

Child Support

In Cook County, Illinois

A Call for Reform

EXECUTIVE SUMMARY

A Report Prepared by

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and

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Introduction

Project Background

Recent statistics show that Illinois is one of the worst functioning child support agencies in the country. Out of fifty-three reporting States and Territories, Illinois consistently ranks at the very bottom in collections, distributions, and cost-effectiveness. With a caseload that includes over one million children entitled to support, in Illinois less than twenty percent receive anything.

The Chicago Council of Lawyers and Chicago Appleseed Fund for Justice began their work with child support in 1992 with a qualitative research study aimed at the Cook County State's Attorney's Division of Child Support Enforcement. A report detailing the results of the study and recommendations for improvement was released in May 1996.¹

After releasing this report, we recognized that reforming one part of the child support system would not be sufficient. We found that Illinois' child support system was comprised of a collection of uncoordinated activities being conducted by at least five government bodies. Fixing one part of the system would not fix the rest of the process.

In June 1996, the Chicago Council of Lawyers brought together representatives from nineteen government agencies, legal services providers, and community groups involved in the Cook County child support system for a series of meetings. The goal of these meetings was to devise solutions to improve Cook County's exceptionally poor record in establishing, enforcing, and collecting on child support orders. This group was called the Child Support Panel and was facilitated by former Illinois Supreme Court Justice Seymour Simon.

After a year and a half of meetings, the Child Support Panel produced a report, *Child Support in Cook County: A Model for Improved Performance*, which provides a model for how the group believes the child support system should function in Cook County.² All participants in the Child Support Panel agreed to support the basic structure and organizational changes set out in the model.

¹ *A Study of the Cook County State's Attorney's Child Support Enforcement Division*, Chicago Council of Lawyers, The Fund for Justice, and Illinois Task Force on Child Support, May 1996.

² *Child Support in Cook County: A Model for Improved Performance*, The Appleseed Fund for Justice & Chicago Council of Lawyers, May 1998.

Subsequently, Chicago Appleseed began a research and advocacy project in September 2000. We interviewed and otherwise received input from over 100 parents, lawyers, government officials, and experts. We collected and analyzed data from the child support programs in eleven states outside of Illinois. We observed courtrooms and hearing rooms at the Cook County Circuit Court Domestic Relations Division and the Expedited Child Support Division of the Domestic Relations Division. As an innovative approach to an otherwise sociological research project, we also provided legal representation, counseling, and advice to custodial and non-custodial parents on child support matters. This allowed us to gain real world experience that helped put our research into perspective.

This project was conducted by individuals with legal background. The research portion of the effort, however, was designed and conducted with the advice and consultation of social scientists with expertise in qualitative data analysis.

Overview of the IV-D program

Title IV-D of the Social Security Act authorized the creation of state-operated child support agencies, which are commonly referred to as IV-D agencies. In Illinois, the IV-D agency is housed in the Illinois Department of Public Aid ("IDPA"). Any custodial parent can apply for child support services from IDPA. The services are free for welfare recipients, and cost between \$15 and \$25 for those not receiving welfare, depending on income level. Child support services provided by IDPA include locating missing non-resident parents, genetic testing, child support order establishment, enforcement, and modification, medical support, wage withholding, computerized accounting and billing, and interception of federal and state income tax refunds.

IDPA contracts with several organizations in Cook County in order to fulfill its IV-D responsibilities. The Cook County State's Attorney's Office acts as IDPA's legal representative in child support matters, assisting custodial parents in court with establishing parentage, and obtaining, enforcing, and modifying child support orders. The Cook County Clerk of the Circuit Court assists judges in child support courtrooms, handles customer service, helps parents resolve financial and accounting problems, maintains the docket, and processes, disburses and keeps permanent records of court ordered child support payments. Maximus, Inc. is a private, for profit company that contracts with IDPA in Cook County to conduct reviews and modifications of child support orders, follow up with income withholding notices, calculate and adjust arrears, perform customer service duties, and draft petitions for enforcement. Other agencies that work with IDPA so that it can carry out its IV-D responsibilities include: the Cook County

Sheriff's Office, the Department of Employment Security, the Illinois State Comptroller, the Internal Revenue Service, the Department of Insurance and Professional Regulation, the Illinois Department of Public Health, the Illinois Department of Revenue, the Secretary of State, the U.S. Department of State, and the U.S. Department of Treasury.

Results & Recommendations

Customer Service: A Failing of the Illinois System

Parents who try to use the services of Illinois' IV-D program find that child support workers are unhelpful, uninformed, and rude. They have a difficult time locating anyone at IDPA who can give them information about their case or answer their questions. Some reasons for the poor customer service in Illinois are (1) a high caseload per child support worker; (2) lack of technology such as an automated customer service phone system; (3) insufficient training; and (4) inconvenient operating hours.

Chicago Appleseed recommends that the IV-D agency adopt the following in order to improve its service to its customers:

1. Have local offices open at convenient locations and hours;
2. Reduce caseload per worker;
3. Respond to customer grievances;
4. Evaluate employees and hold them accountable;
5. Improve technology by installing a voice mail and automated phone system; and
6. Implement a child support worker certification program.

Structure of the Child Support, IV-D Agency

The heavily bureaucratic and disjointed structure of Illinois' IV-D program has resulted in a system where effective communication is non-existent. Because of this, child support workers do not have a broad picture of how all the components of the system fit together. Instead, they are only able to focus on the performance of their narrow job functions. Therefore, when a parent asks a question about a part of the process beyond her narrow job function, the child support worker is unable to answer the question but instead refers the parent to someone else. Or even worse, the child support worker gives out inaccurate information that can lead to real problems down the road for the parent.

The structure of Illinois' IV-D program has resulted in a variety of problems including inordinate delays, unreliable and hard-to-get information, and uninformed workers. Some policies and practices that contribute to the problems are that: (1) each child support case does not have a "go to" person assigned to the case; (2) workers do not understand and cannot explain the child support process to parents; (3) child support workers are overloaded; (4) intake is conducted by non-legally trained personnel; and (5) the IV-D agency does not provide enough services to non-custodial parents.

Recommendations for Illinois from national child support experts include creating an independent state agency to handle child support, converting the funding source to general appropriations, increasing funding for the IV-D program, reducing the number of agencies involved, and distributing all child support to families.

To improve the structure of the IV-D agency, Chicago Appleseed recommends that Illinois:

1. Create a single agency with the sole responsibility of child support in Cook County;
2. Develop client service teams;
3. Have IV-D agency staff perform functions that are not outsourced;
4. Implement intake procedures that assign cases to the appropriate unit based on its needs;
5. Train staff well in legal skills, domestic violence issues, and ancillary services so they can make effective referrals;
6. Assure that staffing level is appropriate; and
7. Evaluate employees on performance and customer service.

The Expedited Division

The Expedited Child Support Division of the Domestic Relations Division of the Circuit Court utilizes hearing officers to reduce the number of cases heard by judges. Only where one of the parties contests the recommended order of a hearing officer will the case be sent to a courtroom. Advantages of this structure are that it reduces the caseload of the judges and increases the speed with which cases are processed. Problems have arisen, however, with the Expedited Division. Attorneys in particular feel that going through hearing officers causes more delay, not less. This is because an attorney will almost always disagree with the hearing officer's recommendation, so the case will have to be argued and heard twice, once in front of the hearing officer and once in front of the judge. Another concern is that never-married parents are relegated to the Expedited Division, while cases involving divorce are heard in the Circuit Court. Individuals familiar with the facilities at both locations complain that the condition of the Expedited Division is much poorer than the

Circuit Court, and that the Expedited Division is much more crowded than the Circuit Court.

Because Chicago Appleseed believes all child support cases should be heard administratively, we recommend that the Expedited Division be eliminated and that hearing officers in the Expedited Division be considered for employment as administrative hearing officers.

Pro Se Litigants

A large majority of non-custodial parents with child support cases in the Expedited Division are not represented by attorneys. This is particularly problematic because almost all custodial parents are assisted by attorneys provided by the State's Attorney's Office. As a result, non-custodial parents many times leave hearings confused and with a feeling that the system is unfairly biased in favor of the custodial parent. It is important that someone be available to answer non-custodial parent and other pro se litigants questions and assure a feeling of fairness, which will encourage the non-custodial parent to comply with the order.

To address the needs of pro se litigants, Chicago Appleseed recommends:

1. Establishment of a help desk that will provide information and advice to parents who do not have an attorney; and
2. Encouragement and funding for legal services and government agencies to provide representation and other assistance to parents.

Cook County State's Attorney's Division of Child Support Enforcement

The assistant state's attorneys who assist custodial parents with establishing parentage, and establishing, enforcing, and modifying child support are providing a valuable service to parents who might otherwise not have anyone to help them with the legal matters involved in child support. However, some parents and attorneys have pointed out that the assistant state's attorneys are not zealous enough in their advocacy, are not available to answer parent's questions, and are inexperienced. The shortcomings in the services provided by the assistant state's attorneys is partly the result of the high caseloads they must carry, which average about 20 to 30 cases per day.

Chicago Appleseed recommends that the State's Attorney's Office:

1. Clarify the relationship, duties, and responsibilities of the assistant state's attorneys to custodial parents;
2. Hire high quality personnel to staff its Division of Child Support Enforcement;

3. Provide on-going training;
4. Encourage voluntary agreements;
5. Be held accountable to parents;
6. Provide parents with an overview of the child support process;
7. Increase the number of support staff;
8. Keep attorney caseloads to a manageable number; and
9. Argue for deviation from guidelines where appropriate.

Processing Child Support Cases Administratively

IDPA uses an administrative hearing process to establish paternity, and establish, enforce, and modify child support orders for some IV-D clients. For example, married parents who have separated may use IDPA's administrative process to establish a child support order while their divorce is pending in the Circuit Court. Other parents are assigned to IDPA's administrative process as an alternative to a judicial proceeding at the Expedited Division. The decision of whether the parent is assigned to an administrative proceeding or a judicial proceeding is typically made by IDPA, based on docket levels.

Comments about the non-judicial, administrative process used in Cook County child support cases ranged from tolerance to outright disgust. Some problems with the administrative procedure we discovered were: (1) lack of faith in the validity of the proceedings; (2) poor record keeping; (3) lack of due process afforded to litigants; (4) difficulty in getting information about administrative proceedings or orders entered at those proceedings; (5) failure to work with the judicial process; and (6) a possible bias in favor of the State.

Chicago Appleseed recommends that the IV-D agency improve the administrative process by:

1. Having all child support related matters heard by administrative hearing officers;
2. Evaluating hearing officers on several performance indicators;
3. Hiring hearing officers who have completed Child Support Hearing Officer Certification training;
4. Eliminating duplicate tribunals – administrative proceedings should be used for all child support matters except those that can be heard at the same time as a divorce proceeding;
5. Keeping administrative orders and records in the same place and accessible;
6. Assuring due process protections are thoughtfully and carefully considered and maintained;
7. Sending parties who wish to formalize their custody or visitation agreements to mediation;

8. Establishing a demonstration project that will handle a number of cases administratively under these recommendations before transferring everything to the administrative process; and
9. Docketing copies of administrative orders and return of service with the clerk of the circuit court.

Mediation

Cook County has a mediation program and a facilitation program to help parents come to decisions about custody and visitation. We heard almost universal praise for both programs. Practitioners thought that the programs help agreements stay resolved and help parties to focus on the children. There were a few areas where the mediation program could be improved, however. Some attorneys were concerned about using mediation when domestic violence is an issue. Other concerns were that mediation is not always realistic, is over-utilized, does not always occur soon enough, and is not advertised enough to parents.

In order to address the domestic violence issue, Chicago Appleseed recommends:

1. Domestic violence victims should be protected and should not be required to go to mediation; and
2. Sheriffs or other security officers should be on hand to step into mediation rooms.

The Computer System – KIDS

IDPA's computer system dedicated to child support is called the Key Information Delivery System ("KIDS"). Although a few users of KIDS have expressed satisfaction with the system, many people have expressed concerns about it. Some problems include: (1) frequent system failures, (2) outdated and incorrect information, (3) limited access; and (4) incorrect programming. KIDS is difficult to learn and to use.

Chicago Appleseed recommends that KIDS be reprogrammed and enhanced to contain accurate, understandable, complete, and accessible information.

Child Support Records

Accurate records of child support payments and of court and administrative child support orders are vital if the child support system is going to have any credibility. Right now, records are often not correct--which frustrates both custodial and non-custodial parents. Sometimes too much child support is withheld or checks may be lost. It is almost impossible to get an up-to-date and

accurate accounting of how much has been paid and how much is owed. Furthermore, arrearage amounts are often incorrect.

Chicago Appleseed recommends that child support record-keeping be improved by:

1. Cleaning up the data through auditing of the records;
2. Implementing an automated phone system where parents can get information on child support payment records;
3. Housing all records in one place;
4. Sending out monthly account statements to parents; and
5. Creating an ombudsmen's office to deal with inaccurate financial records.

Non-custodial parents

Non-custodial parents have specific concerns that need to be addressed by the IV-D program. It is unfair to expect these parents to pay into a system that does not answer their questions or treat them with respect. Specifically, non-custodial parents: (1) do not always see the support they pay as going to their children; (2) have a fear of the legal system; (3) cannot always obtain affordable legal assistance even though the custodial parent is provided with the help of an assistant state's attorney; and (4) frequently do not understand the implications of parentage or child support.

Chicago Appleseed recommends that non-custodial parents be assisted by:

1. Beginning each child support case with a discussion to see if a voluntary agreement can be reached;
2. Enrollment in alternative activities, such as job training, community service, and services to the custodial parents to obviate growth of arrearages when the parent cannot pay;
3. Having a small staff to assist non-custodial parents and answer their questions;
4. Implementing an arrearage compromise program for regularly paying non-custodial parents who qualify;
5. helping to enforce visitation rights;
6. Mailing of timely notices of delinquency as soon as the non-custodial parent falls into arrears; and
7. Providing notice that child support orders will remain in effect unless otherwise modified by court order.

Enforcement

There are non-custodial parents who will purposefully try to avoid payment of child support. For these parents, Chicago Appleseed advocates strict

enforcement measures. Some problems with enforcement against willful non-payors include: (1) using contempt inappropriately; (2) using enforcement measures that prevent or inhibit the non-custodial parent from working; (3) poor tracking of non-custodial parents who change jobs; (4) trouble process serving non-custodial parents who are self-employed; and (5) trouble finding out the income of non-custodial parents who are paid in cash.

Chicago Appleseed recommends the creation of new penalties for those who refuse to pay child support, such as a Sheriff's Work Alternative Program.

If you would like to receive a copy of the full report or the full listing of recommendations please contact the Chicago Appleseed Fund for Justice 220 South State, Suite 800, Chicago, Illinois 60604 (312) 427-0710 Fax (312) 427-0181 www.chicagoappleseed.org.