

July 2014

## A Change in Approach:

# A Shift In Priorities and Caseload at the City's Office of Child Support Enforcement

## Summary

When Congress created the legislative framework for local child support enforcement programs in 1975, the primary intent was straightforward: recoup public assistance costs related to child support from an absent, or noncustodial, parent. The approach was largely punitive, centered on pressuring noncustodial parents to fulfill their financial obligations to their children. Enforcement mechanisms were further strengthened in the 1990s with the overhaul of public assistance.

Since then there has been an evolution in child support enforcement, with an increasing focus on helping to foster relationships between children and their noncustodial parents along with addressing the needs of those parents so they can help support their children financially. In New York City, these range from a co-parenting initiative to job search and placement programs.

IBO has reviewed the programmatic shifts in the city's Office of Child Support Enforcement, a division of the Human Resources Administration, and examined changes in the office's caseloads and collections in recent years. Among our findings:

- Child support collections by the city's Office of Child Support Enforcement increased from \$602 million in fiscal year 2007 to \$749 million in 2012, a rise of 24 percent, or 11 percent when adjusted for inflation.
- The likelihood of receiving a court order for child support payments is related to whether a family is or ever has been a recipient of public assistance. Among the 407,000 cases being handled by the city's child support office in 2012, only 50 percent of the families that were receiving public assistance had obtained court orders mandating payments from noncustodial parents. In comparison, 71 percent of families no longer on public assistance had court orders for payments and 78 percent that were never on public assistance had court orders.
- The collection rate for cases with court orders is also correlated with public assistance status: in 59 percent of cases where the family was never on public assistance the noncustodial parent was making payments in an average month in 2012, compared with only 39 percent of cases on public assistance at the time and 33 percent formerly on public assistance.
- Given the long-term decline in the number of public assistance recipients, it is probable that the child support office's caseload will increasingly include noncustodial parents who are better off financially and more likely to make court-ordered payments.

The city retains a portion of the child support payments to offset public assistance costs. In 2012, the city retained \$50 million, or about three-quarters of the child support office's budget.



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## Background

In 2012, the city's Office of Child Support Enforcement (OCSE) collected \$749 million from noncustodial parents (NCPs), continuing a significant upward trend in child support collections (all years are city fiscal years unless otherwise noted). Over 90 percent of the funds collected go to families, providing a vital source of financial support to thousands of custodial parents and children including many from low-income households.

The child support office operates under federal and state law, enabling it to collect court-ordered child support from noncustodial parents throughout the country. Congress began the child support program in 1975, and strengthened its enforcement mechanisms in 1996 as part of the welfare reform law. The federal Office of Child Support Enforcement works through state and local agencies to carry out its legal mandate. In New York State the governing agency is the Division of Child Support Enforcement within the Office of Temporary and Disability Assistance, Center for Child Well-Being, while New York City OCSE is part of the Human Resources Administration (HRA). Unless otherwise noted, throughout the rest of this paper, OCSE refers to the city's child support enforcement unit.

Total spending for operation of the city's OCSE in 2012 was \$64 million. About one third of its budget is city funds, with federal funds accounting for the vast majority of the rest. The child support agency has a full time staff of about 810.

This report examines the city's child support enforcement process; the factors behind the steady increase in child support collections in recent years; and the fiscal benefits to the city, state, and federal governments of providing child support services to custodial parents and children.

**A Change in Approach.** When it was created in 1975, the primary purpose of the national child support program was to recover welfare costs. As such the emphasis was on punitive measures to pressure noncustodial parents who had fallen behind on their court ordered payments to make good on their child support debts. Over the years, however, there has been a gradual shift to a more family-centered focus that gives greater consideration to the needs of NCPs and their relationships with their children. The new approach focuses primarily on those noncustodial parents who lack regular employment or another source of income, and have limited ability to pay child support. Nationwide, most child support debt is owed by parents with no or

low reported earnings. Over the past decade the federal government has provided grants and other incentives to encourage states to implement policies to establish more realistic child support orders, reduce child support debt, intervene early when parents begin to struggle to make payments, engage fathers in the lives of their children, improve family relationships, and increase noncustodial parent employment.<sup>1</sup> In response, New York officials have initiated a number of new policies and programs. In 2006, New York State became the first state to enact an earned income tax credit for low-income noncustodial parents who are up to date on their child support payment.

Following the state, New York City has enacted a similar tax credit for low-income noncustodial parents. In addition, OCSE and the Family Courts have established programs to deal with a variety of challenges faced by many noncustodial parents. The Support Through Employment Program (STEP) connects unemployed and underemployed NCPs with job search and job placement assistance provided by HRA's Back to Work Vendors. From calendar years 2008 through 2012, the number of STEP participants making child support payments increased from 476 to 613. For low-income NCPs with high child support arrears or orders far out of line with their income, the child support office has established the Modify DSS Orders (MDO), Arrears Cap, and Arrears Credit programs. Participants in these debt reduction and order modification programs have been shown to be more likely to continue making child support payments.<sup>2</sup> As of December 2012, 125 low-income noncustodial parents had their orders reduced through MDO, and 944 NCPs had their arrears lowered by a total of \$10 million through the Arrears Cap program.

The new initiatives at OCSE also include programs to encourage noncustodial parents to become more involved in the lives of their children. The Parent Pledge Project allows parents to create child support and co-parenting agreements in a community setting. The agreements are prepared and facilitated by a trained mediator who may recommend parents be referred to parenting classes. The hope is that, through a mediation process, the parents will be encouraged to jointly support their children financially and emotionally.<sup>3</sup>

## Child Support Cases and Collections

Even with these new policies in place, significant challenges remain in establishing court orders for and collecting support payments from many noncustodial parents. These challenges are apparent in the caseload

## The Challenges of Securing Child Support Collections

Average # of Cases Per Month in Fiscal Year 2012	Total	Current Cash Assistance	Former Cash Assistance	Never Cash Assistance
Total Cases (with and without orders)	406,866	68,750	191,477	146,639
Cases with Orders	284,686	34,080	136,619	113,987
Cases with Orders as % of Total Cases	70.0%	49.6%	71.4%	77.7%
Cases with a Collection:	124,872	13,139	44,783	66,950
Cases with a Collection as % of Cases with Orders	43.9%	38.6%	32.8%	58.7%
Total Annual Collections (in millions)	\$748.8	\$35.7	\$216.0	\$497.1
Collections per Case with Order	\$2,630	\$1,048	\$1,581	\$4,361
Collections per Case with a Collection	\$5,997	\$2,718	\$4,824	\$7,425

SOURCES: Human Resources Administration; New York State Office of Temporary and Disability Assistance

New York City Independent Budget Office

information provided by HRA, which includes breakouts based on whether the custodial parents are currently on cash assistance, were formerly on cash assistance, or were never on cash assistance.

In fiscal year 2012, in an average month there were 407,000 open cases at the child support office. Of the open cases, 285,000, or 70 percent, had established child support orders. Some of the cases without orders were new cases that needed more time for a court order to be established. In others a court order could not be established due to difficulties in confirming paternity. In addition, if a custodial parent not on cash assistance fails to appear in court after having received two opportunities, the case is dismissed.<sup>4</sup> But in many cases the NCP could not be located and a summons could not be served. Some of these missing individuals do not want to be found or are transient, appear on no lease or tenant directory, and have no employer.

The likelihood of establishing a court order is related to cash assistance status; only 50 percent of OCSE cases currently on cash assistance had received a court order, compared with 71 percent of cases that were formerly on cash assistance, and 78 percent of cases that were never on cash assistance. This pattern suggests the linkage between the economic status of both the custodial parent and the noncustodial parent and the likelihood of receiving a child support order. Those that are better off economically are more likely to have steady jobs and residences and are therefore easier to locate and serve a summons, a necessary step in establishing a court order.

Even when a court order is established there is no guarantee that payments will be made on a regular basis. In an average month in 2012, there were child support collections for 125,000 cases, or 44 percent of all cases

with orders. The case collection rate is held down by a number of factors. About a third of the cases with orders are arrears-only cases, meaning that they have no ongoing obligations but are being held open only because of old child support debts. These cases can be difficult to clear and can remain on the rolls for many months or even years. In addition, many ongoing or actively charging cases receive collections sporadically. Some of the others are temporarily assigned orders for zero dollars due to the fact that the noncustodial parent is unemployed and has no current income; these cases continue to be listed as open cases with orders. Still other cases include NCPs who operate on the margins of the economy and can be difficult to track, even after a court order is established. It is notable that the collection rate is significantly higher when measured in terms of dollars rather than cases; in an average month about 70 percent of the court-ordered obligation owed by ongoing cases is paid.

The collection rate for cases with court orders is also significantly related to cash assistance status, with 59 percent of cases that were never on cash assistance making payments in an average month, compared with only 39 percent of cases currently on cash assistance and 33 percent of cases formerly on cash assistance. The higher collection rate from noncustodial parents in the former group likely results from their stronger financial condition relative to those in the cash assistance groups, leaving them better able to make payments and easier for OCSE to track and, if necessary, to apply enforcement remedies for nonpayment. Measured in terms of dollars, in an average month 73 percent of obligations are paid by ongoing cases with orders that were never on cash assistance, compared with 47 percent for cases currently on cash assistance and 70 percent for cases formerly on cash assistance. As a result of their higher collection rate and larger court-

## A Range of Services and Enforcement Tools

The Office of Child Support Enforcement (OCSE) offers a wide spectrum of services to custodial parents of children under 21 looking to collect child support, including locating the noncustodial parent and serving a summons, establishing paternity, establishing child support orders, and collecting child support payments. Potential OCSE clients can begin the process in one of two ways. Custodial parents applying for cash assistance or medical assistance are required to cooperate with OCSE to establish a child support or medical support order; these clients are referred to one of the agency's borough offices to open a child support case. Custodial parents not receiving cash assistance may apply for services by visiting a child support worker located in each of the five New York State Family Courts located in the city.

If the noncustodial parent's home or work addresses are unknown, OCSE will do a computerized search to locate him even if he lives in another state.<sup>6</sup> After the NCP is located, a petition for a child support hearing is filed in the New York State Family Courts, whether or not the NCP resides in the state, and a summons is served. For new cases and those requesting modification of an existing order, the summons is served by priority mail. If the noncustodial parent fails to show up at the first hearing or a violation petition has been filed, OCSE provides personal service of the summons through the Sheriff's office.

If paternity cannot be established voluntarily, it can be established at a family court hearing where an order of filiation will be issued. If necessary this process can include DNA testing. Once paternity is established, the information about the father is sent to the New York State Putative Father Registry.

Child support orders are established in family court by a Support Magistrate. A child support order must include basic support and medical support. In New York State basic support awards are generally set at a fixed percentage of the income of both parents, depending on how many children are covered by the order. These percentages are applied to almost all parental earnings up to \$136,000, excluding withholdings for Medicare, Social Security, and New York City taxes, and other child or spousal support actually paid. State and federal taxes are not excluded. The share of income to be set aside for

child support varies from 17 percent for one child to at least 35 percent for five or more children. For cases where the parents' earnings exceed \$136,000, the court can choose whether or not to use the percentage guidelines. In addition, the court may, under certain circumstances, deviate from the formula.

Medical support includes health insurance and payments for out-of-pocket medical expenses for the child. The nature of the medical support included in the court order will vary with the circumstances, including the availability of health insurance plans for both parents. In addition to basic support and medical support, the noncustodial parent may be required to pay for a share of the child care and educational expenses for the child.

Child support orders are generally payable through OCSE's Support Collection Unit which collects the payments and distributes them to custodial parents through a direct deposit to their banks, state debit cards, or the Electronic Benefit Transfer cards of cash assistance clients. Once an order is established, the employer of the NCP is required to make regular payroll withholdings and forward the amount to OCSE. Nearly three-quarters of child support collections are processed through employer wage withholdings. Child support payments can also be taken directly from other sources of income including pensions, military allowance, Social Security, disability, and unemployment insurance. Noncustodial parents who are self-employed or have other sources of income are responsible for making direct payments to OCSE.

OCSE has the authority to enforce child support orders through various administrative and judicial means. If noncustodial parents fall behind in making their court ordered payments, the agency can temporarily increase the amount collected until the debt is paid off. It can also intercept one-time sources of income such as tax refunds and lottery prizes. OCSE also reports delinquent NCPs to the credit bureaus, and can deny or suspend drivers' licenses, passports, and professional, business and occupational licenses. If these measures are unsuccessful, the agency can move to place a lien on their property or even refer them for criminal prosecution. In calendar year 2011, "OCSE collected \$8 million through claims on lawsuit settlements or inherited property, after suspending NCP's driver licenses, and through other special enforcement actions."<sup>7</sup>

ordered obligations based on income, cases with collections that were never on cash assistance have significantly higher annual average child support payments: \$7,400 compared with \$4,800 for cases formerly on cash assistance and \$2,700 for cases currently on cash assistance.

### Trends in Child Support Collections

In recent years child support collections at OCSE have steadily increased. From 2007 through 2012, collections increased from \$602 million to \$749 million, or 24 percent. Even after adjusting for inflation, collections rose by 11 percent over this five-year period. In this section we will examine why this increase has come about.

One possible explanation is that the upward trend in collections merely reflects an increase in the number of child support cases handled by OCSE. However, the average number of open cases decreased slightly from 413,000 in 2007 to 407,000 in 2012 or about 2 percent. Similarly, the average number of cases with orders decreased from 297,000 to 285,000, or 4 percent. On the other hand, it does appear that some of the increase in collections resulted from greater success in securing payments from noncustodial parents with orders, with the share making payments in an average month rising from 38 percent to 44 percent. (After accounting for the changing composition of the caseload by cash assistance status, the share making payments increased from 38 percent to 42 percent.) As a result, even as the overall caseload decreased, the average number of NCPs making payments increased by 11 percent from 112,000 to 125,000 over this five-year period. In addition, the average collection (for cases with collections) grew by 12 percent, from \$5,400 to \$6,000, further contributing to the overall rise in collections.

The recent trend in collections, however, varied significantly by cash assistance status. In fact, among cases currently on cash assistance, aggregate child support collections decreased by 9 percent over this five-year period. The decrease in collections resulted primarily from the diminishing size of this group, with total cases down by 4 percent, cases with orders down by 13 percent, and average cases with a collection by 9 percent. The reduction in OCSE cases on cash assistance reflects the overall reduction in the average number of families on public assistance, which decreased 9 percent from 2007 through 2012. The average child support collection among this group was largely unchanged. The reduction in aggregate collections would have been even greater had it not been

<b>A Shift Away from Cash Assistance Cases</b>			
<b>Cases with Orders</b>	<b>2007</b>	<b>2012</b>	<b>Percentage Point Change</b>
Current Cash Assistance	13.1%	12%	-1.1
Former Cash Assistance	55.4%	48%	-7.4
Never Cash Assistance	31.5%	40%	8.5

SOURCE: Human Resources Administration  
New York City Independent Budget Office

for an increase in the share of noncustodial parents making payments from 37 percent to 39 percent, which likely resulted in part from the new efforts to engage low-income NCPs—in this instance cases on cash assistance—in supporting their children.

Among former cash assistance cases, aggregate child support collections increased by a modest 7 percent from 2007 through 2012. The reduction in the number of cases among this group was even greater than for current cash assistance cases, with total cases down by 12 percent, and cases with orders by 17 percent, a reflection of long-term trends in public assistance. Since the mid-1990s welfare reform has led to a sharp reduction in the number of public assistance recipients. Therefore, each year there are fewer city residents who were formerly on cash assistance and who still have minor children who would be legally eligible for child support. Offsetting this shrinking caseload was a considerably improved collections rate for cases with orders, with the share of NCPs making payments increasing from 28 percent to 33 percent. In addition, the average annual collection for cases with collections was up by 9 percent.

For cases in which the custodial parent was never on cash assistance, aggregate child support collections increased by 38 percent. In fact, more than 90 percent of the total growth in collections from 2007 through 2012 occurred among this group. Much of this growth resulted from a significant increase in the caseload, with total cases up by 17 percent, cases with orders up by 22 percent, and cases with collections up by 29 percent. In addition, the collections rate for cases with orders increased from 55 percent to 59 percent. The average annual collection for cases with collections was up by 7 percent.

The variation among the cash assistance status groups makes it clear that a major factor driving higher collections is the changing composition of the OCSE caseload. Among child support cases with orders, the share that had never been on cash assistance increased by 8 percentage points, from 32 percent in 2007 to 40 percent in 2012, while



## The Fiscal Benefits of Child Support Collections

While providing significant financial support to custodial parents and their children, the child support collections that result from the actions taken by OCSE also provide significant fiscal benefits to the city, state, and federal governments. The most direct benefit comes from the fact that child support payments can be used to offset some cash assistance grant costs. As mentioned earlier, custodial parents applying for cash assistance are required to cooperate with OCSE to establish a child support order. Once collections begin, the custodial parent is allowed to keep a portion of what is paid toward the current obligation amount—\$100 per month for one child or \$200 for two or more children—and the rest is retained by the agency to reimburse the cash assistance program. In 2012, OCSE retained \$26 million from current cash assistance cases. In addition, it retained \$24 million from arrears payments received by former cash assistance cases to offset some of the grant payments made to them while they were on the public assistance rolls. Thus OCSE received a total of \$50 million in cash assistance offsets, equivalent to about three-quarters of its budget. The offsets amount to nearly 4 percent of total cash assistance grants.

Besides offsetting some of the costs of the cash assistance program, OCSE's child support collections likely decrease the need for social services programs by increasing the incomes of many families. While difficult to estimate, we can get a sense of the potential magnitude of these government savings. For instance, if 10 percent of the 44,800 former cash assistance cases who were receiving child support collections in 2012 were able to remain off of assistance because of these payments, then over \$30 million in total grant costs were avoided that year. There are probable savings in other programs as well; for example, the medical support payments that are part of most child support court orders can be expected to keep many children off of the Medicaid rolls. When combined with the cash assistance offsets, this cost avoidance makes it likely that the city's child support enforcement program more than pays for itself. In 2012, for instance, the total OCSE budget, including city, state, and federal funds was \$64 million. Since the agency received \$50 million in cash assistance offsets from child support collections, savings from the decreased need for social service programs would only have needed to total \$14 million to offset the remaining cost of the child support program.

<b>Fewer Child Support Cases, But Increased Collections</b>			
	<b>Average Number of Cases per Month In Fiscal Year</b>		
	<b>2007</b>	<b>2012</b>	<b>Change</b>
Total Cases (with and without orders)	413,423	406,866	-1.6%
Cases with Orders	297,418	284,686	-4.3%
Cases with Orders as % of Total Cases	71.9%	70.0%	
Cases with a Collection:	112,108	124,872	11.4%
Cases with a Collection as % of Cases with Orders	37.7%	43.9%	
Total Annual Collections (in millions)	\$601.9	\$748.8	24.4%
Collections per Case with Order	\$2,024	\$2,630	30.0%
Collections per Case with a Collection	\$5,369	\$5,997	11.7%
SOURCES: Human Resources Administration; New York State Office of Temporary and Disability Assistance <i>New York City Independent Budget Office</i>			

the shares of the other two groups declined. During this same time period, the nationwide share of child support cases with orders that had never been on cash assistance increased by a more modest 4 percentage points, from 41 percent to 45 percent.<sup>5</sup> The more pronounced shift toward child support cases that have never relied on cash assistance in New York City is due at least in part to efforts by city officials. In recent years OCSE has expanded its outreach and educational efforts. The agency reaches out directly to parents and works with nonprofit groups and other city agencies to educate the community about the value of the formal child support program. As part of these efforts, OCSE has begun to produce an annual report and to host an annual policy conference that examines the benefits of child support.

Given the long-term decline in the number of cash assistance recipients, it is probable that the agency's outreach efforts will result in a child support caseload that is increasingly composed of cases with noncustodial parents who are relatively better off financially. As we have seen, cases in which the custodial parent has never been on cash assistance are more likely to have court orders, have higher rates of collection, and have higher average collections than those cases where the parents have been part of the public assistance system at some point. When combined with the increasing success that OCSE has had in enforcing child support orders, this change in the composition of the caseload could result in further increases in child support collections in future years.

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## Conclusion

The child support enforcement program has undergone a significant evolution in its goals and philosophy. When it was created by Congress in 1975, the primary purpose of the program was to recover welfare costs, and the emphasis was on punitive measures to pressure noncustodial parents to fulfill their child support obligations. Over the years, however, there has been a gradual shift to a more family-centered service delivery model which gives greater consideration to the needs of noncustodial parents and their relationships with their children. In New York City this has led to the implementation of programs to help noncustodial parents find and maintain employment, reduce their child support debts, and engage in the lives of their children. These new programs, which focus on low-income parents, have been associated with an increase in collection rates for cases with child support orders.

OCSE is now undergoing another major change as its caseload gradually shifts from families who have at one time or another received cash assistance through the welfare system to those who have never been part of that system. As a result of the welfare reform policies of the 1990s, the number of families with minor children who are current or former public assistance recipients continues

to shrink. At the same time, expanded outreach efforts by OCSE have increased demand for child support services from custodial parents who have never received cash assistance. Families in this category are generally better off financially, and the noncustodial parents are more likely to receive court orders, have higher compliance rates, and make much higher average payments. The increased demand for child support services from this group suggests that OCSE will continue to supply a vital source of income support for thousands of New York City families.

*Report prepared by Paul Lopatto*

## Endnotes

<sup>1</sup> United States Office of Child Support Enforcement, Child Support Fact Sheet Series, 2011

<sup>2</sup> New York City Office of Child Support Enforcement, Annual Reports for 2011 and 2012

<sup>3</sup> New York City Office of Child Support Enforcement, Annual Reports for 2011 and 2012

<sup>4</sup> For cash assistance cases, the custodial parent's attendance is not required to establish a child support order. Provided that OCSE can prove that a summons has been served, a default order can be obtained. She must be present if paternity has not been determined.

<sup>5</sup> United States Office of Child Support Enforcement, Annual Reports for 2011 and 2012

<sup>6</sup> In the majority of cases the noncustodial parent is the father. According to a recent nationwide study, in families with children under 21 where one parent was living with the children and the other parent was not living in the home, only 17.8 percent of the custodial parents were fathers. Among the subset of custodial parents with formal child support agreements or awards, only 10.7 percent were fathers. United States Census Bureau, Custodial Mothers and Fathers and Their Child Support: 2009, December 2011.

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