the ultimate objective is to work with noncustodial parents as soon as they are incarcerated in order to address child support and other issues immediately. This will help reduce the accrual of arrears and will help make parents aware of their specific situations in regard to their child support obligations.
- Child support orders may be modified to reflect prison wages, thus avoiding the accrual of arrears.
- The project maintains continuity of services for noncustodial parents after they are released, and probation officers remain in contact with both caseworkers and child support workers.
- The project provides for a 90-day stay on certain child support enforcement remedies when the noncustodial parent is released.
- The project focuses on reducing arrears. The state can negotiate child support debt that is owed to the state (and custodial parents can forgive arrears that are owed to them).
- By forgiving state debt, modifying orders during incarceration, and providing a period for noncustodial parents to secure employment upon release, the project focuses on establishing and collecting accurate child support orders that reflect individuals' ability to pay and reduces the likelihood that large arrears will accrue.
- Although the project is not only concerned with child support issues and has other goals as well (for example, the reduction of recidivism), the importance of child support is recognized within these efforts. At the

same time, the project provides a broad array of services that are critical to establishing security and stability after incarceration.

PROJECT: I.M.P.A.C.T.

MARIN COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES

- Like Project Protect, this effort involves a carefully developed collaboration between agencies, including the Department of Corrections and Offices of Child Support Enforcement. Unlike Project Protect, which was initiated as a state-level pilot project, this collaboration began at the local level, with the interaction of a county child support office and a prison-based program. However, over time the project has received state sanction and is being explored as a model for other programs and counties throughout the state.
- The project addresses low-income incarcerated fathers' needs and concerns in a holistic manner and provides a broad array of services. At the same time, it recognizes that child support, and specifically, the accrual of large arrears during incarceration, presents a tremendous barrier upon release, and thus addresses this issue directly.
- The project has created simplified forms for parents to request modifications of existing child support orders and has provided a centralized and expedited process for addressing these.
- Through regular presentations in the prison, noncustodial parents have direct contact with child support representatives and Family Law Facilitators and can discuss issues that are directly pertinent to their situations. According to project representatives, this direct contact has proven very effective in engaging parents in the process and making it more understandable and manageable for them.
- Like Project Protect, Project I.M.P.A.C.T. maintains contact with noncustodial parents in neighborhood communities after they have been released and provides continuity of services for them through the linking of pre-release and post-release services.

PARENTS' FAIR SHARE

FATHERS SUPPORT CENTER

- The Parents' Fair Share program leverages funding from many different sources and is able to provide varied programming accordingly.
- The PFS program is able to provide participants with paid training. Frequently, low-income noncustodial parents cannot take advantage of training programs unless these are paid.
- The PFS program works closely with the office of child support enforcement and can help coordinate specific child support payment arrangements for participants while they are in the program.
- A representative of the PFS program or a representative of the child support enforcement office with knowledge of the PFS program is available to those seeking employment at Missouri Career Centers.
- The PFS program has established collaborations with numerous state and private agencies, thus permitting them to reach a broad population and provide a broad array of services.
- The Fathers Support Center provides intensive case management, with long-term daily contact for 8 weeks, followed by monthly contact for over a year.
- The Fathers Support Center operates as a voluntary program, thus drawing individuals who are interested in the program's offerings and maintaining a non-coercive environment.
- The Fathers Support Center works with numerous lawyers who provide legal services to participants on matters of family and poverty law.
- Both programs emphasize the importance of peer support for participants and build this into their services.

Additional Program Services

In addition to the services provided through the programs discussed above, other programs represented at the CFFPP meeting provide services that can be critical when working with low-income noncustodial parents.

- One of the key issues addressed was the provision of legal information

and services to low-income noncustodial parents and their families. Like the Fathers Support Center, which also provides some legal assistance to families, Legal Action of Wisconsin was able to provide low-income noncustodial parents in Milwaukee with limited legal assistance pertaining to employment barriers through a program entitled “Legal Intervention For Employment,” (a project supported by federal funds through the Private Industry Council and through referrals from a number of service providers). The project did not work with incarcerated individuals but rather with individuals in the community who were struggling with employment and child support issues. The project provided legal assistance in reinstating driver’s licenses, correcting information on criminal background records, and on numerous child support matters, from arrears reductions to current support modifications. LAW worked closely with the Milwaukee County child support enforcement office to reduce or eliminate state-owed arrears and interest for noncustodial parents who were able to work and pay their obligations for six consecutive months. Funding for this particular project was discontinued, but other federal funds have been obtained for a two-year LIFE demonstration project in Milwaukee and several other counties in the state of Wisconsin where LAW continues to focus on the kinds of issues noted above for noncustodial parents referred by partner agencies who assist low-income people in their attempts to obtain employment.

- Several of the programs (including Southeast Ministry, the Urban League of Greater Madison, My Home Inc., as well as those described in greater detail above) incorporate a strong peer support component. This has long been recognized as an important aspect of programs serving low-income noncustodial parents, who frequently receive little public support and have very few venues in which they can freely discuss issues they are facing with others who are in similar situations.
- Program representatives also highlighted the importance of finding means to inform low-income noncustodial parents about some of the policies and practices that can have significant implications for them and their families.

The list of services provided through the programs described above is not exhaustive. However, it does suggest some areas that programs, state agencies, and policy makers might consider as they examine ways to mitigate some of the unintended consequences of stronger enforcement policies for low-income noncustodial parents and their families.

Program Contact Information

Project PROTECT

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Project I.M.P.A.C.T.

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Marin County Department of Child Support Services

VaDonna Danesi
Supervising Child Support Officer
7655 Redwood Blvd
Novato, CA 94945
Phone: 415-499-6512

Parents' Fair Share

Steve Gibson
Department of Social Services
Division of Child Support Enforcement
P.O. Box 2320
Jefferson City, MO 65102-2320
Phone: 1-800-735-2466

Fathers Support Center

Halbert Sullivan
P.O. Box 2055
St. Louis, MO 63158
Phone: 314-621-2737

My Home, Inc.

Farris Glover
1010 University Avenue, Suite 1
Saint Paul, Minnesota 55104
Phone: 651-659-3059

Southeast Ministry, Program Site

Chester Hart
3111 Martin Luther King, Jr. Avenue, SE
Washington, DC 20032
Phone: 202-562-2636

Urban League of Greater Madison

Brian Benford
Fatherhood Responsibility Program
151 East Gorham
Madison, WI 53707
Phone: 608-251-8550

Legal Action of Wisconsin

230 W. Wells Street, Room 800
Milwaukee, WI 53203
Phone: 414-278-7722

FOOTNOTES

¹ United States Office of Child Support Enforcement, Understanding Child Support Debt: A Guide to Exploring Child Support Debt in Your State. July 2004.

² May, Rebecca, The Effect of Child Support and Criminal Justice Systems on Low-Income Noncustodial Parents. Center for Family Policy and Practice, June 2004.

³ U.S. Office of Child Support Enforcement, op.cit.

⁴ Roberts, Paula, An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents, Center for Law and Social Policy, May 2001.

⁵ U.S. Office of Child Support Enforcement, op.cit.

⁶ Sussman, Scott and Corey Mather. Criminal Statutes for Non-Payment of Child Support, Center for Family Policy and Practice, 2003.

⁷ States use a new carrot to collect child support, December 2, 2004. The Christian Science Monitor. www.csmonitor.com.

⁸ Pate, David J. Jr., The Life Circumstances of African American Fathers with Children on W-2: An Ethnographic Inquiry, Focus, Vol. 22, No. 2, Summer 2002.

⁹ United States Office of Child Support Enforcement, Understanding Child Support Debt: A Guide to Exploring Child Support Debt in Your State. July 2004.



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