

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **Child Support Enforcement Program:**

*Without Stronger Leadership,  
California's Child Support Program  
Will Continue to Struggle*



August 1999  
99103

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# CALIFORNIA STATE AUDITOR

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August 5, 1999

99103

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning our review of California's Child Support Enforcement Program (CSEP). This report concludes that the CSEP in California is disjointed, complicated, and lacking in leadership. More specifically, the Department of Social Services (DSS) is the agency solely responsible for administering, supervising, and monitoring the CSEP at the statewide level, yet it has not provided the counties that manage the CSEP locally with the leadership, assistance, and direction needed to ensure the program's effective operation. Furthermore, we believe that DSS's failure to provide strong leadership, combined with a disparate delivery of services by the 58 district attorneys' county-based programs, has severely limited California's success with its CSEP.

Respectfully submitted,

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# SUMMARY

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## **Audit Highlights . . .**

*Our review found that California's Child Support Enforcement Program is struggling because:*

- The Department of Social Services fails to provide the critical leadership needed and instead has adopted a laissez-faire attitude towards the program.*
- Because of this leadership void, county district attorneys use broad discretion in operating their child support programs resulting in uneven and, in many instances, ineffective service.*
- The federal government has contributed to the program's dysfunction by offering incentives that may misguide efforts.*

*Although California's performance is comparatively poor, the counties we visited have generally shown some improvement over the past four years.*

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## **RESULTS IN BRIEF**

**T**he Child Support Enforcement Program (CSEP) in California is disjointed, complicated, and lacking in leadership. Although no single entity is wholly responsible for the program's failures, state, county, and federal CSEP administrators have all contributed to its often inadequate performance.

As the designated statewide supervisor of California's CSEP, the Department of Social Services (DSS) is responsible for providing leadership, assistance, and direction to the county district attorneys who administer the program locally. Yet, DSS has consistently failed in this role. Not only does the program currently limp along under a failed statewide automated system, but many counties that are struggling to collect child support have not received needed technical assistance. Rather than monitoring and providing guidance to these counties, DSS has instead focused its attention on administrative processes, reviewing the counties only to ensure that they are complying with certain federal regulations. Moreover, in its role of statewide supervisor, DSS has seen itself simply as a conduit of federal data and a reporter of information that it does not analyze or validate. As a result of this laissez-faire attitude, the State's CSEP lacks any sense of overarching vision.

In addition, by not providing more leadership and guidance, DSS has allowed county district attorneys broad discretion in operating their child support programs. As a result, although some counties have implemented innovative processes and have dedicated considerable resources to their programs, others have become backlogged and have failed to deliver even basic services to local families. Furthermore, in the absence of active supervision, different counties have developed different child support philosophies; some district attorneys view noncustodial parents that do not pay child support as criminals while others enlist a more social approach. Simply based on where they live in California, one noncustodial parent may be prosecuted, while another is educated about his or her

responsibilities and assisted in fulfilling them. This disparate delivery of services is unfair to the families who rely on the CSEP.

To exacerbate these problems further, the federal government has contributed to the program's dysfunction by offering incentives that may motivate misguided efforts. For example, the current federal incentive structure does not consider certain demographic factors that can affect a state's CSEP performance. Therefore, states like California may be penalized because of factors like high unemployment. Additionally, even though the focus of the national program has changed in recent years, the incentive structure only partially reflects these changes and may send the wrong message to the states.

Because critics of California's CSEP often fail to take into account demographics that influence its performance, we considered such factors in our analysis of the State's performance. Yet, even when one accounts for California's demographic disadvantage in comparison to many other states, it is still clear that the State's CSEP is not only ineffective but, in fact, is floundering. With recent welfare reform causing more and more families to rely on child support, California's failure to improve its CSEP is directly affecting the lives of children in the State.

Finally, superficial comparisons of California's performance against other states should not be performed without considering that child support programs differ among the states. These comparisons often do not consider that California's program is designed to exclude child support cases in which the parents do not dispute the amount of child support, unlike some states. Further, the comparisons often do not account for data submitted by states to the federal government that is neither timely nor reliable. Demographics also play a key role in analyzing the performance of the State's child support program, particularly the proportion of Aid to Families With Dependent Children recipients in the caseload. Adjusting for these factors and compared with states that are true peers, we found that California's performance has improved over the past four years.

Similar concerns arise when making comparisons among counties in the State. Again, when considering demographics and data reliability problems, we found that over the past four years the counties we visited had generally improved their performance, but most still lag behind the national average.

## RECOMMENDATIONS

Wherever the governor and Legislature ultimately place the responsibility for California’s CSEP, they should appoint to leadership positions only qualified individuals capable of providing the authority, motivation, direction, and effective oversight needed to significantly improve the program.

To improve the effectiveness of the CSEP, DSS needs to show stronger leadership by developing a strategic plan that has meaningful goals and performance measures, fully implementing its new programs and initiative, reviewing county operations to provide technical assistance to poor performers, ensuring that it collects and reports accurate data, and communicating program policy to counties in a clear and timely fashion.

To ensure that California residents participating in the CSEP are treated equally and receive the same level of service from county to county, DSS should exercise its authority over county-run programs to achieve uniform delivery of child support services at the local level.

In addition, DSS should study the best practices of county-run child support programs, including those identified from the eight counties we visited, and then consider the merit of implementing these practices statewide.

Finally, the California Legislature should monitor the federal government’s efforts to improve its incentive structure to ensure that such modifications match the current direction of the federal child support enforcement program, take into account demographic factors in determining a state’s performance, and memorialize Congress if changes are needed.

## AGENCY COMMENTS

The Department of Social Services generally concurred with our conclusions and recommendations and, in particular, echoed our sentiment for the need of stronger state leadership. Kern and San Mateo counties also generally concurred with our conclusions and offered clarifying information. Los Angeles, Sacramento, and Yuba counties took exception to our conclusion that they displayed an enforcement philosophy and provided examples of activities they believe assist clients. Finally, three counties—Glenn, Placer, and San Diego—chose not to respond to our audit. ■

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# INTRODUCTION

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## BACKGROUND

In 1975, Congress created the Child Support Enforcement Program (CSEP) by enacting Title IV-D of the Social Security Act to enforce the support obligations of noncustodial parents. The CSEP attempts to collect child support from noncustodial parents either to repay the government for public assistance paid to the families or to give directly to the families if they are not receiving aid. The CSEP is the shared responsibility of the federal Department of Health and Human Services and the states but is administered separately by each state. In California, the Department of Social Services (DSS) is responsible for the statewide supervision of the CSEP, while the 58 elected district attorneys manage family support divisions in each county (counties) to carry out the day-to-day services.

The federal government generally reimburses the counties for 66 percent of their annual costs of administering the CSEP, paying California a total of \$338 million in 1998. Additionally, until October 1999, the federal government also will provide incentive payments to counties to encourage them to operate in a cost-effective manner—namely by maximizing their collections of child support payments and reducing their administrative costs. For the federal fiscal year ending September 30, 2000, states will begin to receive incentive payments based on their individual performances of the following tasks:

- Paternity establishment
- Support order establishment
- Collections on current payments due
- Collections on past-due child support<sup>1</sup>
- Cost-effectiveness

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<sup>1</sup> This measure is computed using the annual number of cases where payment of past-due child support was received divided by the total number of CSEP cases.

In 1998, the federal government provided the counties almost \$83 million in incentive funding. The State also provided incentive funds to the 58 counties, which amounted to over \$100 million in 1998.

Over the years, the federal government has expanded the size and scope of the CSEP to compensate for an increasing number of single-parent families, changes in public assistance programs, and the number of children who—because of circumstances beyond their control—grow up in poverty. California’s CSEP caseload numbered 2.1 million cases for federal fiscal year 1997-98, which is over 62 percent higher than any other state.<sup>2</sup> Moreover, over 67 percent of California’s current caseload consists of welfare cases, an unusually high percentage when compared to other states. These cases tend to be more difficult when attempting to collect child support. Finally, added to this complex caseload, the organizational structure of the State’s CSEP reflects the diverse management styles, population, economics, culture, and geography of the 58 counties.

In recent years, California has been criticized for its poor performance in collecting support for its children. However, this perception of poor performance does not take into consideration California’s demographics and other factors that may affect the CSEP. As discussed in the Appendix, we found that California’s performance—although far from optimal—has shown general improvement over the past four years.

## **THE CHILD SUPPORT ENFORCEMENT PROCESS**

In California, a child support case is established in one of two ways. First, a case is opened when a custodial parent who requests public assistance is referred to the county CSEP office. A custodial parent is the person who has physical custody of the child and with whom the child lives. As a condition of receiving aid, the custodial parent must assign his or her right to child support to the county CSEP office and must cooperate in the enforcement process. A custodial parent who is not receiving aid may also seek child support services by completing an application through his or her county’s CSEP. If the custodial parent does not require financial support, he or she may still seek medical support for dependent children when needed.

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<sup>2</sup> New York, with approximately 1.3 million cases, has the second highest caseload.

Although California law requires that all custodial parents who receive aid obtain child support services from the state's CSEP and provides services to those nonwelfare parents who request them; not all parents request services. Parents in nonwelfare cases also have the option of negotiating voluntary agreements themselves or retaining private counsel to negotiate such agreements. However, there are other states whose laws require that all child support services and collections be conducted by those states' child support enforcement programs. These states are known as "universal states."

Upon opening a case, the counties attempt to obtain certain information from the custodial parent, including the non-custodial parent's identity, whereabouts, finances, place of employment, social security number, and date of birth. At this point, although DSS permits wide discretion to the counties in operating their CSEP, each county follows certain steps before actually collecting the child support payments. These steps are outlined in Figure 1.

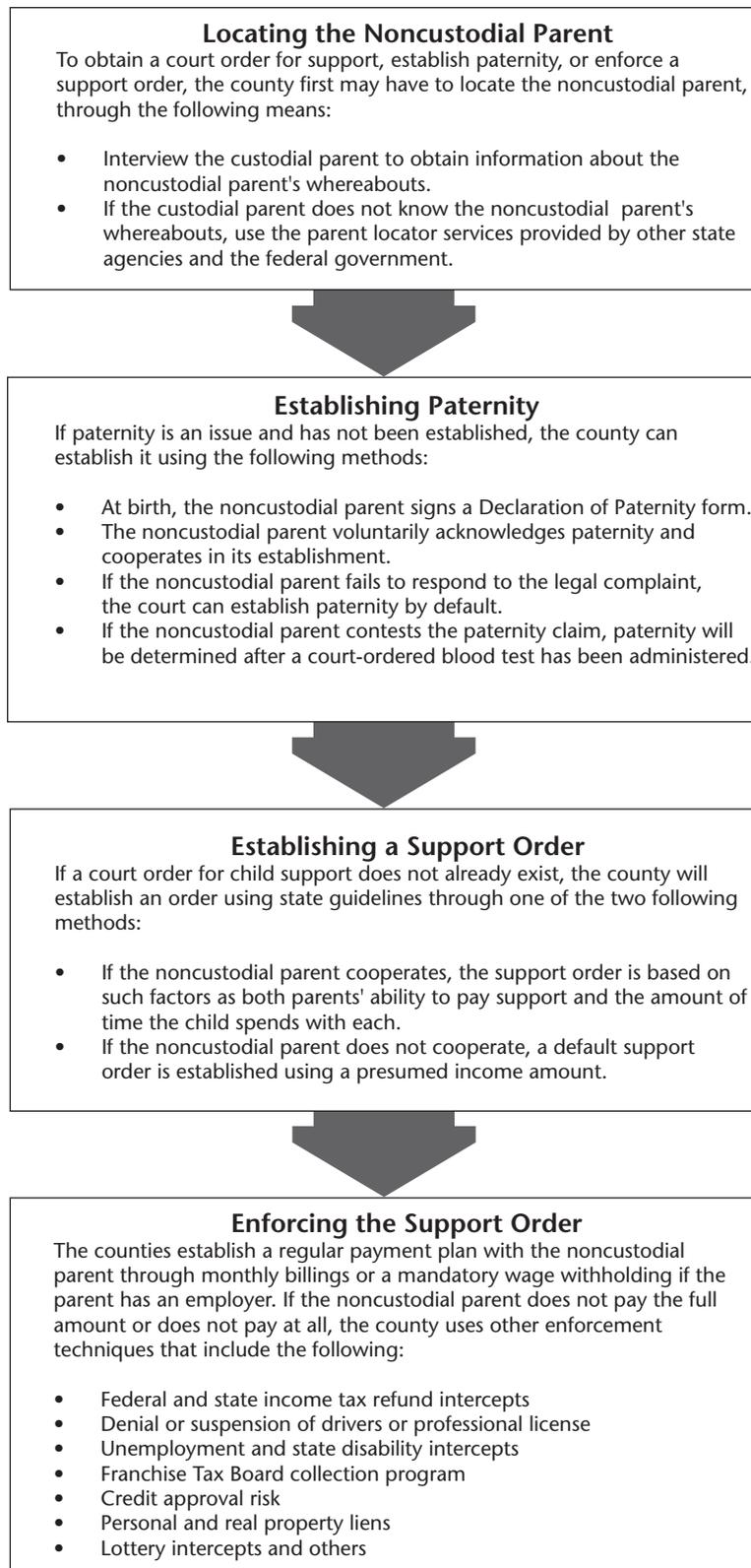
## **THE CHALLENGE OF AUTOMATING CALIFORNIA'S CSEP**

The federal Family Support Act of 1988 (act) mandated a fully operational automated child support enforcement system, certified as meeting federal requirements, to be in place in each state by October 1, 1995. According to the terms of the act, a state's failure to comply would eventually result in the loss of federal funding for its welfare and child support programs, as well as the imposition of other federally mandated penalties. For California, this could mean the loss of up to \$4 billion in funding and penalties.

In its efforts to comply with the act, the State undertook the development and implementation of the Statewide Automated Child Support System (SACSS) in the early 1990s. California spent nearly five years designing, developing, piloting, and implementing SACSS in 23 counties. However, after spending more than \$111 million in taxpayer dollars, the State declared SACSS a failure in November 1997. In our March 18, 1998, report, *Health and Welfare Agency: Lockheed Martin Information Management Systems Failed To Deliver and the State Poorly Managed the Statewide Automated Child Support System*, we identified the cascade of events that led to SACSS's failure.

FIGURE 1

## The Process of Enforcing Child Support



DSS made another attempt to comply with the act in 1998 by beginning to develop a consortium of selected systems from four counties—Kern, Los Angeles, Riverside, and San Francisco. However, in April 1999, the federal Department of Health and Human Services rejected the consortium plan and once again required that the State implement a single, statewide system.

In its third attempt to comply with the act, the State is currently developing a plan that separates the automation project into two phases. In the first phase, it will contract with four vendors to develop preliminary design documents over a six-month period, with each contract valued at \$500,000. In the second phase, the State will award a contract to the vendor whose design provides the best value, requiring the selected vendor to develop and implement the automated system statewide.

The State forwarded its automation plan to the federal government in June 1999. However, it still may be years away from implementing a successful system. Until then, the absence of such a statewide system hinders its opportunities to improve its program and help children receive the support they deserve. In addition, California is now vulnerable to ongoing penalties and the loss of federal funding until the system is fully in use.

The turmoil caused by the failed SACSS and subsequent efforts has taken a toll on the counties, all of which expended substantial funds and staff time on these failed automation projects. In effect, the projects diverted resources from the day-to-day activities of collecting child support to efforts that went to waste. Although impossible to quantify, child support collections have surely suffered as a result.

## **SCOPE AND METHODOLOGY**

In recent years, California's CSEP has come under increasing scrutiny and criticism from the Legislature and child support advocate groups. Their major concern is that the program, as currently structured, does not effectively collect support for California's children. The governor and the Legislature are considering several options for revamping the program and improving its performance. However, before making a decision, the Joint Legislative Audit Committee requested that we evaluate the effectiveness of the CSEP in California and identify impediments to its success.

To understand how it is operated, we studied relevant federal and state laws and regulations governing the CSEP. Additionally, we reviewed reports related to the child support enforcement program that had been issued by researchers; advocate groups; and federal, state, and local governments.

To obtain an understanding of DSS's role in administering the CSEP in California and of its relationship with the counties, we interviewed DSS staff and examined its procedures, policy memos, reports, and strategic plan. Furthermore, to understand the roles of other state agencies involved in the CSEP, we interviewed the staff of the Health and Welfare Data Center, the Legislative Analyst's Office, the Department of Justice, the Franchise Tax Board, the Board of Equalization, the Employment Development Department, the Department of Motor Vehicles, and the California Judicial Council. Finally, we interviewed the director of Administration for Children and Families for Region IX of the federal Department of Health and Human Services to obtain her perspective on the State's program.

In addition, because the 58-county district attorneys are responsible for the day-to-day activities of the CSEP, we selected a cross section of 8 counties for close analysis: Glenn, Kern, Los Angeles, Placer, Sacramento, San Diego, San Mateo, and Yuba. We attempted to consider the full range of issues the counties face by including small, medium, and large ones; rural and urban ones; and northern and southern ones. During visits to these counties, we interviewed CSEP county staff to obtain their perspectives on DSS's role in relationship to the counties and on the program's overall administration in California. We also reviewed their operations to understand the management practices and methods the counties use to administer the CSEP program at the local level. Additionally, we identified any best practices we observed in the operation of their programs, as well as potential barriers to success.

Next, to analyze California's performance in comparison to other states, we used federal and state reports containing program data for federal fiscal years 1994-95 through 1997-98. However, our review was limited because some of the data were either incomplete or inaccurate. Despite this limitation, we compared California's performance to five of the larger states that operate similar programs: Florida, Illinois, New Jersey, New York, and Texas. To perform a fair comparison of California and these peer states, we also gathered information on their demographics. We considered such information as poverty

levels, personal income, unemployment rates, average support order amounts, and each state's guidelines for setting these amounts.

Finally, to compare the effectiveness of the CSEP among counties, we reviewed the performance of the eight counties we visited. However, our review was again limited because some of the reported program data for these eight counties was either incomplete or inaccurate. To perform this comparison, we used state and county reports for state fiscal years 1994-95 through 1997-98, examining the number of cases with support orders, the number of cases with support orders where payments were received in each county, and any changes in overall collections during the selected time period. We also compared the county performance data to similar national and statewide data. Further, we reviewed demographics of these counties, focusing on poverty levels, percentage of welfare cases, and unemployment rates. ■

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# CHAPTER 1

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## ***The State's Role: The Department of Social Services Has Failed to Provide Leadership in Administering the Child Support Enforcement Program***

### CHAPTER SUMMARY

The Department of Social Services (DSS) is the agency solely responsible for administering, supervising, and monitoring the success of the Child Support Enforcement Program (CSEP) at the statewide level in California. Despite a personal services budget of \$4.2 million for fiscal year 1998-99, DSS has not provided the counties that manage the CSEP locally with the leadership, assistance, and direction needed to ensure its effective operation. We believe that DSS's failure to provide strong leadership, combined with a disparate delivery of services by the 58 district attorneys' county-based programs, has severely limited California's success with its CSEP.

DSS has had numerous opportunities to provide statewide guidance in the administration of the CSEP, but has consistently failed to do so. In a recent example, in 1998 DSS developed a statewide CSEP strategic plan as a response to welfare reform changes. This plan does not identify any expected outcomes, nor does it offer any methods to measure whether its proposed activities will be successful in ultimately improving the State's CSEP. On other occasions, DSS has partially developed two programs and an initiative that show promise for improving the CSEP, but has not committed the resources and effort necessary for these to reach their full potential.

In addition, DSS has not taken an active role in monitoring the performance of the counties' CSEP. It has failed to identify why certain counties are performing poorly and to work with them to develop and implement the changes needed for improvement. It has also made no attempt to analyze or verify the accuracy of the CSEP statistical information it has collected from the counties and submitted to the federal government. In fact,

the process DSS itself uses to report past-due child support is flawed, and, as a result, California has underreported the amount of uncollected child support by nearly \$1.6 billion as of September 30, 1998.

Finally, DSS has not communicated adequately with the counties to help ensure that consistent, high-quality service is provided in day-to-day operations. Specifically, DSS has not developed training programs for county staff that would help to establish uniform administration from county to county, and the technical advice on how to operate the CSEP that it has provided to the counties has not always been adequate, clear, and timely. Furthermore, the counties do not believe DSS considers their input when making policy decisions because it has not developed a formal communication process with them. In fact, DSS has failed to keep the counties routinely informed of changes in its staff's responsibilities and, moreover, has required that the counties direct their concerns to a unit containing inexperienced staff rather than to the policy unit, which is staffed with more experienced employees. Consequently, some counties have been frustrated in their attempts to get their questions answered and have concluded that DSS is more of a hindrance than a help in their efforts to improve the CSEP.

### **STRONG LEADERSHIP IS CRUCIAL TO THE SUCCESS OF THE CSEP**

As the state agency designated to administer the CSEP, DSS has a number of responsibilities. As it indicates in its plan of cooperation with the counties, DSS is responsible for administering, supervising, and monitoring the statewide operation of the CSEP and must take the steps provided by law and regulations to ensure that the CSEP is carried out effectively and efficiently. According to DSS, its responsibilities also include defining the vision of the program, developing state program policy that does not conflict with federal guidelines, and interpreting new federal requirements to guide the counties in implementing them appropriately.

Despite its own acknowledgment of these responsibilities, DSS has failed to fulfill them. This has partially occurred because DSS has exerted limited authority over the counties. According to the former chief of DSS's Office of Child Support, it is the counties that provide the day-to-day operation of the program,

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*DSS has historically taken a "hands-off" approach to counties' CSEP operations.*

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and DSS historically has taken a “hands-off” approach concerning their performance. The evidence of this hands-off approach is easy to find: The state legislative analyst noted that although the counties are not doing well in collecting child support from noncustodial parents, DSS was unable to explain why. Additionally, the legislative analyst noted that DSS has not identified the counties’ needs for technical assistance and therefore has provided minimal help to improve their performance.

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*Local district attorneys have demanded great latitude in establishing CSEP policies for their respective counties.*

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The reasons why DSS did not more actively supervise the counties are more difficult to define, and the counties themselves may be at least in part to blame. While DSS has statutory authority over the CSEP, the locally elected district attorneys have demanded great latitude in setting policies and procedures in their respective counties. In fact, the autonomy of the CSEP at the county level has also been confirmed by the State’s former attorney general because he believes that the attorney general is the only official with any degree of authority over California’s district attorneys. Moreover, because each county differs in its child support caseload size, business practices, social needs, political environment, and available resources, the counties have focused on their own needs and priorities when resolving problems rather than the collective needs of the program for the entire state. As an example, the counties’ pressure for a statewide automated system that was customized to meet all of their individual needs ultimately made the system far more complicated than necessary. The complex nature of the system’s design was a factor contributing to its failure.

Yet, whatever the counties’ actions, it was ultimately DSS’s responsibility to provide the leadership and oversight necessary for the success of the State’s CSEP. We believe it is essential that the CSEP receives such guidance and management in the future, especially in light of recent welfare reform that places limits on benefits and, thus, forces families to rely more on child support. To help these families, DSS will have to make administering the CSEP a priority.

Currently, administration of the CSEP is carried out by the Office of Child Support located within DSS, which is responsible for the administration and oversight of approximately 15 different statewide social programs. DSS is itself part of the vast Health and Human Services Agency (agency) that administers the State’s health, social services, rehabilitation, and employment programs. The secretary of the agency is a member of the governor’s cabinet and advises the governor on general

policy formulation in the health and human services area. Consequently, child support enforcement represents a small fraction of the overall operations of both the agency and DSS and may not receive sufficient attention.

Leadership starts at the top. DSS's past actions and the current placement of the office responsible for the CSEP does not convince us that DSS will provide the leadership needed to significantly improve the State's CSEP to ensure families and children receive the support they need.

### **DSS'S STRATEGIC PLAN OFFERS FEW MEANINGFUL GOALS AND DOES NOT ESTABLISH MEASURABLE OUTCOMES**

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*Many of the goals in DSS's strategic plan merely mirror established federal requirements.*

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In response to the recent welfare reform, DSS developed a strategic plan (plan) outlining its strategies for implementing and integrating the welfare changes with important CSEP improvements. Although this sort of statewide planning seems to be a step in the right direction, DSS's plan is neither as effective nor as meaningful as it could be. We found that the goals are overly general and tend to reiterate federal requirements, and the plan itself fails to identify any expected outcomes or offer methods to measure actual improvement.

The plan includes a mission statement for the statewide CSEP. According to the plan, the program's mission is to provide an effective system for enforcement of parental responsibilities, focusing on the following:

- Establishing paternity of children.
- Establishing court orders for financial and medical support.
- Enforcing court orders so that children receive the financial and medical support they need.
- Responding to customer needs.
- Fostering public awareness of parental responsibility in hospitals, schools, and communities.

The plan also identifies six areas—program efficiency, customer service/public relations, medical support, paternity establishment, funding, and enforcement/collections—that DSS believes

could be improved either through welfare reform or by devoting efforts to making additional enhancements. The plan proposes goals related to each of these areas and defines tasks to help accomplish these goals.

The goals set by DSS are very general and not as meaningful as they could be. Many simply mirror previously established federal requirements. As an example, one of the plan's goals is to improve locate-and-enforcement activities through expanded automation. This is simply a logical and expected extension of the federal government's mandate that the State develop a single statewide automated child support system. Similarly, another of the plan's goals, that all children in the CSEP will have the opportunity to have court-ordered medical insurance, merely reiterates a federal requirement. Furthermore, we found that none of the plan's goals address DSS's role in monitoring the performance of the counties to identify why some of them are performing poorly and to work with these counties to develop and implement improvements.

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*Because the plan does not identify any measurements or outcomes, DSS cannot evaluate the success of the program.*

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Moreover, the plan does not establish expected outcomes nor offer methods to measure whether its proposed tasks will be successful in achieving goals. For example, to accomplish one goal, the plan proposes that DSS develop and distribute an implementation package that will inform the counties of a program that allows parents who have no medical insurance the opportunity to enroll their children for low-cost medical coverage. However, the plan does not identify an outcome, such as the number of children DSS expects to be enrolled during the next year, or a method to measure the success of the activity, such as a comparison of children enrolled for this medical coverage before and after it provided the information to the counties.

Similarly, the plan proposes that DSS will develop and carry out a major publicity campaign promoting the benefits of paternity establishment to meet its goal of establishing paternity for all newborn children in California. Again, it does not describe any expected outcomes or methods to measure whether this publicity campaign will ultimately increase paternity establishment. Because the plan does not identify any expected outcomes or methods to measure the success of proposed activities, DSS will not know whether these activities are, in fact, improving the CSEP in California.

## **DSS MUST INVEST FURTHER EFFORT TO MAKE CERTAIN PROGRAMS AND PROCESSES EFFECTIVE**

DSS has the opportunity to positively impact the CSEP in California by taking a number of specific actions that would enhance existing programs and improve the case management process. For instance, it could help counties increase their child support collections by removing barriers to their participation in the State Investment Fund (SIF), seed money augmented annually and intended to encourage the development of creative and innovative programs. In another example, DSS could save the counties some of the costs of establishing paternity through court orders by making paternity declarations more accessible through the Paternity Opportunity Program (POP). Finally, DSS could improve certain performance measurements for the counties by establishing a soft-closure policy that would also appease the child support advocates who strongly oppose closing cases.

### **Timelines Need Adjustment for the SIF to Reach Its Full Potential**

In fiscal year 1992-93, the Legislature appropriated \$10 million that it augments annually to be set aside in the SIF for counties to use to increase their child support collections. The intent of the statutes establishing the SIF was to provide seed money to jump-start creative and innovative projects. The counties were expected to use the additional incentive funds generated by successful projects to continue them or create new ones in subsequent years. According to DSS, during fiscal years 1992-93 through 1996-97, counties used the funds to develop successful projects that increased child support collections by \$150.4 million.

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*Because legal requirements were too difficult, in fiscal year 1997-98 counties used only \$300,000 of an available \$10 million to start innovative CSEP projects.*

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However, since its first full year of operation in fiscal year 1993-94, the number of counties participating in the SIF decreased over 85 percent by fiscal year 1996-97; by the end of fiscal year 1997-98, only \$300,000 of the available \$10 million had been used. According to the counties, they are turning away from the SIF because current requirements make it too difficult for them to use the money effectively.

Section 15200.6 of the Welfare and Institutions Code provides DSS with two methods of allocating the funds in the SIF to the counties. Under the first method, DSS loans the funds to a county without requiring it to provide matching funds.

However, the county must repay the loan if its collections from the project are less than the amount loaned. The second option requires that the county supply a percentage match of the SIF amount approved but does not have a repayment provision. With the loan option, once DSS approves the SIF project, the county must implement it and show results that equal or exceed the amount loaned within the same fiscal year in which the funds are received.

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*Many counties have had to repay SIF loans because the law does not allow them enough time to fully implement their projects.*

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According to some of the counties we visited, the funding period for SIF projects is too short and has discouraged them from further participation. County officials that opted to obtain loans told us that implementing projects usually requires making program changes to their automated systems or hiring and training new staff. They found it very difficult to make these sorts of changes and to show incremental increases in their collections all in one year. As a result, many had to repay the SIF loans with county funds because they were unable to increase their collections sufficiently. Additionally, some counties simply were out of ideas for short-term projects that could demonstrate the desired results.

Even at the height of county participation in the program, funding went unused: At its peak in fiscal year 1993-94, counties used only \$4.6 million, or 46 percent, of the SIF funds. Since that time, requests for SIF funds have steadily declined.

DSS is aware of the counties' concerns regarding the SIF and plans to change the timing for evaluating project results so that counties have 12 full months after receiving SIF funds to show project results. However, this still may be too little time to entice them to take better advantage of these funds.

### **The Paternity Opportunity Program Is Too Difficult for Counties to Access**

Several counties continue to establish paternity on child support cases through the courts because they are concerned that paternity declarations could be legally challenged and because such declarations are not readily accessible to them through the DSS-administered POP. As a result, these counties are not complying with federal regulations that, for child support cases needing paternity establishment, require the counties to determine if a voluntary acknowledgment of paternity has

been recorded in the statewide database maintained by the State's contractor. Moreover, because the POP is not being used, an estimated \$1.8 million in federal and state funds spent annually to maintain it is being wasted.

In response to federal regulations, DSS implemented the POP in 1995. The program, which is operated statewide through hospitals, birthing clinics, county child support agencies, and family law offices, provides an unmarried parent with the opportunity to voluntarily acknowledge paternity of a child by signing a declaration. This program is intended to ensure that children born out of wedlock receive the same benefits, legal rights, and privileges as children born within a marriage. Further, according to state law, an unmarried father can now only have his name placed on a child's birth certificate if he voluntarily fills out a paternity declaration. Current federal law dictates how county child support agencies must process, file, and retrieve completed paternity declaration forms.

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*The counties must go through an unwieldy and time-consuming process to determine whether DSS has paternity declarations on file.*

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DSS has contracted with a vendor to provide data imaging of all voluntary paternity acknowledgments. From January through March 1999, DSS estimates that its contractor recorded in its database voluntary paternity acknowledgments for about 95 percent of all unwed births occurring in California. However, county child support agencies currently do not have direct electronic access to this statewide database and must first contact the vendor by mail, phone, or fax to inquire whether a declaration of paternity document exists for a particular case. Upon receiving the request, the vendor queries its database to determine if a voluntary declaration form exists. If it does, the vendor contacts the county and informs it of the declaration. Upon notification, the county can request a copy of the imaged document, which the vendor then faxes.

The counties we visited do not consistently use the POP declarations for establishing paternity for a number of reasons. Los Angeles County believes that the current system for retrieving POP declarations through DSS is cumbersome, costly, and impractical. For example, for a county the size of Los Angeles to use the program for all cases in which paternity is at issue, staff would need to spend hours on the phone determining whether declarations are on file. Los Angeles would also need to wait for DSS to process the request, make the necessary copies, and fax these to the county. Los Angeles stated that until the county can

electronically interface with the State’s database to allow it to match its caseload against declarations on file, the program would be impractical for it to use.

In addition, San Diego, Sacramento, and Los Angeles counties believe that using the declarations to establish paternity creates more of a risk that they could be legally challenged. Consequently, these counties choose to continue to establish paternity through the court system. However, according to a recent case review conducted by the California Judicial Council, county child support cases are seldom contested in court.

In an attempt to improve the program, DSS is currently exploring options for making the POP declarations more accessible to the counties. For example, it is considering providing the information through the Internet. However, the disadvantage with this access is that it would only be useful for the smaller counties because inquiry could only occur on a case-by-case basis rather than on a batch basis. DSS is also working on providing better access to the larger counties by periodically sending them a CD-ROM with all POP declarations currently on the database. According to DSS, creating an electronic interface for the counties would be too costly at this time because of the number of different county systems being used.

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*By not closing eligible cases, the State risks losing federal incentive funds.*

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### **DSS Should Promptly Mandate Soft Case Closure**

California’s counties are currently facing a dilemma as to whether or not to aggressively close child support cases having minimal likelihood of collection. Children’s advocates strongly oppose closing cases because, unless a case is later reopened, it takes away any hope of the children ever receiving support legally owed to them from noncustodial parents. Conversely, new federal regulations will motivate counties to close all eligible child support cases to improve their performance measures and to increase the amount of federal incentives awarded. Cases eligible for closure are those in which the noncustodial parent’s location is unknown and all enforcement attempts to collect child support have failed. If counties continue to carry cases in their inventories that are eligible for closure, the amount of incentives awarded will decline, forcing them to identify other sources of funds or reduce their CSEP services. To resolve this dilemma, DSS has proposed a “soft closure” policy. This policy would satisfy the advocates by continuing to manage cases that meet federal closure criteria through its locate-and-collection

services; yet, these cases will be removed from the counties' inventory, thereby improving their performance measures and increasing federal incentive payments.

According to DSS's proposal, soft-closed cases with support orders would be maintained at the Franchise Tax Board (FTB) and receive periodic automated collection efforts. Cases without support orders would be maintained at the California Parent Locator Service in the Department of Justice and receive continued locate efforts. If an automated "hit" is made on either the efforts to locate the noncustodial parents or their assets, the appropriate county would be notified and the case reopened and worked accordingly. DSS estimates that 230,000 cases without support orders and 117,000 cases with support orders that otherwise would be closed each year would be eligible for soft closure, which represents 17 percent of all open cases in fiscal year 1997-98.

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*DSS has not prioritized a soft closure policy, which would both satisfy children's advocates while increasing the amount of federal incentive payments it receives.*

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Even though a soft closure policy would be beneficial to the State's CSEP, DSS has yet to make its implementation a priority. According to a bureau chief, a soft closure policy cannot be implemented until DSS obtains the funding required to make the programming changes to the computer systems located at FTB and the Department of Justice that will allow these systems to perform the ongoing management of soft-closed cases. DSS will also need to develop legislation to mandate that counties participate in the soft closure project. Although these activities will require up to nine months to complete, DSS has not made soft closure a leading concern and is still only in the initial phases of the project.

## **DSS HAS FAILED TO MONITOR AND ASSIST POORLY PERFORMING COUNTIES**

DSS now performs annual county compliance reviews to determine whether a county is complying with certain federal regulations related to case processing. However, these compliance reviews are not sufficient to identify reasons for poor performance in a county, nor do they identify a county's needs for technical assistance. Although aware of the limitations of these reviews, DSS did not take any steps to further investigate the reasons why some counties were struggling in administering the CSEP until mandated to do so by the Legislature. Even now, DSS has done little towards implementing the required performance reviews.

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*DSS's very limited reviews of the counties focus entirely on process rather than on performance or outcomes.*

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Currently, DSS conducts annual reviews of county compliance with state and federal program requirements. Because 58 counties administer the CSEP, DSS developed a dual review methodology. Currently, 54 counties review themselves and report the results to DSS, while DSS visits the other 4 to conduct the reviews itself. A review consists of selecting a sample of cases and examining whether the county processed them in compliance with federal and state regulations. According to the former chief of DSS's Office of Child Support, 54 of 58 counties passed their last review and now comply with federal requirements for processing cases. However, these very limited reviews focus entirely on process rather than on performance and outcomes. For example, the county can be found in compliance if it attempted to serve notification of its intent to obtain a support order on the noncustodial parent even if it ultimately did not obtain such an order. Moreover, counties with deficiencies can repeatedly be found in compliance as long as they prepare "corrective action plans" for categories in which they do not satisfy regulations. This can occur in the same categories year after year.

Chapter 404, Statutes of 1998, recently revised the manner in which DSS is required to assess county compliance. The legislation, which continues to require DSS to conduct annual compliance reviews, also requires that it begin in October 1999 to review the performance of any county that opts to receive state incentive funds whose welfare performance score is in the bottom quartile of all counties and whose rate of improvement over the prior year is less than the statewide average. A county's welfare performance score is calculated by determining the amount of child support the county collected on behalf of children receiving welfare benefits divided by the average welfare caseload of the county's welfare department from the previous fiscal year. The legislation requires DSS, in consultation with experts from other counties when appropriate, to conduct program reviews of these counties' child support programs and management practices. It also requires DSS to provide technical assistance to these counties to improve performance.

However, DSS has done little towards implementing these performance reviews. Although DSS has identified the counties that it will need to review beginning October 1, 1999, it has yet to establish any type of formal plan outlining the areas to review or to address the staffing levels needed to conduct these reviews. A bureau chief at DSS originally estimated that the department

would require an additional 12 staff to conduct these reviews and to provide the required technical assistance. However, only four positions were authorized. The bureau chief noted that DSS is considering other options, such as redirecting current positions within the child support area or using county employees to assist in the reviews, but no final decisions have been made.

### **DSS DOES NOT ANALYZE PROGRAM DATA TO IDENTIFY COUNTIES THAT NEED ASSISTANCE OR TO CONTEXTUALIZE THE STATE'S PERFORMANCE**

Although DSS requires counties to spend significant resources preparing and submitting numerous statistical reports regarding their programs, it does not use this data to identify troubled counties that are in need of technical assistance. These reports, which DSS requires monthly, provide substantial information about the counties' caseloads and collection statistics. As discussed later in Chapter 2, we analyzed the data from the reports of the counties we visited to identify trends in the performance of their programs. This information gave us significant insight into how these counties operate their programs and the challenges they face.

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*Analyzing statistical reports would enable DSS to understand more thoroughly each county's CSEP and determine where to focus its efforts.*

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By not performing a similar analysis, DSS is missing an opportunity to understand more thoroughly each county's CSEP and to determine where it should focus efforts to assist counties. This data would also allow DSS to better manage the counties and make them more accountable for their performance. However, we found that, rather than performing any analysis, DSS merely collects the county reports to prepare summary reports to submit to the federal government and to publish statistical information about the program.

Furthermore, DSS could also use this data to respond to critics of the California CSEP. Outsiders often criticize California as having one of the poorest performing programs in the nation. However, if DSS analyzed the data the counties submit, it could put these criticisms in an accurate context. Because DSS fails to do this, advocate groups and some counties have themselves analyzed the data, and in many cases, have only told part of the story, often failing to take into account the demographics and other factors that make California unique.

In the Appendix, we compared California’s performance to peer states and explain some of the factors that influence performance of the programs. For example, we found that unemployment caused by the recent recession was more severe in California than in its peer states, which could have resulted in fewer collections. DSS could easily have done this type of analysis itself, as the information we used was readily available.

### **DSS DOES NOT ENSURE THE ACCURACY OF THE CSEP DATA IT SUBMITS TO THE FEDERAL GOVERNMENT AND MAKES AVAILABLE TO THE PUBLIC**

As noted previously, counties submit numerous reports to DSS about their programs. In turn, DSS compiles the county reports into statewide reports that summarize the performance of California’s program, submits this information to the federal government, and produces summary reports that are available to the public. The federal government uses the data in these reports to compute state performance incentives, and the public uses the data to judge California’s performance in collecting child support. In recent years, the California CSEP has been subject to intense public scrutiny based on the data reported by the counties and summarized by DSS. However, in spite of the importance of these reports, DSS has failed to ensure that the data it submits to the federal government is accurate.

#### **DSS Fails to Ensure That Counties Report Accurate Data**

As monitor of the county programs, DSS has taken minimal steps to ensure that counties submit accurate data regarding California’s CSEP. In its oversight role, DSS provides the counties with general instructions for completing required reports and, through its cooperative agreements, makes the counties responsible for accurate data. However, DSS does not require that the counties take specific steps to ensure that the data they submit is accurate and valid. Moreover, although DSS requires counties to attest to the accuracy of their data, it does not provide them with any guidance on how to ensure this.

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*DSS does not require that counties take specific steps to ensure that data submitted is correct and valid.*

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In addition to providing inadequate guidance, DSS does not conduct periodic reviews of the counties’ data collection methods to ensure that they are reporting data appropriately and consistently. Although DSS currently requires counties to undergo annual compliance reviews as discussed previously, this review does not include county data collection or reporting

practices. In the future, DSS intends to review selected counties' data reporting practices. However, we were unable to analyze the sufficiency of this process because DSS has yet to develop the procedures it will employ.

### **DSS Does Not Examine the Reasonableness of the Data It Receives**

Compounding its failure to require that counties validate their data, DSS only minimally reviews the accuracy of reports the counties submit. In fact, DSS staff normally only verify that the totals on the counties' reports are mathematically accurate before summarizing the data for the federal government and making the information public. DSS does not perform any other reviews to ensure that the amounts counties report are accurate, internally consistent, or logical. However, when examining county reports, we noted a number of instances of inaccurate reporting that DSS could have easily detected if it had reviewed the reasonableness of the data.

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*We noted a number of instances of inaccurate reporting that DSS could have easily detected.*

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Some of these errors significantly altered the counties' performance results. For instance, while attempting to analyze how well counties collected on cases with support orders, we observed that during fiscal years 1995-96 through 1997-98, Los Angeles County reported that it had more paying cases than cases with support orders. This situation is clearly irrational: It cannot occur because a support order must exist in order for child support to be paid. Yet, as an example, for fiscal year 1997-98, the county reported it had 80,200 nonwelfare cases with support orders but that approximately 143,100 nonwelfare cases with support orders had made payments during the year. We contacted Los Angeles County to inquire about the discrepancy of 62,900 cases. According to county staff, they sometimes count and subsequently report paying cases in multiple categories, so that if a case received payments for both the current support due and the past-due child support categories, the county's records would reflect that two paying cases exist. This duplicate reporting is inappropriate and misleading because it inflates the number of paying cases, thus exaggerating the county's performance. Moreover, given the magnitude of the caseload for Los Angeles County, this double counting significantly skews the State's performance and makes the State appear to have more paying cases than actually exist. None of the other seven counties we reviewed appeared to have a similar problem.

Another situation we noted involved the manner that a county reported its collections from Internal Revenue Service (IRS) and FTB tax refund offsets. On the monthly collection reports, DSS requires the counties to identify these offsets as separate sources so that it can accurately relay these amounts to the federal government. However, we discovered that Sacramento County reported it had collected only \$80,000 for offsets during fiscal year 1997-98, even though the county's internal management reports showed that it had collected \$1.5 million in offsets in May 1998 alone. Moreover, the low amount of offsets did not seem reasonable since Glenn County, which has a population that is 1/44<sup>th</sup> the size of Sacramento County, reported tax refund offsets of \$195,000 during the same period, or \$115,000 more than Sacramento County reported. Similar logic flaws existed in the collection information that Sacramento County had reported for fiscal years 1994-95 through 1996-97. When we contacted the county to investigate the discrepancy, staff stated that the county reports IRS and FTB tax refund offsets as a miscellaneous collection source because its computer system cannot do otherwise.

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*Moreover, we found a number of logic errors in county reports that DSS could have programmed its automated system to detect.*

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We found a number of other logic errors in county reports that DSS could have programmed its automated system to detect. For example, in reviewing the monthly accounts receivable report that Los Angeles County submitted for June 1998, we observed that the county reported a total of 9,110 accounts owed past-due child support for the month, yet that 26,395 accounts had paid on past-due amounts. In other words, the county reported payments for over 17,000 accounts that did not exist. This error, although quite obvious, would not be detected by current DSS procedures. In another instance, Glenn County's monthly statistical report for June 1998 stated that county staff needed to locate noncustodial parents in 415 welfare cases to enforce or modify an existing support order. However, it only reported a caseload of 383 welfare cases with support orders, in effect reporting it needed to perform locate activities on 32 more cases than it had.

DSS could have easily detected these errors by programming its automated system to check that certain amounts are always less than other amounts, or that specific illogical situations, such as a low amount of tax offsets for a large county, do not occur.

Alternatively, DSS could have found these errors by summarizing county data for a fiscal year and manually searching for discrepancies. Lacking a process to perform either of these verifications, DSS has potentially positioned itself to pass on outrageous and illogical errors to both the federal government and the public, making it impossible for either to understand the true performance of the State's CSEP.

### **Unreliable Data Caused by the Failure of the Statewide Automated Child Support System May Cost the State Federal Incentive Funds**

The failed Statewide Automated Child Support System (SACSS) caused other county reporting problems. As discussed in the Introduction, DSS and the Health and Welfare Data Center developed SACSS as a statewide computer system to manage the CSEP. The first counties began using this system in October 1995, and by December 1996, 23 counties were using SACSS. However, because of serious operating problems, SACSS was declared a failure by the State in November 1997 and implementation was discontinued shortly afterwards. One of the problems for counties using SACSS was that the system had defects in reporting program data and the case information it produced was considered unreliable. Because of these defects, DSS acknowledged to the federal government that counties using SACSS caused variances in the data reported in federal fiscal year 1996-97. Further, DSS decided not to include case information for the counties using SACSS in a key report to the federal government for federal fiscal year 1997-98. Beginning in May 1997, some of the 23 counties moved to other computer systems; the last of these counties moved in June 1999.

Up to this point, DSS has not suffered penalties for omitting data for the counties using SACSS. However, if California submits incomplete data for the federal fiscal year ending September 30, 1999, it may suffer a loss of federal incentive funds. According to the director of the federal Administration for Children and Families for Region IX, which oversees California's CSEP, states submitting incomplete data may lack the data required for computing accurate performance measures and thus may be excluded from receiving federal incentive funds. Loss of incentive funds could cost California \$80 million to \$90 million annually. Because three counties, with an aggregate caseload of 55,300, still used SACSS during federal fiscal year 1998-99, DSS needs to review and clean up data for these

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*The State could lose between \$80 million and \$90 million annually in federal incentive payments if it submits incomplete data to the federal government.*

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counties to meet the federal government's mandate. According to DSS staff, they intend to work with these counties to get accurate data and meet this reporting requirement but have not developed the specific steps to do so. With the State's federal reports due on October 30, 1999, DSS has less than three months to take action on this issue.

## **DSS SIGNIFICANTLY UNDERREPORTED PAST-DUE CHILD SUPPORT**

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*DSS may have underreported the amount of past-due child support in the State by as much as \$1.6 billion in the last federal fiscal year.*

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In recent years, California has been criticized for having the highest amount of past-due child support in the nation and for collecting a low percentage of the amount outstanding. Yet, despite the focus of public attention on these statistics, DSS has significantly underreported the amount of California's past-due child support for at least the past four years. In fact, for the federal fiscal year ending September 30, 1998, we estimate that DSS may have underreported the amount by up to \$1.6 billion. Since the amount of past-due child support is often used as a measure for how well California collects child support and is one the most visible statistics, it would be expected that DSS would take proper steps to ensure that it reports this figure accurately. However, we found that the process DSS uses to determine the amount is flawed.

### **DSS Reports an Estimate of Past-Due Child Support Rather Than Requiring Counties to Report This Information**

Although DSS requires counties to report numerous statistics and program results, as discussed earlier, it has never required that counties periodically report the total amount of past-due child support. Instead, DSS has estimated this figure by using the total amount due on cases that counties submit for offset against FTB tax refunds. Intercepting a noncustodial parent's tax refund is one of the child support collection tools. To collect payments in this manner, counties must annually submit all cases with past-due child support greater than \$100 to DSS, which, in turn, gives the cases to the FTB to match against tax refunds.

Although counties must certify the accuracy of the past-due child support on cases they submit for FTB offset, they are not certifying that the amount represents total past-due child support in their county. Some of the counties we spoke with were unaware that DSS was using this data to estimate the amount of past-due child support. Moreover, although the federal government requires that states footnote and explain amounts on reports that are estimates, DSS has not included any indication in its reports that it has estimated this figure.

### **DSS Has Reported Outdated Past-Due Child Support Amounts Rather Than the Current Amount Due**

Not only has DSS used an estimate to determine the amount of past-due child support owed in California, but it has also based this estimate on obsolete data. DSS must report the total past-due child support to the federal government as of September 30 of each year. However, in determining this figure, it has used data submitted by the counties for FTB tax refund offset as much as 13 months earlier.

As a result of this timing difference, DSS has significantly underreported the amount of past-due child support owed. For example, it reported on September 30, 1998, that noncustodial parents owed California children \$9.8 billion in past-due child support. However, DSS based the amount on cases that counties submitted for FTB tax refund offset in August 1997 and November 1997, 10 and 13 months earlier. As a result, the \$9.8 billion does not reflect additional child support payments missed, the 10 percent interest that accrued during this period on past-due amounts, and any payments or adjustments that were made during this time. Using more recent data for cases that counties submitted for FTB tax refund offset in August 1998 and November 1998, DSS should have estimated that the amount was closer to \$11.5 billion,<sup>3</sup> or over \$1.6 billion more than DSS reported on September 30, 1998.

This figure, \$11.5 billion, although from more recent data, is still an estimate and does not represent the past-due child support owed as of the end of the federal fiscal year. However, because DSS does not collect this data, we could find no other information that would allow us to make a more precise estimate. Yet,

<sup>3</sup> Even if DSS used the data for the correct period, the amount may not be accurate because counties can submit nonchild support amounts, such as spousal support and county fees, for tax refund offset. Further, counties can only submit those cases for which it possesses a Social Security number for the noncustodial parent.

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*Estimates of past-due child support were based on data that is 10 to 13 months old.*

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even using DSS’s own method of estimating, it is apparent that DSS has significantly understated the amount of past-due child support it reported to the federal government and the public for the past four years as shown in Table 1.

**TABLE 1**

**Department of Social Services Has Understated Past-Due Child Support  
(Amounts in Millions)**

Federal Fiscal Year (ending 9/30)	Amount DSS Reported	Amount DSS Should Have Reported	Understatement	Year That DSS Gathered the Data Reported
1997-98	\$9,849	\$11,465	(\$1,616)	1997
1996-97	8,537	9,849	(1,312)	1996
1995-96	7,332	8,537	(1,205)	1995
1994-95	5,517	7,376	(1,859)	1994

Source: Federal Child Support Enforcement Annual Reports for federal fiscal years 1994-95 and 1995-96; California’s Child Support Enforcement Program Annual Data Summary Reports (OCSE 158) for federal fiscal years 1996-97 and 1997-98; DSS’s submission of tax refund offsets to the FTB.

We considered that DSS might have reported outdated amounts because the data was not available when the federal government required it to submit the reports. However, DSS is not required to report until 30 days after the close of the federal fiscal year and, in the past two years, it has submitted revised reports six and seven months after the original due date. Thus, the timing of when it receives information from the counties should not have prevented DSS from including more recent data. Moreover, DSS could simply have asked the counties to report their total past-due child support as of September 30 of each year rather than using data gathered for the completely different purpose of intercepting tax refunds.

Beginning with the federal fiscal year that started on October 1, 1998, the federal government changed the reports it requires of the states. DSS, in response to the changes, redesigned the reports required of the counties, now asking that they annually report the amount of past-due child support. This change, if appropriately utilized by DSS, should result in a more accurate and realistic figure for past-due child support owed to children in California.

## DSS Has Failed to Assess the Likelihood of Collecting Past-Due Child Support

Although a portion of the past-due child support will never be collected, DSS has failed to analyze its own statistics to determine what fraction of the amount owed is likely to be collected. Much of the State's past-due child support may not be collected for several reasons. For example, if a noncustodial parent does not participate in his or her child support hearing, the court may approve a support order in the individual's absence, known as a default. In this situation, the court will base the amount of the support order on the State's guidelines using an estimated income amount. However, this amount may or may not reflect the noncustodial parent's actual ability to pay child support. Although this process allows counties to establish more support orders and begin their collection efforts, many of these default support orders may never be collected because the noncustodial parent cannot be found. Further, even if the noncustodial parent is found, the county may learn that he or she never had the ability to make payments for the amount of the support order.

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*DSS had failed to analyze its own statistics to determine the portion of past-due support the CSEP is likely to collect.*

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Also, as discussed in the Appendix, the support order amounts that the state guidelines suggest courts establish are much higher in California than the rest of the nation. For example, at a relatively low income level, California's guidelines suggest a monthly support order of \$236, while New York's guidelines suggest \$25 under the same circumstances. Consequently, it is much more likely that New York will be successful in collecting the \$25 in these instances than California will be in collecting the \$236. Even if neither state is successful in its collection efforts, California's past-due amount will look significantly higher than New York's—thus suggesting that New York has been more successful when in fact it was simply trying to collect less.

In any collection environment, it is necessary to assess whether the amounts owed will actually be collected. Using tax collection in the State as an example, currently both the FTB and the Board of Equalization (BOE) record the full amount of taxes that taxpayers owe to them in their accounting records. But because both the FTB and BOE know that taxpayers will not always pay what they owe or that the amounts owed may be adjusted up or down based on new information, they periodically estimate the percentage that they may reasonably collect. Similarly, DSS could develop a model using past history along

with economic and demographic factors to estimate the amount of past-due child support that counties may actually collect from noncustodial parents. In doing so, DSS could provide the public with a more reasonable expectation of the child support that California counties will collect. Further, DSS could measure actual collections against its estimates to gauge the success or failure of the CSEP. Finally, by developing such a model, DSS might acquire a better understanding of the caseload that exists in the State, which would allow it to develop and implement strategies for improving collection efforts.

### **DSS DOES NOT ADEQUATELY COMMUNICATE WITH THE COUNTIES**

As the statewide supervisor and administrator of the CSEP, DSS is responsible for providing guidance to the counties. In order to offer such guidance, DSS must communicate effectively with the counties. Although DSS believes that it does this, the counties feel differently. For instance, one of DSS's major responsibilities is to develop appropriate program and fiscal policies and procedures for the counties to ensure the program complies with federal and state law, and to provide clarification on these policies and procedures when requested by the counties. Yet, we found that some of the policy memos distributed by DSS were confusing, failed to provide needed clarification of federal regulations, and often merely reiterated federal or state law. Moreover, many of these memos were not timely and, as a result, counties were sometimes unable to implement program changes within the specified time frame.

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*Some DSS policy memos were confusing, failed to provide clarification of federal regulations, and merely reiterated federal or state law.*

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In addition to its problems in disseminating policy, DSS has often missed other opportunities to improve its communication with the counties. For instance, DSS has failed to set up a formal structure for considering the counties' input regarding policy decisions and, as a result, the counties do not believe that DSS is interested in their opinions. Additionally, DSS has not routinely informed the counties of organizational changes within its structure so that the counties have not always known who to contact when they had questions, and, to exacerbate the problem further, DSS staff currently performing this liaison function have had little experience with the CSEP. Finally, DSS has failed to develop and provide more training programs that might help the counties to deliver consistent service throughout the State.

Because of these communication problems, the counties do not feel that they can rely on DSS for appropriate and timely guidance. According to the president of the Family Support Council (FSC)—an organization made up of the directors of the family support divisions of the 58 counties—the lack of open and ongoing communication between the State and the counties has resulted in directives and policies from DSS that are difficult and costly to implement and are often issued with unreasonable deadlines. These state directives have caused a lack of trust to develop between the State and the counties. The counties have come to feel that the State is not working in partnership with them. However, since May 1999, DSS has been working with the FSC to establish a better communication process. The president of the FSC is very encouraged by this recent change in approach by DSS.

### **DSS’s Policy Memos Do Not Always Provide Clarification and Are Not Always Timely**

DSS’s Child Support Management Bureau (policy unit) is responsible for developing program policies and procedures to ensure that the CSEP complies with federal and state law. It is also responsible for distributing policy memos to the counties that offer guidance regarding the implementation of federal and state laws. Between January 1, 1997, and June 3, 1999, the policy unit issued 66 Family Support Division (FSD) memos and 148 Family Support Division Information (FSDIN) memos, the former containing instructions, policy analysis, and guidance, while the latter offered information only.

During our visits to the counties, we reviewed a number of these memos and found that neither the information nor the guidance offered within them was consistently clear. For example, several of the counties we visited provided an FSD memo dated March 16, 1999, as an example of a communication that confused rather than helped them. DSS issued the FSD memo to clarify the department’s policy regarding the definition of a case and to demonstrate how child support cases should be constructed. However, the example included seemed to relate to a foster care case even though it was not identified as such. In addition, in the example, it was unclear where the children had originally lived and whether the mother or father was the noncustodial parent, information that is crucial to the construction of a case. On the whole, we questioned the value of the memo since most of it simply repeated federal instructions that the counties had already received and included an unclear

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*One DSS policy memo repeated federal instructions that the counties had already received and included an unclear example as a means of clarification.*

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example as a means of clarification. When we discussed this memo with the manager of the policy unit, he indicated that he believed it was clear and that DSS had prepared the memo in response to the counties' concerns.

In a second example, the department issued an FSDIN memo on March 18, 1999, that seemingly contradicted federal regulations. In it, DSS provided the counties with final revised federal case closure regulations but stated that the counties should not follow the federal regulations until state regulations were revised. According to San Diego County, this caused confusion because the county believed it was in its best interest to follow the new, more aggressive federal requirements but it was instructed by DSS not to do so. The issue was further confused because DSS had previously issued an FSDIN memo announcing the new federal regulations stating that DSS would be revising the State's case closure policy where necessary to conform with the federal revisions. Consequently, San Diego County proceeded to revise its programming and closure process based on this first memo only to have to change back again to the earlier closure process.

According to the manager of the policy unit, DSS does eventually intend to implement most of the new federal guidelines on case closure. However, he stated that DSS needs to carefully consider and address through the new state regulations the concerns voiced by the Legislature and advocate groups who argue that closing cases can hurt children. As a result, he intends to time the implementation of the new regulations to coincide with the new regulations on soft case closure. According to a proposed DSS work plan, the unit intended to formally begin working on these new regulations on July 1, 1999, and does not expect to have them in place until May 2000. Since other states have undoubtedly begun implementing the new guidelines already and will therefore show improvement in their performances, DSS's delay in implementing the new guidelines could cause California's CSEP to compare poorly to that of other states.

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*Since January 1, 1997, DSS has issued 15 memos that the counties did not consider timely.*

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In addition to these two examples of memos that caused confusion among the counties, we also identified 15 memos that DSS had issued that the counties did not consider timely. For example, one county provided six examples of memos it had received three to five weeks after the formal date of the memo. Additionally, a second county administrator provided an FSDIN memo dated March 26, 1999, that advised the counties that, upon DSS's re-examination of new federal requirements, it

believed that the counties would need to implement a two-day turnaround for disbursement of certain child support collections. In the memo, DSS stated that the counties should begin planning for this change because it would become effective on May 27, 1999. However, DSS did not issue any detailed guidance for making this change until May 26, 1999, one day before the counties were expected to implement it. According to this county's administrator, if the counties had waited to receive more detailed guidance before implementing this change to their systems, they would not have been able to meet the deadline.

### **DSS Has Not Developed a Formal Communication Structure With the Counties**

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*Counties are not aware that DSS has requested their input regarding policy decisions and instead feel that their opinions and needs are not considered.*

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We found that the counties' belief that DSS does not request or consider their input may in part be attributed to the lack of a formal communication structure between DSS and the counties. For example, DSS does not officially document its requests for input from either the counties or the FSC regarding policy issues that may ultimately affect them or the rationale behind the policy decisions it ultimately makes. As a result, many counties are not aware that DSS has requested their input and feel instead that DSS is making decisions without an understanding of their needs. In fact, the counties generally lack an understanding of the rationale behind the decisions DSS ultimately makes, largely because of the lack of a formal communication structure. The lack of a formal structure has created much uncertainty and a distrust of DSS on the part of the counties.

In contrast, the manager of the policy unit of DSS believes that his staff does contact the FSC and various members of its committees to obtain the counties' insights before making policy decisions. However, the lack of a formal communication structure makes it unclear whether counties are failing to respond because they are not aware that DSS has requested input or have responded but have not been informed of how their input affected the decisions ultimately made by DSS.

### **DSS Has Not Informed the Counties of Its Internal Staffing Assignments**

In reviewing the State's correspondence with the counties, we noted that DSS had not informed them of its staff's assignments and responsibilities since March 1995, when DSS reorganized to accommodate the implementation of SACSS. During the

subsequent four years, the State did not distribute any information concerning staffing assignments. Finally, in April 1999, DSS issued a comprehensive listing of its staff's responsibilities in response to one county's specific request for this information. Because DSS had not routinely communicated this information to the counties, they were not aware until recently that they had been assigned state liaisons responsible for researching their questions.

### **DSS's Organizational Structure Does Not Serve the Best Interests of the Counties**

Counties may perceive that DSS is not interested in communicating with them in part because the unit currently assigned to handle their questions was understaffed for several years and now has many staff who are inexperienced at working with the CSEP. The Program Improvement Unit (PIU) of the Office of Child Support at DSS is the first point of contact with the counties and is responsible for providing technical support, answering the counties' questions, and visiting the counties to obtain a working knowledge of the program. However, for the past several years, this unit has been insufficiently staffed and, although it is now fully staffed, most of the employees have less than one and one-half year's experience with the CSEP.

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*When counties have questions, DSS requires that they contact the PIU which is staffed by inexperienced employees not knowledgeable of CSEP policy.*

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When counties have questions for DSS, it now requires that they contact the PIU. If PIU staff do not know the answers, they will contact the policy unit to obtain the correct information. The PIU then follows up with the county and repeats the policy unit's response. Since this process creates unnecessary work and potential for miscommunication, we believe that it would be more efficient and effective to assign the unit with the greatest level of knowledge and experience in the area of CSEP policy to directly respond to the counties' questions.

Moreover, having the policy unit gain a fuller understanding of the program at a local level would have two significant additional benefits. First, the policy unit needs to maintain a current working knowledge of the program at the county level to ensure that it understands the impact of its policy decisions on the day-to-day operations of the program. Second, the time the policy unit staff would spend visiting and working with the counties should foster more effective communication and a better working relationship between the counties and DSS. Ultimately, this level of communication might convince the counties that DSS does not make policy decisions in a vacuum.

## DSS Has Failed to Develop Training for County Staff

One of the most significant problems with California’s CSEP is a lack of consistency in delivery of service from county to county. For this reason, it is critical that DSS take the initiative in training not only its own staff but the CSEP staff at the county level. Through training, DSS can communicate its expectations of the service the counties will provide and can establish a foundation of shared knowledge between the counties and DSS.

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*Rather than offering training to the counties, DSS has instead sent its own staff to county-sponsored training programs.*

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However, rather than taking advantage of this opportunity to build relationships with the counties, DSS has again taken a “hands-off” approach by failing to develop and provide adequate training. We found that, although DSS has provided some limited training to the counties, most of the responsibility for developing training programs has fallen to the counties themselves, the FSC, and the California District Attorneys Association (CDAA). In fact, training is so limited that DSS has sent some of its own staff to training programs sponsored by the counties.

Over the last few years, DSS has offered some training programs to county staff. More specifically, it annually provides training on its compliance review process to county staff responsible for performing self-reviews and, in April and May 1999, it also provided a training class on preparing the corrective action plan used by the counties to respond to the compliance review findings. Additionally, in response to new federal regulations related to the distribution of child support collections, DSS developed and provided a county training class to discuss implementation of the new requirements. Lastly, DSS provided training, in February and April 1998, on preparing an administrative expense claim and, in July 1999, on preparing indirect cost rate proposals—training directed towards ensuring federal and state reimbursement of each county’s CSEP administrative costs. However, these training programs only cover very limited subject areas of the quite extensive and complex process of administering the CSEP at the county level.

As a result of DSS’s failure to expand its limited training programs, some counties and other organizations have shown the leadership to develop and provide training programs for statewide use. In fact, DSS has sent its new staff to some of these county-developed training programs. For example, San Joaquin County has developed a “hands-on” in-depth training session for new county employees. DSS sends its new staff to this

training class to give them an opportunity to be trained at the local level. A similar training program has been developed in at least one other county as well.

Furthermore, the CDAA also recognized a need for more extensive training programs related to the CSEP; thus, it developed the “Family Support Officer Training College.” It makes this training college available to a wide range of staff from the counties and is considering making it available to state employees as well. The training college offers courses from beginning to advanced levels that focus on a wide variety of CSEP subjects, including intake, locate, paternity establishment, genetic testing, automated enforcement, creative enforcement, and others. The CDAA presents these courses three times a year, splitting them between Southern and Northern California. By failing to develop a similar program, DSS has missed a great opportunity to network with county program staff and to share experiences and approaches that might help both DSS and the counties.

## **CONCLUSION**

We believe that DSS has failed to provide the leadership, assistance, and direction needed to ensure the effective operation of the CSEP in California. This lack of meaningful oversight and statewide management of the program has significantly contributed to the problems the State faces in child support enforcement. Furthermore, in light of recent welfare reform that will ultimately force families to rely more heavily on child support, it is clear that DSS’s failures directly affect the well-being of children of the State and that, in the future, it is even more important that the CSEP in California receive strong leadership and management.

## **RECOMMENDATIONS**

Wherever the governor and Legislature ultimately place the responsibility for California’s CSEP, they should appoint to leadership positions only qualified individuals capable of providing the authority, motivation, direction, and effective oversight needed to significantly improve the CSEP in California.

To ensure the effectiveness of its strategies for implementing welfare reform and improving the CSEP in California, DSS should develop a statewide strategic plan that, rather than merely reiterating state and federal requirements, instead establishes meaningful goals both for itself and for the counties. Additionally, the plan should identify expected outcomes and methods to measure whether its proposed activities have been successful in meeting the plan's goals and furthering the program's mission.

To encourage the counties to take full advantage of the SIF program and its potential benefits, DSS should sponsor legislation to remove the barriers to county participation by modifying the program's requirements.

To make its POP more accessible to the counties, DSS should develop a means to provide counties with electronic access to the statewide database of voluntary paternity declarations.

To ensure that it receives optimal federal incentive funding while meeting child support advocates' expectations, DSS should make the implementation of its proposed soft closure policy a priority. To this end, DSS should immediately request funding to make needed programming changes to the systems located at the FTB and the Department of Justice and, if necessary, it should swiftly develop legislation to ensure county participation in the soft closure project.

To best meet the intent of Chapter 404, Statutes of 1998, which requires DSS to conduct program reviews in poorly performing counties and to provide these counties with needed technical assistance, DSS should develop a formal plan that specifically outlines the areas it plans to review and address its need for additional staffing.

To identify counties with performance problems and to develop strategies to assist these counties, DSS should analyze program data to measure the performance of county child support programs. To better respond to critics of the California CSEP, DSS should develop a process to fairly and accurately measure and present the State's performance against other states and the nation.

To improve the quality of the data it reports to the federal government, DSS should develop procedures for use by the counties to validate the data that they submit to DSS. Further, it

should develop procedures to verify and edit county reports to assure that the data reported is accurate, internally consistent, and logical. As part of this process, DSS should continue with its plan to perform site reviews of the methods the counties use to collect and report data. However, DSS will first need to develop the specific procedures it intends to use during these site reviews. Also, it should request that the counties report amounts of past-due child support. Moreover, DSS should regularly assess how much of the past-due child support it can reasonably collect so that it can measure the success of the program against this expectation.

Finally, DSS should improve its communication with the counties by taking the following specific actions:

- Ensure that its policy memos provide clear guidance to the counties.
- Distribute its policy memos in a timely manner to allow the counties to implement changes within the required time frames.
- Develop a formal communication structure through which it can document requests for county input, as well as the rationale for the decisions it ultimately makes.
- Routinely inform the counties of DSS staff's assignments and responsibilities.
- Assign the responsibility of responding to the counties' questions to the more experienced staff in the policy unit.
- Ensure that the staff of the policy unit maintain a current working knowledge of the CSEP at the local level.
- Survey the counties to identify their specific training needs and develop a training program accordingly.
- Cooperate with the CDAA and those counties that have already developed training programs to assist them in improving these programs. ■

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# CHAPTER 2

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## ***The Counties Role: The District Attorneys Have Failed to Provide Consistent, Effective Service in the Child Support Enforcement Program***

### CHAPTER SUMMARY

**A**lthough the Department of Social Services' (DSS) failure to provide effective leadership and oversight is in part to blame for the lackluster results achieved by the State's Child Support Enforcement Program (CSEP), the 58-county district attorneys who administer the program locally must also take responsibility for the uneven and sometimes inadequate delivery of child support services throughout the State. Families that depend upon and work with the CSEP have a right to expect the same treatment and level of service no matter where they reside within California. Yet this is currently not the case. Under the State's decentralized child support system, district attorneys are allowed wide discretion in operating the CSEP within their respective counties. As a result, significant differences in the local delivery of child support services create an inconsistent statewide program.

The differences in the day-to-day operations from county to county are sometimes extreme. For example, some district attorneys view noncustodial parents that do not pay support as criminals and focus on establishing and enforcing support orders through formal and sometimes intimidating judicial processes. These district attorneys are primarily concerned with enforcing the law rather than worrying about how their actions may affect noncustodial parents. In contrast, other counties use a social approach, seeking the opportunity to educate and assist noncustodial parents in fulfilling their legal obligations to their children. We observed that these contrasting philosophies seemed to drive other aspects of the respective counties' local program delivery—including the methods the county uses to establish and enforce support orders.

Moreover, county district attorneys commit varying levels of resources to their child support enforcement programs. The counties we visited exhibited considerable variance in the number of child support cases per employee: Among the eight counties we visited, caseloads ranged from a low of 150 cases per employee in Placer to a high of 581 cases per employee in Yuba. Perhaps in part as a result of this disparity in caseloads, county district attorneys differ in their approach to opening cases, establishing paternity and support orders, and enforcing child support cases. For instance, some counties do not consistently place child support staff in county welfare offices or make them available via telephone when custodial parents apply for eligibility to receive aid. Consequently, those counties miss opportunities to obtain vital information concerning the whereabouts of noncustodial parents, lessening their chances of obtaining support orders.

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*Many counties do not consistently provide service in the most effective and beneficial way.*

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Of the counties we visited, many did not consistently provide services in the most effective and ultimately beneficial way. For instance, a number of counties do not take advantage of methods of establishing support orders and paternity that treat parents with more dignity, save time and money, increase the number of support orders, and improve child support collections. In addition, many counties have chosen not to work on child support cases involving the relocation of the custodial parent to another county. As a result, California's child support caseload is inflated by more than 60,000 cases and many counties have wasted significant effort providing duplicate services on the same cases.

As would be expected considering the divergence of approach used by county district attorneys in operating their child support programs, we found that while the counties we visited had all generally improved their performance over the last four years, few had outperformed the national average. Nevertheless, we identified a number of innovative ideas and applications that, after further study, may warrant statewide application as best practices.

## COUNTY PHILOSOPHIES AND CUSTOMER SERVICE PRACTICES DIFFER CONSIDERABLY

*Some counties embrace an enforcement philosophy, treating noncustodial parents that do not pay support as criminals while other counties seek to assist them in fulfilling their obligations.*

Among the eight counties we visited, we observed differences in the ways the district attorneys choose to deliver child support services and to treat those affected by the program. Specifically, we observed two contrasting philosophies—enforcement versus assistance. Counties embracing the enforcement philosophy focused mainly on judicial processes, showing little regard for the noncustodial parents or their circumstances. In contrast, assistance counties tried to meet with noncustodial parents to educate them and assist them in meeting their obligations while avoiding, if possible, the need to engage private legal counsel or to appear in court.

We observed that these contrasting philosophies seemed to influence certain aspects of a county’s daily operation, from the methods it selects for establishing support orders to the types of enforcement actions it takes. As a result, both custodial and noncustodial parents—as well as the children who depend upon the CSEP—receive different levels of service and treatment depending on where they reside within the State.

### Counties Establish Support Orders in Accordance With Their Service Philosophies

Of the eight counties we visited, five generally embrace an assistance philosophy, while the remaining three favor enforcement.

The difference in the two philosophies was most apparent in the areas of establishing support orders and taking criminal actions. However, handling incoming calls and facility investments were not necessarily influenced by the two approaches.

Assistance Counties	Enforcement Counties
Glenn	Los Angeles
Kern	Sacramento
Placer	Yuba
San Diego	
San Mateo	

We observed that, in establishing support orders, assistance counties employ various practices to help noncustodial parents in meeting their obligations. For example, when Kern receives a

filed court complaint seeking to establish paternity or a support order, the county immediately sends a letter to the noncustodial parent advising him or her that the district attorney has initiated an action. The letter states that he or she may come into the county child support office to be served with the paperwork to avoid the embarrassment or inconvenience of a process server appearing at his or her residence or place of employment.

When noncustodial parents take advantage of this offer, Kern uses the opportunity to educate them regarding the program requirements and also acquires critical first-hand information concerning their employment and earnings. Kern provided us with statistics showing that about 9,300 (49 percent) of the 18,800 noncustodial parents who were served during fiscal years 1996-97 and 1997-98 chose to come into the county office rather than be formally served. In addition to the other benefits of this practice, Kern maintains that it saved taxpayers \$274,000 during the two fiscal years because the county was able to avoid an average of \$29.50 it would have otherwise paid a service vendor for serving each of these parents.

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*One county's objective is not to meet or speak with noncustodial parents, but rather to establish court orders quickly so that it can begin the enforcement process.*

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In contrast, Los Angeles County does not seek the opportunity to meet with noncustodial parents. Instead, when cases are opened, Los Angeles County's automated system files electronic, digitally-signed summons and complaint documents with the courts while simultaneously sending electronic copies to its contract vendor to serve noncustodial parents at their last known place of business or residence. The county's objective is not to meet or speak with noncustodial parents but rather to establish court orders quickly so that it can begin the enforcement process. According to county officials, trying to meet with noncustodial parents only slows down the process and is an unnecessary use of resources.

### **Assistance Counties Offer Genetic Testing**

All five assistance-oriented counties offer either on-site genetic testing or provide transportation to local testing facilities to assist noncustodial parents in promptly resolving any doubts about paternity. Two of the three enforcement counties do not offer these services and all three require noncustodial fathers who are disputing paternity to appear in court and undergo court-ordered testing. Moreover, Yuba County requires the alleged father to pay the \$195 fee for court-ordered testing even when the results show that he is not the biological parent.

## Assistance Counties Are Generally More Willing to Alter Support Orders

We observed that a liberal “set-aside” policy is fundamental to the philosophy of the assistance counties. This means that they are willing to administratively set aside judicially established support orders if obligated parents can provide additional income and earnings information that shows that the orders are unfair. For example, if the noncustodial parent does not participate in the establishment of the original support order, the court will establish a support order based on presumed income. Assistance counties will set such judgments aside if the obligated parent subsequently provides evidence of actual income.

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*Assistance counties believe that obligated parents are more likely to make support payments when they feel their cases have been resolved fairly and impartially.*

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The objective of assistance counties is to make sure that the orders are fair and based on the actual financial circumstances of the parties involved. These counties believe that, when obligated parents participate, however late, and feel that they have had a fair and impartial resolution of their case, they are more likely to begin and continue to make their support payments.

Conversely, enforcement counties are generally more reluctant to make any changes to support orders except through formal court proceedings. For example, Yuba County will not negotiate with obligated parents regarding past-due support. When obligated parents request modifications of support orders, they are informed that the amounts that they are currently paying may increase as a result of the county’s review and that any decreases would only affect future payments.

## Some Counties Are More Effective at Responding to Customer Inquiries

In addition to the aforementioned issues, major differences exist in the ability of the counties to handle incoming calls concerning their child support programs. We believe it is important for counties to dedicate enough resources to their customer service units to ensure inquiries are promptly and effectively handled. However, some counties do not make answering customer calls a priority. For example, participants calling into Sacramento’s child support program are required to hold for an average of 14 minutes before their calls are answered; this is an improvement over the average wait of 32 minutes experienced just eight months ago, according to the county.

In contrast, Los Angeles County has recently taken a significant step in improving its customer service by implementing a central, state-of-the-art call center with over 200 staff members fielding calls from all over the county. Similar to San Diego's phone system, this system allows callers to select from a number of queues, all of which are fully staffed with trained customer service personnel who have fingertip access to case information. Electronic data boards on the wall display the number of calls received and wait times for customer service floor supervisors. Since opening its call center in October 1998, the number of customer service calls it handles daily increased from 760 to about 4,000, with the average caller waiting less than a minute and a half as of April 1999. Moreover, while only 4 percent of callers used to reach family support officers, now 100 percent do.

### **Some Enforcement Counties Dedicate Considerable Resources to Criminally Prosecuting Obligated Parents**

Finally, we observed that four of five assistance counties seldom take criminal actions against obligated parents, while some enforcement counties dedicate considerable resources towards this end. Assistance counties do not regularly prosecute parents who fail to pay child support because they find these actions are costly and rarely result in increased collections. For example, San Diego has not sought criminal prosecution against anyone since November 1997 for failure to pay child support. According to San Diego, it does not seek more criminal prosecutions because such actions are very expensive and labor intensive, and they provide no temporary or permanent financial benefit to defendants' children.

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*Two of Los Angeles' six family law courts are dedicated solely to criminal prosecutions.*

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In contrast, two of Los Angeles' six family law courts are dedicated solely to criminal prosecutions. The county child support office files criminal charges against an obligated parent for either violating a court order for support or for willful failure to provide support for a minor child, and then issues a warrant for his or her arrest. This method is sometimes successful in locating noncustodial parents when the county does not know their whereabouts and normal locate tools have failed to find them. While the courts officially require that the obligated parents either make their payment or go to jail, the Los Angeles County program coordinator states that such individuals are rarely

actually imprisoned. Instead, if the obligated parent does not have a job, the court requires that he or she provide evidence of attempts to seek employment, then orders the individual to perform significant amounts of community service, such as gathering trash along the roadside. According to the program coordinator, Los Angeles County performs about 660 criminal prosecutions a month.

### SOME COUNTIES UTILIZE MORE RESOURCES THAN OTHERS TO RUN THEIR CHILD SUPPORT PROGRAMS

District attorneys who view child support as a priority ensure that their programs receive the resources necessary for prompt, effective service delivery. Such resources include hiring an adequate number of child support staff to work county caseloads, as well as spending the necessary funds to acquire and maintain a facility that meets the program’s needs for delivering services to local residents. Table 2 shows the disparity in staff to caseload ratios among the counties we visited.

**TABLE 2**

#### Number of Cases Per County CSEP Employee

County	Staff	Vacancies	Caseload	Staff to Caseload Ratio
Yuba	25.5	3	14,827	1 to 581
Los Angeles	1499.0	168	507,433	1 to 339
Sacramento	240.8	44	79,059	1 to 328
San Diego	549.0	161*	172,090	1 to 313
Kern	204.0	34*	60,714	1 to 298
Glenn	11.5	0	2,397	1 to 208
San Mateo	115.0	1	21,948	1 to 191
Placer	80.0	6	12,000**	1 to 150

Source: Staff and Vacancies: Information provided by counties during our audit. In computing the staff to caseload ratio, we divided total staff, excluding vacant positions, by total caseload.

Caseload: Counties’ CS850, Monthly Statistical Report on Child Enforcement Activities, reports as of June 30, 1998.

\* These counties use temporary employees in lieu of hiring permanent staff.

\*\* Placer County used SACSS through May 1999 and therefore data was not available. However, the family support director provided an estimate.

## Staff to Caseload Ratios Differ From County to County

Under their cooperative agreement with DSS, counties are allowed the discretion to hire as many employees as necessary to deliver local child support services. The cost of operating the county-run programs is paid for through a combination of federal, state, and county funds. Among the eight counties we visited, the ratio of staff members to caseloads varied drastically. As indicated in Table 2, caseloads ranged from a high of 581 per employee in Yuba County to a low of 150 in Placer County.

Two of the three counties with a high number of cases to employees tend to experience significant backlogs in their efforts to locate noncustodial parents, establish support orders, and collect on those orders. For example, Yuba, which has 581 cases per person employed, has not hired enough staff for its child support program. As a result, the county is not able to effectively carry out day-to-day operations. For instance, according to the county, it is unable to act upon new information that may assist in locating noncustodial parents in a timely manner because of its backlog in establishing orders. In addition, it is unable to promptly serve noncustodial parents legal notification that they may owe child support or even prepare the required court documents for establishing the support orders. Furthermore, after a case is established, the county does not always take appropriate enforcement actions when the noncustodial parent does not pay.

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*Some counties with high caseloads tend to experience significant backlogs in their efforts to locate noncustodial parents, establish support orders, and collect on those orders.*

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In another example, Sacramento—much like Yuba—is experiencing backlogs in many of its efforts to establish and enforce its child support cases because of its antiquated computer system. Sacramento acknowledges that its backlogs are a direct result of not committing sufficient staffing resources to its program, but contends that it is unable to address this issue until it can move to another, larger building. The county estimates that additional space will not be available until January 2000. Until that time, backlogs will continue to hamper the delivery of funds to the families that rely upon them.

On the other hand, counties with modern, fully functioning automated systems, such as Los Angeles, San Diego, and Kern, have had no significant processing backlogs despite their relatively high case-to-employee ratios. These counties use automation to perform many of their child support functions, thereby allowing each employee to handle more cases without

compromising local service delivery. In perhaps the best case scenario, San Mateo, one of the State's better performing counties, has one of the lowest case-to-employee ratios and also has a fully functioning automated system that assists staff in performing the required child support functions.

### **Some Counties Have Had Difficulties Retaining Staff**

Perhaps part of the reason they are not hiring enough staff for their programs is that some counties are experiencing problems in recruiting and retaining staff. As indicated in Table 2, Los Angeles, San Diego, Sacramento, and Kern have staffing vacancies. Vacancies in these four counties average over 15 percent. Two of these counties, San Diego and Kern, use temporary staff to address vacancies. For example, San Diego opts to use temporary staff to provide added flexibility rather than filling its vacant permanent positions. The county employs 122 graduate law clerks on three-year contracts by diverting funding from its vacant permanent positions. In exchange for professional experience, these law clerks assist customers in the county's walk-in center, make court appearances, and provide specialized legal services such as support order modifications. Moreover, because these law clerks are considered temporary staff members, the county avoids paying for expensive employee benefits.

Los Angeles, however, does not choose to maintain such a high vacancy rate but rather continues to rely on traditional county processes to hire and retain staff. The director of one of its six child support divisions indicated that Los Angeles has a significant problem in retaining employees and recruiting qualified candidates for vacant positions. He explained that staff are eligible to move to other county jobs that pay at least as well and that are less stressful because less emphasis is placed on performance. Sacramento, another county with a significant number of vacancies, contends that many of its vacant positions remain unfilled due to a general lack of response to advertised job announcements and to the limited office space available to house any new employees. Consequently, county staff are required to work overtime and backlogs continue to grow.

Some of the counties we visited have been able to overcome potential vacancy problems through a number of approaches. San Mateo has adopted two new practices. First, to ensure it has qualified candidates for future vacancies, it maintains an ongoing open recruitment for child support positions, creating

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*Although many counties have struggled to recruit and retain sufficient staff, some counties have avoided these problems by implementing innovative hiring approaches.*

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a pool of applicants who have successfully completed the application and interview process. When jobs open, the county simply selects someone from that pool to start immediately. Secondly, San Mateo engages in “gain-sharing,” a program that distributes a portion of the county’s excess incentive funds among its employees based on the percentage of time each employee attended work. County statistics show that the program has increased employee attendance from 80 percent to 87 percent. In addition, the administrator of the county’s child support program believes the program encourages employees to perform better. San Mateo does not have a staffing vacancy problem in child support, and these programs may have helped.

### **Physical Accommodations Differ From County to County**

We believe that the resources a county commits to house its program reflects the importance the county places on child support and directly affects the quality of services it offers to participants. During our visits to the eight counties, we observed a wide variance among the facilities in which the district attorneys housed their CSEPs. For example, a parent seeking child support services in San Diego or Kern counties enters a modern building with a spacious and comfortable waiting area capable of handling the flow of participants. Furthermore, their child support offices are strategically located adjacent to their county courthouses, creating minimal inconvenience for their clients.

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*While some counties have modern and spacious facilities, parents in one county we visited are forced to discuss the personal details of their cases on a two-way phone through bullet-proof glass.*

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In contrast, some counties do not commit adequate resources to house their child support programs. For example, clients of the Sacramento County CSEP are forced to use a small, cramped waiting area in a section of a building that can only accommodate interviews with four participants at a time. Although the state CSEP’s mission statement mandates that counties be responsive to customer needs, parents in Sacramento are forced to discuss the personal details of their cases on a two-way phone through bullet-proof glass while standing only a few feet away from other clients. Moreover, Sacramento’s child support office is located several miles from the downtown courthouse, an extreme inconvenience for parents who may rely on public transportation. This is yet another area in which the State’s CSEP lacks reasonable uniformity.

## CO-LOCATION REMAINS INCOMPLETE IN SEVERAL COUNTIES

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*By making CSEP staff available when custodial parents are applying for welfare, counties are best able to obtain vital information about noncustodial parents.*

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By failing to ensure that child support staff are always available when custodial parents are applying for aid at county welfare offices, counties are missing opportunities to obtain vital information concerning the whereabouts of noncustodial parents and thus lessening their chances of obtaining support orders. Effective August 1997, state law requires that county-run child support programs make staff available, either in person or by telephone, to all county welfare offices in order to conduct interviews at the time of an applicant's initial meeting with the welfare office. In these interviews, child support staff must attempt to obtain the information necessary to establish paternity if appropriate, and to establish, modify, or enforce a support order. This requirement, termed "co-location," allows counties the opportunity to obtain vital information from custodial parents at a time when they are most likely to cooperate. In addition, a trained CSEP staff person can generally solicit more accurate and complete information than might be obtained through having applicants fill out a form or by other means.

Of the eight counties we visited, Los Angeles, San Diego, and San Mateo maintain staff in most of their respective county welfare offices and plan to keep them there. Placer recently maintained staff in each of its three-county welfare offices, but currently provides services through phone contact at two of the offices because of declining numbers in welfare applicants resulting from recent state and federal welfare reforms. Sacramento and Kern each have staff in one or more county welfare offices and plan to expand their co-location efforts to other offices in the near future. Glenn provides its co-location services by interviewing applicants seeking aid at the county's CSEP office while Yuba at the time of our review was not providing any co-location services at all because of technical problems with the computer interface between its system and the county welfare office's computer system.

Furthermore, five of the counties that use the telephone to interview welfare applicants do so on an exception basis. In other words, the only time these counties interview applicants by phone is when the information that is submitted by their respective welfare offices is missing or incomplete. However,

conducting interviews by exception does not meet the legislative intent of co-location.

The counties generally believe that the best results from co-location are derived from having a trained CSEP staff person located in each county welfare office, yet they have found it impractical to maintain staff at some of the smaller welfare offices and instead have chosen to provide co-location services over the phone.

### **THE COUNTIES USE INCONSISTENT, UNNECESSARY, AND SOMETIMES INVASIVE METHODS TO ESTABLISH PATERNITY**

Paternity establishment, or the determining of a child’s legal father, can constitute a vital first step in child support enforcement. Until paternity is established, children are not afforded certain legal rights, and the responsibilities of the father are not formally acknowledged. In cases involving unwed mothers, counties must establish paternity in order to obtain a support order and collect the child support owed from the noncustodial father. Yet, despite the fact that all counties need to establish paternity, the eight counties we visited differed in methods they use to do so. Further, some of the counties waste time and effort on this activity and needlessly subject mothers to an invasive questioning process.

Counties can legally establish paternity through one of two methods: The father can voluntarily acknowledge paternity, such as through the Paternity Opportunity Program (POP), or the county can go through the court system, requiring the mother to either sign a short form or complete a lengthy questionnaire as to the identity of the father. However, of the counties we visited, none consistently uses the father’s voluntary declaration of paternity, despite the fact that—as explained in Chapter 1—federal regulations require that counties utilize voluntary acknowledgments of paternity when available. Additionally, state law now requires that an unwed father sign such a declaration to have his name placed on a child’s birth certificate. Under the POP, county hospitals and clinics send a copy of each completed declaration to their respective county child support offices, as well as forward a copy to DSS’s contractor for inclusion in the statewide database, in return for a

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*None of the counties we visited consistently use voluntary declarations to establish paternity, despite the fact that federal regulations require that they do so.*

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\$10 fee. DSS's statewide database now includes paternity declarations for approximately 95 percent of the unwed births that occurred between January and March 1999.

Yet we found that, after paying for the POP declarations, four of the counties—Los Angeles, Sacramento, San Diego, and Yuba—do nothing further with them. Instead, these counties choose to establish paternity exclusively through the court system.

The remaining four counties—San Mateo, Kern, Glenn, and Placer—use POP declarations when available but only on a limited basis. Specifically, these counties use the voluntary declarations they receive from local hospitals and clinics but do not always consult the statewide database for voluntary declarations involving children born in other areas within the State that relate to their respective cases. As a result, these counties still use the court process to establish paternity for such children.

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*To establish paternity, some counties require mothers to fill out an invasive questionnaire asking a number of personal and perhaps embarrassing details.*

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By not consistently using available POP declarations to establish paternity, the counties are not complying with state and federal regulations and are wasting the federal and state funds spent to maintain California's POP. As explained in Chapter 1, the counties offer a number of reasons for not utilizing paternity declarations more—that the process of accessing declarations is too cumbersome, costly, and impractical; that paternity declarations are more likely to be challenged in court—but the methods many counties use in place of paternity declarations are often time-consuming and intrusive. Specifically, Yuba requires the mother to complete a lengthy, intrusive questionnaire in every case involving a question of paternity; whereas San Mateo, Glenn, and Placer also require that a questionnaire be completed but only when they have not been sent a POP declaration.

The questionnaire these counties use requires a significant amount of time for the unwed mother to complete, in addition to the time county staff spend helping her to answer the questions. Moreover, the questionnaire asks the mother for a number of personal and perhaps embarrassing details, including the times and places that the child might have been conceived, as well as the identification of others who might have knowledge of her relationship to the father. According to one county, its attorneys will not accept an unwed mother's simple, signed statement regarding the identity of the father. Instead, before

the county tries to get the court's approval to serve a summons to appear to the alleged father, the county's attorneys require the mother to fully support her contention by giving this sort of personal information. By using administrative POP declarations rather than working through the judicial system, counties could avoid such an invasive and time-consuming process.

Three other counties—Los Angeles, San Diego, and Sacramento—only establish paternity through their courts using a short statement signed by the mother identifying the alleged father. Kern also uses the mother's signed statement, but only when it has not received a POP declaration. All three of the counties that exclusively use the signed forms stated that they use this method because they believe the POP declarations could be legally challenged and overturned. Currently, unless a court order for custody, visitation, or child support has been entered against the father, the alleged father may rescind the declaration within 60 days after signing, or may challenge the declaration in court for the first 2 years after the child's birth by using blood and genetic tests that prove the man is not the biological father. Under most circumstances, after 2 years the declaration establishes the paternity of a child and has the same force and effect as a judgment for paternity issued by a court of competent jurisdiction. The only exception would be if the father or mother proved that the POP declaration was signed under fraud, duress, or material mistake of fact.

***Child support cases are rarely contested in court for any reason, including paternity.***

To assess the validity of the counties' concerns about voluntary declarations being vulnerable to court challenge, we requested information concerning the number of paternity declarations rescinded within the 60-day period or contested within the 2-year window from each of our sample counties. However, none of the counties tracked the 60-day statistic, and only one county tracked the 2-year statistic, noting that no challenges had been made. Nevertheless, according to a 1998 review of the state support order guidelines conducted by the California Judicial Council, very few cases are contested for any reason, including paternity. Specifically, the Judicial Council sampled more than 2,980 cases, of which 1,525 were drawn from the counties, and found that only 4.3 percent were contested. Moreover, the majority of those contested probably involved cases where the noncustodial parent was contesting the amount of the support order, not whether the paternity was in error.

## MANY COUNTIES DO NOT WORK CHILD SUPPORT CASES THAT ORIGINATE IN OTHER COUNTIES

Over half the counties no longer work on inter-county transfer cases because these cases are difficult to handle without a statewide system. As a result, counties have wasted enormous effort duplicating each other's services. Moreover, because of inter-county transfers, California's child support caseload was overstated by more than 60,000 cases as of May 1999—approximately 3 percent of total statewide caseload.

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*When a custodial parent chooses to relocate, the new county often refuses to accept an inter-county transfer and instead opens a duplicate case.*

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Inter-county transfers occur when a custodial parent relocates to another county and requests child support services in that county. Only 23 of the 58 county-run child support programs, approximately 40 percent, are willing to work on inter-county transfer cases. Of the 8 counties we visited, only 3 currently handle inter-county transfer cases: Glenn, Los Angeles, and Sacramento. Whenever a custodial parent chooses to relocate, unless the county where services are currently being requested accepts inter-county transfer cases, a duplicate case will be created. In other words, cases may be opened in multiple counties that involve the same father, mother, and child or children. This can result in duplicate efforts being expended on the same case. For example, if the noncustodial parent has yet to be located, two or more counties may spend time and resources searching for the same parent.

Inter-county cases seem to occur fairly frequently. Two of the eight counties we visited estimated that approximately 10 percent of their respective caseloads represent inter-county transfers. Moreover, in May 1999, when DSS reviewed the caseload data that counties annually provide to it as a preliminary step towards planning for the new statewide-automated CSEP system, it found over 60,000 duplicate cases. This represents more than 3 percent of the total statewide caseload.

In 1992, when the State was planning for its first child support system—the Statewide Automated Child Support System (SACSS)—DSS developed procedures for handling inter-county transfer cases. However, these procedures applied to the statewide-automated system that was to be implemented for all the counties in the future. To address the issue of how to process inter-county transfer cases until SACSS could be implemented, DSS worked with county representatives to develop a set of

procedures that the counties could use in the interim period. These procedures outlined the steps to take when transferring out or receiving a case from another county. DSS indicated in a policy memorandum that these procedures were to apply only to the period prior to implementing SACSS because once SACSS became operational, the system would not allow duplicate cases to be created.

However, SACSS was never successfully implemented, and therefore the counties were confused as to whether or not the interim procedures were still in effect. According to five of the eight counties we visited, inter-county transfer cases are complex and labor-intensive to work because any past-due support amounts owed for each case must be allocated between the county where the case originated and the county where the custodial parent relocated. One county we visited stated that it attempted to resolve the confusion of how to proceed with inter-county transfer cases by seeking guidance from DSS. According to the county, in July 1997, DSS stated that it would provide a memorandum to the counties to resolve the confusion regarding these cases, but never did. Thus, as of May 1999, 35 counties do not accept inter-county transfer cases, and instead open a duplicate case.

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*In 1997, DSS promised counties that it would provide guidance concerning inter-county transfers, but it has not yet done so.*

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The problems related to inter-county transfer cases further multiply when the counties' duplicate efforts become burdensome on noncustodial parents or other parties involved in collection activities. For example, two or more counties may establish wage assignments on the noncustodial parent involved in a duplicate case. This is onerous for small employers with a single bookkeeper or accounting clerk who must coordinate with multiple counties to determine the amounts to process for each of the wage assignments. Such a situation could also possibly result in payments in the wrong amounts being sent to the wrong county. One of the counties we visited informed us that it spends significant amounts of time and resources handling such complications since 25 percent of its child support program caseload includes wage assignments. Moreover, this sort of confusion places unnecessary demands on the noncustodial parents who must try to straighten out any errors that arise.

Although a single statewide-automated child support enforcement system will eventually make it effortless for the counties to handle inter-county transfer cases, the counties still need to work on these cases in the meantime to avoid creating duplicate cases and wasting time and resources on duplicate efforts.

## **DESPITE HIGH PERCENTAGES OF WELFARE CASES, THE COUNTIES WE VISITED HAVE IMPROVED THEIR CHILD SUPPORT PERFORMANCE**

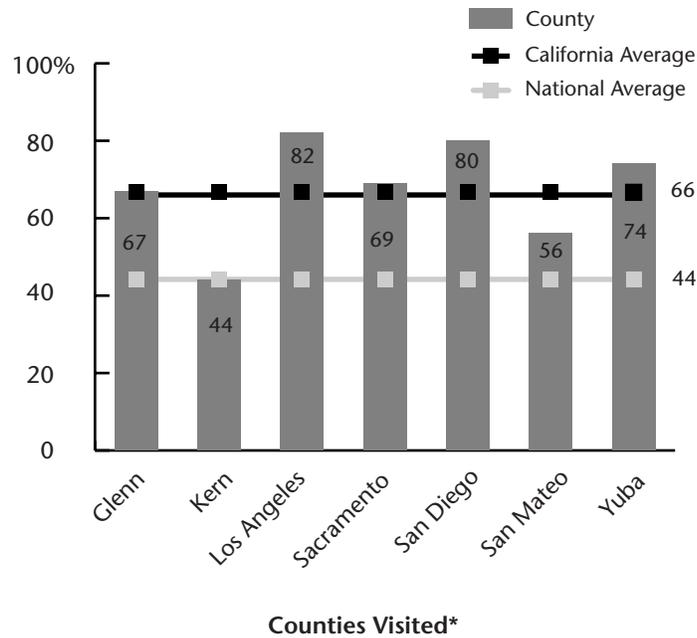
Despite the demographic factors working against them, the CSEP performance of the eight counties we visited generally improved over the last four fiscal years. As noted previously, the counties have chosen to deliver their services differently, which has affected how well each individual program has performed. Thus, while most of these counties have improved somewhat, only a few have outperformed the State and national averages. In determining a county's success, we measured its performance by the four following major factors: percentage of cases with support orders, percentage of cases with support orders that are paying, average collections per case with a support order, and total collections. For these comparisons, we could not include most of the program information from Placer County because it used SACSS, and the case data this system produced is unreliable. We also found inconsistencies in the data of Kern and Los Angeles counties, and therefore, we excluded them in some of our comparisons.

### **Welfare Cases Dominated the Caseloads of the Counties We Visited**

In analyzing the success of a county's CSEP, it is critical to consider the demographic factors that influence its performance. For instance, the counties we visited generally have high percentages of welfare cases. Noncustodial parents involved in welfare cases are difficult to collect from because they often have less ability to pay child support than those parents involved in nonwelfare cases. On average, the counties we reviewed had caseloads that were composed of 67 percent welfare cases in fiscal year 1997-98. This rate is significantly higher than the 44 percent national average shown in Figure 2, but approximates the California average.

**FIGURE 2**

**Most Counties Visited Had a Higher Percentage of Welfare Cases Than California and the Nation**



Source: County Monthly Statistical Reports on Child Support Activity (CS850) for June 30, 1998; the Federal Child Support Enforcement Quarterly Data Reports (OCSE 156) for federal fiscal year 1997-98; and Federal Child Support Enforcement Annual Report for federal fiscal year 1997-98.

\*Note: We excluded Placer County because of data problems resulting from its use of the Statewide Automated Child Support System.

***Los Angeles and San Diego counties each handle more welfare cases than many states.***

Further, in fiscal year 1997-98, Los Angeles and San Diego counties had welfare caseloads of 82 percent and 80 percent, respectively (see Figure 2). In fact, these two counties each have child support caseloads that are larger than many states. Using caseload statistics for federal fiscal year 1997-98, Los Angeles would have the 4<sup>th</sup> largest welfare caseload in the nation, while San Diego would rank 18<sup>th</sup>. Although Michigan had a welfare caseload of 70 percent, no other state except California had a welfare caseload greater than 57 percent. Thus, these two counties have some of the largest welfare caseloads in the nation.

**Other Demographic Factors Also Affected County Performance**

Other demographics also played an important role in the success or failure of county child support programs. In the counties we visited, the levels of unemployment, personal income, and poverty varied considerably.

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*California's high unemployment has affected the counties' abilities to collect child support.*

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High unemployment translates into fewer noncustodial parents holding jobs and consequently being able to pay their child support obligations. As discussed in the Appendix, the recession affected California more than the rest of the nation, resulting in high unemployment rates. Five of the counties we visited had unemployment rates over the past six years that exceeded the national average. The three rural counties—Kern, Glenn, and Yuba—had the highest unemployment rates, remaining greater than 12 percent even as late as 1998. The two other counties were Los Angeles and Sacramento, which were stung by military base closings and corporate downsizings during the 1990s. Los Angeles County's unemployment rate reached a high of 9.8 percent in 1993 but declined to 6.5 percent in 1998, while Sacramento's unemployment rate fell from 8.3 percent to 5 percent during the same six-year period, undoubtedly contributing to these two counties' improved CSEP performance, as discussed later in this chapter. The other two counties—San Mateo and San Diego—also felt the recession in the early 1990s, but their unemployment rates were generally not as high as the national average.

In addition to the issue of unemployment, the income of noncustodial parents is a principal factor in their ability to pay child support. In general, we found income levels to be considerably lower in the rural counties than in the larger urban counties or in the State as a whole. Specifically, in 1995, Kern, Glenn, and Yuba counties each had personal income levels of less than \$17,300, while the state average was about \$24,200. In contrast, the personal income levels of the urban counties were near or above the state average, with San Mateo substantially higher at \$36,300. Of all the counties we reviewed, San Mateo had the most consistent performance over the four-year period, probably in part due to the county's high level of personal income.

Finally, a factor that is not measured by unemployment rates and personal income is the poverty level. The poverty level, which is the measure of the ability to pay for basic necessities, was \$16,050 for a four-person family in 1997. Those noncustodial parents below the poverty level clearly have less capacity to pay child support. Only one county—San Mateo—had a relatively low poverty rate, with 6.9 percent of its population below the poverty level for fiscal year 1996-97. The other six counties had poverty rates that ranged from 16.3 percent to 23.8 percent during the same period. These relatively high rates are noteworthy; a significant proportion of these counties'

noncustodial parent population probably lacked the ability to pay their child support obligations fully even if they had the desire to do so.

In addition, as discussed in the Appendix, the State sets support order amounts higher than the national average. Although, strictly speaking, this is not a demographic factor, the higher amounts mandated in California may result in noncustodial parents being less able to pay the full amount of child support, particularly at lower-income levels.

### **Counties Have Been Actively Establishing More Support Orders**

Overall, six<sup>4</sup> of the eight counties we visited increased their percentage of cases with support orders from an average of 44 percent to 59 percent over the past four fiscal years. Establishing support orders allows the county to begin its efforts to collect child support from the noncustodial parent, a crucial step.

Individually, five of the six counties experienced increases in establishing support orders between fiscal years 1994-95 and 1997-98, while one county's—Glenn's—performance remained unchanged. Although they showed improvement during this period, Sacramento and Yuba counties were still significantly below the State and national averages. One county—Los Angeles—increased its total cases with support orders to 60 percent, a 30 percent increase from fiscal year 1994-95. The management of Los Angeles County maintains that this increase is mainly a result of its continued improvements in automation in three areas. First, automation has streamlined and sped up the county's ability to locate noncustodial parents so they can be promptly served with legal pleadings for paternity and support. Second, the county's system has the ability to electronically file its pleadings for paternity and support directly with the courts and its process servers, saving time and resources. Finally, the county's automation of its case management system has standardized work flow and promptly alerts staff to the next step required in the legal process so actions are taken as soon as possible.

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*Five of the six counties increased support orders over a four-year period.*

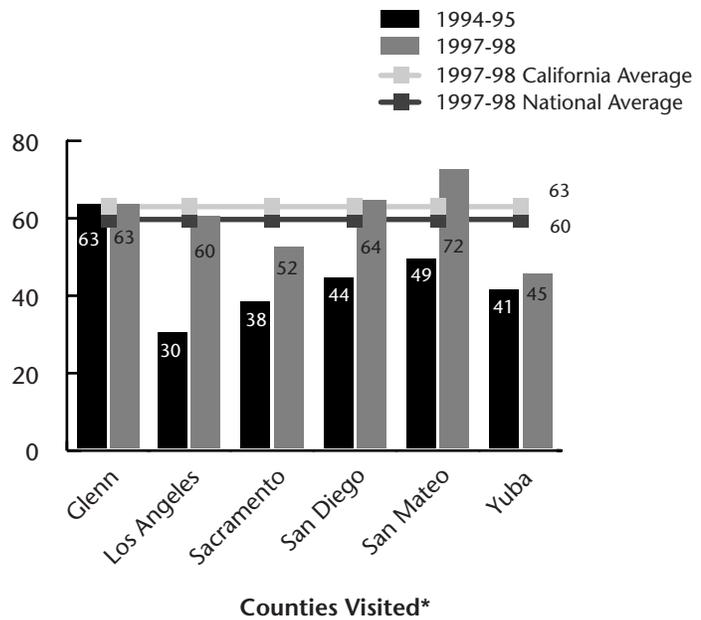
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<sup>4</sup> Although we visited Kern and Placer counties, we were unable to include them in Figures 3 through 5. Kern County overstated the number of cases with support orders reported to DSS and Placer County used SACSS, which did not produce reliable case data.

In addition to automation, Los Angeles attributes the increase in its support orders during this time period to the fact that it has hired additional staff, cutting its caseload per person in half, and has also added two more civil courts to speed up the processing of child support pleadings. Moreover, Los Angeles credits its improvement to a new policy through which it only pays its process server when a noncustodial parent has been successfully served. This creates a powerful incentive for the process server to locate the noncustodial parent. Figure 3 shows the percentage of support orders established for the counties we visited.

**FIGURE 3**

**Counties Visited Increased Support Orders**



Source: County Monthly Statistical Report on Child Support Activity (CS 850) for June 30, 1995, and June 30, 1998; Federal Child Support Enforcement Quarterly Data Reports (OCSE 156) for federal fiscal year 1997-98; and Federal Child Support Enforcement Annual Report for federal fiscal year 1997-98.

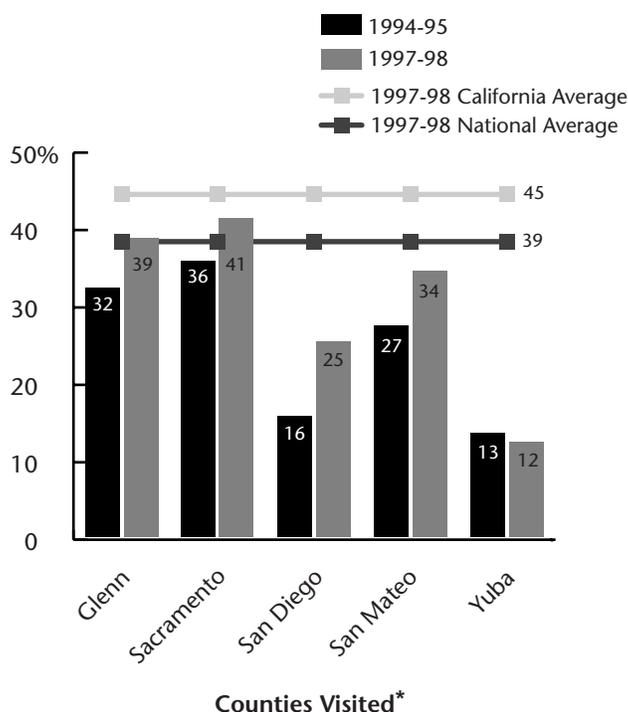
\*Note: We excluded Kern and Placer counties because Kern County overstated the number of cases with support orders reported to DSS and Placer County used SACSS, which produced unreliable data.

**Counties Have Experienced Only a Moderate Increase in Paying Cases and Generally Lag Behind the State and National Averages**

In the counties we visited, the percentage of cases with support orders where they were successful in collecting child support has risen moderately from an average of 25 percent to 30 percent over the past four fiscal years, but this percentage is still

significantly less than the State and national averages of 45 percent and 39 percent, respectively, for federal fiscal year 1997-98. However, Sacramento and Glenn counties, with 41 percent and 39 percent, did individually match or exceed the national average as illustrated in Figure 4. Yuba was the worst performer in this category, collecting on only 12 percent of its cases in state fiscal year 1997-98, a decrease of 1 percent from state fiscal year 1994-95.

**FIGURE 4**  
**Counties Visited Have Experienced Only Moderate Increases in the Number of Cases With Support Orders That Pay**



Source: County Monthly Statistical Report on Child Support Activity (CS 850) and the Monthly Report of Collections (CS 820) for state fiscal years 1994-95 and 1997-98; Federal Child Support Enforcement Annual Reports for federal fiscal years 1994-95 and 1997-98.

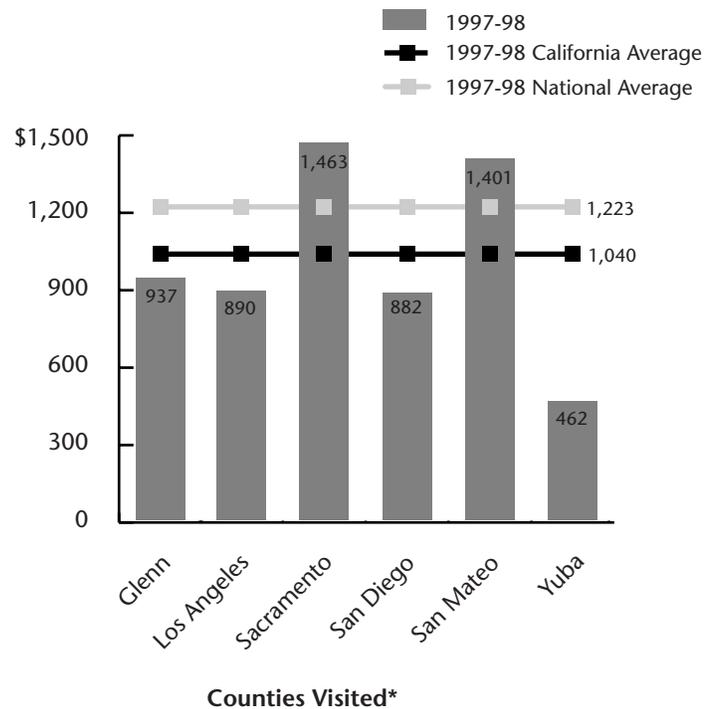
\*Note: We excluded Kern and Placer counties because Kern County overstated the number of cases with support orders reported to DSS and Placer County used SACSS, which produced unreliable data. We also excluded Los Angeles County because it believes that DSS's instructions require it to report multiple payments on a case.

After reviewing whether counties had collected payments for their cases with support orders, we also considered the average annual amount collected for each of these cases. This statistic is a measure of how well a child support program is able to collect

upon a support order once it is established. Compared to the State and national averages for federal fiscal year 1997-98, Sacramento's and San Mateo's annual collections per case were substantially higher as Figure 5 shows. However, the average amounts the other four counties collected during fiscal year 1997-98 were significantly less. The worst performing county—Yuba—collected only \$462 per case, which was little more than one-third of the national per-case average of \$1,223. Since these counties generally had increased the number of support orders, as discussed previously, their challenge now is to collect upon those support orders.

**FIGURE 5**

**Most Counties Visited Collect Less Per Case With a Support Order Than the State and Nation**



Source: Federal Child Support Enforcement Annual Report for federal fiscal year 1997-98 and the county Monthly Statistical Report on Child Support Activity (CS 850) for state fiscal year 1997-98.

\*Note: We excluded Kern and Placer counties because Kern County overstated the number of cases with support orders reported to DSS and Placer County used SACSS, which produced unreliable data. Unlike the previous comparison, we included Los Angeles County in this comparison because we found its data on cases with support orders and total collections reasonable.

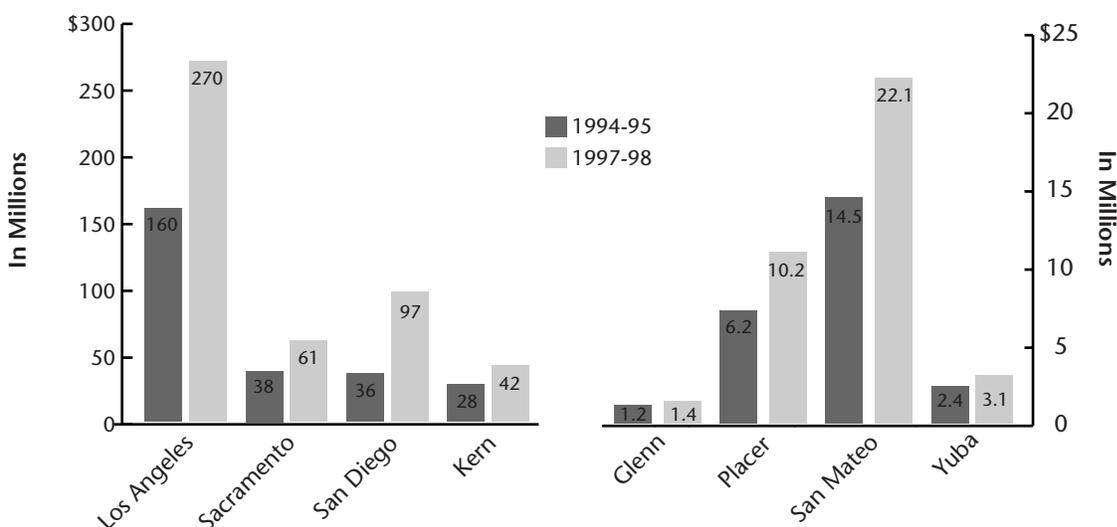
## Eight Counties Have Significantly Increased Their Overall Collections

Although the percentage of their paying cases has only grown moderately from fiscal years 1994-95 through 1997-98, the total dollar amount of collections for the counties we visited grew from \$286 million to \$507 million during that period, an increase of \$221 million. Figure 6 shows the collections for each of the counties. San Diego County almost tripled its collections, from \$36 million to \$97 million. Management of the county attributes the increase to the automation of routine functions and the employment of innovative projects, including the custodial parent outreach project and the service by publication process discussed later in this chapter.

Similarly, Los Angeles County has experienced a \$110 million rise in collections, from \$160 million to \$270 million. According to county managers, the increase is due both to increased automation and to its ability to efficiently exchange large volumes of information with other state agencies for collection purposes. In addition, management cites increased staffing and more aggressive criminal prosecutions as contributing factors. Finally, the decline in the rate of unemployment in the county probably played a role in its increase in collections.

**FIGURE 6**

### Collections Have Risen Significantly in Seven of the Eight Counties Visited



Source: County Monthly Report of Collections (CS 820) for state fiscal years 1994-95 and 1997-98.

Note: The collections include only those amounts collected by counties. They do not include amounts collected by other states on behalf of the counties. We included Kern and Placer counties because their collections data appeared reasonable.

In reviewing seven of the counties' collections by source (excluding Placer County), we found they had remained relatively consistent throughout the four fiscal years, with administrative wage assignments the most effective method. DSS requires that counties report modes of collection such as tax refund offsets, wage withholding, and liens and levies. However, in fiscal year 1997-98, the counties noted 26 percent of their collections as coming from "unidentified" sources. The unidentified collection sources include payments from self-employed noncustodial parents (since the wages of these individuals cannot be withheld) and receipts from the Franchise Tax Board (FTB) collections program. Further, as noted in Chapter 1, we found that Sacramento County was erroneously including most of its FTB and Internal Revenue Service (IRS) tax refund offsets in this category. According to the county's staff, they corrected this problem in October 1998. Since this unidentified segment is so large, DSS and county managers might find it useful to further break this category down.

## **SOME COUNTIES EMPLOY INNOVATIVE PRACTICES THAT MAY WARRANT STATEWIDE APPLICATION**

Several of the counties we visited utilize innovative, efficient, and time- and money-saving practices that might improve program performance of other counties if they are transferable. We identified a number of these best practices in our sample counties, some of which may possess statewide applicability while others may be best suited to only large or small counties.

### **Improved Phone Systems**

Los Angeles County uses a phone system that includes a large mounted call board that allows floor supervisors to instantly gauge the volume of incoming calls in a given queue at a particular time and assign staff accordingly. A similar system, used by San Diego and under consideration in Sacramento, greatly increases a county's ability to handle large volumes of calls, reduces waiting times, and more efficiently routes calls to the proper queue. For example, in Los Angeles, the average waiting time callers experienced decreased from 28 minutes in October 1998 to less than 1 minute in May 1999.

### **Service of Summons and Complaints by Publication**

Service of summons and complaints by publication, or service by publication, allows counties to establish more support orders as a means of increasing their collections. After efforts to physically serve the documents have failed, the county publishes a notice of summons in a local publication. Service by publication increased San Diego's collections: Over the past 11 months, San Diego's records show that it has collected \$2.2 million from 1,722 of the 15,526 support orders it established through this method, money that the county would otherwise not have collected. However, this method also has a drawback. Specifically, service by publication produces a fairly high percentage of uncollectable support orders because they are established through default, which inflates the amount of past-due child support owed in the county. Since counties will receive federal incentive funds based in part on the amount of child support collected versus the amount of child support owed, service by publication could potentially reduce a county's federal funding. However, a soft closure program as described in Chapter 1 could alleviate this problem. Because the practice delivers more money to children, the county maintains the overall benefits outweigh the risks.

### **IV-D Kids Insurance**

A pilot project initiated by Sacramento County that may soon be adopted nationally—IV-D Kids Insurance—ensures that children who need medical insurance either receive coverage through the noncustodial parent's employer or a low-cost group plan. If coverage is not available through the employer, IV-D Kids charges the noncustodial parent an additional amount above that of the support order to pay for a medical coverage plan with a participating insurance provider. Therefore, children without access to coverage through noncustodial parents' employers or insurers receive insurance coverage, allowing them greater access to medical care.

### **Open Recruitment to Avoid Staffing Vacancies**

San Mateo maintains ongoing open recruitment, whereby the county retains a pool of applicants who have successfully completed the application and interview process. When vacancies occur, the county can simply select someone from that pool to start work immediately, alleviating the normal lag time experienced in filling vacancies through county hiring processes.

### **Custodial Parent Outreach Programs**

San Diego County sent letters to almost 38,800 custodial parents whose cases lacked support orders, inviting them to attend an orientation session followed by an interview with a graduate law clerk. In this interview, the law clerk attempted to elicit the location of the noncustodial parent. As a result, San Diego was able to generate nearly 14,800 new support orders. Statistically, these new support orders could prove to be detrimental to San Diego's performance, since a significant portion of these cases may not pay, thus increasing the amount of past-due support that San Diego has failed to collect. However, the new support orders undoubtedly will also result in additional money being collected for children who depend on it. San Diego did not keep statistics on the amount of collections that resulted from this project.

### **Notifying Noncustodial Parents by Letter**

In an effort to offer noncustodial parents an alternative to the embarrassment of being legally served at work or at home, Kern County began sending letters informing them of the county's intention to serve them with a summons and complaint. The letters also notify noncustodial parents that they may come down to the county offices to receive the summons, avoiding the embarrassment of a physical service. Kern County provided us with statistics showing that of 18,807 noncustodial parents served during fiscal years 1996-97 through 1997-98, 9,305 (or 49 percent) chose to visit the county offices to receive the summons. Kern maintains that this practice saved taxpayers over \$274,000 during the two fiscal years by enabling the county to avoid the \$29.50 average cost per service charge for each of these individuals.

### **Alternative Funding Sources**

San Mateo County has had recent success in acquiring additional funding by applying for grants directly from the federal government to improve its child support program. For example, the county recently applied for three grants through the federal Office of Child Support Enforcement and was awarded two. One grant awarded the county \$250,000 to offer a heightened level of social services to both custodial and noncustodial parents in an effort to increase voluntary child support payments. Preliminary statistics indicate the program is working as intended. The

second grant was for \$97,437 to improve the county's performance on new welfare cases from the point of intake through enforcement of support orders.

## CONCLUSION

Considerable disparity exists between the CSEP services offered in each of the State's 58 counties. Although DSS's failure to provide guidance and leadership is partly to blame for this situation, many county district attorneys must also take responsibility for not appropriately prioritizing their child support programs. While some counties have gone to considerable effort to develop innovative and effective ways of dealing with problems, other county programs remain understaffed, poorly housed, and backlogged with cases. In order to effectively serve the children and parents who depend upon California's child support program, the counties will need to work closely with DSS to develop a unified, consistent, and effective CSEP.

## RECOMMENDATIONS

To ensure that California residents participating in the CSEP are treated equally and receive the same level of service from county to county, DSS should exercise its authority over county-run programs to achieve uniform delivery of child support services at the local level.

In addition, to avoid duplicate cases and child support services when custodial parents relocate to another county, DSS should do the following:

- Establish new written guidelines and procedures for counties on how to handle inter-county transfers until a statewide-automated system is implemented.
- Ensure that all counties accept and process inter-county transfers using these new guidelines.

Further, DSS should study the best practices of county-run child support programs, including those identified from the eight counties we visited, and then consider the merit of implementing these practices statewide.

If DSS believes it is unable to affect these changes because it lacks authority, the Legislature should ensure such authority is granted. ■

# CHAPTER 3

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## ***The Federal Government's Role: Its Incentive Funding Structure Does Not Consider Demographics and May Motivate Conflicting Priorities***

### CHAPTER SUMMARY

The national Child Support Enforcement Program (CSEP), first established by Congress in 1975, has changed significantly since its creation. Initially intended to collect child support as a means of offsetting government expenditures in cases when the custodial parent was receiving welfare, the program has since been broadened to include services both to parents who receive aid and those who do not. In addition, states are now required to establish paternity for children where necessary and to ensure medical coverage for all children in the program. In exchange for the states' administration of the program, the federal government funds a portion of each state's operating costs as well as awarding incentive funding for program performance in specified areas.

However, despite recent changes that will base these incentive payments on five quantifiable measures of a state's performance, the current federal incentive structure presents two significant problems. First, it does not reflect important demographic factors that affect a state's CSEP performance and therefore may unfairly penalize some states, including California. Second, even though the focus of the national program has shifted through the years, the measures that the federal government uses to determine incentives do not fully take these changes into account. The government may therefore be communicating conflicting priorities to the states. For example, although the states are required to establish medical coverage as a part of their support orders whenever possible, this activity is not considered in awarding incentives. It may receive a lower priority as a result.

## THE FEDERAL FOCUS OF THE CSEP HAS SHIFTED

The alarming rise in welfare costs that occurred in the mid-1970s as a result of increased out-of-wedlock births and parental desertions caused a growing demand by taxpayers for relief in supporting these families and eventually led Congress to establish the national CSEP. Congress initially believed that government welfare expenditures could be reduced by recouping Aid to Families With Dependent Children (AFDC) benefits from noncustodial parents' child support payments. It also hoped that, if states provided earlier enforcement of child support obligations for families that did not receive AFDC, these families could avoid seeking public aid in the future.

For this reason, Congress has since made a number of changes that extended the program's authority and services, resulting in an expansion of its mission. Legislation passed in 1984 increased the emphasis on welfare prevention by requiring that states offer child support services to both AFDC and non-AFDC families. This meant that states were required to publicize the availability of child support enforcement services for non-AFDC families. To encourage the states to prioritize these cases, the federal government also began to offer incentive payments for collection activities in non-AFDC cases for the first time.

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*After states began offering CSEP services to non-AFDC as well as AFDC families, most saw significant increases in their caseloads.*

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However, after states began offering CSEP services to both non-AFDC as well as AFDC families, most saw significant increases in their caseloads and a shift in the demographic groups they served. For example, between 1980 and 1998, the national CSEP caseload grew by over 265 percent, from 5.4 million to 19.7 million. In addition, the program changed from primarily serving single parents receiving public aid to serving a majority of nonaided families. In 1992, AFDC cases represented roughly 58 percent of the national caseload with non-AFDC cases making up the remaining 42 percent. By 1998, these percentages had almost reversed, with the national caseload split 56 percent to 44 percent favoring non-AFDC cases.

Subsequent legislation has continued to complicate and broaden the CSEP's mission. Amendments passed in 1984 and thereafter further expanded state responsibilities by requiring that medical coverage be included in all support orders whenever it is reasonable to do so. Additional amendments passed in 1988 required that states meet specific performance standards for paternity establishment and that they periodically review cases with

support orders and the guidelines governing support orders to ensure that the collection amounts established through support orders are appropriate.

### **The Federal Incentive Structure Does Not Reward Efforts Equally**

Federal incentive payments are designed to influence how state child support programs are managed. However, although the services that CSEP offers have expanded over time, the federal incentive structure has remained focused on welfare recovery until recently and still does not equitably reward all required efforts. Since October 1985, the incentive payments that the states receive have been based on the amount of their collections and administrative costs. Specifically, the current incentive payment structure utilizes two important ratios: the ratio of a state's AFDC collections to its total administrative cost and the ratio of its non-AFDC collections to its total administrative cost. A state with a ratio *below* 1.4 to 1 for either type of collection receives a minimum percentage incentive award, while a state with a ratio *above* 1.4 to 1 receives awards ranging from 6 percent to 10 percent of the amount it collected on its AFDC and non-AFDC cases, respectively, with the percentage it receives determined by its ratios.

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*No matter how well a state does in collecting on non-AFDC cases, the amount of federal incentives it receives will be limited by its AFDC collections.*

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However, non-AFDC incentive payments are capped at 115 percent of the state's AFDC incentive payment. As a result, no matter how well a state does in collecting on its non-AFDC cases, the amount of the incentive rewarding its efforts will be dependent on how well it collected on its AFDC cases and controlled its administrative costs. For example, after computing its two ratios and its incentive award percentages, a state that was successful in collecting non-AFDC payments might qualify for an incentive award payment of \$300,000 for its efforts on collecting from AFDC cases and \$2 million for its efforts on collecting from non-AFDC cases. Yet, because of the cap limitation, this state would receive a non-AFDC incentive award payment of only \$345,000, or 115 percent of its AFDC incentive payment of \$300,000.

Thus, the current incentive payment structure is weighted toward AFDC collections and, as a result, states may be placing more emphasis on this segment of their caseload than is warranted. In addition, federally required efforts such as establishing medical support orders do not qualify for incentives, and therefore states may place a lower priority on these activities.

Furthermore, the federal Health and Human Services Office of the Inspector General found that some state and local officials are concerned that using collection efficiency for determining incentives tends to penalize states like California for incurring additional costs that are not expected to yield increases in either AFDC or non-AFDC collections. Examples cited included the cost of voluntary in-hospital paternity establishment programs for the children of unwed mothers.

In response to such criticism, in June 1998, Congress passed the Child Support Performance and Incentive Act (act). According to the act, incentives will be made from an incentive payment pool beginning in October 2000. Instead of using the two ratios to determine incentives, awards will be based on five performance factors. The general approach will be to pay each state its share of the payment pool according to the quality of its performance as determined by the following indicators:

- Paternity establishment
- Support order establishment
- Collections on current payments due
- Collections on past-due child support
- Cost-effectiveness

With the exception of the cost-effectiveness measure, states that do not meet the lowest performance standard for one or more of the other four measures can still receive incentives by improving their level of performance by a specified percentage over the preceding year.

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***New measures established by Congress still do not reward required activities such as establishing medical support.***

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While the act seems to address the inequity of failing to fully reward states that are more efficient in collecting from their non-AFDC cases and to recognize efforts spent on establishing paternity and support orders, these new measures still do not reward required activities such as establishing medical support. Until the federal incentive structure more closely reflects the actual federal CSEP requirements, incentives may lead states to inappropriately prioritize some efforts above others.

## The Federal Incentive Structure Does Not Consider State Demographics

In addition to communicating conflicting priorities, the new measures established by the act continue to ignore the effect of demographic, economic, and legal factors on a state's CSEP performance. For example, a state like California probably will not fare well comparatively on the measures for collections of current support due and past-due support. This is attributable largely to the fact that some states legally require that all child support cases be handled by the child support program, including those cases where neither parent is contesting the terms of the support order. These states, known as universal states, have large numbers of uncontested cases and avoid many of the time-consuming and expensive activities that other states must perform. They fare particularly well in comparison to states like California that have a large number of cases in which the noncustodial parent does not want to be found or has few resources with which to pay ordered support amounts.

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*States requiring that all child support cases be handled by the CSEP fare particularly well as compared to states like California that primarily handles contested cases.*

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In addition, California's performance is likely to compare badly to other states because of its policies regarding case closure. Currently, California keeps open many cases that meet the federal government's criteria for closure. These cases, for which there is little or no likelihood of collection, are included in the State's caseload and will affect its performance in three of the five new incentive measures. Moreover, California is also at a disadvantage because of economic factors, such as the rate of unemployment. While improving, this is still higher in California than in many other states that more quickly recovered from the recession of the early 1990s.

The difficulty of accurately comparing California to other states is discussed further in the Appendix.

## CONCLUSION

When incentives are inequitable, ignore factors affecting performance, or fail to address required activities, they may send the wrong message to states. For example, if incentives reward certain activities more than others, states are likely to expend more resources performing those activities for which they receive greater compensation—even if other activities are

equally important. Similarly, if incentives fail to take into account factors that lessen a state's ability to compete, they are a disincentive for those states to work cases vigorously.

The federal government seems to recognize the potential shortcomings of its latest performance measures. By October 1, 1999, the federal secretary for Health and Human Services, working with representatives of state programs and children potentially eligible for medical support, is required to submit recommendations to Congress for a performance measure based on establishing and enforcing medical support orders. Furthermore, Congress is requiring a report no later than October 1, 2000, that identifies any demographic or economic variables that contribute to differences in the performance level among states, with final recommended changes to the incentive system due to Congress by October 1, 2003.

## **RECOMMENDATION**

The California Legislature should monitor the federal government's efforts to improve its incentive structure to ensure that such modifications match the current direction of the federal CSEP and take into account demographic factors in determining a state's performance. If such improvements are not made, the Legislature should memorialize Congress of the needed changes.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG  
State Auditor

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# APPENDIX

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## ***Comparing Child Support Enforcement Programs Among States Without Considering Demographics, Legal Factors, and Data Collected Is Misleading***

**T**he California Child Support Enforcement Program (CSEP) is often criticized by child advocate groups for not performing as well as similar programs in other states. These comparisons are based on statistics that each state gathers and reports to the federal government, but they can be misleading because they are often made without an understanding of the underlying data. To be fair and accurate, comparisons among states must take into consideration demographics and other factors before judging the success or failure of a state's program.

For instance, California felt the recent recession more strongly as unemployment was higher here than in most other states. California also has a relatively high poverty rate, which is reflected in its higher welfare caseload. Another factor that is often ignored is that under state law, California's courts must use support order guidelines to establish orders at higher amounts than most other states do, particularly those involving parents at lower income levels. These higher support orders and other economic factors may lessen the probability of California's CSEP collecting from many of the State's noncustodial parents.

Moreover, at least 26 states, including California, only handle the more difficult-to-collect child support cases, those in which the custodial parent either receives welfare or when specifically requested by nonwelfare custodial parents who generally have not been receiving child support payments. Other state programs by law handle all cases involving child support, including voluntary agreements between parents where payment is not contested. These are known as universal states. Therefore, comparing universal states' percentage of cases where collections are received and average collections per case statistics to those of nonuniversal states can be misleading.

Inconsistencies and errors in the data being reported by the states also make it difficult to fairly contrast the performance of one state's CSEP with others. As noted in Chapter 1, the Department of Social Services (DSS) and the counties made significant errors in reporting this data to the federal government. Moreover, in its statistical reports summarizing all states' performance, the federal government warns that the data contains inconsistencies and cautions against making comparisons among states, suggesting that California is not alone in reporting inconsistent or erroneous data.

Recognizing these inconsistencies, we compared California's CSEP to those of states with large populations, but excluded universal states like Ohio, Michigan, and Pennsylvania from this comparison. We defined these peer states as having a population of greater than 8 million as of July 1997 and as focusing their programs on the more difficult-to-collect cases. States meeting these criteria are Florida, Illinois, New Jersey, New York, and Texas.<sup>5</sup> However, data from Florida was not always available, or when available, was sometimes inaccurate, and Illinois could not provide us all of its data for federal fiscal year 1997-98. Therefore, we were not always able to include these two states in the peer comparisons.

We then analyzed California's performance versus these peer states by assessing the effect that demographic, legal, and economic differences might have. Within these parameters, California's performance has generally shown improvement over the past four years, and it ranks favorably among its peer states.

### **DEMOGRAPHICS AND LEGAL FACTORS OUTSIDE THE CONTROL OF PROGRAM MANAGERS MUST BE TAKEN INTO ACCOUNT WHEN COMPARING STATE CHILD SUPPORT ENFORCEMENT PROGRAMS**

Each state has unique demographics, laws, and economic circumstances that affect the performance of its CSEP. Most of these factors are outside the control of program management and have adversely affected the past performance of California's program. We compared a number of key factors for California

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<sup>5</sup> New Jersey is a county-based program; New York uses local social service districts and the City of New York's child support program; the remaining three states have state-operated systems.

and the peer states and found that significant differences exist that could negatively affect how California performs in comparison with its peer states.

### High Unemployment in California May Hinder Collection of Child Support

Over the past six years, California’s high unemployment rate was likely a major obstacle to collections because payment of child support is dependent on the noncustodial parent being employed or having sufficient means to pay. In the mid-to-late 1990s, California and the rest of the nation suffered an economic recession. However, compared to its peer states and the nation, California’s unemployment rate was much higher. As shown in Table 3, unemployment caused by the recession has decreased, but California’s unemployment was worse than elsewhere over the past six years, and its economic recovery still lags behind the peer states and the rest of the country.

**TABLE 3**

**California’s Unemployment Rate Remains Higher Than That of Peer States and the Nation**

Federal Fiscal Year	California	Peer States	Nation
1992-93	9.5%	7.6%	7.1%
1993-94	8.9	6.7	6.4
1994-95	7.9	5.9	5.6
1995-96	7.5	5.8	5.5
1996-97	6.5	5.4	5.1
1997-98	6.0	4.9	4.6

Source: U.S. Bureau of Labor Statistics, Local Area Unemployment Statistics for calendar years 1992 to 1998. Based on the average of the unemployment rate for each month in the federal fiscal year.

Unemployed noncustodial parents are likely not able to pay much child support. Although counties can intercept up to 25 percent of unemployment benefits, the maximum amount that an unemployed noncustodial parent can receive is about \$920 a month, which limits child support collection to \$230. Compared to the monthly guideline amount for the Case A example in Table 4 on page 85, this intercepted amount would

almost keep pace with the current child support owed but would contribute nothing to any past-due amounts. Thus, California, while suffering through the recession, would not perform as well as states that did not experience such high unemployment. Moreover, California would likely have built up a large amount of unpaid child support during the recession because noncustodial parents did not keep current on their payments.

### **Higher Poverty Levels and Welfare Caseloads in California May Inhibit Collection of Child Support**

Another factor that may limit the amount of child support collected in California is its high poverty level. Noncustodial parents with lower incomes are less able to pay child support. In terms of poverty and welfare enrollment, California ranks among the highest in the nation. One indication of these high levels is the percentage of people below the poverty level. Poverty level measures the ability to pay for basic necessities and, for a four-person family in 1996, amounted to \$15,600. In California, an average of 17.2 percent of the population was below the poverty level between 1994 and 1996, but only 14.1 percent of the peer states' population and 14 percent of the nation, on average, fell below the poverty level during the same period. Translated into actual numbers, California's 17.2 percent poverty rate equates to 5.4 million people, as compared to 10.6 million people below the poverty level in the five peer states combined.

California's child support caseload also contains a greater percentage of custodial parents who are on welfare as compared to the peer states. From federal fiscal years 1994-95 through 1997-98, California's welfare caseload remained fairly constant at or near 67 percent, while the peer states dropped steadily from 49 percent to 41 percent during the same four fiscal years. The CSEP generally has more difficulty collecting on welfare cases because the noncustodial parents are less able to pay child support. Further, custodial parents receiving aid are given little financial incentive to participate in the process because they only receive the first \$50 collected; the remainder is kept to recoup welfare costs. With such a large percentage of welfare cases, California is at a disadvantage when collecting child support and cannot be expected to perform as well as other states.

Finally, a recent study showed that income inequality is worsening in California. Income inequality is a measure of how equally income is divided among members of society or the gap between the earning levels of the high- and low-income segments of the population. A study conducted by the Public Policy Institute of California found that the income gap was worse in California than in the rest of the nation. The implication of the worsening income equality in California is that the number of people at the lower income levels, which is increasing, is the population less able to pay child support obligations.

### **Expanding Caseloads and Lower Personal Income Levels Limit Collection of Child Support Owed**

Among the peer states, New Jersey collected the highest percentage of child support owed for each of the four years we reviewed, an average of 26 percent. Two of the factors contributing to New Jersey's success may be its low caseload growth and high personal income. Most of the other peer states and California tended to have high caseload growth and low personal income and collected less of what was owed. We found that, after adjusting for errors, California averaged a collection rate of 11 percent over the past four federal fiscal years.

California has experienced tremendous growth in its caseload, jumping 110 percent from 1991 through 1996, more than triple the peer average and 50 percentage points higher than the next highest case growth rate among its peer states. In contrast, New Jersey's caseload grew by only 3 percent, which was the least among the peer states during the same period. A stable caseload is easier to manage, while an ever-increasing caseload stretches existing resources thinner, lessening the effort spent on collecting.

In addition, personal income in New Jersey was higher than in California and the other peer states from 1995 through 1997. For example, in 1997, California's average level of personal income was \$26,314 and the peer states averaged \$27,760. In contrast, New Jersey's personal income averaged \$32,356, which was 23 percent higher than California's and 17 percent higher than that of the other peer states' average. Increased personal income means more disposable income, and noncustodial parents are more likely to pay the required support with more disposable income.

### **California’s Guidelines for Determining Child Support Orders Sets Amounts That Are Generally the Highest in the Nation, Skewing Comparisons of Collection Rates**

The suggested amount of a child support order in California is generally higher than that of peer states and the national average at all income levels for noncustodial parents. Higher support orders are more difficult to collect and may result in less money for custodial parents. The State’s inability to collect the full amount of these higher support orders may make California’s performance seem worse than that of other states.

Support orders are the monthly amounts the court directs the noncustodial parent to pay for child support. In most states, the courts use guidelines that establish a formula to calculate the monthly amount. In California, the formula is driven primarily by custody arrangements and the parents’ net income levels. According to the California Judicial Council, courts throughout the State use the amounts the guidelines suggest for CSEP cases over 98 percent of the time for cases receiving support orders. Each state determines the factors that influence the amount suggested by its respective guidelines. However, as shown in Table 4, California’s guidelines suggest a monthly support order amount higher than that of peer states in all but the highest income level and always higher than the national average at all income levels.

In the cases from the table most likely to involve noncustodial parents on welfare—Cases A and B—differences between California and the other states are the most dramatic. The table illustrates that in Case A, California guidelines suggest a support order amount of \$236 a month, while New York only requires \$25 per month under the same circumstances. According to New York law, support orders are set at a \$25 nominal monthly amount in order not to put the noncustodial parent’s income below the poverty level. In contrast, California’s guidelines set the support award high enough to approximate the cost of raising a child in the State. Although the New York comparison is the extreme, it demonstrates the difference between California’s and other states’ guideline amounts and illustrates why other states usually suggest a support order amount significantly less than that of California at the lower income levels.

In Cases C, D, and E, the peer states and national average come closer to the California support order amount, but California is almost always higher.

**TABLE 4**

**California’s Guidelines Result in Substantially Higher Monthly Support Order Amounts**

Various Monthly Net Income Scenarios	California	National Average	Peer State Average	Florida	Illinois	New Jersey	New York	Texas
Case A*: father \$530, mother \$300	\$ 236	\$ 126	\$ 97	\$ 135	\$102	\$ 112	\$ 25	\$ 109
Case B*: father \$720, mother \$480	278	179	172	261	136	267	50	147
Case C: father \$2,500, mother \$1,000	478	408	389	463	294	452	436	298
Case D: father \$4,400, mother \$1,760	770	622	626	721	485	710	669	517
Case E: father \$6,300, mother \$4,200	1,457	1,164	1,217	1,186	1,020	**	1,548	1,114

Source: 1998 Green Book: “Background Material and Data on Programs Within the Jurisdiction of the Committee on Ways and Means,” U.S. House of Representatives, published May 19, 1998. Custody time is held constant in this comparison.

\* Most likely to be welfare cases.

\*\* Courts decide on the amount.

**California Establishes Higher Support Orders for Welfare Cases Than Its Peer States Do**

Taking this comparison a step further, we found that California established higher support order amounts for welfare cases than the peer states did. The amount established represents the annual average support order amount produced by the guidelines. We used the total dollar amount established and the number of new cases with support orders states reported to determine the average for federal fiscal year 1997-98.

Table 5 shows the average annual amount that California and the peer states required noncustodial parents to pay in welfare and nonwelfare cases. For welfare cases, California and the peer states established very different amounts, with California averaging \$729 more. As discussed in the last section, the focus of California’s support order guidelines on what it takes to cover the expenses of raising a child is the likely cause for this difference. On the other hand, California established a slightly lower

average amount for nonwelfare support orders than the peer states did. A potential reason for this difference is that California established a greater number of support orders in this category at lower income levels than its peer states did.

**TABLE 5**  
**The Average Annual Amount of Support Orders**  
**Varies Widely Between California and Peer States**  
**Federal Fiscal Year 1997-98**

	California Average	Peer States' Average	Difference Between California and Peer States
Average nonwelfare support order	\$2,057	\$2,225	\$(168)
Average welfare support order	1,899	1,170	729
<b>Differences between type of order</b>	<b>\$ 158</b>	<b>\$1,055</b>	

Note: The peer states' average does not include Florida and Illinois because neither state could provide us the data.

Another interesting distinction between California and the peer states is the difference between the average support order amount for nonwelfare and welfare cases shown in the last line of Table 5. California's established support orders for welfare and nonwelfare cases are only \$158 apart. In contrast, the difference of \$1,055 between the average peer states' nonwelfare and welfare annual support order is a clear indication that these states believe that noncustodial parents in welfare cases should pay a lower amount or are less able to pay child support.

The higher amounts for support orders in welfare cases reduce California's chances of fully collecting on them. Add to this the fact that noncustodial parents in welfare cases tend to have lower income levels, and the result is that California does not perform as well as peer states in collecting child support for welfare cases. Moreover, since it generally collects less of what is owed on welfare cases, California also accumulates past-due child support at a much higher rate. Because 67 percent of its caseload is made up of welfare cases, California's overall collection performance will likely suffer, too.

## CASE CLOSURE PRACTICES WILL AFFECT PERCEIVED PERFORMANCE

How aggressively a state closes cases will affect the performance statistics of its CSEP because the total number of cases is part of many performance calculations. These calculations include three of the new federal performance measures that will determine the amount of incentive funds states will receive. For example, one of the new measures is computed by determining the percentage of open cases with support orders. This percentage is found by dividing the number of cases with support orders by total cases.

The higher the percentage, the better the state's chance of receiving a higher incentive award. Therefore, since the total number of cases is the denominator in this calculation, the case closure policy or practices of a CSEP can significantly affect how well the program performs for this measure.

To illustrate, let us examine two hypothetical child support programs—Program A and Program B. Both programs have identical caseloads of 100 cases, with 50 cases without support orders that qualify for case closure under federal guidelines and 25 cases where support orders have been established. If Program A elects not to close any of its cases in hopes of establishing more support orders, its percentage of cases with support orders would equal 25 percent (25 cases with support orders divided by 100 total cases). Program B,

on the other hand, chooses to aggressively close all its cases that qualify and thus, its percentage of cases with support orders would equal 50 percent (25 cases with support orders divided by 50 total cases).

### **New federal regulations allow states to close cases if one of the following conditions exist:**

- A current support order does not exist and past-due child support is less than \$500.
- The noncustodial parent is deceased.
- Paternity cannot be established.
- The noncustodial parent's location is still unknown after three years of regular attempts to establish it.
- The noncustodial parent is institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a permanent disability and, thus, cannot pay support.
- The noncustodial parent lives in and is a citizen of a foreign country and the state has been unable to establish reciprocity with the country.
- In a nonwelfare case, the custodial parent is uncooperative or the state is unable to contact the custodial parent within a 30-day period by phone and with at least one certified letter.
- The nonwelfare custodial parent requests closure of a case with no assignment to the state of medical support or of past-due child support accrued under a support order.
- The welfare custodial parent requests the case to be closed because of fear that the noncustodial parent will retaliate.

For a case meeting one or more of these criteria, the state must notify the custodial parent in writing 60 days before closing the case. The case must be kept open if the custodial parent provides additional information that could lead to collection of child support. If a case is closed, the state must retain the file for three years and may reopen it if the custodial parent later supplies information that could further the collection process.

Therefore, Program B appears to perform better than Program A even though both programs have the same number of cases with support orders.

We did not perform an extensive analysis of California's case closure practices because case closure rates varied greatly among the counties, and a uniform practice of closing cases did not appear to exist. However, we did review the percentage of cases that California closed for the past four federal fiscal years and found that it tends to close a lower percentage of cases than some of the peer states do. Although California's average and the average for the peer states during the four-year period were both approximately 30 percent, one state, Texas, averaged 43 percent.

Lastly, as noted in Chapter 1, DSS has not implemented new federal case closure regulations. Instead, it is following the older, more restrictive regulations. By May 2000, DSS plans to have new state regulations in place to implement most of the new federal requirements. However, because other states most likely will implement the new federal case closure regulations sooner, comparisons of California's performance to that of other states would be negatively affected in the interim for those performance measures that are computed using total cases.

### **COMPARISON OF CALIFORNIA AGAINST STATES THAT HAVE UNIVERSAL CHILD SUPPORT ENFORCEMENT PROGRAMS IS MEANINGLESS**

An important distinction among child support enforcement programs is the types of cases they process. States with universal programs have laws that require them to manage all child support cases, whereas other states manage only the more difficult-to-collect ones. Many of the support orders in universal states are voluntary agreements in which both parents agree upon a support order amount and the noncustodial parent makes regular payments. A program with a substantial number of these voluntary support orders would less frequently need to establish paternity, locate the noncustodial parent, or intervene to enforce the child support order. In these instances, the program merely acts as an intermediary to pass payments between the parents. Thus, the universal states have a significant population of cases that are not subject to the difficulties that occur when enforcing a support order against a noncustodial parent who has few assets or is evading payment of child support. As a

result, as one would expect, the universal states perform better than nonuniversal states in terms of their percentage of cases where collections were received and average collections per case. Comparing nonuniversal to universal states is not a fair measure of how the child support program performs; it only illustrates differences in how states administer their programs. Examples of large states with universal programs include Ohio, Michigan, and Pennsylvania.

California and many other states only process cases in which the custodial parent receives welfare subsidies, or, if not on aid, requests the state to manage the case. The performance of these states' programs in terms of collections per case will generally be worse than that of a universal state because of the difficulty in collection. As noted previously, child support in welfare cases is more difficult to collect because custodial parents are given little incentive to participate in the process and the noncustodial parents generally are less able to pay child support. Because of these factors, in federal fiscal year 1997-98, only 23 percent of noncustodial parents associated with welfare cases in the peer states, on average paid on their support orders, while the payment rate averaged 47 percent for the noncustodial parents of nonwelfare cases.

Furthermore, cases where the custodial parent is not receiving welfare but has requested assistance from the state to obtain child support also may be more difficult to collect because such cases generally involve a noncustodial parent who is actively evading payment. The state usually needs to devote more effort to these cases than those in which the noncustodial parent is cooperative. Moreover, it is very likely that the noncustodial parent will pay less than the amount due by delaying payment, submitting partial payments, or not paying at all.

#### **DATA INCONSISTENCIES AND ERRORS HAMPER COMPARISONS AMONG STATES' CHILD SUPPORT ENFORCEMENT PROGRAMS**

Data collection and reporting problems severely limit the usefulness of CSEP data and can distort comparisons among states. Although the federal government collects and reports state program data, it recognizes in its reports that many states submit data that is an estimate or is incomplete or inconsistent.

## **The Federal Government's Annual Statistical Reports Are Inaccurate**

The federal government publishes the Child Support Enforcement Annual Report to Congress (statistical report) that summarizes statistics and program results of all states. It makes available to the public both a preliminary and final version of this statistical report for each federal fiscal year. However, it cautions that missing, revised, estimated, and inconsistent data and different state laws and practices complicate comparisons among states. For example, the tables displaying collection of child support amounts contained in the preliminary statistical report for the federal fiscal year ending September 30, 1998, include footnotes stating that up to 11 states, including California, Florida, and New York, did not submit certain data to include in the tables. The tables also note that the data of up to three states was omitted because their reported collections exceeded the total amount due. Although this report is based on preliminary data that the states submit, missing data limits the usefulness of the statistics reported.

The statistical reports also contain data that is obviously in error. For instance, the final statistical report for federal fiscal year 1995-96 reported that Florida had established support orders for 100 percent of its cases. It is highly unlikely that any state could accomplish this, let alone a state the size of Florida. In fact, in its preliminary statistical report for fiscal year 1997-98, the federal government reported that Florida had established support orders for 44 percent of its cases, a much more realistic figure.

Further, as discussed in Chapter 1, because DSS does little to assure that counties report accurate information, data included in the statistical report for California contain numerous errors. For example, DSS underreported the amount of past-due child support over the past four federal fiscal years, \$1.6 billion in federal fiscal year 1997-98 alone. Other problems in California's reported data were caused by the omission of information for counties using the Statewide Automated Child Support System and various errors in county reports submitted to DSS. Thus, any comparison or analysis using California data must consider that the data are sometimes inaccurate and incomplete.

## **The Lateness of the Federal Statistical Report Limits Its Usefulness**

The data contained in the federal statistical report is not always reflective of the current status of states' programs because it is made public long after the close of each federal fiscal year. Users of the report often rely upon it to judge the effectiveness of states' programs; however, their conclusions are based on stale data. The federal government publishes both a preliminary and final version of the statistical report. For federal fiscal years 1994-95 through 1996-97, the final statistical reports were not available until more than 21 months after the year ended. The federal government only recently released the preliminary version for federal fiscal year 1997-98 in June 1999, 8 months after the close of the fiscal year. The release dates of the preliminary reports for the other years we reviewed were similarly late.

The cause of the late statistical reports rests mainly with the states. The federal government requires states to submit data within 30 days after the close of each federal fiscal year, but many states, including California, submit their data late or not at all. DSS, for example, has submitted the final version of its collection report for the past two years, seven months and six months late, respectively. As previously noted, the preliminary statistical report for federal fiscal year 1997-98 did not contain certain California data on child support collections, most likely because DSS submitted its report late. Other states have not submitted data for several years, with at least one state unable to do so because of problems with its computer system. Thus, delayed and incomplete reports submitted by the states cause the federal statistical report to be late as well.

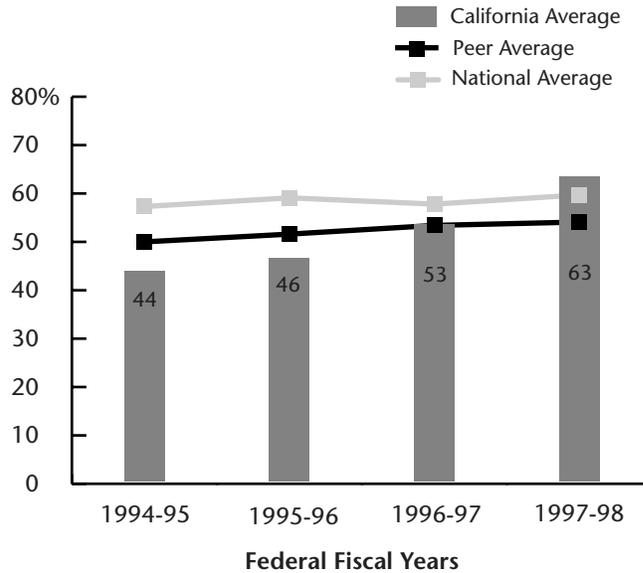
## **TAKING INTO CONSIDERATION DATA PROBLEMS, CALIFORNIA'S PERFORMANCE HAS SHOWN IMPROVEMENT**

Despite the data limitations discussed in the last section, the performance of California's CSEP has improved over the past four years. During federal fiscal years 1994-95 through 1997-98, four of the major factors measuring performance—percentage of cases with support orders, percentage of cases with support orders that are paying, average collections per case with a support order, and total collections—have generally increased for both the welfare and nonwelfare segments of the State's caseload. Further, when measured against its peer states, California has shown significant improvement.

The establishment of support orders has shown the most dramatic increase over the past four years, rising from 44 percent to 63 percent of all California cases as illustrated in Figure 7. The increase is significant, since having a support order in place allows the use of enforcement tools, such as tax refund offsets and wage withholding, to collect child support. While California ranked 4<sup>th</sup> for establishing support orders in its peer group for federal fiscal year 1994-95, it moved up to 3<sup>rd</sup> by federal fiscal year 1997-98. Nationally, California ranked 45<sup>th</sup> in federal fiscal year 1994-95<sup>6</sup> and improved to 29<sup>th</sup> by federal fiscal year 1997-98.

**FIGURE 7**

**Cases With Support Orders in California Have Increased and Now Exceed the Peer and National Averages**



Source: Federal Child Support Enforcement Annual Reports for federal fiscal years 1994-95 and 1995-96 and the Child Support Enforcement Data Reports (OCSE 156) for federal fiscal years 1996-97 and 1997-98.

Note: The peer average does not include Florida in federal fiscal years 1994-95 and 1995-96 because of errors in its program data.

California’s child support program was also able to post a large increase in the percentage of cases with support orders where noncustodial parents paid child support. During this period, as shown in Figure 8, the category increased from 32 percent to

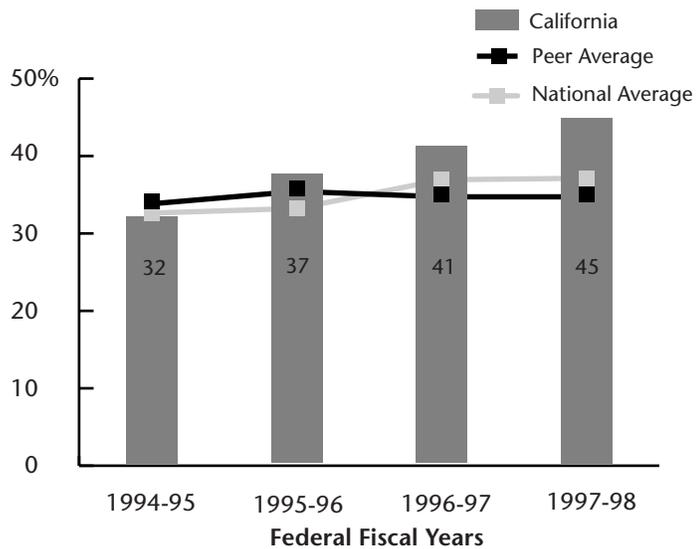
<sup>6</sup> Federal fiscal year 1994-95 rankings in this paragraph exclude Florida.

45 percent due most likely to establishing more support orders and the use of better enforcement tools, such as wage withholding, to collect support.

In its peer group, California had the highest percentage of cases with support orders receiving payments in federal fiscal year 1997-98, up from 4<sup>th</sup> place in federal fiscal year 1994-95. Nationally, California ranked 13<sup>th</sup> among all states for federal fiscal year 1997-98. However, we are uneasy with this improvement because of the errors we found in reporting on this category by Los Angeles County. As noted in Chapter 1, the county sometimes double-counted the number of paying cases, which resulted in overstating its performance. Because of its size, Los Angeles County could have a significant impact on California’s overall performance for this measure.

**FIGURE 8**

**Paying Cases Increased in California and Have Exceeded Peer and National Averages Over the Past Three Years**



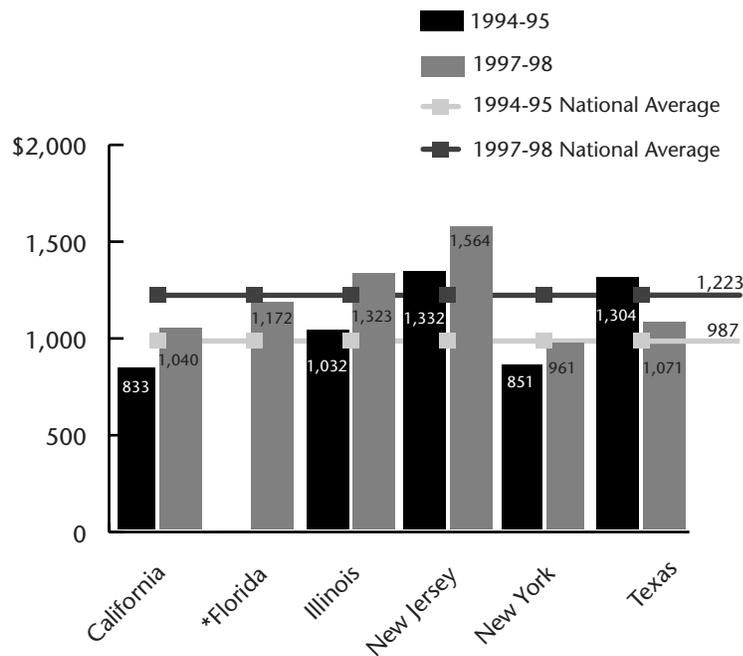
Source: Federal Child Support Enforcement Annual Reports for federal fiscal years 1994-95 and 1995-96 and the Child Support Enforcement Data Quarterly Data Reports (OCSE 156) for federal fiscal years 1996-97 and 1997-98.

Note: The peer average does not include Florida in federal fiscal years 1994-95 and 1995-96 because of errors in its program data.

We also compared the average annual collections per case with a support order for California and the peer states. For purposes of this comparison, we used the amounts that had been received and subsequently distributed because we had this data for all of the peer states and the nation. In federal fiscal year 1997-98, California collected an annual average of \$1,040 per case with a support order, up from \$833 in federal fiscal year 1994-95, while the federal fiscal year 1997-98 averages of the peer states and the nation were \$1,218 and \$1,223, respectively. Among its peer states, California was only able to fare better than New York, as displayed in Figure 9. Thus, although it has increased the number of cases with support orders and the number of support orders on which it collects, California still needs to increase the amount it collects per support order.

**FIGURE 9**

**California Collects Less Per Case With a Support Order Than the Peer States and the Nation**



Source: Federal Child Support Enforcement Annual Reports for federal fiscal years 1994-95 and 1997-98.

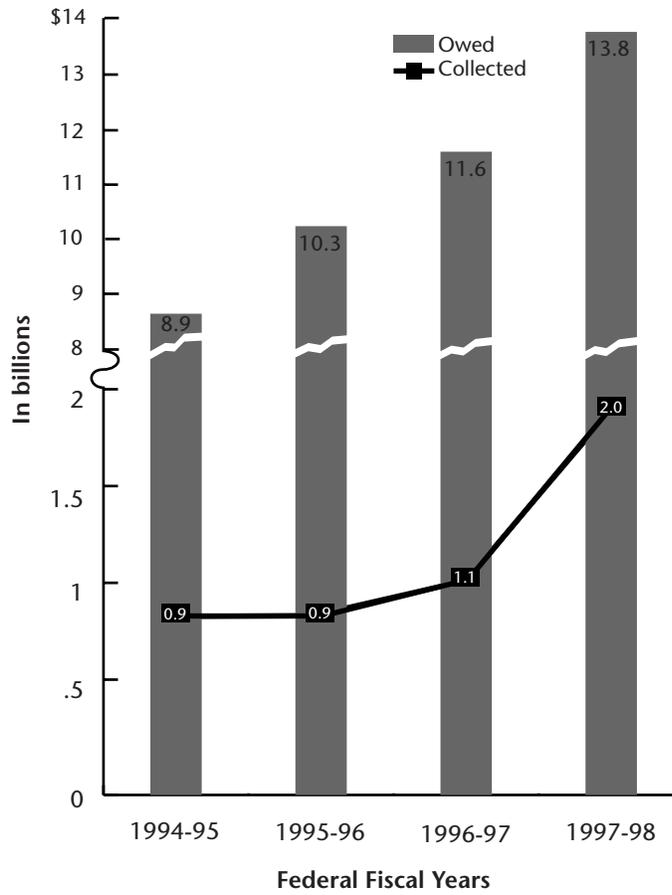
\*Note: We did not use Florida's federal fiscal year 1994-95 data because of errors in its program data.

The total collections figure measures how much the program has collected in child support payments. California's collections did not significantly change for the first three federal fiscal years we reviewed, but they almost doubled in federal fiscal year 1997-98 to \$2 billion. Although this may be a sign of program improvement, it could also be related to California's recent economic recovery, which has lowered the State's unemployment rate.

However, comparing total collections against the amount of child support due shows that California collected only 14 percent of the amount owed during federal fiscal year 1997-98. This low collection rate is often used to criticize the performance of California's program. Although these criticisms hold some validity, to truly determine how well the program operates, it is necessary to know how much can reasonably be expected to be collected and compare that against the amount actually collected. As noted in Chapter 1, DSS has failed to determine how much of the past-due child support is collectable; thus, no reasonable method exists to measure this. However, as we discussed earlier in this Appendix, a variety of factors contribute to California's growing past-due support amount. Figure 10 compares California's collections to child support due over the past four federal fiscal years.

**FIGURE 10**

**Although California's Collections Have Increased, Uncollected Child Support Remains Significant**



Source: Federal Annual Child Support Enforcement reports for federal fiscal years 1994-95 and 1995-96 and California's Child Support Enforcement Program Annual Data Summary Reports (OCSE 158) for federal fiscal years 1996-97 and 1997-98. We adjusted the California data for all years because of errors in the past-due child support amounts, as described in Chapter 1.

*Agency's response provided as text only.*

Health and Human Services Agency  
1600 Ninth Street, Room 460  
Sacramento, A 95814

July 30, 1999

Mr. Kurt Sjoberg  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

SUBJECT: BUREAU OF STATE AUDITS CHILD SUPPORT ENFORCEMENT  
PROGRAM AUDIT

On behalf of Director Rita Saenz and myself, I appreciate the opportunity to review your draft report on the Child Support Enforcement program. This report is timely and relevant to the issues currently being considered by the Administration and the Legislature. Therefore, the information which this report provides to us, as well as its recommendations, are useful for these deliberations. The draft report has been reviewed by this Agency and the Department of Social Services. A response from the department, with which the Agency concurs, is attached.

Sincerely,

*(Signed by: Grantland Johnson)*

GRANTLAND JOHNSON  
Secretary

Attachments

Department of Social services  
P.O. Box 944245  
Sacramento, CA 95814

July 30, 1999

Mr. Kurt R. Sjoberg  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

SUBJECT: BUREAU OF STATE AUDITS CHILD SUPPORT ENFORCEMENT  
PROGRAM AUDIT

Thank you for the opportunity to respond to your July 22, 1999, draft audit report. I have reviewed the report and discussed it at length with my staff. Our response is attached. As the new director of the California Department of Social Services, I, along with Secretary Johnson, am committed to the genuine reform and improvement of this program and we welcome the assessment you have offered. It contains many of the observations and frustrations presented to us by stakeholders in recent months.

In the past, the Child Support Enforcement Program (CSEP) has been managed with minimal state direction with the intention to allow maximum local discretion, an approach that ultimately proved inadequate for the complexity of the program. As the scope and importance of the program grew, greater uniformity and accountability was called for. Past administrations did not provide the leadership or resources required to ensure the success of the program.

An effective Child Support Enforcement Program is critical to the health and well being of California's children. Using your feedback and that generously provided by stakeholders, we will work to craft a system that is uniform, provides performance standards, training, technical assistance, and reliable, accurate data collection and analysis. With these improvements the system should allow easy access for parents, an opportunity for families to work together, and good customer service. Collections can be maximized with timely distribution.

The opportunity presented to us is not only to manage for effectiveness, but to be alert and respond to demographic and policy trends that will affect CSEP. We can bring all the communities of concern into alignment for best strategies and practices. Credibility must be returned to this program so that those who turn to it in need will know that they will be served. This is *not* an impossible task.

Mr. Sjoberg  
Page Two

The Department may disagree on a few minor conclusions of your report. However, as you can see, we agree with the fundamental recommendation that CSEP is in need of significant repair. More detailed responses to the report are attached. I appreciate the professionalism and courtesy of your staff throughout this assignment.

If you have any questions regarding this letter, please call me at (916) 657-2598, or have your staff contact Jarvio Grevious, Interim Deputy Director, Office of Child Support at (916) 657-3266.

Sincerely,

*(Signed by: Rita Saenz)*

RITA SAENZ  
Director

Enclosure

**CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
RESPONSE TO RECOMMENDATIONS  
BUREAU OF STATE AUDITS REPORT ON CHILD SUPPORT PROGRAM**

Following are California Department of Social Services' (CDSS) comments in response to the recommendations contained in the Bureau of State Audits draft report entitled "Child Support Enforcement Program: Without Stronger Leadership California's Child Support Program Will Continue to Struggle."

Chapter 1: The State's Role: The CDSS Has Failed To Provide Leadership In Administering the Child Support Enforcement Program

**LEADERSHIP**

**Recommendation 1:** The Governor and Legislature should appoint to leadership positions only qualified individuals capable of providing the authority, motivation, direction, and effective oversight needed to significantly improve the Child Support Enforcement Program (CSEP) in California.

**Response:** The Department concurs that stronger leadership should be provided to meet the challenges facing today's CSEP. In addition to the required qualities mentioned above, that leadership should provide focus, direction, inclusion and invite alignment from the stakeholders. It should ensure uniform application of state and federal policy, and responsiveness to developing demographic and policy trends.

**STRATEGIC PLAN**

**Recommendation 2:** The CDSS should develop a statewide strategic plan that, rather than merely reiterating state and federal requirements, establishes meaningful goals both for itself and for the counties. The plan should identify expected outcomes and methods to measure whether its proposed activities have been successful in meeting the plan's goals and furthering the program's mission.

**Response:** Concur. The Department agrees that a strategic plan is needed. This plan must clearly articulate the leadership role the State will play and define the program outcomes that local service providers must achieve. The plan will be developed in conjunction with the stakeholders and will provide a means for evaluating State and local performance.

## PROGRAMS/PROCESSES

### State Investment Fund (SIF)

**Recommendation 3:** The CDSS should sponsor legislation to remove the barriers to county participation by modifying the State Investment Fund (SIF) program requirements.

**Response:** Concur. Even though SIF has been under utilized, the importance of SIF has grown with passage of Chapter 147, Statutes of 1999 (AB 1111). In recent years more counties have been accruing excess incentive funds and using those funds in lieu of SIF. However, with the passage of AB 1111, counties will no longer earn excess incentive funds and may need to rely on SIF as a source of funding for innovative program improvement projects.

The Department will work with the California Family Support Council (CFSC) and the Legislature to restructure SIF to remove barriers and enhance county participation

### Paternity Opportunity Program (POP)

**Recommendation 4:** The CDSS should develop a means to provide counties with electronic access to the statewide database of voluntary paternity declarations.

**Response:** Concur. The Paternity Opportunity Program (POP) database has grown to approximately 350,000 declarations and continues to grow by approximately 125,000 declarations per year. The Department is currently working with the POP vendor to design and develop solutions to allow counties direct access to the database. The Department expects to release CD-ROMs containing POP data September 10, 1999, while continuing to develop a secured web site for the counties to access the POP data over the Internet. We anticipate having web access available by December 1999.

### Soft Case Closure

**Recommendation 5:** The CDSS should make the implementation of its proposed soft closure policy a priority. The Department should immediately request funding to make needed programming changes to the systems located at Franchise Tax Board and Department of Justice and, if necessary, it should swiftly

develop legislation to ensure county participation in the soft closure project.

**Response:** The Department recognizes the value of the soft closure policy and has already elevated it as a priority. The Department will implement the policy as soon as possible, and it is our intention to mandate this process on counties. We will seek legislative changes, if necessary.

## PERFORMANCE REVIEWS

**Recommendation 6:** The CDSS should develop a formal plan that specifically outlines the areas it plans to review and addresses its need for additional staffing, to best meet the intent of Senate Bill 1410.

**Response:** The reviews are to begin in the current fiscal year. A state/county workgroup has met (and will be meeting again in September) as part of the planning for the reviews. Preliminary calculations have been made to identify counties subject to the reviews. Four new positions will provide for the initial implementation and basic compliance with the statute. Recruitment for the positions is in process.

Beyond the initial implementation and the issues strictly associated with the “performance score,” the program intends to look more closely at staffing, workload, business practices, and customer service. Plans are to intensify oversight and to provide technical assistance to counties as needed. This activity will increase accountability and promote consistency and uniformity among counties by sharing common problems and best practices.

## DATA GATHERING

### Use of Data

**Recommendation 7:** The CDSS should analyze program data to measure the performance of county child support programs. The Department should develop a process to fairly and accurately measure and present the State’s performance against other states and the nation.

**Response:** Concur. The Department concurs that it must be more effective in the use of program data and it has taken steps to

do so. Specifically, we hired a research analyst to strengthen our data analysis capability and to measure and track county and state performance relative to new state and federal performance mandates. In addition, the Department is considering ways to enhance county performance, and to focus program assistance intervention on “at risk” county programs.

The Department also recognizes the importance of considering socio-economic and demographic factors when comparing California’s CSEP performance with other states. The Department is developing a trend analysis report to include comparisons with other states, focusing on program performance and past and future trends. Taking these factors into account will provide a more reliable comparison.

### **Accuracy of Data**

**Recommendation 8.1:** The CDSS should develop procedures for use by the counties to validate the data that they submit to CDSS. The Department should develop procedures to verify and edit county reports to assure that the data reported is accurate, internally consistent, and logical. The CDSS should continue with its plan to perform site reviews of the methods the counties use to collect and report data. The Department will first need to develop the specific procedures it intends to use during these site reviews.

**Response:** The Department agrees that data integrity is critical and has implemented procedures to monitor accuracy and timeliness. Computer software logic edits have been designed and implemented. In addition, to improve the accuracy of the data received from the counties, the Department has prepared preformatted reports for counties to use in reporting information to the state. The Department will continue to monitor the integrity of our program data and adjust our procedures as needed.

### **Reporting of Past-due Child Support**

**Recommendation 8.2:** The CDSS should request that the counties report amounts of past-due child support and CDSS should report past-due child support for the correct time period rather than for the previous year. The CDSS should regularly assess how

much of the past-due child support can be reasonably collected so that it can measure the success of the program against this expectation.

**Response:** With the implementation of the current federal and state reporting requirements in October 1998, counties are now required to annually report the total amounts past due. We agree that clarifying expectations about how much of the total amount due is reasonably collectable has merit. The Department will inform our stakeholders regarding the measures of program success.

## COMMUNICATION BETWEEN COUNTIES AND CDSS

### Policy Memos

**Recommendation 9.1:** The Department should ensure that its policy memos provide clear guidance to counties and should distribute them in a timely manner to allow the counties to implement changes within the required time frames.

**Response:** Prior to release, policy directives are routinely shared with representatives of the California Family Support Council (CFSC) to ensure clarity and provide an opportunity for stakeholders to comment. This process, however, may not include the perspectives of all counties. The Department will work with CFSC to strengthen this process.

The program faxes its policy directives to counties to speed up the distribution process. A review of the timeliness issue will be conducted in order to further expedite the issuance of policy-related documents.

### No Formal Communication Structure with Counties

**Recommendation 9.2:** The Department should develop a formal communication structure between itself and the counties through which it can document requests for county input, as well as the rationale for the decisions it ultimately makes.

**Response:** The Department routinely requests input from counties regarding proposed policy directives. Typically, the Department contacts the President of the CFSC and requests the names of county staff available to review and comment on program changes. In some instances, program staff work with specific committees of CFSC to develop

program policy. The Department will work with CFSC to improve the structure for this process.

**Recommendation 9.3:** The Department should routinely inform the counties of CDSS staff's assignments and responsibilities.

**Response:** Concur.

***Concern with How Organization is Structured***

**Recommendation 9.4:** The Department should assign the responsibility of responding to the counties' questions to the more experienced staff in the policy unit.

**Response:** It is a Department priority to provide timely responses to county inquiries. To best achieve this goal, CSEP assigns and trains staff to respond to county issues and concerns. The Department will carefully review the process in which counties receive answers to policy questions.

**Recommendation 9.5:** The Department should ensure that the staff of the policy unit have a working knowledge of the program at the local level.

**Response:** The Department will continue to recruit staff with local program knowledge. Many of the current policy analysts have worked in the child support program for several years, and have considerable knowledge of local program operations.

***Training***

**Recommendation 9.6:** The Department should survey the counties to identify their specific training needs and develop a training program accordingly.

**Response:** Concur. Training provided to counties thus far has been based on recognized deficiencies at the local level and in consultation with CFSC. The scope and frequency of future training will be determined, in part, by surveying county training needs and the availability of training resources and in the context of federal and state program priorities.

**Recommendation 9.7:** The Department should cooperate with the California District Attorneys Association and those counties that have already developed training programs to assist them in improving these programs.

**Response:** Concur. The Department recognizes the value of training at the local level. The CSEP will work with CFSC to expand existing training programs to reach a broader group of participants.

Chapter 2: The Counties' Role: The District Attorneys Have Failed To Provide Consistent, Effective Service in the Child Support Enforcement Program

**Recommendation 10:** The CDSS should exercise its authority over county-run programs to achieve uniform delivery of child support services at the local level.

**Response:** In the past, the Department has failed to make full use of its authority to enforce uniform delivery of program services. The Department is taking a more aggressive oversight role to ensure consistency in both enforcement and service. The Department will pursue statutory changes, as appropriate.

**Recommendation 11:** The CDSS should establish new written guidelines and procedures for counties on how to handle intercounty transfers until a statewide automated system is implemented. The CDSS should ensure that all counties accept and process intercounty transfers using these new guidelines.

**Response:** \* The case transfer policy has been in effect since March of 1994. The policy details procedures counties should follow prior to statewide automation. Although the CSEP has conducted training sessions and met on several occasions with CFSC to improve the intercounty transfer process, CSEP will examine the need to clarify or revise this policy.

**Recommendation 12:** The CDSS should study the best practices of county-run child support programs, and then consider the merit of implementing these practices statewide. If CDSS is unable to affect changes because it lacks authority, the legislature should ensure such authority is granted.

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\* California State Auditor's comments on this response begin on page 109.

**Response:**

In the past, the Department's review has focused primarily on compliance issues. Prospectively, the Department will identify best practices from counties and other states, disseminate those best practices to all counties, and work with the poorer performing counties to implement those best practices. The Department will consider statutory changes, as appropriate.



# COMMENTS

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## ***California State Auditor's Comments on the Response From the Department of Social Services***

To provide clarity and perspective, we are commenting on the Department of Social Services' (DSS) response to our audit report. The following number corresponds to the number we have placed in the department's response.

- DSS misses the point. The fact is that currently, the inter-county case transfer policy is not working. As stated on page 58, 35 counties are not accepting inter-county transfer cases and are opening duplicate cases instead. Therefore, DSS needs to find a solution to this problem and then enforce it.



*Agency's response provided as text only.*

County of Kern  
1300 8th Street  
Bakersfield, CA 93301

July 29, 1999

Kurt Sjoberg, State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

RE: **Response To Audit Conducted on the Child Support Enforcement Program**

Dear Mr. Sjoberg:

The Kern County District Attorney's Office and I welcome the review of the Family Support Division ("Division") conducted by the Bureau of State Audits and agree with both the analysis and conclusions as set forth in the report: *"Child Support Enforcement Program: Without Stronger Leadership California's Child Support Program Will Continue to Struggle"* ("Report"). The tone of the evaluation of the child support enforcement programs for the eight counties which were reviewed was positive. True, there remain many improvements to be made to the child support enforcement program. However, *it is clear that this is not a program in crisis.*

During this past year, public criticism of the program increased to an unprecedented level due in large part to inflammatory newspaper reports, and an attempt by some members of the Legislature to extort political retribution against elected district attorneys. In spite of these obstacles, the actual performance of California's IV-D program is slowly getting the attention it deserves. For example, an indisputable achievement of the program has been a consistent increase of total collections. Thus, the audit by your office is of great assistance in the discussion to determine the best way to bring about real, meaningful and substantial change to the program to meet the financial needs of the children and families of California.

**The state has failed to provide effective leadership.**

Although only Chapter 2 of the Report was provided for purposes of this response, the title of the Report could not be more appropriate. This is a program in need of leadership. The district attorneys embrace greater state oversight of the 58 county district attorney family support divisions. *Oversight with clear authority over the family support divisions of the district attorneys will provide leadership and consistency on the state level which has been absent for many years.*

At a county level, the Report identifies the greatest problem facing the program is that there is an “uneven and sometimes inadequate delivery of child support services throughout the State.” That is probably the harshest, yet accurate, statement in the Report on the counties’ role with regard to the performance of the child support enforcement program. However, the inconsistent delivery of services is easily solved by the having a leader of the state agency providing oversight to require the adoption of uniform policies, business procedures and best practices. In addition, the state must set specific and obtainable program goals, and measurable performance standards for the 58 counties. This has never been done — the state has never required such uniformity and it has never set goals or standards for the program. The district attorneys acknowledge the need for such measures to be taken.

Until the recent legislative mandates made in connection with welfare reform, the federal and state emphasis for the IV-D program was on the recoument of welfare expenditures. Fortunately, this has changed, and the emphasis is now on collecting current support and getting money to the families. In order to accomplish this task, the district attorneys have had to or are in the process of changing the organizational structure of our divisions, along with a re-allocation of resources. In larger counties, this is not a simple task or one which can be done instantaneously. Again, we have had to do this without state leadership or assistance.

I am convinced that with the right leadership and the existing county-based momentum, this is a program which is on the verge of becoming one of the most effective child support programs in the nation.

#### **Uniformity and accountability are being pursued.**

Despite the state’s failure to provide effective leadership, there has existed a momentum within district attorneys offices of this state to re-invent the way district attorney conduct the business of child support enforcement. In fact, the 26 counties of the KIDZ Consortia (the KIDZ Automated Child Support Enforcement System was developed by Kern County) are poised through a Joint Powers Agreement to implement not only the KIDZ automated child support system, but are also to adopt uniform business procedures to establish, modify and enforce child support which are currently in effect in Kern County. Thus, because of KIDZ nearly one-half of California’s 58 counties will be doing business the same way.

The Report identified two contrasting philosophies “enforcement vs. assistance.” Kern County employs an assistance business philosophy. It is our objective to maximize the number of cases that may be filed and resolved by stipulation or judgment within the time frames mandated by state and federal regulations, and to do so in the most cost effective manner to the taxpayers. Central to this objective is our belief that we are here to provide a public service to all case participants, who should be treated with dignity and respect. We believe that we should do everything possible to encourage and facilitate the resolution of our cases by stipulation, in a manner that will allow case participants to do so without the necessity of retaining or seeking appointment of private counsel for assistance, or appearing in court if it can be avoided.

Kern County also believes that we are more successful in collecting support if obligated parents participate in the establishment of their order by entering into a stipulation for an appropriate Statewide Guideline child support order, or if they are unable or unwilling to enter into an agreement, by having their day in court without regard to whether an answer or other formal pleading has been filed with the court.

The bottom line is that a steady stream of support payments is more likely to occur whenever the obligated parent takes part in the process, however late, and departs with the feeling that he or she has had a fair and an impartial resolution of his or her case.

**Self-examination and evaluation are constant.**

In order to be more responsive to the needs of the citizens of Kern County, the program managers and supervisors of our program are constantly in the process of conducting a self-examination of the way we do business. That is, looking for ways to improve the delivery of services through the use of automated systems, allocation of personnel and financial resources, and the implementation of new and/or innovative programs.

Earlier this year, the management team of the Division spent many hours over several months working together to develop a new strategic plan for the division. Along with the composition of a Division mission statement, both short-term and long-term strategic performance goals were developed to set the Division on the right course, as well as, a re-allocation of personnel to more properly focus on the collection of current support. This type of planning necessarily identifies obstacles to the achievement of these goals and an ability to overcome these obstacles. That is why it is important to conduct such an introspection of every family support division on a regular basis.

**Innovation is the key to having a successful program.**

Kern County has always prided itself on being an innovator in establishing business procedures and designing automation systems so that we are more responsive to the need of the public, both in and out of the courtroom. For example, this year we established an intensive Judgment Debtor Examination program ("OEX"). The KCDA has always conducted OEX's; however, this year we hired 11 local college students on a part-time basis to review our financial management system and case files, and if appropriate, to file an OEX. Each student does conduct the examination under the supervision of a deputy district attorney. Since the program commenced in March of 1999, over 1,000 OEX's have been filed. As a result of this program, wage assignments are issued, lump sum payments are received, job search orders are made, and account status are updated. For example, in June 1999, 75 OEX hearings took place which resulted in the receipt of monies by either lump sum payments, wage assignment or payment plans in 39 cases. An additional 19 job search orders were made. By any definition, this is a successful and cost effective program.

**Strive for a balance between assistance and enforcement.**

The individuals targeted in the OEX program are the very reason the function of child support enforcement should remain with the office of the district attorney, not with a human service organization. Many of the KCDA's support obligor's do not have reportable income; however, they survive (and some quite well) by being members of the underground economy. But for natural coercive impression made by the involvement of the district attorney, be it through a telephone call, letter or court appearance, these support obligors would not otherwise become part of a stream of monthly payments which we strive to establish or maintain. In large part, the job of family support divisions is to place an emphasis on maintaining a continuing contact between caseworkers and support obligors. This is especially true after the entry of a default order.

As recently stated by Senator Jackie Speier, state tax returns were filed by support obligors who owed \$4 billion of the \$10 billion to \$12 billion owed in support obligations in California. Moreover, only one-half (or one-sixth of the total amount of support obligations owed in this state) of the support obligors who filed state tax returns had reportable incomes of \$20,000 or more. That means that in addition to the Division's OEX program, the annual filing of approximately 450 civil contempt actions and 450 criminal cases (Penal Code 270), we must also be able to coordinate job search and job training opportunities. As a result, as district attorney, my job and that of the management team is to make sure that each day the staff of the Division is striking a balance between the business philosophies of "enforcement and assistance." Always keeping in mind that the needs of the children and families outweigh the concerns of those individuals and entities who merely focus on convenient statistical flash points to press their own political advantage, and not on the very real human dimension of each case.

### **A matter of clarification.**

The Report refers to Kern County's use of extra-help employees to fill staff positions. While permanent staff positions technically remain vacant, extra-help employees have been hired and trained to do their respective jobs. Thus, instead of Table 1 referencing that Kern County has 204 staff members and 34 vacancies, it would be more correct to state that we had 238 staff members. As a result, the staff to caseload ratio would decrease from 1 to 298 to a ratio of 1 to 255.

The Report also omits Kern County from Figures 3, 4 and 5 because of a past data reporting problem in connection with its CS 850 reports. This is an unfortunate circumstance. However, data from the CS 157 reports currently in use are entirely accurate and demonstrate that in a comparison with the ten states with the largest caseloads, Kern County does perform favorably.

### **Conclusion.**

We welcome any further examination of our Family Support Division and extend an invitation to be of further assistance to the members of your staff. Without exception, each member of my staff who worked with the audit team were both impressed with the depth of their knowledge and their professionalism. Needless to say, the Division performs a function which by its very nature does not attract a great deal of impartiality. Thus, I am gratified to have read such a fair appraisal of the program, an examination which identified both the things we do well and those functions we need to improve.

The key to bringing about a uniformity of the delivery of services on a statewide basis is leadership through state oversight and realization of a statewide automated child support enforcement system. No one is more experienced or more qualified to implement real, substantial and meaningful reform than are the district attorneys. No legislative mandate will ever provide greater accountability than that achieved through the ballot box. My fellow district attorneys and I look forward to working with the Administration, the Legislature, and the individual designated as the leader of state oversight to make it so.

Sincerely,

*(Signed by: Edward R. Jagels)*

Edward R. Jagels

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\* California State Auditor's comments on this response begin on page 115.

# COMMENTS

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## ***California State Auditor's Comments on the Response From the Kern County District Attorney***

To provide clarity and perspective, we are commenting on the Kern County District Attorney's response to our audit report. The following numbers correspond to the numbers we have placed in the county's response.

- Our report is correct. At the time of our review, Kern had 238 permanent full-time positions authorized with 34 of those positions vacant. We acknowledge on page 49 in a footnote to Table 2 that the county uses temporary employees in lieu of hiring permanent staff. Moreover, we did not include temporary employees in computing the staff to caseload ratios for any of the counties we visited.
- The county first began to use the report it refers to in federal fiscal year 1998-99, which was outside our period of review. Therefore, we are unable to validate the county's assertions regarding the report's accuracy or Kern's performance compared to other states.



*Agency's response provided as text only.*

Los Angeles County District Attorney  
210 West Temple Street  
Los Angeles, CA 90012

July 28, 1999

Mr. Kurt R. Sjoberg  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Mr. Sjoberg:

CHILD SUPPORT ENFORCEMENT PROGRAM: WITHOUT STRONGER  
LEADERSHIP CALIFORNIA'S CHILD SUPPORT PROGRAM  
WILL CONTINUE TO STRUGGLE

Thank you for providing us the opportunity to comment on the draft audit report, "Child support enforcement program: Without stronger leadership California's child support program will continue to struggle." As you know, you provided us with only limited portions of the report. As such, it is impossible to prepare a response to the overall audit. Still, we set forth below our general comments on the portions provided to us.

At the outset, we have long supported stronger state oversight of California's child support program. As the draft audit points out, "Under the State's decentralized child support system, district attorneys are allowed wide discretion in operating the CSEP within their respective counties. As a result, significant differences in the local delivery of child support services create an inconsistent statewide program." We believe that greater state commitment to child support efforts will produce more consistent and more effective child support enforcement around the state.

The audit further categorizes counties as either enforcement or assistance counties. We question the utility of these labels, as most of what we do is geared to both assistance and enforcement. To the extent that there are two models (sometimes labeled "collection agency" or "social service agency"), it should be a matter of state policy that all local programs are directed to operate under the same model.

We take exception to some specific examples in the audit, such as the characterization that Los Angeles County's objective is not to meet or speak with noncustodial parents in the initial establishment of orders. In fact, we always are willing to speak with noncustodial parents. As your audit notes, we have the

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\* California State Auditor's comments on this response begin on page 121.

nation's most advanced telephone call center, as well as regular weekday and weekend appointments. We do not attempt to meet with every noncustodial parent before proceeding with enforcement activities due to very strict federal timeframes for securing court orders. Moreover, we know of no district attorneys who view all noncustodial parents as "criminals." We have the most successful criminal prosecution program in the state and our criminal caseload is only roughly 1% of our overall caseload.

We also have many programs designed to assist noncustodial parents. Our Parents' Fair Share and the Noncustodial Parent Demonstration Program secure job training and placement for unemployed noncustodial parents. We also work with teen fathers through our Con Los Padres program.

We also disagree with your statement that only "assistance counties" provide on site genetic testing for noncustodial parents contesting paternity. Each of our division offices has free on site genetic testing.

Also, while some may claim criminal enforcement of active child support evaders is "very expensive and labor intensive, and provides no temporary or permanent financial benefit to the defendant's children," we disagree. The independent auditing firm Price Waterhouse in a management audit of our office stated that our criminal prosecution unit was one of our major accomplishments. We find that many people, once prosecuted criminally, become more responsible parents and provide support well into the future for the child.

The report further states, "Counties with a high number of cases to employees tend to experience significant backlogs in their efforts to locate noncustodial parents, establish support orders, and collect on those orders." While we certainly agree that caseload per worker is one important factor in determining performance, we have found here in Los Angeles that automation is also critical in managing a large caseload.

While the audit is critical of counties for not utilizing Paternity Opportunity Program (POP) declarations, we find this criticism misplaced. Counties cannot effectively use this program until the state devises an automated interface to update the county automated systems with the parents' declarations. The state has indicated for some time that the state is working to develop this automated interface. Until the state succeeds in this automation effort, counties simply cannot use the Parent Opportunity Declaration.

Mr. Kurt R. Sjoberg  
July 28, 1999  
Page Three

Also, as we discussed, we disagree with the presentation of paying cases in Figure 4. Comparing payments to cases with orders, instead of comparing payments to all cases, is confusing and could lead to incorrect interpretations of this data. As you know, the most recent report from the federal Office of Child Support Enforcement indicated that the national average was 23% not 39%.

Finally, the audit also credits the improved economy with improvement in child support enforcement (“the decline in the rate of unemployment in the county probably played a role in its increase in collections”). We concur that the economy is one factor in improved child support enforcement, but there are many other factors which we consider equally or more important, particularly our successful automation and new enforcement legislation (administrative wage withholding and the state license match system).

Thank you for your consideration. If you have questions, you may contact me or Barbara Catlow of my staff at 323/889-3405.

Very truly yours,

GIL GARCETTI  
District Attorney

By (*signed by: Steven K. Buster*)

STEVEN K. BUSTER  
Chief Operating Officer  
Bureau of Family Support Operations

vc



# COMMENTS

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## ***California State Auditor's Comments on the Response From the Los Angeles County District Attorney***

To provide clarity and perspective, we are commenting on the Los Angeles County District Attorney's response to our audit report. The following numbers correspond to the numbers we have placed in the county's response.

- We did not ask the county to respond to the overall audit. We requested that it respond to only those issues that pertained to the county.
- As we state on page 45, the most apparent differences between the two philosophies (enforcement versus assistance) were in the area of establishing support orders and taking criminal actions. We found that Los Angeles County uses the judicial system to modify existing support orders rather than administratively setting them aside and is more prone to pursue criminal actions against noncustodial parents that do not pay their child support, both characteristics of an enforcement county.
- Despite the district attorney's view to the contrary, we found that Los Angeles County's objective is not to educate noncustodial parents or provide opportunities to avoid the judicial process, but rather to quickly establish support orders so that it can begin the enforcement process.
- As was discussed with the county at our exit conference, we changed the wording to indicate that some district attorneys view noncustodial parents that do not pay child support as criminals.
- We modified the text on page 46 to say that two of the three enforcement counties do not offer on-site testing or transportation to a genetic test facility and that all three require noncustodial fathers who are disputing paternity to appear in court and undergo court-ordered testing.

- We fail to see the logic of the county's argument because a support order must exist for a case before payments can be collected. Far from confusing, we believe comparing the number of cases where payments are received to the number of cases with support orders is much more informative and meaningful to CSEP managers because it focuses on that segment of a county's caseload where collections are possible. We illustrate this concept using two figures in our report. Figure 3 on page 63 illustrates how successful counties are in establishing support orders. Once orders are established, Figure 4 on page 64 shows how well the counties do in collecting on their support orders.
- The percentage we cite is based on national totals found in the federal fiscal year 1997-98 Federal Child Support Enforcement Annual Report (preliminary). However, rather than use the 23 percent national average of cases with collections as a percentage of all child support cases, we used the 39 percent national average of cases with collections as a percentage of cases with support orders, as shown in Figure 4.

*Agency's response provided as text only.*

Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95812

July 28, 1999

Kurt R. Sjoberg  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

We appreciate the opportunity to review and respond to the draft copy of Chapter 2 of your department's report "***Child Support Enforcement Program: Without Stronger Leadership, California's Child Support Program Will Continue to Struggle***" prior to its public distribution. Your auditors were tasked with a very difficult assignment and I commend them for their efforts. We appreciated the opportunity to provide input to the auditors and receive their feedback.

We would like to comment on some of the issues, which specifically address our family support operations in Sacramento County. First, the report distinguishes between enforcement counties and assistance counties. Enforcement counties are identified as counties which "view non-custodial parents as criminals and focus on establishing and enforcing support orders through formal and sometimes intimidating judicial processes." (Report, p. 57.) Sacramento is identified as an enforcement county.

Sacramento County has approximately 74,000 open cases and for the calendar year 1998, we filed 97 criminal complaints and 324 contempt actions. These figures do not justify a conclusion that we view non-custodial parents as criminals. In addition, a review of the cases filed will show that we resorted to these actions after years of no or only sporadic payments of child support and after the total failure of traditional methods of collection. Yes, these cases are labor intensive. However, we have found that a small percentage of non-custodial parents do not take their responsibilities seriously until faced with the possibility of jail. We do not think these figures or our philosophy suggest that we **focus** our efforts on treating non-custodial parents as criminals.

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\* California State Auditor's comments on this response begin on page 127.

Furthermore, Sacramento County has many of the attributes assigned to assistance counties:

1. We hold classes for non-custodial parents and conduct group presentations for paternity establishment affording fathers the opportunity to sign voluntary agreements that are filed as orders with the court thus avoiding the more formal summons and complaint process. We also offer this service at our co-location sites to families applying for CALWORKS. In addition, we offer classes to explain interstate enforcement and assist custodial parents in completion of general testimony forms and classes for non-welfare custodial parents at Intake to explain our program and to get all necessary information needed to facilitate enforcement.
2. We have established regular outreach relationships with local high schools with presentations geared toward education of young people about the costs of raising children. We make presentations at continuation schools to provide pregnant and new teen mothers with information about establishing paternity and child supports orders and in many cases, take the necessary paperwork to establish paternity or open cases. We also have been active in the community at local health fairs and other community events promoting our services and offering assistance to customers whom have existing cases with us and need help resolving issues. We constantly look at ways to expand our community outreach.
3. Sacramento County does not charge customers for genetic blood testing in disputed paternity cases. We pay the full cost whether an obligor is found to be the father or is excluded.
4. Sacramento County provides non-custodial parents the opportunity to avoid being served with a summons and complaint at their place of business or home. We send letters to those who live within a 150-mile radius inviting them to our office to accept service. In 1998, 37% of the non-custodial parents or 1315 out of 3508 came to our office to accept service.
5. We have a program in place for victims of domestic violence who are referred through our main office's restraining order classes or Domestic Violence Unit. We research and give priority attention to those domestic violence cases that need orders established and support collection assistance. These customers often are in the process of separating from an abusive spouse or partner and need immediate support

6. We have a program in place to assist non-custodial parents in gaining visitation when it has been denied by the custodial parent. When our public service staff receives a complaint, the customer is referred to our State Targeted Offender Program (STOP) unit where he or she is advised on how to enforce their rights through proper documentation and motions before the court.

Table 1 of the Report (p. 66) attributes a ratio of 1 staff per 328 cases. We believe the correct ratio is 1 to 278. The audit finding subtracted our vacancies at the time of the audit interview (44) from our total permanent staff allocation. However, all of those vacancies were filled with temporary help paid for through salary savings. We were forced to utilize temporary staff because a contract between the labor association representing clerical employees and the county added three lower steps to the pay scale and the entire county experienced recruitment and retention problems for the period December 1997 through May 1999. County agencies are no longer required to utilize the lower steps. In addition, we continually recruit to fill other critical positions within the department.

The Report also suggests that Sacramento County wastes resources by filing civil paternity actions to determine paternity in cases in which POP declarations have been signed by the mother and alleged father. The Report (p. 76) states “[a]fter two years...the POP declaration assumes the full force of law regardless of whether or not a blood test later reveals that the signatory party is not the father.” This statement is incorrect.

The Family Code provides extraordinarily liberal grounds and time limits for setting aside POP declarations. (Family Code §7575.) Those time limits do not commence “until the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.” Consequently, the timeframe to set aside the judgment would never commence unless the county or someone else filed a civil action for such relief. (Family Code §7575(c)(1).) Finally, the declaration can be set aside if based on perjury and/or fraud and such actions may be brought within one year of the date of discovery of the perjury or fraud no matter when the declaration was signed or the age of the child.

All POP declarations contain an averment by the mother, under penalty of perjury, “that the man signing this form is the only possible father of this child.” Therefore, any POP declaration “father” may take the child to a lab for a blood test and, if that test excludes

him, can establish the statutory grounds - perjury or fraud - to have the POP declaration set aside no matter when the declaration was signed or the age of the child. Even without a blood test exclusion, the POP declaration may be challenged for a virtually indefinite period of time under current statutes.

As noted in the Report (p. 72), the establishment of paternity “constitutes a vital first step in child support enforcement” and “[u]ntil paternity is established, children are not afforded certain legal rights and the responsibilities of the father are not formally acknowledged.” And, as the Legislature notes, “there is a compelling state interest in **establishing** paternity for all children.” (Family Code §7570, emphasis added.)

Unfortunately, the statutory scheme setting up the POP declaration fails to create a defensible judgment until “a court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.” (Family Code §7575(c)(1).) By filing a civil action in cases with POP declarations, Sacramento County is attempting to insure the parent/child relationship is legally established with a defensible final judgment at the earliest possible time.

We were pleased that your staff singled out for recognition some of our practices and accomplishments such as: working intercounty cases; exceeding the national average for increasing paying cases; and exceeding the national average for annual collections per case. We were also pleased that you recognized some problems, which we too have identified, such as: the lack of adequate space for our family support operations and the location of our support offices several miles from the courthouse. Finally, we appreciate that you noted our efforts to improve our child support program by installing a new voice response phone system and by converting to a modern automation system.

We look forward to reviewing the final report and again, commend your staff on their efforts.

Sincerely,

*(Signed by: Jan Scully)*

JAN SCULLY  
DISTRICT ATTORNEY

JS/dr

# COMMENTS

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## ***California State Auditor's Comments on the Response From the Sacramento County District Attorney***

To provide clarity and perspective, we are commenting on the Sacramento County District Attorney's response to our audit report. The following numbers correspond to the numbers we have placed in the county's response.

- Compared to San Diego County, which has not sought any criminal prosecutions since November 1997, we believe our conclusion that Sacramento is an enforcement county is correct. As we state on page 45, the most apparent differences between the two philosophies (enforcement versus assistance) were in the area of establishing support orders and taking criminal actions. We found that Sacramento County uses the judicial system to modify existing support orders rather than administratively setting them aside and is more prone to pursue criminal actions against noncustodial parents that do not pay their child support, both characteristics of an enforcement county.
- We commend Sacramento County for its efforts to assist its clients, however, it is ignoring those characteristics that led us to conclude that an enforcement attitude prevails. Specifically, the county does not focus its interactions with noncustodial parents on educating them about their responsibilities and obtaining their cooperation in paying child support. Further, the county does little to treat clients with the dignity and respect that they deserve when they require assistance on their case. For example, clients that need service must choose between enduring lengthy waits on the county's phone system or conduct their discussions with county staff through bulletproof glass over a two-way phone. Finally, although it does provide some general guidance to clients, the outreach programs that the county lists as assistance attributes are conducted in a group setting that does not provide for one-on-one assistance.

- The county fails to mention that it requires the noncustodial father to appear in court to contest paternity, rather than allowing him the opportunity to take the blood test before going to court.
- The county is incorrectly characterizing these letters as providing assistance. County staff refer to these letters as “come and get it” letters because their use is meant to save the cost of having summons and complaint documents delivered to noncustodial parents using a process server. These letters do not offer any kind of assistance to the noncustodial parents, such as discussing the case to reach an agreement without the need to go to court or to offer blood testing if paternity is in question. Instead, the county’s letters threaten noncustodial parents with criminal prosecution if they attempt to avoid being served the document.
- Unlike the two counties we acknowledge in our footnote to Table 2 on page 49 that chose to use temporary employees in lieu of permanent staff, Sacramento County is forced to use temporary employees until it can hire permanent staff to fill its vacancies. Moreover, we did not include temporary employees in computing the staff to caseload ratios for any of the counties we visited.
- We have modified the text to cover the rare circumstance whereby the POP declaration is challenged because either the custodial or noncustodial parent alleges that he or she signed the form under fraud, duress, or material mistake of fact.
- As we state on page 56, the California Judicial Council found that very few CSEP cases are contested for any reason, including errors in legal paternity.

*Agency's response provided as text only.*

San Mateo District Attorney  
401 Warren Street  
Redwood City, CA 94063

July 27, 1999

Kurt R. Sjoberg  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Mr. Sjoberg,

Thank you very much for the opportunity to comment on your report, "Child Support Enforcement Program: Without Stronger Leadership, California's Child Support Program Will Continue to Struggle". A memo with the San Mateo County comments is enclosed with this letter. If you or your staff have any questions or need further clarification on any of our comments, please contact Peggy Jensen, the San Mateo County Family Support Division Administrator at (650) 363-4598.

Sincerely,

*(Signed by: James P. Fox)*

James P. Fox  
San Mateo County District Attorney

Enclosure

County of San Mateo  
Office of the District Attorney  
Family Support Division

*Memorandum*

To: Kurt R. Sjoberg, State Auditor  
From: James P. Fox, San Mateo County District Attorney  
Date: July 27, 1999  
RE: Comments on the State Auditor's Report on the Child Support Enforcement Program

The following comments are on the draft report received by the San Mateo County District Attorney on July 22, 1999. The page references may not be consistent with the final report since they relate to the draft of July 22<sup>nd</sup>.

**Section: Some Enforcement Counties Dedicate Considerable Resources to Criminally Prosecuting Obligated Parents**

Page 64

This section implies that child support programs can only send a non-paying parent to jail by filing criminal charges. That is not true. Although San Mateo County does not take criminal actions against obligated parents, we use the civil contempt process to achieve the same end. Through the civil contempt process, non-paying parents may receive 5 days in jail per count of contempt. One count of contempt equals one month of non-payment. The contempt citations can go back three years, so if found guilty of nonpayment of support for three years, the commissioner could sentence a non-custodial parent to county jail for a maximum of 180 days. In San Mateo County, we believe that the civil contempt process is a more efficient and cost-effective tool than criminal proceedings since it does not require a jury trial.

**Section: Some Counties Employ More Resources than Others to Run Their Child Support Programs**

Page: 65

The report correctly states that local child support programs are funded through a combination of federal, state and local funds. However, we are aware of only 2

counties in the state which contribute county general funds to the local child support program. The other 56 counties fully fund their child support programs with federal subventions of 66% of the authorized expenses and state incentive funds which are a percentage of local collections. Therefore, with the exception of the 2 counties that receive county general fund, the amount of money a local office has to spend on child support is determined by the amount of money they collect. This is because the state incentive funds determine how much money the county has to provide the 34% local match for the federal funds.

As collections in San Mateo have increased, so has our staff, which has almost doubled over the past five years. Our caseload ratios have been significantly reduced because our collections have increased. Without the increase in collections, we would not have had the funds to reduce our staff to caseload ratio, which in turn has significantly improved our productivity and efficiency. Increased funding has also allowed us to invest in our automated system, which has also increased our efficiency.

Page 67

The report states “San Mateo has a fully functioning automated system that assists staff in performing the required child support functions”. In light of the changes in automation that many counties have recently undertaken, it is important to note that San Mateo installed our “fully functioning” automated child support system in 1989. It took over two years to fully convert the manual caseload to the automated system. During the period of conversion, our collection rate was relatively stagnant. After all the cases were on the system and the staff were fully trained, we began to benefit from automation and our collections began a steady increase. It is important to note that there is a learning curve for automation. It takes a couple of years before the benefits of automation – in terms of increased collections and staff efficiencies - are achieved.

Page 69

San Mateo does have high turnover among our child support caseworkers. We have about 40 family support officers and average one to two resignations a month. The ongoing open recruitment allows us to fill a vacant position in two to four weeks of receiving a resignation notice. Our turnover rate may be no lower than other child support offices, but by working with the County Personnel Office, we have been able to minimize the time a position is vacant.

### **Section: Co-location Remains Incomplete in Several Counties**

Page 71

San Mateo is only able to provide welfare co-location services for the five county welfare offices because we received a federal grant to hire TANF graduates.

When first mandated to provide co-location services in all the county welfare offices, San Mateo prepared a budget proposal for the County Manager. We requested \$34,000 in county general funds – the local match - to add sufficient staff to place one person in each welfare office, add a supervisor for the co-locate staff and hire a “floater” to cover sick leave and vacation days. Our request was not approved by the County Manager. Since we did not have funds to add all these positions, we submitted a grant to the federal Office of Child Support Enforcement. We are using those grant funds to support this program. We anticipate continuing to fund the co-locate staff after the grant expires. Our collections have sufficiently increased during the course of the grant to fund these positions. However, without the grant funds, we would not have been able to implement co-location when we did. This is a good example of how collections in a county drive the ability of the county to provide customer service.

### **Section: Counties use Inconsistent, Unnecessary, and Sometimes Invasive Methods to Establish Paternity**

Page 74

San Mateo has a POP database of all births to unmarried parents who reside in San Mateo County. Additionally, through a plan of cooperation, Santa Clara County sends us POP declarations they obtain in their local hospitals for San Mateo County residents. That database is reviewed every time a case is opened in San Mateo county to see if there is a POP form for the child. Our database has POP forms on file for slightly more than 10% of the cases we open each year. If no POP is found in our local data base, San Mateo faxes a request to the state POP program coordinator for a statewide search. It currently takes six to eight weeks to get a response from the state POP program. San Mateo has chosen to use the paternity questionnaire so as not to delay the order establishment process by waiting for the state to provide information on the POP.

Another important point about the POP as a means of establishing paternity is that it is only applicable for children that have been born since January of 1997. That is the effective date of the law that made the POP form a legally binding method of establishing paternity.

Page 75

When the state POP database becomes accessible “on-line and real-time” for the counties, we will use it as an alternative to the paternity questionnaire in cases where there is a POP form. Until then, since 30% of all the fathers identified by custodial parents are not really the fathers, we need to continue to use a document that the mother signs under penalty of perjury before we file a lawsuit against an alleged father. And in the cases where a POP form was not signed, we will also need to continue to use the paternity declaration form prior to suing an alleged father for paternity.

An “inter-county transfer” for child support program staff is a case where the custodial parent on welfare in one county and then transfers to be on welfare in another county without any interruption in aid. There is a process which all county welfare offices follow to transfer the case to the new county. What is being discussed in this section is what the child support program staff call a “duplicate case transfer”.

**Section: Some Counties Employ Innovative Practices That May Warrant Statewide Application**

- Alternative Funding Sources

San Mateo has received two, not three federal grants. The grant to increase voluntary support payments through services to non-custodial parents is a three year grant of \$250,000 a year for a total award of \$750,000. The second grant was used to hire additional co-locate staff to place child support interviewers in every welfare office.



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\* California State Auditor’s comments on this response begin on page 135.

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# COMMENTS

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## ***California State Auditor's Comments on the Response From the San Mateo County District Attorney***

To provide clarity and perspective, we are commenting on the San Mateo County District Attorney's response to our audit report. The following number corresponds to the number we have placed in the county's response.

- As we state on page 69, San Mateo applied for three federal grants and was awarded two.



*Agency's response provided as text only.*

Yuba County District Attorney  
215 Fifth Street  
Marysville, CA 95901

July 28, 1999

Kurt Sjoberg  
State Auditor  
California Bureau of State Audits  
555 Capital Mall, suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

The Yuba County District Attorney's Family Support Division welcomes the opportunity to respond to those portions of your report - "Child Support Enforcement Program: Without Stronger Leadership, California's Child Support Program Will Continue to Struggle" - specifically relating to its program. Chapter 2 of the report was submitted to the this Office for review and comment on July 22, 1999.

In general, we found the audit team personable, professional, and refreshingly open regarding their unfamiliarity with various aspects of the child support system in place in California. Our impression was that the team's site visit was as much a learning experience as an informational one.

I believe that specific areas of both your report and our response are better understood if the reader has access to demographic information regarding Yuba County, and can use that information in context with the other counties that were chosen to participate in the audit process.

Yuba County is located approximately 50 miles north of Sacramento, and surrounded by the counties of Sutter, Butte, Sierra, Nevada, and Placer. Geographically, the county is 654 square miles and is characterized by farmlands to the south, gradually changing to rolling foothills as one moves

north and ending in mid-mountain areas with elevations of 5,000 feet. Agriculture and, to a lesser extent, timber have been the primary county industries.

60,500 persons reside in the County, according to the State Department of Finance. Thirty-six percent of that population are children under the age of eighteen.

Historically, Yuba County has been characterized by significant economic and social deprivation. Information compiled and made available by state and federal agencies over the last eight years reflects this: State Department of Finance reports consistently rank the County among the three lowest counties for per capita income in California and the highest for number of families supported through public assistance. The unemployment rate is consistently between 15% and 18%, with 20 job seekers competing for every new job, and according to the National Bureau of Economic Research the Yuba County area had the third highest jobless figure for metropolitan areas in the United States between 1992 and 1998. The last US Census reported that 19% of the residents live below the poverty standard, consistent with state data showing that 18% of the county population receives public assistance. Alarming, data from the California State Office of Education shows that between 1994 and 1996 the county ranked first in percentage of students participating in school lunch programs (67%) and second in percentage of high school graduates prepared for college (15%).

The organization Children Now publishes assessments of all the State's counties. Their publication California County Data Book, 1997 uses a combination of much of the same data already referenced to reach the same conclusion, placing Yuba County first on its list of counties facing "considerable challenges".

Unfortunately, the economic factors noted above contribute to an overall crime rate significantly higher than other counties with like-sized populations. Over the last four years, the California Criminal Justice Profile has repeatedly ranked Yuba County among the leaders of small counties relative to the California Crime Index, and continually within the top five as to Total Violent Crime.

The combination of these factors - plus the impact of the shift of county monies to the State reducing the availability of discretionary funding - make the Yuba County District Attorney's Office Family Support Division arguably the most

challenged office of any California county with a population of under 100,000. Those who chose to work in our Office strive to meet that challenge on a daily basis.

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The information which follows is in response to statements and conclusions set forth in

### **Page 60 (Heading)**

**Issue:** Counties establish support orders in accordance with their service philosophies.

**Point/Counterpoint:** The report identifies two contrasting philosophies - characterized as “enforcement” or “assistance” - which appear to drive the daily operation of the Family Support Divisions (FSD) chosen for audit. The report further comments that “Some district attorneys (including, apparently, Yuba County), view noncustodial parents as criminals and focus on establishing and enforcing support orders through formal and sometimes intimidating judicial processes. These district attorneys are primarily concerned with enforcing the law, rather than worrying about how their actions may affect noncustodial parents.”

It is important to emphasize that child support orders are established pursuant to state and federal law and policies and procedures developed by the Department of Social Services. While it is in everyone’s best interest to minimize the negative impact associated with the establishment of a child support order and, when necessary, the enforcement of that order, it does not automatically follow that the “negative effects” of mandated FSD practices should be the immediate focal point of attention.

In Yuba County, most noncustodial parents are in the “system” because they have failed to “voluntarily” pay their court-ordered child support and/or maintain health care insurance coverage for their child(ren). The willful failure to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for a child is punishable as a crime. [Penal Code sections 270 and 271a; Child Support Recovery Act, 18 USC section 228 (interstate involvement)]. District Attorneys, of course, are charged with responsibility for enforcing the law. [Welfare and Institutions Code section 11475.1(a)]. Given our

role as law enforcers, it is not unreasonable that philosophies regarding family support establishment and enforcement might begin with the so-called “enforcement” model and then evolve, based on the availability of resources, to an “assistance” model.

Of greater concern to the FSD is the “black and white” designation of counties as “enforcement counties” or “assistance counties.” Although Yuba County has been characterized in the report as an “enforcement” county, we have long recognized that the true paradigm is a combination of both “enforcement” and “assistance”. Certainly, one cannot do an adequate job without incorporating elements of the other.

To that end, Yuba County has made and continues to make every effort to assist noncustodial and custodial parents alike in making the best of a difficult situation. To the extent these parents are receptive to our assistance, we offer information, including referrals to other county agencies, to help them meet their legal obligations.

Our assistance includes the availability of a comprehensive administrative review policy, a policy designed to set aside paternity judgments, where the facts of a given case justify such action, within the timeframe outlined in Code of Civil Procedure section 473, and liberal assistance in filing motions to modify child support orders or to suspend orders where circumstances dictate that such action is appropriate. In addition, for the past two years, the FSD’s policy has been that an order based on actual income is infinitely more preferable to an order based on presumed or even imputed income. These policies and procedures hardly fall within the definition of an “enforcement county” as presented in the auditor’s report. However, it should also be pointed out that Yuba County is equally predisposed to initiate the appropriate enforcement action when our “assistance” policies fail to illicit an appropriate response from the noncustodial parent.

The report specifically focuses on on-site genetic testing and judgement set-aside policies as characteristic of “assistance” counties. Yuba County FSD made arrangements with Long Beach Genetics long before the audit to introduce on-site genetic testing in August of 1999. Until that time, we accommodate noncustodial parents who reside outside the county by arranging blood draws at a location which is close to their place of residence or employment.

In the majority of our cases, the testing is done on a voluntary basis. The only

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\* California State Auditor’s comments on this response begin on page 149.

requirement is that the noncustodial parent sign a Stipulation whereby he agrees to appear for the testing and he agrees to reimburse the County for the costs of testing if he is not excluded as the child's father. The only exception to this process is a case where judgment has been entered and the legal father of the child requests genetic testing within the 6 month set aside period under CCP section 473. In that case and that case alone, the noncustodial parent is advised that he will be responsible for the costs of testing regardless of whether he is excluded and he is required to sign a stipulation to that effect. Payment for the testing is made before the testing will be done and the check is made payable to Long Beach Genetics; not to the FSD.

Only in those cases where the noncustodial parent refuses to cooperate with the FSD does the FSD move for a court order compelling the noncustodial parent or, in some cases the custodial parent, to undergo genetic testing.

The Yuba County FSD also exercises a "liberal set-aside policy", as required under Welfare and Institutions Code section 11356 (setting aside judgments based on presumed income). This procedure, therefore, is not within the exclusive purview of "assistance counties." Absent a fact pattern which would qualify a noncustodial parent for consideration under 11356, however, it is unclear under what authority any county might agree to set aside an existing judgment for child support unless, of course, (1) a court of competent jurisdiction had reserved jurisdiction to make a retroactive modification or (2) a lump-sum judgment was at issue and the policy stated in Spivey v. Furtado (1966) 242 Cal.App.2d 259, was being implemented to apportion the order as between two or more children.

We were troubled to see a reference in the report on page 63 to negotiating with obligated parents regarding past-due support. Yuba County FSD is not aware of legal authority empowering an FSD to "negotiate" with obligors regarding child support arrears.

The report implies that some counties regularly "waive" support arrears (presumably in TANF cases as to do so in non-TANF cases without the custodial parent's approval would be violative of the holding in Carlson v. Eassa (1997) 54 Cal.App.4th 684). The law is very clear that neither the FSD nor the courts have discretion to abate or forgive interest or arrears as to do so would be tantamount to an impermissible retroactive modification of child support. Moreover, we are concerned that to "waive" reimbursement of public assistance would be violative of the constitutional prohibition against making

gifts of public funds. (See Article 16 section 6 of the California Constitution).

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The information which follows is in response to statements and conclusions set forth in

**Page 65 (Heading)**

**Issue:** Some Counties employ more resources than others to run their child support program.

**Point/Counterpoint:** The report correctly indicates that financial resources devoted to family support service delivery varies widely between counties.

In Yuba County’s experience, this variance is directly related to both the amount of incentive monies available to an individual FSD and to the willingness of County Boards of Supervisors to allocate county discretionary funds to supplement incentive funding. The District Attorney’s prioritization of family support does not ensure that the program receives the resources necessary for effective service delivery.

Unfortunately, the very incentive system which permits a significant number of counties to enjoy large staffs and use state of the art automation has created an attitude that Family Support Divisions should be “zero-net cost” county departments. In the smaller rural counties that do not have excess incentive monies, of which Yuba is an example, the expectation is that FSD units should be able to accomplish their mission without the further use of county discretionary funds, and that the financial health of family support divisions does not rest primarily at the county level.

- In Yuba County, incentive monies are not sufficient to adequately staff the FSD or provide for the type of service level we would desire. Each fiscal year, the FSD budget is driven by the expected level of incentives, and the request for additional county monies is subjected to the same level of competition as those from all other generally funded county departments. The effect is that the allocation of county discretionary funding occurs only incrementally, and often only in response to mandated corrective action at the state level.

In addition, it is important to emphasize that the Yuba County District Attorney's Criminal Division has not been funded at the expense of the Family Support Division. Significantly, the county has added one additional county-funded prosecutor since 1985 while caseloads have increased 50% over the same time frame. Over half the prosecution and investigative staff are funded through grant programs.

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The information which follows is in response to statements and conclusions set forth in

### **Page 70 (Heading)**

**Issue:** Co-location remains incomplete in several counties.

**Point/Counterpoint:** This portion of the report misidentifies the problem which has precluded co-location with Welfare by the FSD. Our failure to co-locate with Welfare has nothing to do with phone lines. The FSD has been waiting for the new budget year which would facilitate the installation of a microwave network between the courthouse and several other county agencies, including Welfare. This network would allow FSD employees to access CASE while physically situated in the Welfare department's offices. This information was provided to the auditor's representatives during our initial interview. It is our understanding that the system will be in place shortly and we will go ahead with co-location at that time.

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The information which follows is in response to statements and conclusions set forth in

### **Page 72 (Heading)**

**Issue:** Yuba County uses inconsistent, unnecessary, and sometimes invasive methods to establish paternity.

**Point/Counterpoint:** The auditor's report takes issue with the use of a three part interview form (AGO 107), during the initial interview with the custodial parent. It appears as though the primary objection to the form, which is

mandated by the CDSS Child and Spousal Support Program Procedures Manual (Page 28; bottom paragraph), revolves around Part III which asks such questions as: When and where did you first have sexual intercourse with the father?; Did you ever register at a motel or hotel with the father?

● The Yuba County FSD has not used Part III of the questionnaire in years specifically because it is intrusive. However, the balance of information contained in the questionnaire is invaluable especially in those cases where the custodial parent leaves the county.

The auditor's report takes the position that use of POP declarations is preferable to the use of the questionnaire. The FSD has not used POP declarations to establish paternity for several reasons. First, we rarely see them because Yuba County is without a birthing hospital. Second, the value of the declaration is questionable in light of the statutory language which allows the father or the mother to rescind the voluntary declaration of paternity within 60 days of signing unless a child support order has been entered. Even then, the statute provides that a motion for genetic tests can be filed up to two years after the date the child was born again by the mother or the father. It makes more sense, therefore, to do the genetic testing at the beginning of the process and make the results legally binding in the interest of the child and in the interest of obtaining a final judgment upon which the parties may rely. The FSD currently attaches the POP declaration to its motion for judgment as an exhibit.

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The information which follows is in response to statements and conclusions set forth in

### **Pages 76: (Heading)**

**Issue:** Many counties do not work child support cases that originate in other counties.

**Point/Counterpoint:** On page 78 in the second full paragraph, the auditor references the effort by several counties to obtain direction and clarification from DSS as to the post-SACSS procedure vis a vis intercounty transfers. The FSD never received a response.

The biggest problem for the counties in effecting intercounty transfers has been

what to do with the money collected for the transferring county when that county's Welfare department which, post-transfer, shows a zero UAP balance, sends the money back to the collecting county. The counties have, for some time now, proposed that, when a case is transferred from one county to another, the account balance be zeroed out when the case is transferred. This would presumably solve the problem although, as noted above, there may be an issue as to a gifting of public funds.

Finally, as to the concerns expressed in the first paragraph of page 79, it is our experience that the problem described therein rarely occurs

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The information which follows is in response to statements and conclusions set forth in

**Page 79: (Heading)**

**Issue:** Counties have improved their child support performance.

**Point/Counterpoint:** Perhaps the most important statement in this section of the report, as it regards Yuba County, is found in the first sentence: "Despite the demographic factors working against them..."

The demographic factors affecting Yuba County have been outlined previously. Especially for those cases described as currently assisted, it is unreasonable to conclude that a majority of the non-custodial parents have the ability to replace the financial assistance provided by the state, as these parents are in the same economic position as the recipients of state assistance.

The auditor points out that Yuba County's collections for fiscal year 1997-98 were significantly below the state and national levels and that the County's per case collection was one-third of the national average. Yuba County FSD does not dispute that finding. However, we do believe that the collection figures were significantly impacted by our efforts to prepare for and implement the now-failed SACSS system during that period of time. Our efforts included, over a period of 18 months, the major cleanup/conversion of data from our legacy system to SACSS, and the requirement that staff attend lengthy training schedules. This re-allocation of already challenged resources severely lessened our ability to maintain collections during that period. In fact, the impact of

SACSS is still felt today in the form of a massive backlog which still plagues us. In addition, there appears to be no correlation between the circumstances under which the national average was determined and Yuba County's results. The comparison, while dramatic, is suspect.

This fact notwithstanding, however, collections have increased every year since the demise of SACSS. As an example, collections for fiscal year 1998-99 have increased 34% over the previous reporting period (an increase of \$910,484).

In addition, two statistics which we believe should also be considered in determining effectiveness is a comparison of workload (already discussed in the report) with the cost effectiveness standard. According to the State Fiscal Year 1997/1998 Annual Child Support Management Information System report, Yuba County FSD was twenty-ninth of fifty-eight counties, with a ratio of 3.25 between monies collected and monies expended.

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The information which follows is in response to statements and conclusions set forth in

### **Page 88 (Heading)**

**Issue:** Best practices: (1) Service of Summons and Complaints by publication; (2) Open recruitment; (3) Gain sharing; (4) Alternative funding sources.

**Point/Counterpoint:** Service by publication is authorized under CCP section 415.50 only where, "... it appears to the court in which an action is pending that the party to be served cannot with reasonable diligence be served in another manner..." The Appeal Democrat, our local newspaper of general circulation, charges \$185.00 per publication. Assuming the FSD has already incurred the costs associated with other methods of service, service by publication on a large (or even small) scale would be prohibitive.

Open recruitment is not viable in a small county setting. We simply do not have the demographics from which to draw a qualified pool of applicants.

The practice of distributing a portion of the county's excess incentive funds among employees, euphemistically referred to in the report as "gain sharing"

strikes us as tantamount to a gift of public funds and, therefore, violative of Article 16, section 6 of the California Constitution.

Our Information Systems Analyst regularly searches the internet for grants for which the FSD may apply. He has yet to find one. Moreover, DSS has never alerted Yuba County to the existence of available grant money nor have we been apprised of the availability of such funds by other FSDs.

In conclusion, the Yuba County Family Support Division was pleased to participate in this most important audit program. We hope that the information gathered from our County, as well as the other counties, will be constructively used to further benefit the children and families we serve.

Sincerely yours,

*(Signed by: Patrick J. McGrath)*

PATRICK J. McGRATH  
District Attorney

*(Signed by: Michael Testerman)*

MICHAEL TESTERMAN  
Supervising Family Support Attorney



# COMMENTS

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## ***California State Auditor's Comments on the Response From the Yuba County District Attorney***

To provide clarity and perspective, we are commenting on the Yuba County District Attorney's response to our audit report. The following numbers correspond to the numbers we have placed in the county's response.

- As we state on page 45, the most apparent differences between the two philosophies (enforcement versus assistance) were in the area of establishing support orders and taking criminal actions. We found that Yuba County uses the judicial system to modify existing support orders rather than administratively setting them aside and is more prone to pursue criminal actions against noncustodial parents that do not pay their child support, both characteristics of an enforcement county.
- This contradicts the information provided to us by the administrator of the county's CSEP who stated that Yuba requires an alleged father that is excluded as the biological parent to pay for the costs of testing.
- The reason that incentives have not been sufficient to adequately staff the county's CSEP is that until recently, the counties received a portion of their incentive funds based on their ability to meet certain standards of performance in their program. Because Yuba consistently failed to meet these standards, it did not receive the full amount of these incentive funds for the last several years.
- As a result of discussions held with staff during our exit with Yuba County, we modified the text of our report on page 53 to reflect this problem.
- We disagree. The part of the questionnaire that the county provided to us and stated that it used requires the custodial parent to list the date and place her child was conceived as well as identifying anyone else who may have had a sexual relationship with her around the time of her pregnancy. We believe this to be intrusive.

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Attorney General  
State Controller  
Legislative Analyst  
Assembly Office of Research  
Senate Office of Research  
Assembly Majority/Minority Consultants  
Senate Majority/Minority Consultants  
Capitol Press Corps