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CHILD SUPPORT ENFORCEMENT AND SUPPLEMENTAL SECURITY INCOME

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

JUNE 13, 1995

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CONTENTS

Page

Advisory of May 31, 1995, announcing the hearing 2

WITNESSES

U.S. Department of Health and Human Services, Hon. Mary Jo Bane, Assistant Secretary for Children and Families; accompanied by Paul Legler, Attorney Advisor to the Assistant Secretary for Planning and Evaluation 49
U.S. General Accounting Office, Hon. Jane L. Ross, Director, Income Security Issues 105

Burke, Cecelia, Office of the Attorney General, Austin, Tex 27
Children's Defense Fund, Nancy Ebb 64
Department of Health and Welfare, Teresa Kaiser 21
Ebb, Nancy, Children's Defense Fund 64
Henry, Ronald K., Kaye, Scholer, Fierman, Hays & Handler 75
Johnson, Hon. Nancy L., a Representative in Congress from the State of Connecticut 121
Kaiser, Teresa, Department of Health and Welfare 21
Kennelly, Hon. Barbara B., a Representative in Congress from the State of Connecticut 5
Lockheed Martin IMS, Harry Wiggins 96
Marshall, Johnetta, Older Women's League 36
Massachusetts Department of Revenue, Marilyn Ray Smith 8
Morella, Hon. Constance A., a Representative in Congress from the State of Maryland 126
National Child Support Enforcement Association, Marilyn Ray Smith 8
Office of the Attorney General, Austin, Tex., Cecelia Burke 27
Older Women's League, Johnetta Marshall 36
Smith, Marilyn Ray, National Child Support Enforcement Association, and Massachusetts Department of Revenue 8
Wiggins, Harry, Lockheed Martin IMS 96

SUBMISSIONS FOR THE RECORD

U.S. Department of Health and Human Services, June Gibbs Brown, statement and attachment 132

Advocates for Better Child Support, Inc., Susan M. Brotchie, statement 140
American Society for Payroll Management, Debera J. Salam, statement 145
Blacks Organizing Leadership Development, Rubin and Felicia L. Young, letter and attachments 148
Brotchie, Susan M., Advocates for Better Child Support, Inc., statement 140
California Department of Social Services, Leslie L. Frye, statement 158
California District Attorneys Association, letter 161
California Office of the Attorney General, Daniel E. Lungren, statement 167
Cave, Pamela L., Chantilly, Va., statement and attachment 175
Center for Law and Social Policy, Vicki Turetsky, statement 179
Dutkowski, Wallace N., Michigan Department of Social Services, statement ... 197
Frye, Leslie L., California Department of Social Services, statement 158
Hennessey, James, Iowa Department of Human Services, statement 188
Interstate Conference of Employment Security Agencies, statement 186

	Page
Iowa Department of Human Services, James Hennessey, statement	188
Lungren, Daniel E., California Office of the Attorney General, statement	167
Michigan Department of Social Services, Wallace N. Dutkowski, statement	197
Murphy, Ruth E. (Betty), National Child Support Advocacy Coalition, statement	200
National Child Support Advocacy Coalition, Ruth E. (Betty) Murphy, statement	200
Roukema, Hon. Marge, a Representative in Congress from the State of New Jersey, statement	204
Salam, Debera J., American Society for Payroll Management, statement	145
Turetsky, Vicki, Center for Law and Social Policy, statement	179
Young, Rubin and Felicia L., Blacks Organizing Leadership Development, letter and attachments	148

CHILD SUPPORT ENFORCEMENT AND SUPPLEMENTAL SECURITY INCOME

TUESDAY, JUNE 13, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:10 p.m., in room B–318, Rayburn House Office Building, Hon. E. Clay Shaw, Jr. (chairman of the subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
May 31, 1995
No. HR-7

CONTACT: (202) 225-1025

Shaw Announces Hearing on Child Support Enforcement and Supplemental Security Income

Congressman E. Clay, Shaw, Jr. (R-FL), Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on Child Support Enforcement and Supplemental Security Income. **The hearing will take place on Tuesday, June 13, 1995, in room B-318 of the Rayburn House Office Building, beginning at 1:00 p.m.**

Oral testimony at this hearing will be heard from invited witnesses only. Witnesses will include parents, child support administrators, scholars, and representatives of children's advocacy groups. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

H.R. 4, the welfare reform bill, passed by the House in March, contained extensive reforms of the nation's child support enforcement program. Since passage of the House bill, the Senate has made considerable progress in developing its own child support legislation. On May 26, the Senate Finance Committee reported a substitute for H.R. 4. Several provisions under consideration by the Senate are different than those in the House bill. In addition, interested parties have now had time to review and carefully study the many child support provisions in the House bill.

Thus, in preparation for House-Senate conference action on child support, Chairman Shaw would like to conduct an additional hearing on child support to reexamine the numerous child support issues addressed in the House bill, especially those that differ from the Senate bill. These issues include, but are not limited to, financing and state incentive payments, cost recovery in the non-AFDC program, distribution of collections, new hire reporting, privatization, paternity establishment, and automatic data processing.

Although all the issues listed above will receive attention in the hearing, two of the more important child support issues are cost recovery and the distribution of AFDC collections. Based on a 1992 study by the General Accounting Office, the House Budget Committee estimated that non-AFDC costs were equivalent to 15% of non-AFDC collections or about $1 billion per year.

An argument can be made in support of cost recovery in the non-AFDC caseload. The federal government is now spending around $2 billion per year on the IV-D program. Given the emphasis on helping mothers leave welfare, and the widespread feeling that child support from fathers can play a much bigger role in helping mothers achieve financial independence from government benefits, many members of Congress are willing to spend money on helping welfare mothers collect child support. By contrast, some also believe that non-welfare, especially non-poor, parents should be required to pay for child support services. While there seems to be support for taking the money from nonresident parents, some feel that whatever the government takes to cover costs will eventually come out of the child's pocket. The Subcommittee is seeking informed arguments on all sides of this issue.

Another issue the Subcommittee will examine is the distribution of child support collections. A major purpose of the House welfare reform bill is to help mothers leave welfare. Child support can help by providing low-income mothers with a source of income to supplement earnings, food stamps, and the Earned Income Tax Credit. There is general agreement that once a mother leaves welfare, payments on current child support should be given to the mother. However, if the father pays arrearages (amounts above the level of current support), there is disagreement about who should get the money. Under current law, pre-welfare and post-welfare arrears can be treated differently. Pre-welfare arrears are assigned to the state, as are arrears that accrued while the mother was on welfare. For arrears that accrue after the mother leaves welfare, under current law the state has the option to pay the mother first or to retain amounts collected to pay the state first. H.R. 4 changes this rule by eliminating the assignment to the state of pre-welfare arrears and instead assigns both pre- and post-welfare arrears to the mother. Although this approach will impose additional costs on both the Federal government and the states, it does have the benefit of providing mothers with an additional source of income.

In announcing the hearing, Chairman Shaw stated: "Too often, the House and Senate think their work is done when they have passed bills. The House passed a good child support bill in March, but I think it can still be improved when we write the final bill in the House-Senate Conference. Now that everyone has had plenty of time to study our bill, and now that our colleagues in the Senate have developed some good provisions of their own, I want to hear what parents, administrators, and scholars think of the specific provisions in the respective bills."

In addition to child support enforcement, the Subcommittee will examine the suggestion from the House Budget Committee to reduce the $20 exclusion in the Supplemental Security Income program.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement, with their address and date of hearing noted, by the close of business, Tuesday, June 27, 1995, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B-317 Rayburn House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are now available over the Internet at GOPHER.HOUSE.GOV, under 'HOUSE COMMITTEE INFORMATION'.

*****

Chairman SHAW. If we could come to order, we will start this hearing.

The order that we will follow this afternoon is that I have an opening statement which I will read, Mrs. Kennelly of Connecticut will be giving the opening statement for the minority, and then we are going to take the witnesses from out of town as the first panel because we do know that things are a little unsettled.

This subcommittee will recess at 3:30 because the full committee is continuing a markup, and we have to be there to cast our votes. We no longer can vote by proxy. So we will recess for whatever time it takes; and then we will reconvene, hopefully, to finish the hearing before the end of the day.

I would like to say, first of all, and I think everyone agrees, that this is a good government hearing. Our main purpose is to provide our Members with one last review of the child support issue before we go to conference with the Senate to make final decisions about changing the Nation's child support enforcement laws. We are all aware that we have a historic opportunity to strengthen the Nation's child support system and thereby help millions of families with children.

The House bill has been public record for 3 months, the Senate bill for approximately 3 weeks. Thus, people interested in child support have had ample opportunity to analyze differences between the bills, to compare both bills with the bill introduced by the administration last year, and to figure out which provisions they prefer and why. So today we are providing a forum for a wide range of people interested in child support to share their conclusions with members of the subcommittee.

A second reason for conducting this hearing is to take testimony on the Budget Committee proposal to reform the child support program so that families who are not on welfare but receive services pay part or all of the cost of those services. The Budget Committee estimates about $1 billion per year could be saved through cost recovery of this type.

Since the Budget Committee recommendation was made public, there has been considerable discussion favoring and opposing this proposal. Again, we have invited a broad range of witnesses to address this issue. We have also invited the GAO to tell us about a 1992 report that they published on this important issue.

Finally, the Budget Committee has also suggested that Congress reduce the $20 exclusion in the SSI, supplemental security income, program to $15. We welcome testimony on this proposal from any of our witnesses, and we have invited Dr. Johnetta Marshall, president of the Older Women's League, to speak on the proposal.

I have greatly enjoyed working with my Republican colleagues, with Democrats in the administration, and our colleagues on this subcommittee to formulate the strongest child support bill possible. The House bill would make remarkable improvements in current law, and I am confident that we can make the bill even better. To this end, I have no doubt that we will conduct today's hearings, as well as the House-Senate conference, in the bipartisan spirit that has characterized this issue for two decades.

At this time, I would like to recognize the gentlelady from Connecticut, who has been one of the acknowledged leaders on this whole issue of child support.

STATEMENT OF HON. BARBARA B. KENNELLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mrs. KENNELLY. Thank you, Mr. Chairman.

Let me thank you, first, by saying thank you for having this hearing. This is an excellent opportunity for the Members to learn about the difference between the House and Senate bills with respect to child support enforcement. I hope that you plan similar sessions to look at AFDC, aid to families with dependent children, the child welfare, and SSI portions of the pending legislation.

We have agreed on many issues and we have disagreed on issues, but it has been so good that one issue, child support enforcement, has been an area where we have bipartisan agreement and made great progress. I would hope that we could continue to work together.

I would like to take this opportunity to have the minority side have an opportunity to look at the proposal of the House-passed budget as well. We are concerned about the charge to non-AFDC families of a 15-percent collection fee for child support. In other words, any family which is not in poverty and which needs help in collecting court-ordered support would be charged a new 15-percent tax on child support.

Many one-parent families receiving child support already live on very tight budgets. Reducing their child support orders by 15 percent would only make matters worse, and I thank you for having this hearing to look at this situation.

To highlight what is this wrong with this, in my home State of Connecticut, reducing all non-AFDC child support collections made by the State by 15 percent would take $7.8 million a year from Connecticut families and give it to the government. Obviously, this is a transfer of funds, but I think it would be better to do it not by this fashion.

Let me give you four good reasons why a 15-percent tax on child support collections is a bad idea:

No. 1, it would take money directly from children.

No. 2, it would charge families a substantial fee for law enforcement. This is not unlike the police charging a fee for returning stolen property. Like most Americans, non-AFDC families receiving child support already pay for law enforcement through taxes.

No. 3, the tax does not account for the fact that non-AFDC collections save government resources by preventing families from going on welfare.

No. 4, the tax would charge many families more than the cost of collecting their support. This means that it is not a collection fee.

Some have suggested perhaps a tax would be charged to the noncustodial parent. However, I have great concerns that this might still result in less money for the child, because paying the collection fee may reduce the noncustodial parent's ability to pay child support.

I would briefly like to express my concern about two other issues. First, I hope all my colleagues will support a provision on the dis-

tribution of child support arrears that was passed by our full committee and recently by the Senate committee. In short, the provision would require all child support arrears that occurred before or after an individual was receiving public assistance to go to the family, not the State.

There are two issues at stake here: fairness and helping families stay off welfare. Postwelfare arrears will help keep families from going back on welfare by providing extra income. Prewelfare arrears should be given to the family, because the family would have received these payments had they been paid on time. Families should not be penalized merely because the child support is paid late.

Finally, on a slightly different issue, I hope the subcommittee will not reduce the $20 exclusion for the SSI program. The House-passed budget has recommended that the $20 exclusion for other income be reduced to $15.

The net effect of this provision would be to reduce SSI income by $60 a year to 2.7 million low-income seniors. I don't think we should cut assistance to seniors who, in many cases, are already below the poverty line.

Thank you for holding these hearings, and I look forward to working with you in making this bill even better. Thank you.

Chairman SHAW. Thank you very much.

The ranking Democratic member of this subcommittee, Mr. Ford, has a statement which he asked to be placed in the record. So, without objection, it will also appear at the beginning of this hearing.

[The opening statement of Mr. Ford follows:]

OPENING STATEMENT OF REP. HAROLD FORD
June 13, 1995

Mr. Chairman, let me begin by thanking you for scheduling today's hearing. This is an excellent opportunity for the Members to learn about the differences between the House and Senate bills with respect to child support enforcement. I hope that you plan similar sessions to compare the AFDC, child welfare, and SSI portions of the pending legislation. Those sessions would be equally useful.

My own quick look at the Senate Finance Committee bill tells me that the House and Senate bills are substantially the same. The Senate has added a few new enforcement tools and I am eager to learn more about these. But Mrs. Kennelly and her colleagues in the Women's Caucus deserve the credit for assembling a tough, responsible package of reforms that has, so far, survived the Senate's sometimes insatiable desire to "perfect" whatever the House has done. Congratulations, Mrs. Kennelly.

I am troubled, however, by rumors I have heard that this Subcommittee may be asked to come up with further savings -- perhaps as much as 10 billion dollars more -- for the fiscal year 1996 budget. America's poor families have already contributed 68 billion dollars to deficit reduction and -- in the process -- have lost the safety net that this country had built under America's children. Now the House Budget Committee apparently wants more.

My Republican House colleagues have chosen to spend that 68 billion dollars on tax cuts for the wealthy. When Democrats objected, Republicans complained that we were fanning the flames of class warfare. If you take 10 billion more from the elderly poor and from families struggling to leave welfare to make it on their own -- and give it to the wealthy -- you will have thrown gasoline on the fire. My job will be to make certain that the American taxpayer knows exactly what has happened.

Chairman SHAW. Any other Members?

Mr. RANGEL. Mr. Chairman, if you are only taking the out-of-town witnesses, what order do you intend to follow?

Chairman SHAW. Yes. The out-of-town witnesses will be in a panel, and I will ask them to be seated at the table now: Marilyn Ray Smith, president of the National Child Support Enforcement Association; Teresa Kaiser, chief, the Bureau of Child Support Enforcement, Boise, Idaho; Cecelia Burke, director, Child Support Enforcement Division, Office of the Attorney General, Austin, Tex.; and Dr. Johnetta Marshall, who is president of the Older Women's League.

Chairman SHAW. Ms. Smith.

STATEMENT OF MARILYN RAY SMITH, PRESIDENT, NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION, CAMBRIDGE, MASS., AND CHIEF LEGAL COUNSEL AND ASSOCIATE DEPUTY COMMISSIONER, CHILD SUPPORT ENFORCEMENT DIVISION, MASSACHUSETTS DEPARTMENT OF REVENUE

Ms. SMITH. Good afternoon, Mr. Chairman, and members of the subcommittee. My name is Marilyn Ray Smith. Thank you for this opportunity to testify before you this afternoon.

I am the President of the NCSEA, National Child Support Enforcement Association. I am also chief legal counsel at the Child Support Enforcement Division of the child support program in the Department of Revenue in the Commonwealth of Massachusetts.

NCSEA is the "big tent" that brings together all the child support professionals around the country. The child support program in Massachusetts has been a priority for Governor Bill Weld.

Mr. Chairman, I would like to, first, commend you for your leadership and that of this subcommittee for the work that it has done in the child support provisions in H.R. 4. This legislation has many tough provisions on child support enforcement and will move us a long way toward reducing welfare dependency. It provides for new hire reporting, streamlines procedures to make maximum use of automation, makes it easy for parents to establish paternity, and it removes barriers in interstate cases.

As you prepare for further action on child support in the House-Senate conference, I am pleased to have this opportunity to discuss several key provisions in both bills. I will focus most of my remarks on the distribution of child support collections and on proposals to recover program costs by charging fees to one or both parents.

I would also like to comment on several areas where further improvements can be made to H.R. 4 in the House-Senate conference committee as the bill makes its way back from the Senate. Details on all of these issues are in the written testimony.

First, on distribution of collections on child support arrearages. The current Federal rules for distributing money are rigid, complex, outdated, and fail to support the mission of the child support program, which is to keep families off welfare.

H.R. 4, as passed by the House last March, is a major step in the right direction. It gives priorities to families in the collection of past-due support and eliminates the assignment to the State of arrears that accrued before the family sought cash assistance.

Most importantly, it eliminates the $50 pass-through, a program that failed to live up to its promise to encourage parents to cooperate with child support enforcement. Instead, the $50 pass-through has caused extended litigation in several Federal courts around the country and has consumed countless hours of staff time in keeping the records straight.

But before we replace the existing rules with another set of Federal mandates, we need to know more about the effect of various incentives and disincentives that distribution of child support collections has on the families' use of public assistance.

Several States have raised concerns about the potential impact on State budgets of H.R. 4's elimination of the assignment of pre-AFDC arrears. Many States use these collections to fund the welfare program and are concerned that funds available for cash assistance to needy families will be further reduced after the impact of block grants.

Although Massachusetts has already adopted most of the provisions in H.R. 4 without serious negative impact, we nevertheless recommend adding more options to H.R. 4 to give States more flexibility to determine what incentives are effective in moving families toward self-sufficiency. We recommend giving States the option, rather than the requirement, to eliminate the assignment to the State of past-due support that accumulated before the family went on public assistance, while requiring States to give priority to past-due support that accrues after the family leaves public assistance. The latter is currently an option under existing law. In our view, this strikes the necessary balance during this transition period to block grants.

With respect to cost recovery, while we recognize the drive to reduce costs, we recommend proceeding thoughtfully in this area so that we don't create unintended consequences.

One area that has been identified as a source of possible revenue is collecting fees from nonwelfare families receiving child support services from the State. In general, we favor cost reduction over cost recovery, pushing States to operate more efficient programs that maximize automation.

About half the nonwelfare caseload in Massachusetts consists of former welfare families. There are few "Ivanna Trumps" in our caseload. In fact, currently, 70 percent of the AFDC families with new child support orders are moving off welfare within 3 months as child support starts to come in regularly. Moreover, we estimate that 70 percent of our caseload with current orders are families either on public assistance or were formerly on public assistance.

In assessing each possible source of fees or cost recovery, it is important to look at the behavior such fees are likely to elicit from both custodial and noncustodial parents. We also need to look at the administrative costs of the cost recovery program, as well as the amount of money to be collected to ensure that there are no unexpected results.

Application fees, fees for services, billing parents for costs incurred, and charging either parent a percentage of collections, all raise concerns about ease of administration and disincentives to participate in the program. We prefer focusing on interest and late

payment charges to delinquent accounts. These are the cases that drive up costs.

The real impact of interest and penalty charges, however, is probably not in actually collecting the amounts incurred, but in the deterrence factor that encourages other parents to pay on time and in full. Just as with credit cards, mortgages, and parking tickets, people are inspired to pay when they know that there is a certain penalty for nonpayment.

Rather than mandate a specific cost recovery procedure, we recommend, instead, giving States flexibility to choose a type of recovery program that fits the profile of its caseloads.

Finally, there are three areas in the Senate version of H.R. 4 for which we ask your support.

The first is requiring all government entities to participate in quarterly wage reporting. Private employers are required to report information on wages to State agencies. All government entities—Federal, State, and local—should be model employers, particularly since government is often the largest employer in most States.

Second, it is money well spent to authorize FFP, Federal financial participation, for filing voluntary acknowledgments and adjudications of paternity in the State registry of birth records. It is cheaper than setting up a duplicate yet incomplete file in the State child support agency, which current Federal regulations require.

Third, we request your support of a provision in the Senate bill which would permit the State agency to transfer health insurance orders along with the wage assignment when the noncustodial parent changes jobs, without the need for court action unless requested by the custodial parents. This will ensure that health insurance orders keep up with job hoppers.

Finally, I would like to thank you for the opportunity to testify and to assure you that the members of NCSEA and the Massachusetts Department of Revenue are ready to assist you in any way in improving the Nation's child support program. Thank you very much.

[The prepared statement follows:]

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT

Statement of

MARILYN RAY SMITH

President

NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION

and

Chief Legal Counsel
Associate Deputy Commissioner

CHILD SUPPORT ENFORCEMENT DIVISION
MASSACHUSETTS DEPARTMENT OF REVENUE

June 13, 1995

Mr. Chairman, distinguished members of the Subcommittee: Good afternoon, and thank you for the opportunity to testify on child support enforcement and the key features of the child support bills now before Congress.

My name is Marilyn Ray Smith. I am Chief Legal Counsel and Associate Deputy Commissioner for the Child Support Enforcement Division of the Massachusetts Department of Revenue, where Governor Bill Weld has made child support a priority. I am also the President of the National Child Support Enforcement Association, a national, non-profit organization of over 2,000 professionals dedicated to the enforcement of children's rights to financial support from their parents.

Mr. Chairman, I would like to commend the leadership of this Committee for its work on the child support provisions of H.R. 4. This legislation has many tough provisions on child support enforcement, and will move us a long way toward reducing welfare dependency. It provides for better access to financial and employment information; it helps States streamline procedures to make maximum use of automation; it makes it easy for parents to establish paternity; and it removes barriers in interstate cases. Finally, H.R. 4 establishes the proper balance between Federal mandates that set standards to push States to improve their programs, while maintaining flexibility for continued innovation at the State level to respond to local needs and to chart new directions.

As you prepare for further action on child support in the House-Senate Conference, I am pleased to have this opportunity to discuss several key provisions in both bills. I will focus my remarks on the distribution of child support collections and proposals to recover program costs by charging fees to one or both parents. I will also comment on several areas where further improvements can be made to H.R. 4 in the House-Conference Committee, as the bill makes its way back from the Senate.

DISTRIBUTING COLLECTIONS ON CHILD SUPPORT ARREARAGES

The heart of the child support program is to collect money from noncustodial parents so that children do not have to turn to public assistance for economic survival. AFDC is, after all, child support paid by the taxpayer.

The child support program for the last twenty years has had a contradictory mission: Is it to pay back welfare, or is it to keep families off welfare? If it is indeed the latter, as we believe it is, then we must re-examine the rules for distributing collections. Having dynamic and aggressive enforcement remedies won't truly help families if we don't get the money to where it is needed most. In addition, in the new era of block grants instead of the highly regulated AFDC program, States need flexibility to develop innovations in the relationship between child support enforcement and public assistance, to determine optimal strategies for moving families toward self-sufficiency.

To set the context for this analysis, I will first identify some characteristics of an ideal distribution system, describe current law, and finally, discuss H.R. 4 in more detail, suggesting issues that members of the Committee may wish to consider.

Essential Characteristics of a Distribution System

Essential characteristics of an ideal system for distribution child support collections would have the following characteristics:

- Reflect the mission of the child support program -- to keep families off welfare;
- Be simple, clear, and equitable;
- Encourage the desired behavior from custodial parents, from noncustodial parents and from State child support agencies; and
- Minimize costs both to parents and to taxpayers.

Current Law

There is no easy way to explain the current system, as the following explanation will demonstrate. And it has few -- if any -- of the essential characteristics noted above.

Assignment of support rights. As a condition of receiving AFDC, applicants for public assistance assign to the State any rights to child support they have on their own behalf or on behalf of any family member for whom they are applying for assistance. They must also assign any arrears that have accrued prior to receiving assistance. Current and past-due child support collected for families receiving AFDC is used to offset the costs of the AFDC program, and are shared between the Federal government and the States in accordance with the Federal matching formula used for the individual State's AFDC program, which ranges from 50 to 83 percent, with an average of 56 percent.

Distribution rules. According to Federal regulations, child support collections in AFDC cases must be distributed as follows:

1. The first $50 of current support collected per month in AFDC cases goes to the family to supplement the AFDC benefit, and is not counted as income to the family.

2. If more than $50 is collected in current support, the State gets reimbursed up to the amount of the monthly AFDC grant for the month in which the support was collected or the next month.

3. If the court order for current support is more than the monthly AFDC grant, any amount of current support collected that exceeds the AFDC grant is distributed to the family. (If the current support exceeds the AFDC grant and is paid regularly, the AFDC case closes.)

4. Any amounts collected above the amount of current support -- that is, payments towards arrears -- go first to State and Federal governments as reimbursement for past assistance payments made to the family for which the State has not been reimbursed. If past assistance payments are greater than the total support obligation owed, the maximum amount the State may retain as reimbursement is the amount of the obligation, unless the collections represent the required support obligation for periods prior to the first month the family received assistance, when arrearages were assigned to the State. In that case, the State may be reimbursed for the difference between the support obligation and the past assistance payments.

5. If there is money remaining after the amount of unreimbursed assistance described above is fully paid, the excess is paid to the family.

Where the family no longer receives public assistance and arrears are owed both to the State and to the family, Federal regulations give States the option either to retain the amounts collected to reimburse the State for AFDC costs, or to send the money to the family to pay off any arrears that accrued after the family left public assistance. To further complicate matters, however, in the case of Federal tax refund intercept, AFDC arrears always take priority over non-AFDC arrears. And except for Federal tax refund intercept which always goes towards arrearages, collections even in a lump sum seizure are always posted first to current support before crediting arrearages.

Post-AFDC arrearages. About half of the States have exercised the option to pay post-assistance arrears before paying AFDC arrears. And about half a dozen States -- Massachusetts among them -- defer to the family collections on the assignment of arrears that accrued before the family went on assistance, collecting AFDC arrearages only for the period that the family received assistance. States also vary in whether they include unreimbursed assistance as a State debt. Some States collect only the amount of support that was owed under a court or administrative order, while others use arrearages to collect up to the amount of assistance paid out.

What's Wrong with the Current Rules

The current Federal rules governing distribution of collections are complex and outdated, and discourage families from becoming self-sufficient. Caseworkers must spend their energy untangling scrambled accounts, and custodial and noncustodial parents alike suffer from a system that appears arbitrary, unintelligible and hostile. The rules are difficult for States to follow, for staff to explain, for parents to understand. They create accounting nightmares for customers, litigation from advocacy groups, headaches for computer programmers, and audit deficiencies for States.

Moreover, the $50 passthrough has not lived up to its promise to encourage parents to cooperate with child support enforcement. Its purpose was to provide an inducement to the custodial parent to provide information on the whereabouts of the noncustodial parent, and to motivate the noncustodial parent to pay child support on time because he could see the family getting a direct benefit from the payment, rather than having the entire amount go to the State. While the passthrough has provided an additional $50 a month to families (totaling $364 million in FY 93), it has caused extended litigation in several Federal courts around the country. In addition, determining whether a case is eligible for the passthrough consumes countless hours of staff time in answering parents' inquiries and in ascertaining if the payment was withheld from the noncustodial parent's wages during the month when due, even though it is received by the State the following month.

The Distribution Rules Proposed in H.R. 4

H.R. 4 addresses many of these issues, providing incentives to encourage families to live independently of public assistance. It changes the existing rules by giving priority to past-due support owed to families. It eliminates the requirement that families assign to the State arrears that accrued before the family went on welfare, requiring applicants for assistance to assign to the State support owed to them only for the period they are on public assistance. It also requires States to give priority to collecting support owed to the family once the family leaves welfare, now only an option under current law. Finally it eliminates the $50 passthrough.

More specifically, H.R. 4 provides as follows:

1. Where the family receives cash assistance, the State has the option either to retain or to distribute to the family the State share of the child support collected on behalf of the family. In either event, the State must pay to the Federal government the Federal share of the amount collected. (The "Federal share" is defined as the greatest Federal medical assistance percentage in effect for the State in fiscal year 1995 or any succeeding fiscal year. The "State share" is defined as 100 percent of collections, minus the Federal share.)

2. For families that formerly received cash assistance, it requires current support to be distributed first to the family (as under current law). To the extent that collections exceed the amount of the current support order, amounts are to be distributed first to the family to satisfy arrears that accrued to the family before or after the family received cash assistance.

3. If no arrears are owed to the family, amounts collected in excess of current support must be retained by the State (with Federal share to the Federal government) to the extent necessary to reimburse amounts paid to the family as cash assistance from the State.

4. Any amounts remaining must be paid to the family.

5. Distribution of tax refund intercepts follows the same distribution rules as for other collections.

Impact of H.R. 4 Distribution Rules on States and Families

Several States have raised concerns about the potential impact on State budgets of the provisions in H.R. 4 that would limit the ability of States to use collections attributable to arrears that accrued to the family prior to receipt of assistance to recoup unreimbursed assistance, and as well as provisions that would give priority to former AFDC families in collections from tax refund intercepts. (The Federal tax refund intercept program is the most effective method of collecting arrearages, totaling in FY 1993 $442 million on behalf of families receiving public assistance and $167 million on behalf of non-welfare families.) Most States favor giving priority to collection of arrears -- other than Federal tax refund intercept -- that accrue to the family after it leaves public assistance, as is already the practice in about half the States. Many States use AFDC collections to fund the AFDC program and are concerned that funds available for cash assistance to needy families will be further reduced after the impact of block grants.

Massachusetts has already adopted much of the approach of H.R. 4 -- except for the rules on tax intercept and the $50 passthrough, which are Federal requirements -- without serious negative impact. In Federal FY 1992, Massachusetts began giving priority to families in collecting past-due support, improving customer satisfaction, reducing account errors, and increasing AFDC case closings. We estimate that in the first two years, AFDC collections were reduced by approximately $2.1 million per year. However, these reductions were more than made up by more aggressive collection efforts in other areas through the use of automated enforcement remedies. AFDC collections went from $67 million in FY91, to $71.8 million in FY92, and to $77.3 million in FY93, even with the change in distribution rules described here. Non-AFDC collections had a more dramatic increase, going from $102.6 million in FY91 to $113.3 in FY92, and up to $118.1 million in FY93. Collections from AFDC arrearages amount to about 39% percent of total AFDC collections, a percentage similar to other States using the traditional approach. Any decrease in AFDC reimbursement has been outweighed by cost avoidance and a more efficient program that collects more money from other sources.

A proper analysis for changing the distribution rules must look not only at possible decreased reimbursement for State and Federal AFDC costs, but also at the dysfunctions of the current system that waste valuable staff time and consume expensive computer resources. And we must recognize that the real benefit from distribution rules that are designed to encourage families to become or remain self-sufficient may be in money saved, not in money collected. The best child support system will never collect all the AFDC paid out. States currently recoup about 12 cents on every dollar of AFDC benefits paid. If they collected all the child support that was owed on those cases, they would still bring in only about 30 cents for each dollar in assistance paid, a reflection of the fact that the child support amount is rarely enough to equal the cost of public assistance.

Moreover, a system that focuses on AFDC collections will inevitably have a perverse incentive for States to keep paying AFDC cases on AFDC. Every time a paying AFDC case closes off welfare, AFDC collections go down. Here is the contradiction of the nation's child support program: its mission is to keep families off welfare, yet the program is measured on AFDC collections. In Massachusetts, for example, in 1994, approximately $25.7 million in child support was collected for 11,000 former AFDC families, collections that would have otherwise gone to the State if the AFDC cases had not closed. However, for those same families, the Commonwealth had an estimated savings of $38.5 million in combined cost avoidance for AFDC benefits, Medicaid, and Food Stamps that would have otherwise been expended for these families. It costs the State less to keep families off public assistance than to provide them with assistance and recoup the assistance later. It is therefore appropriate to look for incentives that encourage families to stay off welfare.

Proposed Amendment to H.R. 4

To accommodate States' concerns about the fiscal impact of the changes that H.R. 4 would bring, however, and still move us in the right direction, an amendment should be made to H.R. 4 to give States flexibility either to pay collections of arrears that accrued prior to receipt of assistance to the family or to retain such collections to offset unreimbursed cash assistance paid by the State, with the appropriate share to the Federal government. The solution is to give States the following option: (1) to eliminate the assignment to the State of past-due support that accrued to the family before going on public assistance, so that families are not punished for trying to make it on their own when child support payments stop, and (2) to distribute payments of child support collections, first to current support and then towards arrears according to the status of the current support order. If the custodial parent receives AFDC, credit payments in excess of current support first to any AFDC arrears until fully paid. If the custodial parent no longer receives AFDC, credit payments in excess of current support to any arrears owed to the family. This is a relatively simple rule -- easy to explain, easy to follow, easy to program.

COST RECOVERY IN THE NON-AFDC PROGRAM

Cost Recovery Versus Cost Reduction

Governments everywhere are looking for ways to cut costs, reengineer operations, and reduce budget deficits. One area that has been identified for possible revenue is collecting fees or recovering costs from non-AFDC cases receiving child support services from the State. The GAO estimated in its 1992 analysis, for example, that retaining 15% of collections in non-AFDC cases would generate approximately $1 billion in cost recovery.

In assessing each possible source of fees or cost recovery, it is important to look at the behavior such fees is likely to elicit from both custodial and noncustodial parents, the administrative and operational costs to the program, and the amount of money to be collected, to ensure that no unexpected results occur that make the fee or cost recovery more trouble than it is worth or that create an unintended, adverse impact on the mission of the program. The challenge is to find an equitable system that puts the cost where it belongs, while still achieving program objectives of preventing welfare dependency. Another approach is to focus on cost reduction, rather than cost recovery, by encouraging States to run more efficient programs.

The non-AFDC caseload has grown by more than 75 percent in the last five years, partly as a result of cases closing off AFDC, partly a result of Federal mandates for wage withholding in all cases, partly a result of the increased awareness in the public of the availability of child support services, and partly a result of a growing need among families in single-parent households for assistance in collecting support as divorce and out-of-wedlock birth rates continue to soar.

The scope of services varies widely among States -- with States such as Michigan, Ohio, and Pennsylvania including virtually all cases in the IV-D system, and other States such as Massachusetts and Connecticut having only about half of the non-AFDC caseload in the IV-D program. In Massachusetts, for example, 60 percent of the families having a current support order are non-AFDC cases, and almost half of those families are families who formerly received public assistance. Thus approximately 70 percent of our cases having current support orders is made up of welfare families (40 percent) or former welfare families (30 percent). There are few if any "Ivana Trumps" in the remaining 30 percent. Indeed, even through the GAO suggested that half of non-AFDC custodial parents had incomes of more than 150 percent of the 1989 poverty level for a family of three, that amounts to only $15,000 per year. The average child support amount collected in 1989 was less than $3,000. A family of three living on less than $20,000 per year does not have much extra cash, even to pay a modest fee for child support services.

The recovery of costs in the non-AFDC program raises another concern. Requiring non-welfare mothers -- who even at 150 percent of the poverty level are only a step away from welfare -- to pay for child support services that are offered without charge to welfare mothers effectively penalizes them for struggling to maintain economic self-sufficiency.

Although we have studied this issue continuously over the last 8 years, Massachusetts has not yet determined it to be cost effective to institute fees or a cost recovery program. Our reasons are similar to those voiced elsewhere, including those identified in the 1992 GAO report -- a desire not to deter families from seeking services, an assessment that administrative costs outweighed possible return, and a recognition that we were still not collecting much of the current and past-due support that is owed by noncustodial parents, leading to a reluctance to increase accounts receivables even further. Instead, at the Department of Revenue we have focused our energies on cost reduction rather than cost recovery -- working to do more, better, faster with less -- to make maximum use of automation and staff resources to reduce costs and increase collections.

As the Committee is interested in hearing from States on this issue, I offer several observations on what we have learned over the years to assist your deliberations.

Application Fees

Massachusetts follows most States in charging a nominal amount for a non-AFDC application -- $1.00, which the State pays. One study showed that charging a one-time application fee of $25.00 was not cost effective. Income at $25.00 per application for 4,700 applications would total $117,500, but was estimated to take approximately three full-time equivalent employees to administer the program through the entire intake, check processing, and billing procedure, for an estimated $112,500, including salaries and fringe benefit costs.

In addition, because the Massachusetts program has focused on families that are likely to be at risk of going on public assistance -- rather than encompassing all families, regardless of income -- there was a desire not to deter needy families because of an application or other fees.

Service Fees

Charging an annual service fee such as $25.00 per year per family has the potential to generate more revenue than a one-time application fee, since it is a recurring charge. There are at present approximately 90,000 families in the non-AFDC caseload, including 14,000 arrears only cases. The concern here is that if families are charged an annual fee, they would then demand the right to pick and choose a particular enforcement remedy, or would demand a refund if enforcement efforts were not successful. Massachusetts makes extensive use of automated enforcement remedies, which depend upon referring all cases for a particular remedy. Setting up a system that allowed parents to participate, for example, in the bank account match program but not the credit reporting program would create administrative and programming nightmares to keep the computer information accurate and responsive to the right select criteria. In addition, we use contempt actions as a last resort -- a costly and often ineffective remedy that is frequently the first choice of custodial parents demanding services. We prefer to retain the flexibility to choose the enforcement remedy that is most cost effective, without creating a possible sense of entitlement among custodial parents seeking to direct action on the case.

Cost Recovery

Massachusetts routinely obtains court orders requiring the noncustodial parent to reimburse the Commonwealth for the cost of genetic tests. This program has not been particularly successful, however, because of difficulty in billing. Unless these fees can be enforced the same as child support arrears through wage assignments and seizures, they are almost impossible to collect through a conventional billing process. Part of the difficulty has been the lack of a sophisticated computer system -- help is on the way with the new certified system soon to be on-line! -- to differentiate among the various charges of current support and AFDC and non-AFDC arrearages. There is simply no room to carry a separate account for fees on the current system.

Moreover, current Federal regulations do not facilitate charging cost recovery for particular services, because they must be based on actual costs. Determining the cost for a contested paternity establishment, for example, requires staffing studies. Difficult cases obviously cost more to process, and are often the very cases with the least ability to pay. Staff then have to keep track of hours spent or actions taken in order to fairly determine the costs. Again, without a sophisticated computer tracking system, this approach has little appeal.

Percentage of Collections

The easiest way to collect from non-AFDC custodial parents is to deduct a percentage from collections. There are several disadvantages, however. Those who pay end up paying for those who don't pay -- whether it is the custodial or noncustodial parent who pays the fees. The easy cases are those on wage assignment. If the noncustodial parent has a steady job, it costs very little to process the case. However, if charged a fee, custodial parents with paying cases may opt out of IV-D services as long as the case is paying, only to return when the noncustodial parent changes jobs and a large arrearage has accrued and the family is ready to turn to public assistance. This is counter to the trend of the program for the last ten years -- which is to set up an enforcement system that is responsive and comprehensive to prevent welfare dependency, not just to recoup welfare costs.

The possible consequence of charging the noncustodial parent a percentage of collections is that the amount of the child support order may be reduced by the court to take into account the extra payment. However, this is preferable to charging the custodial parent directly. At least it will not have the likely effect of discouraging custodial parents from participating in the child support enforcement program.

Interest

States currently have the ability under current Federal law to charge interest. Massachusetts has not done so to date because of the limitations of the current computer system. However, plans are in place to begin to charge interest when the new computer system goes into operation. Interest on arrears owed to the family will be distributed to the family, and interest on arrears owed to the State will be retained and counted as program income with appropriate credit to the Federal government for program costs.

Late Payment Penalties

States currently have the option under Federal regulations to charge a late payment penalty from 3 to 6 percent. In many ways, this is the most attractive option, since it assesses the cases which are the most costly. The self-employed, the under-employed, the unemployed, and the missing to parts unknown are expensive cases to handle, because of the individual staff resources that must be devoted to locating them and their assets and then getting regular payments. The real impact of late payment penalties, however, is probably not in actually collecting the penalties -- since they can only be collected after current support and arrearages are paid -- but in the deterrence factor. Just as with credit cards, parking tickets, and mortgage payments, people are inspired to pay when they know there is a certain penalty for nonpayment. Unlike interest, which usually follows the principle and would be distributed to the non-AFDC custodial parent, penalties can be fully retained by the State to be used to defray the costs of the child support program. With an extended statute of limitations, many of these penalties will be collected -- perhaps later rather than sooner -- and can be reinvested in the program.

Recommendation

In the final analysis, we nevertheless recommend that the child support program focus on cost reduction rather than cost recovery -- and there are many provisions in H.R. 4 that take us in that direction. Application fees, service fees charged to the custodial parent, billing non-custodial parents for costs incurred, and charging either parent a percentage of collections raise concerns regarding ease of administration and disincentives to participate in the program. In our view the most attractive option for cost recovery is to assess interest and late payment fees against all delinquent noncustodial parents -- both AFDC and non-AFDC -- to motivate payment on time and in full.

As for the perspective of the National Child Support Enforcement Association, it has long been the policy of that organization to oppose assessment of fees against custodial parents, as counter to the mission of the organization.

ADDITIONAL PROVISIONS TO STRENGTHEN H.R. 4

There are several revisions which the Senate is currently considering which will strengthen H.R. 4. I would like to briefly comment on a few of these:

Quarterly Wage Reporting by Governmental Entities

The Senate Finance Committee's Reported Substitute to H.R. 4 contains a provision requiring all governmental entities to participate in quarterly wage

reporting, which we urge to House to endorse. Under current law, private employers must report quarterly to a State agency information concerning employees' wages for unemployment, child support, labor trends, and other governmental purposes. Governmental entities are not explicitly required to report, even though they are major employers in every State. Child support agencies are thus hampered in their attempts to locate information about government employees. We therefore request your support of this provision.

Federal Financial Participation for Database Maintained by Birth Records Agencies

To ensure an effective program for the voluntary acknowledgment of paternity, we request that you make Federal matching funds available for filing acknowledgments and adjudications of paternity with State birth records agencies and for matching the database of acknowledgments and adjudications against the State's case registry. Centralizing the records for voluntary acknowledgment of paternity will expedite child support data matches with the State Case Registry, ensuring that child support orders can be obtained on all appropriate cases. Under current Federal regulation, however, FFP is not available for the costs of establishing, maintaining, or operating the entity where copies of paternity acknowledgments are filed or maintained, unless that entity is the IV-D agency. The result is that States are spending more money duplicating efforts, with a less program because not all paternity acknowledgments end up in the IV-D program.

Enforcement of Orders for Health Care Coverage

Finally, we request your support of a provision in the Senate bill which requires States to have procedures to include a provision for health care coverage in each support order, and where the noncustodial parent provides health care coverage to authorize the State agency to transfer the health care coverage to a new employer when the noncustodial parent changes jobs and the new employer provides health care coverage, without court action unless requested by the noncustodial parent. This provision will ensure that health insurance orders keep up with job hoppers without requiring court action on every case, yet will provide the noncustodial parent an opportunity for a court hearing upon request.

CONCLUSION

In conclusion, Mr. Chairman, we support giving States flexibility in taking the assignment of pre-AFDC arrearages and in giving priority to the family in distributing collections on past-due support, without making these provisions a Federal mandate. It is particularly important in this period of transition from the highly regulated AFDC program to the era of block grants to give States plenty of room for experimentation.

If Congress sees fit to require the States to initiate cost recovery programs, we again request flexibility to the States to choose the type of recovery program that fits the profile of the caseload. We do not support a program that would require States to charge fees to custodial parents, preferring instead a program of interest and late payment penalties against delinquent obligors.

Finally, there are many strong additions to H.R. 4 in the bill currently under consideration by the Senate. We look forward to working with you to perfect the details when the exact language is known.

Mr. Chairman, thank you for your gracious invitation to testify before this distinguished Committee. Thank you also for the leadership that you and other members of the Committee have provided during this critical debate on child support enforcement. Your work will have a lasting impact on those American children who live in single parent households.

Chairman SHAW. Thank you.
Ms. Kaiser.

STATEMENT OF TERESA KAISER, CHIEF, BUREAU OF CHILD SUPPORT SERVICES, DEPARTMENT OF HEALTH AND WELFARE, BOISE, IDAHO

Ms. KAISER. I am Teresa Kaiser, chief, Bureau of Child Support Services for the Idaho Department of Health and Welfare.

My comments today will focus on Idaho's cost recovery program, why it is necessary, why it is responsible, why it is equitable, and why we have experienced unexpected benefits to cost recovery.

Before discussing cost recovery, however, I would like to share overall thoughts on child support services. Today, Congress is considering legislation that would free States from the burden of administering a welfare program that has not met the expectation of society, but both the House and Senate bills would inflict numerous new mandates on child support services.

The sweeping and detailed child support mandates contained in both the House and Senate welfare reform bills set the stage for the next 3 to 4 years. In that time, States will scramble to come into compliance with new Federal mandates, millions will be spent on computer upgrades, time and money will be spent passing State legislation, and States will lose the ability to fashion local remedies. We will be too busy complying with Federal mandates to even think about finding creative solutions to our own problems.

Idaho also is concerned about the proposed distribution rules contained in H.R. 4. Idaho recovers 35½ cents in child support for every dollar spent on welfare in our State. This is by far the highest rate in the Nation.

We collect on State arrears before distributing arrears owed the clients. Therefore, the distribution impact to us would be we would lose one-quarter of our AFDC collections if the prewelfare arrears provision is enacted. We would lose a second quarter with a change to the postwelfare arrears provisions.

AFDC collections in Idaho are used to fund future welfare benefits. Therefore, the amount of reduction in AFDC collections, in our case $5 million, reduces the amount of funds available for public assistance in the future. Idaho will lose over half our AFDC collections.

The proposed distribution rules do have merit. They will help people struggling off welfare. But Congress should consider the impact a $5 million loss will have on a State like Idaho. Adding the lost revenue to Idaho's block grants can provide an equitable solution while helping people become self-sufficient.

I would like to turn to the topic of cost recovery and the history of Idaho's successful effort in that area. From 1984 to 1990, all across the Nation nonwelfare child support caseloads grew by 160 percent. In Idaho, the growth pattern was similar. From a mere $0.9 million collected in 1984 from nonwelfare clients, we grew to collect $23 million in 1992.

More than half of our 55,000 cases are on behalf of children who are nonwelfare. What we collect from these cases is three times greater than what we collect on our welfare cases. Yet that growth brought new costs to our department, too.

The Family Support Act of 1988 added new mandates and requirements that States had to meet. More important, we were caught in the middle of two different schools of thought on what the State ought to be doing.

On the one hand, more and more lawyers were referring their clients, even their well-to-do clients, to us for no-cost modifications and other services.

On the other hand, more and more lawyers were criticizing us for unfairly competing with the private sector.

By 1993 Idaho faced an operating deficit in its child support enforcement program. We decided to trigger a 3-year-old State law that gave us authority to impose fees on nonwelfare clients who turn to the State to collect child support. We evaluated many options for recovering costs and looked at what other States were doing.

We considered whether we would charge a percentage of collections per month, a flat administrative fee, or recover the State's expenses in contracting with attorneys. We considered that many cases were virtually work free. We had a wage withholding order in place, and collections were coming in regularly. We looked at charging the person who incurred the cost.

Our final program involves increasing our application fee from $1 to $25, recovering $25 for each tax offset, and recovering the State's legal expenses once collections start coming in. We always ask the court to assess the legal fees against a noncustodial parent, but this action is at the court's discretion. We recover fees at 20 percent per month once collections are coming in.

Legal fees are not imposed up front. If we do not recover child support, the State does not collect for legal expenses. We did not impose a means test, although we excluded applicants who were receiving public assistance or Medicaid. We felt a means test would impose considerable administrative and cost burdens on the department in completing income verification tests.

I brought with me today two examples of criticism Idaho has endured. First, we received a National Heartless Award, and if you will look at this month's Redbook magazine we received an award for the same reason. But, at home, Idaho taxpayers believe cost recovery is fiscally responsible.

The bottom line is this: Should citizens pay to furnish free legal services in child support for those parents who can afford to pay? Should this program be an entitlement for custodial parents?

Idaho's answer is no. Idaho's answer is that parents who can afford to pay should share in the cost of child support enforcement. Both parents are responsible for their children. They are responsible for their own attorney fees as well.

We take personal responsibility seriously. Cost recovery promotes parental responsibility and is equitable for custodial and noncustodial parents who can afford to pay.

Should we curtail services to the poor who need child support so they can achieve self-sufficiency, or should we require those with sufficient income to pay their fair share?

Cost recovery should be encouraged, and in State fiscal year 1995 Idaho recovered $½ million in fees and costs, approximately one-half from custodial parents and one-half from noncustodial parents.

But cost recovery should be a State option. A flat administrative fee would cause Idaho to lose revenues needed to fund the other changes that this program is going to be requiring. Taxpayers should not be expected to pay a parent's bill.

Today's cost recovery is necessary, it is responsible and equitable, and it brings life to the term personal responsibility we hear so much about.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to speak.

[The prepared statement follows:]

Teresa Kaiser
Chief
Bureau of Child Support Services
Department of Health and Welfare
State of Idaho

Testimony to:
Ways and Means Committee
Subcommittee on Human Resources
June 13, 1995

Chairman Shaw, Members of the Committee:

I am Teresa Kaiser, chief of the Bureau of Child Support Services for the Idaho Department of Health and Welfare. My comments today will focus on Idaho's cost-recovery program -- why it is necessary, why it is responsible and equitable, and why we have experienced unexpected benefits to cost recovery.

Before I discuss cost-recovery, however, I would like to share overall thoughts on child support services.

The child support program has made major strides since its creation in 1975. Round after round of legislation has passed Congress trying to make the program more effective. And more money is collected each year. But we still are collecting no more than 40 percent of current child support owed -- and we still have no orders at all in half our cases.

Today, Congress is considering legislation that would free states from the burdens of administering a welfare program that has not met the expectations of society. But both the House and Senate bills would inflict numerous new mandates on child support services.

The sweeping and detailed child support mandates contained in both the House and Senate welfare reform bills set the stage for the next three to four years. In that time, states will scramble to come into compliance with the new federal mandates. Millions will be spent on computer upgrades; time and money will be spent passing state legislation. And states will lose the ability to fashion local remedies. We'll be too busy complying with federal mandates to even think about finding creative solutions to our own problems.

Idaho also is concerned about the proposed distribution rules contained in HR 4. Idaho recovers 35 and a half cents in child support for every $1 spent on collections for clients receiving Aid to Families with Dependent Children. This is by far the highest rate in the nation. We collect on state arrears first before distributing arrears owed the client.

The impact of HR 4:

- We would lose one quarter of our A-F-D-C collections if the pre-welfare arrears is enacted;

- We would lose another quarter with the change to the post A-F-D-C arrears.

AFDC collections in Idaho fund future welfare payments. Therefore, the amount of reduction in AFDC collections -- $5 million -- reduces the amount of state funds available for public assistance. Idaho will lose half of our A-F-D-C collections.

The proposed distribution rules have merit: They will help people struggling off welfare. But Congress should consider the dire impacts a $5 million loss will have in a state like Idaho. Adding the lost revenue to Idaho's block grant can provide an equitable solution while helping people become self-sufficient.

Now I would like to turn your attention to the topic of cost recovery and the history of Idaho's successful effort in that area.

When the child support program was created in 1975, the stated purpose was to reduce the welfare caseload. A large number of welfare recipients either did not have child support orders, or were not receiving the child support ordered by the court. Therefore, the families were eligible for welfare based on deprivation of parental support.

The Child Support Enforcement Amendment of 1984 re-emphasized congressional commitment to the program. It established new child support services. And it was aimed at ensuring that all child support services were available to both welfare and non-welfare families.

In 1984 in Idaho, only $900,000 out of $4.8 million collected was for non-welfare applicants.

From 1984 to 1990 all across the nation, non welfare child support caseloads grew by 160 percent. Collections during the same time increased 200 percent. The average annual service cost per non-welfare case rose from $85 to $133.

In Idaho, the growth pattern was similar. From the $900,000 collected in 1984 from non-welfare clients, we grew to collections of $23 million in 1992. Right now more than half of our 55,000 cases are on behalf of children who are not on welfare -- and what we collect from these cases is three times greater than what we get from welfare cases.

Yet that growth brought new costs for our department, too. The Family Support Act of 1988 added new mandates and requirements that states had to meet. More important, we were caught in the middle of two different schools of thought on what the state ought to be doing. On the one hand, more and more lawyers were referring their clients -- even their well-to-do clients -- to us for no-cost modifications and other services. On the other hand, more and more lawyers were criticizing us for unfairly competing with the private sector. By 1993, Idaho faced an operating deficit in its child support enforcement program. We decided to trigger a 3-year -old state law that gave us authority to impose fees on non-welfare clients who turned to the state to collect child support.
We evaluated many options for recovering costs, and looked at what other states were doing. We considered whether we would charge a percentage of collections per month, a flat administrative fee, or recover the state's expenses in contracting with attorneys. We considered that many cases were virtually work free -- we had a wage withholding order in place and collections were coming in regularly. We looked at charging the person who incurs the costs.

Our final program involves:

- Increasing our application fee from $1 to $25;
- Recovering $25 for each tax offset collection;
- Recovering the state's legal expenses once collections start coming in;

We always ask the court to asses the legal fees against the non-custodial parent, but this action is at the court's discretion. We recover fees at 20 percent per month once collections are coming in. Legal fees are not imposed up front. If we do not recover child support, the state does not collect for the legal expenses.

We did not impose a means test although we excluded applicants who were receiving public assistance or Medicaid. We felt a means test would impose considerable administrative and costs burdens on the Department in completing income verification tests.

Our proposal went out to public hearing and no one testified at those hearings. We then finalized the rules in April of 1993 and notified our clients and the public. Controversy erupted in some circles, but the program was popular with the legislature and other state decision-makers.

I brought with me today two examples of the criticism Idaho has endured. First, we received the national "heartless award" in 1993 and we were featured in this month's Redbook magazine for the same reason. But at home, Idaho taxpayers believe cost-recovery is fiscally responsible.

The bottom line is this: Should citizens pay to furnish free legal services in child support for those parents who can afford to pay? Should this program be an entitlement for custodial parents?

Idaho's answer is "no." Idaho's answer is that parents who can afford to pay should share in the cost of child support enforcement. Both parents are responsible for their children. They are responsible for their own attorney fees as well.

In Idaho, we take "personal responsibility" seriously. Cost recovery promotes parental responsibility and is equitable for custodial and non-custodial parents who can afford to pay.

Our critics maintain that cost-recovery takes money owed to the child. We could pass through all the child support to the child, then bill the custodial parent for legal fees. This would set up an administrative burden, add to the cost of child support services and achieving nothing different in the final analysis.

Child support services have changed so much. It is becoming all things to all people. It is becoming expensive to administer. When costs rise, we are faced with choices.

Should we curtail services to the poor who need child support so they can achieve self-sufficiency? Or, should we requiring those with sufficient income to pay their fair share.

Cost recovery should be encouraged. In state Fiscal Year 1995, Idaho recovered $500,000 in fees and costs -- cost-recovery came half and half from custodial and non-custodial parents.

Idaho also has experienced some interesting and unexpected benefits of cost-recovery.

- First, we used to have a large number of applicants who would open and close their cases frequently. This is labor intensive and frustrating for our staff. When the application fee went to $25, this behavior ended.

- Second, we had been pressured by some clients to take court action almost monthly when we knew such action held slim chances of success. Once the client saw a relationship between the service and the cost, the demands became more reasonable.

- Third, we had many cases where the legal process was drawing to a finish and the client would close the case just before we were able to see success -- such as right before we were going to establish a paternity order. The clients would re-open some months later and want the same service. Once the client was contributing to the attorney fees, this behavior dwindled.

Free child support services -- for those who can afford to pay -- is becoming a thing of the past. Taxpayers do not want to foot the bill for those who could afford private services.

Taxpayers should not be expected to pay a parent's bills. Today, cost recovery is necessary, it is responsible and equitable, and it brings life to the term "personal responsibility" we hear so much about.

Mr. Chairman, members of the committee, that concludes my comments. I will stand for questions.

Chairman SHAW. Thank you, Ms. Kaiser.
Ms. Burke.

STATEMENT OF CECELIA BURKE, DIRECTOR, CHILD SUPPORT ENFORCEMENT DIVISION, OFFICE OF THE ATTORNEY GENERAL, AUSTIN, TEX.

Ms. BURKE. Thank you.

Mr. Chairman and members of the subcommittee, I am Cecelia Burke, child support director for the State of Texas, and I appreciate the opportunity to testify today.

Texas is proud to have one of the most successful IV–D programs in the Nation. Our reports show a continuing record of improvement in effect since we moved the program to the Attorney General's office in 1985. From 1987 to 1994 our child support collections have increased by 500 percent, and our paternity establishments have increased by 4,764 percent. It is because of this success that we are concerned about several provisions in the House and the Senate bill, specifically four issues I wanted to discuss today.

The first is in the area of paternity establishment. In both the House and the Senate bill, it would make the signing of a voluntary paternity acknowledgment a legal finding of paternity. Currently, under Texas law, signing of an acknowledgment is not a legal finding of paternity. What it does is create a rebuttable presumption of paternity.

While paternity establishments have increased by almost 5,000 percent, our legal filings over that same time period have only increased by 173 percent. That means that the majority of our paternities are established either by an agreed order or some by default, thus bypassing the full court hearing process.

We know in Texas that we have established paternity for the real biological father. Our system is working. The bill currently, as written, would force us to change without any gain on our part, and we ask that you don't change a system that is working.

A presumption of paternity is, in Texas, the basis for issuing a temporary support order which outlines all the responsibilities of both parents. So there is then no incentive for delay that exists in the courts. Jury trials, which are a constitutional right in the State of Texas, are not an impediment to this process.

We believe that paternity establishment should be joined with the establishment of an order which lays out all the obligations of both parents and that includes child support, custody, visitation, and any other issues affecting the parent-child relationship.

We believe that Congress should mandate that States use a simple civil process, whatever the State may determine that process to be, which enables parents to accept their responsibilities for their children born out of wedlock, and we would like Congress not to dictate the details to us on that issue.

In the area of genetic testing, it has become an accurate and cost-effective way of establishing paternity. We would ask that States be allowed to order immediate testing in all appropriate cases instead of requiring a sworn statement of facts as the bill requires. We believe that is an unnecessary step.

In addition, the States in-hospital paternity establishment program should be permitted to provide due process under existing State standards without Federal mandates as outlined in the bill.

The second issue I want to address is the State case registry and disbursement unit. We support that concept. However, in Texas, we would like to see States given the option of establishing a State case registry and a disbursement unit in which every single child support case in the State can be brought into this unit and they receive IV–D services unless the parents opt out.

Good collection techniques demand early intervention on delinquencies. We have pilot programs in seven counties in Texas that do that. Even under current law we experience collection rates from 65 to 85 percent in these cases in these counties, and the cost-effectiveness is $24 for every dollar spent.

In the area of distribution of collected child support, we believe that assistance is not a gift; it is a loan secured by the assignment of support rights. The proposed distribution of support in these former AFDC cases is going to leave the State and Federal Government's claim until last, and we believe that it will eliminate the incentive for these people to cooperate with us.

The proposed distribution scheme would literally wreck the financing of the State programs, and it will hurt the Federal financing also. It is going to deny services to thousands of American families that need us. In Texas alone we would lose $1.5 million a month under this proposed scheme.

One thing that I would say about arrears is that we have to remember that once the arrears are paid, that is it. What our goal should be is to ensure that we are collecting current child support and that it comes to that family month after month after month. By reducing the AFDC recovery and, thus, program funding, that would be impossible for us to do.

Also, our proposal for distribution would be to propose that States get reimbursed by the absent parent for either the total of the grant that has actually been paid by the State or the child support amount that was ordered, whichever is less.

With regard to the proposed collection incentives which we support, we ask that they be calculated on collections and not on expenditures. We would like you to reward success in that area.

Finally, I would like to address the issue of surcharge fees for our services in non-AFDC cases. In Texas, two-thirds of this group were previously on welfare and live month to month. Any surcharge, we believe, would probably knock them back onto the welfare rolls.

But I will tell you that we in Texas believe that those who can pay should pay. We need to be careful in crafting a cost recovery system that is free of unnecessary Federal regulations as it is now, and we ought to be able to assess fees against those who can pay perhaps on a sliding scale basis.

In conclusion, I want to thank you for all the work that you have done on child support, and I appreciate the opportunity to visit with you today and would be glad to answer any questions that you may have.

[The prepared statement follows:]

UNITED STATES CONGRESS
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT
AND SUPPLEMENTAL SECURITY INCOME

Statement of

CECELIA BURKE

Title IV-D Director

OFFICE OF THE ATTORNEY GENERAL OF TEXAS

June 13, 1995

Mr. Chairman and distinguished members of the Committee: thank you for the opportunity to testify about child support enforcement--a critical component of your efforts to reform the nation's welfare system and to assist single-parent households to achieve economic security and self-sufficiency.

I am Cecelia Burke, the Title IV-D director for the State of Texas. In 1985 the Texas Legislature designated the Office of the Attorney General of Texas the Title IV-D agency for the State. Since that time the Texas IV-D program has grown to be one of the most successful child support enforcement programs in the country, being recognized by the Human Resources Subcommittee of the House Ways and Means Committee as the "most improved" IV-D program in the nation in 1989. That improvement has continued, as the chart below shows.

COMPARATIVE STATISTICS FOR OFFICE OF THE ATTORNEY GENERAL
CHILD SUPPORT DIVISION
FFY 1987 VERSES FFY 1994

	FFY 1987	FFY 1994	DIFFERENCE	% CHANGE
AFDC $	$19,703,399	$75,829,720	$56,126,321	285%
NON-AFDC $	$41,480,959	$291,341,238	$249,860,279	602%
TOTAL $	$61,184,358	$367,170,958	$305,986,600	500%
ACTIONS FILED	71,724	195,549	123,825	173%
PATERNITY ESTABLISHED	684	33,269	32,585	4,764%

This progress continues. According to federal reports, Texas in 1993 and 1994 had the largest percentage increase in child support collections among the top ten most populous states. The number of paternity establishments has increased to raise the relative standing of the Texas program from 38th to 3rd among IV-D programs nationally. On average, more than 17,000 new cases open on our caseload each month, and 96 percent of those new cases come with no child support order established.

We are succeeding in the formidable task of securing and enforcing support for the more than 750,000 children of Texas and other states whom we serve because of improving automation, the dedicated efforts of our program workers and effective laws enacted by our legislature. We are, therefore, deeply concerned about provisions in both the House and Senate welfare reform bills which, we believe, will not assist our moving forward, but will, instead, impede that movement.

I want to address three areas of particular concern to us. These are: (1) the proposed procedures for paternity establishment; (2) the function of the proposed state child support case registry and state disbursement unit; and (3) the proposed, new distribution of collected child support. In addition, I want to comment on the proposal that there be a surcharge for IV-D services in non-AFDC cases.

I. Paternity Establishment Procedures

We certainly agree that improvements can be made in this important program area--particularly in the interstate process. However in crafting the child support provisions before you, inadequate attention was paid to the development of new family law standards, such as the Uniform Parentage Act, and to the experience of innovative states such as Texas. As a result, most of the required state procedures relating to paternity establishment proposed in both the House and Senate bills, as well as some that were included in OBRA '93 legislation, would undermine the simple and effective system which has enabled Texas to achieve its impressive record of paternity and support order establishment. We have already requested and received waivers to some of the 1993 legislation. But, instead of requiring states to ask for waivers, the right approach would be to craft required state laws that build upon the progress made over the past twenty years and would enable the states to simplify, streamline and improve upon procedures now in place.

In Texas, over 1000 children per week are born to unwed parents. In Texas the child support program establishes over 500 orders per week determining the support and visitation rights of such children. This is not good enough. But in crafting systems to improve, we must, if we are to be successful, begin with the **FACTS**.

THE FACT IS: THE PARENT OF A CHILD BORN <u>OUT OF WEDLOCK</u> IS JUST AS LIKELY TO SUPPORT THAT CHILD AS THE PARENT OF A CHILD BORN <u>IN WEDLOCK</u>, ONCE AN ORDER DETERMINING THE RIGHTS AND DUTIES OF THAT PARENT IS ESTABLISHED.

It is because of this established fact that we think the many initiatives aimed at creating a presumption of paternity, which do not at the same time advance the process of establishing the rights and duties of the parents are misdirected.

<u>I.a. Paternity Acknowledgments and the Legal Finding of Paternity.</u>

As we understand the intent of the bills, requiring that a signed acknowledgment of paternity must be considered a "legal finding" of paternity is meant to ensure that this voluntary act carries with it the same sorts of parental responsibilities as marriage. We agree with the intent, and Texas has achieved that objective without creating something called a "conclusive presumption" of paternity.

By Texas law, marriage of the mother before the birth of a child creates a presumption of paternity in the husband that can only be rebutted by clear and convincing evidence. In addition to marriage, there are at least four other ways in which a parent can establish the presumption: voluntary acknowledgment, signing the birth certificate, attempted marriage, and simply taking the child into the household and publicly accepting the child as his own. (It may have been easier for Texas to get to this point than it will be for some states, because we have long recognized informal "common law" marriages.)

IN TEXAS, ALL THE PRESUMPTIONS CARRY WITH THEM THE SAME RIGHTS AND RESPONSIBILITIES OF PARENTHOOD. ANY OF THE PRESUMPTIONS WILL SUPPORT A TEMPORARY ORDER DEFINING THE DUTIES OF THE PARTIES WITH RESPECT TO THE CHILD, INCLUDING SUPPORT, EVEN IF ONE OF THE PARENTS MAY DENY THE RELATIONSHIP AND DEMAND GENETIC TESTING. There is, therefore, **NO** incentive to contest the parentage of a child merely to delay the obligation of support.

Both the House and Senate bills require that a signed acknowledgment be considered in and of itself "a legal finding" of paternity. Both would MANDATE this approach as a primary, if not preferred, way of establishing paternity. This would disrupt the processes which we in Texas have put in place over the years and which have served us so well in establishing parentage. Instead of this provision, we propose that States be required only to have in place a simple civil process--whatever that process may be--whereby parents can accept their responsibilities as parents of children born out of wedlock, and that such process create a presumptive relationship **WITH THE SAME RIGHTS AND RESPONSIBILITIES AS IF THE CHILD WERE BORN DURING THE MARRIAGE OF THE PARENTS.** Furthermore, where States choose a verified acknowledgment process for "establishing paternity," they should be allowed to develop and use their own forms for accomplishing this result, not a "one size fits all" mandated form.

Finally, we would like point out that **the birth of a child out of wedlock is the moral and social responsibility of the parents, not the child.** In Texas we have recognized and written into law that the **CHILD** of unwed parents is not responsible for the circumstances of its conception. There is no such thing as a child who is "illegitimate" in Texas--there are simply those children with or without presumed parents. **The critical issue should be to determine the true parents of the child in order to enforce that parental responsibility. SIGNING A PIECE OF PAPER DOES NOT, IN AND OF ITSELF, ESTABLISH BIOLOGICAL PARENTAGE OR A FIRM COMMITMENT TO THE ROLE OF PARENT.**

I.b. Genetic Testing for Paternity.

These bills would undermine and inhibit the use of the most effective tool we have to determine the truth of parentage. The **expanded use of genetic testing** has been a major factor in the dramatic increases in **paternity establishment**, not only in Texas, but across the nation. **Genetic testing is a cost-effective way to determine the truth of parentage**--and it cannot be overlooked that a one-parent test [father and child] can determine non-paternity even if such testing is denied as part of the formal establishment process.

Both the House and Senate bills would require that, **BEFORE TESTING CAN TAKE PLACE**, the requesting party--including presumedly the IV-D agency--swear to a statement of "facts establishing a reasonable possibility" of either the existence or nonexistence of the requisite sexual contact between the man and woman. In Texas, in any contested case genetic testing is **IMMEDIATELY** ordered for the mother, the alleged father, and the child. The parties themselves may agree to have testing before or after any suit is filed, and recent legislation, effective this September, will expand the use of testing in administrative proceedings.

The only cogent argument made against providing genetic testing is cost. However, testing can actually save money if done early in the process. If tests show by clear and convincing evidence that the man is not the biological father, the man is excluded from further consideration. If the tests show that there is a possibility of the man's being the father, then the genetic evidence constitutes a prima facie showing of paternity, and an order for temporary support may be immediately issued.

We have already applied for and received a waiver relating to 1993 amendments which made the admissibility of test results more difficult than Texas law requires. What is required is not the EXCLUSION of parentage test results, but a full and fair opportunity to examine their

accuracy and ensure that no mistake was made which would bear on the essential fact of parentage.

We propose that the states be encouraged to determine through scientific parentage testing the actual identity of the parents of a child in **ALL APPROPRIATE** cases, and that **THE DETERMINATION OF PARENTAGE RESULTING FROM SCIENTIFIC TESTING RESULT IN A PRESUMPTION WHICH WILL SUPPORT ENTRY OF A TEMPORARY OR FINAL SUPPORT ORDER, WHETHER THE TESTING IS DONE BEFORE OR DURING FORMAL ESTABLISHMENT PROCEEDINGS.**

Since genetic testing can provide conclusive evidence of non-paternity there is no compelling need for special provisions for the recision of an acknowledgment by a minor, nor for a 60 day "cooling off" period for revocation in other cases. Minors, as well as adults, should be able to challenge the presumption of paternity by the results of genetic testing, subject to reasonable limitations imposed by state--not federal--law. We would suggest that, as in Texas, such limitations be similar to those imposed upon parents of children born in wedlock.

The importance of using genetic testing is underscored by the fact that **NATIONWIDE ALMOST 30 PERCENT OF PATERNITY TESTS ADMINISTERED RESULT IN EXCLUSIONS.** A recent sample of nearly 1300 Texas cases revealed that even with rigorous screening and investigation by local IV-D offices, 20 percent of the alleged fathers were excluded as the biological father. The fact is that in substantial numbers of cases mothers simply do not know who the father is, and many men who might believe themselves to be fathers find out that they are not.

I.c. Joining Paternity Establishment With Order Establishment.

There are many good reasons to discourage individuals from having children out of wedlock, but merely "establishing paternity" without defining the rights and duties of a parent does nothing to discourage out of wedlock births. The signing of a piece of paper does not, in and of itself ensure the establishment of a parent-child relationship, nor does it necessarily improve the chances of obtaining actual payment of support in the event that the relationship of the parents should cease. **PATERNITY ESTABLISHMENT MUST BE JOINED WITH THE ESTABLISHMENT OF AN ORDER WHICH LAYS OUT THE CHILD SUPPORT OBLIGATION, AS WELL AS THE TERMS OF CUSTODY AND VISITATION.** We believe that a more effective approach is to require a **UNIFIED PROCESS** for establishing both paternity and a support order in the same proceeding.

We propose that **STATES BE FORBIDDEN TO DELAY ESTABLISHMENT OF SUPPORT ORDERS TO RE-EXAMINE THE ISSUE OF PARENTAGE IF A PRESUMPTION OF PATERNITY EXISTS,** but that the due process right to disprove paternity in appropriate circumstances as defined by state law not be foreclosed.

Requiring the availability of temporary support orders will both remove the incentive for delay and make unnecessary the proposed requirement to eliminate jury trial. In Texas, to comply with the proposed mandate to outlaw trial by jury would require an amendment to the state constitution. Our experience has shown that such drastic action is not required. In fact, the few jury trials we have been required to hold since the temporary orders statute passed have made positive contributions to developing the law in this area--particularly in establishing the public acceptance of DNA testing protocols and statistics.

I.d. In-Hospital Due Process

The many requirements throughout the mandated state laws that "due process" be respected are at best surplusage, and at worst add another layer of legal complexity to the process. For example, OCSE in interpreting the 1993 statute has stated that not only must the in-hospital acknowledgment process explain the rights and responsibilities of acknowledging

paternity, but that it must include **"due process safeguards."** This guidance tracks the language of the statute, but that fact does not make it less difficult to comprehend and implement. The right to notice and a reasonable opportunity to be heard are fundamental to the law of this country. It is neither necessary nor appropriate for federal bureaucrats to define due process for the citizens of Texas. We propose that the effort to institute "in-hospital due process" and the other provisions of like import be deleted from this legislation, and that states be permitted to provide due process under state and federal standards that already exist. The federal government should not be in the business of dictating such details of local practice through federal legislative mandates.

II. State Case Registry and State Disbursement Unit

We in Texas enthusiastically support the requirement that a state have both a case registry and a disbursement unit, operating within the IV-D automated system, whether established as a single registry and disbursement unit or by linking of local registries and local disbursement units. Texas law already requires that, except as otherwise specified in an order, all child support payments be paid through a local registry or the IV-D registry within the Office of the Attorney General, thereby creating a record of compliance. Moreover, the Texas Legislature, at its session just concluded, enacted legislation authorizing the Texas IV-D agency to establish an integrated, statewide registry of support orders through the automated linking of county registries.

Our goal is to have **EVERY** child support order rendered in the state recorded in the unified registry system and monitored for compliance. From experience in conducting "delinquency monitoring" projects in seven Texas counties over the past several years, we know that automated monitoring of orders from the time they are rendered--with immediate enforcement action upon delinquency--may be the only way to prevent the accumulation of large arrearage amounts. Collection rates in these projects have been up to 85 percent, more than double the collection rates elsewhere in the State.

The current federal requirement that in non-public assistance cases there must be a written application for IV-D enforcement services causes a significant delay between the onset of delinquency and the time enforcement actions may be taken, making enforcement efforts more difficult and success far less certain. Unfortunately, the provisions in both the House and Senate bills only perpetuate the current situation. Although all cases in the IV-D load and, beginning October 1, 1998, all new and modified orders entered in a state would be recorded in that state's central case registry, actual enforcement of an order not already in the IV-D caseload could not proceed until, and unless, an application were filed. The same would hold true in non-IV-D wage withholding cases. The requirement that payment of support in all wage withholding cases through the proposed central disbursement unit does not ensure that appropriate enforcement actions will take place when delinquencies in payment occur. Only those wage withholding cases which are already in the IV-D caseload will be subject to enforcement upon delinquency.

We believe that only by having **truly universal child support enforcement** will the purposes of a central state case registry be fully realized. Absent an election by the obligee to decline enforcement services, every support order in the registry should be monitored for payment so that there can be an immediate enforcement response to any delinquency. Similarly, payments in all child support orders recorded in the registry ought to be made through the central disbursement unit, unless, as we provide in Texas, a court order specifies otherwise. Only then will there be coherent payment records.

Due to the huge numbers of new orders established by the program, the Texas IV-D system already monitors about half the total number of child support orders in the state according to a recent study. Expansion of the program by connecting existing registries and enforcement resources is therefore possible. Some states may not, however, be able to implement and manage such a universal IV-D registry and enforcement system, and we believe that states should be given the option of choosing to develop either the universal system or the more restricted one currently provided in the House and Senate bills. Inasmuch as state flexibility is one of the

foundational principles of the welfare reform program exhibited in the House and Senate bills, we hope that this principle would extend in some measure to the development and operation of state child support enforcement systems.

Whichever option a state chooses, there should be a clear and firm commitment of federal matching funds for the establishment and maintenance of both the case registry and the disbursement unit within the state IV-D agency's automated system.

III. Distribution of Collected Child Support

While we fully appreciate the intent underlying the provisions in both the House and Senate bills for a "family first" order of distribution, these proposed changes raise at least three sets of issues.

The first has to do with **PUBLIC POLICY** and **FAMILY RESPONSIBILITY**. We believe that since its inception the public and many recipients have viewed the public assistance grant as, in essence, a **LOAN**, not a gift, to the family. That loan is secured by the support rights of the family for the entire period prior to, and during, the time the family is on welfare.

Under the current distribution scheme, aggressive pursuit of the child support arrears assigned to the State results in an early discharge of the "assignment," followed by distribution to the custodial parent of arrears in excess of the public money paid to the family. Custodial parents have an incentive to assist the state IV-D agency in efforts to locate and to rebut defensive claims by obligors. Leaving the state's claim to last would eliminate the incentive of a post-welfare individual to cooperate with the State in child support collection efforts. If, as proposed, all custodial parents were discharged first, then the contest would simply become one between the "State" and the obligor. Some custodial parents might continue to cooperate; many would not.

A second set of issues relates to the **FINANCING** of the state and federal IV-D program and to matters of program logistics. In Texas, all services to individuals in the Title IV-D system (both welfare and non-welfare) are financed from the "State retained" portion of AFDC recovery, plus the federal financial participation (FFP) and incentive payments. **A study of payment and distribution information conducted last year indicated that adoption of a "pay the custodial parent first" approach in cases with assigned child support arrears would cost Texas over 1.5 million dollars per month in AFDC recovery.** The federal government would, of course, also lose its share of such recoveries.

THE OBJECTIVE OF THE CHILD SUPPORT SYSTEM SHOULD BE, ABOVE ALL, TO OBTAIN AND CONTINUE A STEADY STREAM OF CURRENT CHILD SUPPORT FOR ALL CHILDREN. This objective cannot be pursued unless the state and federal governments are able to finance an effective enforcement system. The proposed changes to the distribution of support in former public assistance cases would, paradoxically, have the effect of inflicting the greatest financial damage on-- and thereby undermining the efforts of-- those state programs which are most successful in removing families from the welfare rolls. With diminished means to conduct a fully effective enforcement system, a state IV-D program which currently reinvests retained collections would find itself unable to pursue the kind of aggressive enforcement effort that ensures the timely payment of current support and, hence, the ability of families to leave, and stay off, welfare.

Finally, there is also the issue of the sheer **COMPLEXITY** of the process which would result from the implementation of the proposed, new distribution structure. In order to implement this structure, the child support payment history in each case would have to be reconstructed. No automated system, on either the IV-A or IV-D side, however, has been designed to deal with a process which will require tracking of both the grant and child support payment history of every child on welfare from birth until emancipation. It is unlikely that adequate records exist in any state even to attempt the calculations this proposed distribution

scheme would require for obligated cases. The proposal furthermore provides no guidance at all as to how to handle allocation of support rights for the 96% of cases which come into the system without existing support orders. State and federal law requires that the absent parent be obligated to pay an appropriate amount of support for the time prior to entry of the order. Most single parent families struggle for some time before applying for welfare after abandonment by the absent parent. This situation presents difficulties under the present rules; with the new proposals it will be even more difficult.

We believe that a more effective way to achieve the intent of the proposed changes to the distribution priorities in former public assistance cases is simply to require that the state pay any ***post***-public assistance arrearage to the custodial parent before collecting any amount to reimburse the state and federal government. This would provide an incentive for the states to ensure that additional arrearage does not accrue after a family leaves the welfare rolls.

We further believe that, along with the requirement that states distribute collected support to satisfy any post-public assistance arrearage owed the family, there should be a cap on the amount of money a state may recover in former public assistance cases. Currently, states which provide high public assistance grants may unavoidably cause a grant deficit to accrue while the custodial parent is on welfare: the custodial parent is fully cooperating, the noncustodial parent is current in paying his child support, and yet, public assistance arrears will be owed.

We propose that the amount a state may recover in a post-public assistance case as reimbursement for the assistance paid the family be the **LESSER** of (1) the total amount of public assistance actually paid the family during the effective period of the assignment or (2) the total amount of child support due the family under the applicable guidelines for the period of time of the assignment.

Inasmuch as the House and Senate bills provide states with options with respect to the distribution of support in the case of families currently receiving public assistance, we urge consideration of a similar option with respect to the distribution of support in the case of families formerly receiving public assistance, including the order of refund distribution under the Internal Revenue Code.

IV. Surcharge for IV-D Services in Non-public Assistance Cases

Sixty-seven percent of the approximately 405,000 non-AFDC cases in the Texas IV-D caseload represent former recipients of AFDC who continue to receive IV-D services after losing eligibility for welfare. These are, however, the cases of families who live month-to-month on the edge of public assistance. With average monthly support awards of $253 any drop in, or loss of, a month or two of child support payments could put them back on the welfare rolls.

A surcharge for IV-D services in these marginal cases--whether taxed against the support collection or against the obligor--might, we believe, adversely affect the purpose of the collection effort--to provide families with some degree of financial independence. The obligors in these cases are already paying the maximum amount of child support as determined by mandatory state guidelines, and they do well to make timely and full support payments. It is doubtful that they have the means to pay administrative costs in addition to the ordered child support. If they did have the means, then they would have been ordered to pay more in child support. For the 23% of the cases that never were welfare cases, perhaps a sliding scale fee could be imposed against either parent depending on financial ability.

Chairman SHAW. Thank you.
Dr. Marshall.

STATEMENT OF JOHNETTA MARSHALL, PH.D., PRESIDENT, OLDER WOMEN'S LEAGUE, WASHINGTON, D.C.

Ms. MARSHALL. Mr. Chairman, members of the subcommittee, thank you for providing the OWL, Older Women's League, the opportunity to testify today on this issue of such great importance.

I am Johnetta Marshall. I am the president of the Older Women's League. Founded in 1980, OWL is the first national grass-roots organization to focus exclusively on issues of concern to mid-life and older women. Through education, research, and advocacy we work for public policy changes to reduce the inequities women face as they age.

Each year, the Older Women's League issues a Mother's Day report on the status of mid-life and older women. This year the report, The Path to Poverty, examines the state of women's income in late life. I would like to leave copies of this for the Members.

Unfortunately, I have to report our findings reveal that, for many older women, life is bleak. Many poor older women depend on supplementary security income for the basics of life. In fact, 64 percent of SSI recipients over the age of 65, who are mostly women, receive SSI in addition to their Social Security benefits.

At OWL we frequently hear from older women who are in severe economic straits after years of giving themselves to others. For example, one woman receiving $5,304 from Social Security and $1,176 from SSI is trying to survive in a deteriorated house. She has a leaking roof, requiring her to use pots, pans, and newspapers. Her windowsills are rotten, and her cement stoop is falling down.

She notes:

> As I look back on my younger years, I sometimes feel I should not have had a 100-percent volunteering life in the Veterans of Foreign Wars Auxiliary, a den mother, coleader of Brownie and Girl Scouts, vice president in Volunteer Fire Department Ladies' Auxiliary, volunteer nurse at county hospitals during the nursing shortage, and many more organizations. I cared for everyone because I knew that folks needed me. Today, I am trying to survive in a below-poverty situation.

It must be noted that any changes Congress is considering making to the SSI program will affect older women disproportionately. The $20 exclusion was set at the beginning of the SSI program. It was intended to assure that persons who had previously worked in the labor force would receive somewhat higher monthly income than those who had not. It was believed that the exclusion would most often apply to Social Security benefits.

The amount of the exclusion, however, has never been increased, although the Federal benefit standard has more than tripled. For example, the maximum monthly Federal benefit in 1974, the first year the SSI program operated, was $140 for an individual and $210 for a couple. Today, the maximum monthly Federal benefits are $458 and $687 for individuals and couples respectively.

A few years ago, our organization was represented on the SSI modernization panel which closely examined the SSI program including the $20 income disregard. The experts on this panel believed that the first priority was to raise the Federal benefit stand-

ard to bring SSI recipients up to at least the poverty level. Until that was achieved, the panel recommended a one-time increase in the exclusion to $30, restricting its application to unearned income.

It was a consensus that this would simplify the program and if the restriction of the exclusion to unearned income only was accomplished by an increase in the basic earned income exclusion, the restriction would not cause any recipient to lose SSI benefits. Yet today some Members of Congress are proposing not an increase but a $5 reduction.

We are deeply concerned about the effect this will have on older women. While $5 a month may not sound significant to Members of Congress, it is important to keep in mind that the average, not the maximum, SSI benefit for aged beneficiaries is only $347 a month.

Seventy percent of aged SSI recipients would be affected, about 1 million people, the vast majority of whom are women. In addition, 40 percent of disabled SSI recipients will also be affected—another 2 million individuals.

Reducing the general income disregard by $5 will have the effect of reducing each eligible person's SSI benefit by that same amount. It is not simply the loss of $5 in the SSI check that would cause hardship. It is the loss of SSI eligibility that is so catastrophic for older women. The loss of eligibility also means a loss of Medicaid coverage and access to other essential services of benefits, such as food stamps, which are essential for the individual's well-being.

Medicaid is critical for poor older women. Medicaid pays for Medicare out-of-pocket costs and for some of the prescription drug costs. These women would not only lose their monthly SSI income, but they would suffer a significant increase in their health care out of pocket costs.

The question I pose, how are these people going to survive?

This subcommittee has the jurisdiction over the SSI program, a program that is essential to the survival of 6 million individuals. The proposal to reduce the $20 income exclusion is not a forward step. Instead, it complicates and jeopardizes the lives of many older women.

Mr. Chairman, members of the subcommittee, under most circumstances I would use words such as "recommend" or "urge" or "encourage" in making a suggestion or a request to Members of Congress. However, today I plead with you to reject the proposal to reduce the $20 income reduction in the SSI program.

Thank you.

[The prepared statement follows:]

STATEMENT OF JOHNETTA MARSHALL, PH.D., PRESIDENT OLDER WOMEN'S LEAGUE, WASHINGTON, D.C.

OPENING REMARKS

Thank you for providing the Older Women's League (OWL) the opportunity to testify today on the provision recommended by the House Budget Committee to reduce the $20 disregard on income under the Supplemental Security Income (SSI) program.

My name is Dr. Johnetta Marshall. I am president of the Older Women's League. Founded in 1980, OWL is the first national grassroots membership organization to focus exclusively on issues of concern to midlife and older women. Through education, research, and advocacy, we work for public policy changes to reduce the inequities women face as they age.

ECONOMIC REALITIES FOR OLDER WOMEN

Every year the Older Women's League issues a Mother's Day report on the status of midlife and older women looking at particular issues such as health care, housing, and violence. This year's report, The Path to Poverty, examined the state of women's income in late life.

Unfortunately, I have to report our findings reveal that for many older women, life is bleak. Almost three-fourths of the four million older poor people in the United States are women. In 1993, women comprised 60 percent of all older Americans but 73 percent of poor Americans age 65 or older.

Four of ten older women living alone are poor or near poor, and an additional 16 percent were near poverty.

Older African-American and Hispanic-origin women are especially vulnerable to poverty. In 1993, twenty-eight percent of African-American women and 22 percent of Hispanic women age 65 to 74 lived in poverty--as did 36 percent of African-American and 32 percent of Hispanic origin women over age 75.

Marital status often determines whether older women are poor. We have found that widowhood often leads to poverty. Almost four times more widows live in poverty than do wives the same age. Separated and divorced older women are substantially poorer than widows and unmarried women, and all are poorer than wives.

The future is bleak also for older women of the future. Projections indicate that by the year 2020, poverty will be practically ended for older men and couples, but poverty will remain widespread among older women living alone.

The path to poverty late in life begins with lower wages earlier in life. Fewer older women in the decades to come will have access to a husband's retirement income. Late marriages, higher divorce rates and greater longevity mean that women are spending more of their lives unmarried. During the 1980s, the number of single women grew faster than the number of married women--the population of widows grew nine percent and the number of divorced women increased by 44 percent.

THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM'S IMPORTANCE TO OLDER WOMEN

Twenty-three years ago, the Supplemental Security Income program was created by Congress to help our country's poor aged, blind, and disabled meet their most basic needs. The program was designed to supplement the income of those who do not qualify for Social Security benefits or whose benefits are not adequate for subsistence. SSI has kept many people of all ages, including older women, from destitution. The maximum federal SSI benefit of $458

for an individual represents only 75% of the poverty line and the maximum benefit of $687 for a couple reaches only 90% of the poverty line.

More significantly, the average benefit for aged SSI recipients of $347 brings individuals only up to 59% of the poverty threshold for persons over age 65. Half the states provide additional supplements but not enough to raise recipients' income above the poverty level.

We frequently hear from older women who are in severe economic straits after years of giving of themselves to others. For example, one woman receiving $5,304 from Social Security and $1,176 from SSI for a yearly total of $6,480 is trying to survive in a deteriorated house. She has a leaking roof requiring her to use pots, pans and newspapers, her window sills are rotted and her cement stoop is falling down. She notes:

> "As I look back on my younger years I sometimes feel I should not have had a 100% volunteering life....chaplain in the Veterans of Foreign Wars Aux., den mother, co-leader of Brownies and Girl Scouts, conductress and vice pres. in Vol. Fire Dept. Ladies Aux, volunteer nurse at county hospital during nursing shortage and so many more organizations. I cared for everyone because I knew folks needed me. Today I'm trying to survive in a below poverty situation."

The SSI program is very important to women, particularly older women: one fourth of all SSI recipients are older women, and nearly three-fourths of aged recipients are women. Sixty-four percent of SSI recipients age 65 and over, the majority of whom are women, receive Social Security benefits in addition to their SSI.

However, over one million older women eligible for SSI benefits are not receiving them. For example, one of those who is possibly eligible writes to OWL:

> "I am a widowed lady, who is on Social Security only. Am 71 years of age. Have my own mobile home but rent and utilities are between $550 and $600 a month which doesn't leave much for food and other things one must have to live. I was wondering if you could tell me if there is any help I can get. I am unable to work and under a Dr.'s care."

This woman sought assistance, most do not. The General Accounting Office found that only 28 percent of aged individuals who are eligibile actually receive SSI. SSI outreach must be continued.

Any changes Congress is considering making to the SSI program will affect older women disproportionately.

REDUCTION IN SSI INCOME DISREGARD

I would like to frame my testimony today on reduction in the $20 monthly general income exclusion within a historical context.

The $20 exclusion was set at the beginning of the SSI program. It was intended to assure that persons who had previously worked in the labor force would receive somewhat higher monthly income than those who had not. It was believed that the exclusion would most often apply to Social Security benefits.

The amount of the exclusion, however, has never been increased although the federal benefit standard has more than tripled. For example, the maximum monthly federal benefit in 1974, the first year the SSI program was operating, was $140 for an individual and $210 for a couple. Today, the maximum monthly federal benefits are $458 and $687 for individuals and couples respectively.

A few years ago, our organization was represented on the SSI Modernization Panel, which was chaired over a two year period by former Health, Education and Welfare Secretary Dr. Arthur Flemming. Under Dr. Flemming's leadership and Social Security Administration (SSA) Commissioner Gwendolyn King's interest and commitment, the panel closely examined the SSI program through hearings and site visits, and received recommendations for changes from throughout the country. The panel's report for improving the SSI program was published in 1992.

The experts on this panel also examined the $20 monthly general income exclusion. They believed that the first priority was to raise the federal benefit standard to bring SSI recipients up to at least the poverty level. Until that was achieved, the panel recommended a one-time increase in the exclusion to $30, restricting it's application to unearned income. It was a consensus that this would simplify the program and if the restriction of the exclusion to unearned income only was accompanied by an increase in the basic earned income exclusion, the restriction would not cause any recipient to lose SSI benefits.

Yet some members of Congress are proposing not an increase but a $5 reduction. We are deeply concerned about the affect this will have on older women. While $5 a month may not sound significant to members of Congress and indeed most persons in Washington, it is important to keep in mind that the average--not the maximum--SSI benefit for aged beneficiaries is only $347 a month.

The reduction would affect a little over 3 million aged, blind, or disabled people; this figure represents 48.2 per cent of the SSI eligible population.

Seventy percent of aged SSI recipients would be affected--about 1 million persons--the vast majority of whom are women. In addition, 40 percent of disabled SSI recipients would also be affected--another 2 million individuals.

Reducing the general income disregard by $5 will have the effect of reducing each eligibile person's SSI benefit by that same amount. While the loss of a $5 SSI check, of itself, would not appear to cause hardship, the loss of SSI eligibility certainly would. Where the individual's SSI benefit is $5 or less, the change will result in ineligibility.

DOMINO EFFECT

The loss of SSI eligibility for an aged, blind, or disabled person may also result in the loss of needed Medicaid coverage or eligibility for other programs' services or benefits--such as food stamps--essential for the individual's well being. The food stamp program has been the subject of earlier hearings this year and there are also proposals in Congress for altering that program. Even if there were no other changes in eligibility for the food stamp program, this reduction provision could affect food stamp eligibility.

Medicaid is a primary source of funding for long-term care. The program pays for half of all nursing home care and one-fourth of home care in the United States. It pays for some of the precription drug costs of older Medicaid program participants.

And, very importantly, Medicaid pays for Medicare out-of-pocket costs--premiums, copayments and deductibles--for poor older persons.

Nearly 1.5 million women over age 60 receive food stamps. In 72% of elderly households, the food stamp participants live alone, of which 80 percent are single women. The average monthly benefit for these households is only $45, but again that small amount can make the difference between subsistence and quiet starvation.

As with SSI, women comprise three-fourths of Medicaid beneficiaries over age 65. Over three million older women are Medicaid beneficiaries. Of women over the age of 85, one million depend on Medicaid to meet their health care needs.

The question I would pose to this subcommittee is: "How are these people going to survive?"

CONCLUSION

This subcommittee has jurisdiction over the SSI program, a program that is essential to the survival of six million individuals.

The proposal to reduce the $20 income exclusion is not a forward step. Instead, it complicates and jeopardizes the lives of a large segment of the SSI population--older women.

Mr. Chairman, members of the subcommittee, under most circumstances I would use words such as "recommend" or "urge" or "encourage" in making a suggestion or request of members of Congress. However, today, I plead with you to reject the proposal to reduce the $20 income reduction in the SSI program.

Chairman SHAW. Thank you, Dr. Marshall.

Mr. McCrery will inquire.

Mr. MCCRERY. Thank you, Mr. Chairman. Thank all of you for joining us today. Your testimony has been excellent and informative, and I know that all the members of the subcommittee would join me in saying that we have learned something from listening to you today.

Before I get into some questions concerning child support enforcement, I want to say to Mrs. Marshall that the proposal is simply in the proposed budget, which is not binding on this subcommittee. We are going to be looking at that and a number of other proposals with regard to SSI. So we really appreciate the input that you have provided us today on that question.

Ms. MARSHALL. Thank you.

Mr. MCCRERY. Ms. Burke, does Texas have a cost recovery system right now?

Ms. BURKE. No, sir, not a formal cost recovery system. We primarily recover court costs, service of process fees, and paternity testing fees. We don't do it well.

Mr. MCCRERY. Have you looked at instituting a formal procedure for cost recovery?

Ms. BURKE. We have looked at it. We have never really come to any conclusion on how we could administer it. It is like every idea that we came up with, we would be spending a dollar to collect $0.10. We will be looking at hiring an outside private contractor on a percentage basis to collect attorneys' fees, court costs, filing fees, paternity testing fees, and those types of things.

Mr. MCCRERY. So you are not opposed to some system for at least the non-AFDC caseload that would recover some of those costs if you could figure out a good way to do it?

Ms. BURKE. That is correct.

I have some concerns. The majority of our non-AFDC caseload are former AFDC recipients that are literally living on the edge. We are not very generous with our welfare benefits in Texas, so it is easy for us to get people off welfare by collecting child support. I do believe, though, that those who have never received public assistance would be a target for some sort of fees, whether a registry fee, percentage fee, or whatever. If we could find a very simple way to do it that doesn't require reprogramming a lot of computers, which is a cost to the States and to the Federal Government.

Mr. MCCRERY. Ms. Kaiser, what is your experience in Idaho with respect to the cost of administering the system versus what you collect?

Ms. KAISER. My experience has been that it doesn't cost us any more to recover our costs than to collect child support. If we don't collect any support we get nothing, but we collect from a portion of the support we collect in the future.

Most of the folks who come to us who would incur legal fees who are not on welfare have no collections coming in. That is why we have to go to court, to have either no order—in many cases, it is a paternity or establishment case with no order or they have an order and are getting no collections. We not only need to take legal action, but we need to get money coming in. Having obtained the

money, then it is an easy matter of dividing it between the applicant and ourselves in terms of cost recovery.

Mr. MCCRERY. Do you think that Congress ought to mandate that the States implement a cost recovery system?

Ms. KAISER. I am very opposed to mandates. I think this is a really sensitive area, one that has been left up to the States with good reason. You have to consider the needs of your own citizens, their circumstances. It has to be done with compassion and supported politically.

The remedy we fashioned in Idaho may not work in other States for political or other reasons, and I think each State should have the option to look at this as a method of funding the program without a mandate.

Mr. MCCRERY. Ms. Smith, I assume you would be opposed to a mandate.

Ms. SMITH. Yes, for the same reasons that Ms. Kaiser indicated.

The biggest concern that we have for not imposing costs on nonwelfare families is—particularly on cases that are paying—that the cases that are paying are the ones that don't cost us very much to process. You may have the effect of discouraging parents who have a wage assignment that is in place from staying with the program. They will opt out, and then the noncustodial parent will change jobs, and the money will stop coming in. Then they will come back with a big arrearage, and it will cost a lot of money for us to get the case back up on the system.

We are at a point now where we have high use of automation. We track people when they move from job to job within a few weeks, and we can keep those cases going. The ones that don't pay are costly, and we ought to be focusing on those who do not pay. I know it sounds a little contradictory, but once you catch up with the ones who have built up arrearages and haven't paid, over time that money will come in. But if we are going to have any cost recovery, it ought to be focused on the cases that are costing the system, not the easy cases.

I am very concerned about a percentage of collection approach. It will cause collections to go down, because the easy cases will go elsewhere. We will be stuck with the ones that don't produce and take a lot of work to process.

Mr. MCCRERY. Thank you, Mr. Chairman.

Chairman SHAW. Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Chairman.

Ms. Burke, I want to ask you, where was the child support enforcement office before it was at the Attorney General?

Ms. BURKE. It was in the Department of Human Resources, which in Texas is our welfare department.

Mrs. KENNELLY. I commend you. For years I have advocated if we could get child support enforcement in some agency that understands what we are talking about and how you have to enforce the law—putting it in the Attorney General's office I think is an excellent idea.

Under present law, it is optional for a non-AFDC family to be charged $25 for the State service for collection for non-AFDC families. Not too many States, in fact, insist on that $25. Would you

look at this differently if we mandated that $25 fee to non-AFDC families?

Ms. BURKE. If you mandated it, we would collect it.

Mrs. KENNELLY. It would be simpler than the suggestion you have.

Ms. BURKE. It would be a lot simpler. You would only be looking at the cases that come into your caseload by application; that is, by choice, rather than people coming to you either because they are on welfare or they were formerly on welfare.

Mrs. KENNELLY. That is a good point.

Mr. Chairman, I would like to put this fact into the record, that about one in two non-AFDC families receiving assistance and collecting child support have family incomes less than $21,700, which is below 200 percent of poverty. I am worried that this recommendation has the possibility of doing exactly what we don't want to do, forcing families into welfare rather than helping them get off.

Ms. BURKE. The average child support payment in Texas is $250 a month. Fifteen percent of that is a considerable reduction in income for a lot of these women who receive child support in Texas, and we have a concern about that.

Mrs. KENNELLY. So do I.

Would anybody else like to comment?

Ms. SMITH. That is our concern as well. Our average order is a little higher for nonwelfare families, but about half our nonwelfare families are former welfare recipients.

We estimate we get about 4,700 new applications a year. If you multiply that by $25, it is over $100,000, not a major chunk of change to make it worth the additional paperwork.

Again, it is partly the way you manage the program. Massachusetts has really focused its efforts on families that are at risk of being on public assistance, unlike States like Ohio or Michigan where virtually every case is required to go through the system regardless of income level and they don't have an option about participating.

The issue of mandatory fees in those States is quite different than mandatory fees in a State like Massachusetts which is quite deliberate in not wanting to have universal services. That is an area where States vary significantly. There is quite a bit of controversy about whether it should be universal, opt in, opt out, and so on. It has to do with defining the mission of the program. It is something that we have struggled with in H.R. 4—is it to keep people off welfare, or is it to recoup welfare costs? With the best of intentions often we do something that has consequences that we didn't expect.

Mrs. KENNELLY. Who is in charge? Where is the child support enforcement office?

Ms. SMITH. It is in the Department of Revenue. The program was transferred from the Department of Public Welfare 8 years ago. It has had extraordinary success by that transfer. It shook up the apple cart, caused people to look at things in a new way. We learned a lot from being in the Tax Department and using automated enforcement remedies in data matches to collect support.

I think a lot of these provisions are reflected in H.R. 4, which is a reason we think it is such a strong bill. It will cause change everywhere, but I think it will be change that will really pay off.

Mrs. KENNELLY. Thank you. I love to hear people who do one thing all day and know all about it.

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Ms. Burke, did I understand you to say that all cases, AFDC and non-AFDC, go through the Attorney General's office unless there is an opt-out agreement?

Ms. BURKE. No, sir. We have pilot projects in seven counties in Texas where we assist the county in monitoring the non-IV–D cases, and those are generally new divorces.

When they go delinquent they are automatically referred to the Attorney General's office. Under current law, we are required to send them an application. If they mail it back, we can take enforcement action. Half of those custodial parents will mail it back to us, and our collection rate in those cases, depending on the county, ranges from 65 percent to 85 percent.

What we are advocating is a system whereby we can bring all child support cases in the State into the IV–D system without requiring an application, let those that want to opt out, opt out. In these cases our cost-effectiveness is $24 collected for a dollar spent, and we believe that by early intervention on these cases there are a lot fewer people in Texas that are going to end up going on welfare because they have been divorced.

Mr. COLLINS. I just misunderstood. That is a program you would like to see rather than one that you have today.

One other question because we have a time restraint. In a case where you have an opt-out agreement and the agreement is violated, what happens then? What would you suggest happening then?

Ms. BURKE. Then I suggest that either parent be able to opt back in by application.

Mr. COLLINS. It would come to you then, and then you would go with a payroll deduction?

Ms. BURKE. Absolutely.

Mr. COLLINS. That is all I have. I believe I have heard that suggestion made before. Thank you.

Chairman SHAW. Mr. English.

Mr. ENGLISH. Thank you, Mr. Chairman.

Dr. Marshall, you mentioned in your testimony that over 1 million older women eligible for SSI benefits are not receiving them. Where does that figure come from?

Ms. MARSHALL. Most of the statistics we obtained came from the Social Security Administration.

Mr. ENGLISH. You also state at one point in your testimony that some individuals have an SSI benefit of, I think, less than $5, meaning that lowering the income exclusion by $5 would make them ineligible for any SSI benefit. Do you know how many people would be removed from SSI eligibility if that particular change were made?

Ms. MARSHALL. I don't have the figures as to how many would actually be removed.

Mr. ENGLISH. Thank you very much.

Thank you, Mr. Chairman.

Chairman SHAW. Mr. Rangel.

Mr. RANGEL. I want to follow that same line of questioning, Dr. Marshall.

There was a time in this great republic that when you were poor, aged, blind, and disabled, this would be the last group in the world that you would want to hurt. As we fight to decrease taxes and cut programs, I would have hoped that the most vulnerable people among us, old folks, would have been given additional protection. Now we are trying to make it worse.

In addition to that, as you responded to Congressman English, even though you may not have the amount, clearly that $5 can make a difference not only in eligibility for SSI but for food stamps and Medicaid, and it can throw people over the brink just because there has to be a cutoff period.

Where are the churches, synagogues, Moslems, Jews, and Christians? If they are not to be heard on this, it is about over. Because from what I understand from colleagues in the Congress, basically, you people should be serviced by charitable organizations anyway. Of course, we have a new bill which will prevent contributions from receiving tax benefits. So it looks like you are in a catch-22 where people are saying you had no right to get old in the first place.

What support do you get? If you're not getting it from your Congress, where do you go?

Ms. MARSHALL. That is true. It fits in with the example of the lady who volunteered all her time and when she needs help she can not get it.

It makes us look at what has happened not only with the older people but with the blind and the disabled if they lose everything and they cannot count on the community resources because they don't have it to give nowadays, as they did before. So we look toward Congress and expect and hope that Congress will do the right thing because these people have no other means of support.

The reduction in SSI and Medicaid eligibility may reduce Medicaid and Medicare costs but it also takes away all the basic things the most vulnerable need to survive, and they have no other place to get it without coming back to Congress for it.

Mr. RANGEL. You have no hope that Congress will take care of the poor, sick, aged, and the disabled do you? Have you seen anything that has happened this year——

Ms. MARSHALL. I have not. It is my hope and the hope of all the seniors that we work with, as well as those who are disabled, that the idea of what they are going to lose would be ameliorated in the fact that Congress understands this is a need and that these are people that have done all they can, they have worked, have earned, and have put their money into Social Security, and are now in need of some help.

Mr. RANGEL. Let me congratulate the Chair for having these type of hearings where the decisions that we are going to make for budget purposes—at least we would know the impact of these cuts and we would never be able to say that we just didn't know what we were doing. I think that the chairman has constantly displayed a sensitivity to this and other issues.

I never thought I would see the day when we were trying to save money that this would be a group that would put their names down, not because we are just a great country and we always provided leadership in this area, but because the issue is just something that has been instilled in us as human beings. That when you are fragile that this is the group you come to first to give help to.

Thank you for hanging in there, and some of us will do all we can to make certain that this fragile group is protected.

Ms. MARSHALL. Thank you. We have material to share with you if you need some.

Mr. RANGEL. Thank you, Mr. Chairman.

Chairman SHAW. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

Ms. Smith, I wanted to ask you a question. During our hearings, as we were developing the child support portion of H.R. 4, we heard several times from people from your State, from your Governor and others, and were impressed with what we heard. We came to the conclusion that Massachusetts has one of the best child support systems in the Nation.

I wanted to ask you a question about paternity establishment because that was important to us in making sure we streamlined the whole process. It is very important to establish who the parent is so that we can establish the supporter of the child. What is your percentage now of establishment of paternity in the State of Massachusetts?

Ms. SMITH. With respect to children born out of wedlock, the newborns, we started our in-hospital paternity program about 1 year ago, in implementing OBRA 1993 somewhat in advance of its effective date. We set our program up differently from other States in that we worked very cooperatively from the beginning with the Department of Public Health and the Registry of Vital Records.

At this point, we have 54 percent of the parents in the hospital signing the voluntary acknowledgment of paternity and another 10 percent signing the acknowledgment within a few weeks after they leave the hospital.

The average around the country for these programs is about 45 percent, even for programs that have been in operation for several years. The reason we think that we get such a good response is because the father can't put his name on the birth certificate unless he also signs a voluntary acknowledgment of paternity.

Most parents want the father's name on the birth certificate. The parents are together at the time of birth, and that is a strong incentive to sign the acknowledgment.

Once the acknowledgment is signed, under current law it is a rebuttable presumption for 1 year. Either parent has an opportunity to come in and request a blood test and to set aside the acknowledgment. At the end of the year it becomes a conclusive presumption and is the equivalent of a court order.

We are very supportive of the provision in H.R. 4 that would take that period from 1 year down to 60 days because we think it is important for people to make those decisions and for the process to be able to go forward.

The important thing is that we are picking up paternity establishments outside the child support enforcement context, so it separates paternity establishment from the so-called "welfare cop" and the kind of tough enforcement image that the Department of Revenue has which might discourage parents from signing up if they think the Department of Revenue is going to be on their trail as they walk out of the hospital.

We think that has made a big difference in getting people to be cooperative. Because they see it through the medical records process. They see it through the registry of birth records process.

That is one of the reasons I mentioned earlier that it is important for us to be able to work with these registries and provide some Federal funding for the databases, so that when people go on welfare later on we will already have the record available.

As soon as the case comes from the welfare department, we will know. Paternity establishment has been done. We will have the name and Social Security number, and we won't have to establish paternity through the court process. The court process will just be used for establishing a support order, and most of that can happen through voluntary agreement because of guidelines.

So we are very enthusiastic about H.R. 4 provisions of paternity.

Recognizing what Ms. Burke is saying about the prescriptive nature of H.R. 4, it seems to me that that is an area where it is so important to get uniformity nationally and to have a very tough stance, that we cannot afford to let these kids go without paternity being established.

Ms. DUNN. When do you think that Massachusetts will be able to reach that 90 percent standard?

Ms. SMITH. We are working now on setting our goal. I think it will take a few years. We are trying next year to hit 75 percent. Every time you add a percentage point, the marginal difficulty increases. This is just a guess—within 5 years. We haven't started an extensive outreach program yet, but it seems to me that that is something that we should be striving for.

I think it will be very hard. It will take a lot of public awareness, a lot more effort than just child support enforcement agencies. It will take the involvement of Governors in every State. It will take the involvement of public health officials both at HHS and at the State level to change the culture, similar to the way we have done with smoking and drunk driving. I think that is what it will take.

If we are going to have that kind of ambitious goal, which is moving in the right direction, we have to put a ton of resources behind it. You can't just leave us on our own. We will never make it by ourselves.

Ms. DUNN. I think that is a very useful comment. Thank you.

Chairman SHAW. Do either of the remaining two Members have questions?

Thank you.

I would like to thank this panel. These are two very important subjects. Mixing them is awkward, but I think we got through it very well. I wanted to be sure that we had a chance to hear the views of all of you.

Ms. Smith, it is nice to have you back. You and the Governor were a tremendous help.

Ms. SMITH. We are very pleased with the work that you have done and are very enthusiastic about seeing this act go into effect.

Chairman SHAW. Thank you.

We have an in-town witness with an out-of-town commitment, an old friend of this subcommittee, Mary Jo Bane. You have to leave at 3:30, and this subcommittee has to leave at 3:30.

STATEMENT OF HON. MARY JO BANE, ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS); ACCOMPANIED BY PAUL LEGLER, ATTORNEY ADVISOR TO THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Ms. BANE. Thank you, Mr. Chairman. It is a pleasure to be here again. With me is Paul Legler, the attorney advisor to the Assistant Secretary for Planning and Evaluation. He has been significantly involved in the child support enforcement effort.

I appreciate your invitation to talk about the extensive reforms under consideration in both the House and the Senate. The administration considers child support enforcement to be an integral part of welfare reform, and we were delighted that both the House and the Senate have incorporated the major child support system reforms that the administration proposed last year in the Work and Responsibility Act.

I think we are all in agreement that child support is a critical component in ensuring economic security for millions of single-parent families and that, despite ongoing improvements, fundamental changes are still needed. We also appear to agree on what many of those changes should be, and that is terrific. There are important differences, however.

I would like to speak to three issues today: cooperation requirements for families receiving assistance, child support disregard and distribution policies, and cost recovery policies. We have some more technical issues and concerns that we would be pleased to discuss at another point, or in writing, whenever it is convenient.

Currently, cooperating in the establishment of paternity is a condition of eligibility for aid to families with dependent children and for most Medicaid recipients. Current procedures on cooperation contain some significant weaknesses. They are vague. There are often unenforced cooperation requirements. Each of the reform proposals tries to address some of these concerns.

The administration's proposal, the Work and Responsibility Act, clearly defined both parental responsibilities and State responsibilities for paternity establishment. Under that bill, we would say to mothers, "Help us identify and locate the father of your child or you can't get public aid." At the same time our proposals would have held State child support agencies accountable for having programs that get paternity established in a timely manner.

The Senate bill takes a similar approach to that of the administration with the exception that determination is not required prior to the receipt of benefits. Also, in our view, the Senate bill is not completely clear on the responsibilities of the mother.

H.R. 4 takes an approach that we believe penalizes AFDC families with children for whom paternity has not been legally established by reducing AFDC benefits until paternity is established.

This provision would subject approximately 3.2 million children to a reduction in AFDC benefits, including cases where the mother fully cooperated in establishing paternity. In effect it punishes the child because of the action or inaction of the State child support agency, and we think that is unfair.

Additionally, the escrow scheme in the bill sets up a perverse incentive for the States by allowing States to financially benefit by failing to establish paternity before a family leaves welfare.

Ideally, we think the paternity provisions that we have proposed in the Work and Responsibility Act should be enacted. Comparing the House and Senate versions together, we believe that the Senate approach is more sensible and fair.

Next, I would like to discuss the disregard of child support and the distribution of collections. Under current law, AFDC recipients assign their child support rights to the State, but they receive the first $50 of current child support paid that is then disregarded in determining AFDC eligibility. This provides an incentive for noncustodial parents to pay child support and for custodial parents to assist the States in collecting support, while at the same time providing a direct income support for children.

H.R. 4 effectively eliminates the $50 pass-through by prohibiting the disregard of any child support paid to the family.

The Senate bill we believe is somewhat better but problematic because, while it allows the States the option to provide the pass-through, it holds them independently responsible for the cost. The administration supports the current policy on the $50 pass-through and favors giving States wide flexibility in disregarding child support above that amount.

From the broader perspective on distribution, we note that both the Senate and the House bills change child support assignment and distribution policies by putting families first. I would like to reiterate the administration's strong support for retaining those welfare prevention measures.

Let me turn to the issue of recovering the costs of the child support program.

As we understand it, the House Budget Committee report suggests that a potential $1 billion a year savings could be achieved by charging a 15-percent fee on all non-AFDC child support collections. The administration has serious reservations about imposing such a fee on single-parent families. A mandatory percentage fee on child support collections would simply reduce the amount of child support paid to the children, the vast majority of whom live in low- or moderate-income households.

Charging fees, we believe, would also make it more difficult for welfare recipients to make the transition to work and self-sufficiency, since welfare recipients are often economically vulnerable when they make the transition off welfare.

It may also affect the welfare recidivism rate. Low-income single-parent families not on welfare would have less income and might be more likely to apply or come back onto assistance.

Finally, we note that, while States have the flexibility now to charge percentage collection fees, few States prefer to do so. While we are willing to work with the subcommittee on possible alternatives, we are concerned that a percentage fee on all collections

as raised in the Budget Committee report would place what is the equivalent of a new $1 billion tax on low- and middle-class working single-parent families.

Mr. Chairman, like the other witnesses, I want to congratulate you for the outstanding work that this subcommittee and your staff have done on child support enforcement. With a few modifications, we could pass child support provisions that will have real impact on improving the lives of millions of parents and children.

We will be pleased to answer any questions that you have.

[The prepared statement follows:]

STATEMENT OF HON. MARY JO BANE
ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good afternoon, Mr. Chairman and members of the Subcommittee. Thank you for your invitation to appear today to talk about the extensive child support enforcement reforms that are under consideration in the House and Senate. As you know, the Clinton Administration considers child support enforcement to be an integral part of welfare reform and we are very pleased that both the House and the Senate have included an overhaul of the child support system as a component of welfare reform legislation.

We all are in agreement that child support is a critical component in ensuring economic security for millions of single-parent families and that despite ongoing program improvements, fundamental changes are needed to reform the system. Census data shows that in 1991, of the over 11 million men and women potentially eligible for child support, 46 percent did not even have an award, and another 13 percent had an award, but actually received nothing.

We have come a long way toward addressing these issues in the bills before the House and Senate. While there appears to be agreement on the major child support enforcement provisions among the Administration's proposal and the House and Senate bills, there are some important differences that I would like to address today. Also, while not included in any pending legislation, you requested our comments on cost recovery since the House Budget Committee Report recommended an expanded cost recovery system. Finally, we have a number of more technical concerns that we would be pleased to discuss with you or the Committee staff at your earliest convenience.

Child Support Administrative Reform

The Clinton Administration has made collection of child support a top priority. This is demonstrated both by the legislative and administrative actions we have advanced, not the least of which is an annual expansion in resources for the program. As a result of this investment, state child support agencies are collecting more support -- a record $10 billion from noncustodial parents in 1994.

Some of the highlights of these administrative actions include:

- With President Clinton's leadership, Congress passed a requirement in 1993 for states to establish hospital based paternity establishment programs. Already, this measure is rapidly increasing the number of paternities established voluntarily.

- Under Justice Department leadership, cases involving delinquent parents who cross state lines in order to avoid paying child support are being aggressively investigated and prosecuted.

- On February 27 of this year, President Clinton signed an executive order to make the federal government a model employer in the area of child support enforcement. That order requires all federal agencies, including the Armed Forces, to cooperate fully in efforts to establish paternity, and to ensure that children of federal employees are provided the support to which they are legally entitled.

One of the most exciting things we are doing is building a true partnership with the states in strategic planning under our Government Performance and Results Act pilot, or GPRA. Under GPRA, agencies are to develop long term strategic plans and annual performance plans and to set goals and objectives for programs and measure and report on the results. On February 28, 1995, we reached consensus with the states on a child support enforcement strategic plan for FY 1995-1999. Also in this context, child support agencies are developing laboratories of reform through State demonstration projects. The Office of Child Support Enforcement asked states to submit requests for such demonstrations with the hope of approving six projects. However, states were so enthusiastic about this new partnership--30 states submitted proposals for demonstrating creative ways to increase child support collections and paternity establishments--and all have been approved. For example, Florida is talking with us about piloting a new system to identify Social Security numbers. Seattle, Washington is testing a Pro Se Family Resource Center that provides "do it yourself" assistance in preparing and filing many kinds of child support actions. While most of these projects are individual state or local efforts, several of our regions are working in new partnership with their states to combine energies for greater impact. In New England they are developing an interstate compact where they will act as if there are no State boundaries for the purposes of collecting child support on interstate cases. They will be able to quickly share information about parents and their potential income and resources.

The pending child support legislation also embraces this new performance and results driven focus on the program. The President's model for child support reform included a performance driven incentive system for the child support enforcement program that we are very pleased to see incorporated in both the House and Senate versions of the measure.

Child Support Legislation

We believe these administrative steps will serve to complement the larger reforms on the horizon. Five major child support enforcement provisions were included in President Clinton's welfare reform proposal that would make a particular difference in increasing child support collections: streamlined paternity establishment, new hire reporting, license revocation, uniform interstate child support laws and increased use of computers and automation in state collections. These five improvements would increase child support collections by $24 billion in the next ten years and reduce federal welfare costs by $4 billion over the same period.

The Administration proposal was developed in close consultation with State and local child support directors, business organizations, and advocates. It was based heavily on the recommendations of the U.S. Commission on Interstate Child Support Enforcement, a commission established by Congress as part of the Family Support Act of 1988, and it incorporated the best state practices from around the country that have already proven successful. The Administration proposal was used as a model for all of the major child support bills introduced in Congress this year. Indeed, most of the major child support provisions were

incorporated by this Subcommittee in its welfare reform bill, H.R. 4. License revocation was added as an amendment on the House floor at the urging of the Administration. The child support enforcement provisions in the Senate Finance Committee bill are very similar to H.R. 4, although there are some differences that will need to be resolved. In our view, improvements can be made to both of these bills, and while most are technical in nature, we believe that a few have important ramifications for children and families.

I would like to limit my testimony to what we view as the most important differences in the House and Senate bills--cooperation requirements for families receiving assistance and child support disregard and distribution policy. I will also deal with cost recovery, as requested in your letter. I will be happy to answer any questions you may have on any remaining issues following my statement.

"Cooperation" and Paternity Establishment

Currently, cooperating with the establishment of paternity is a condition of eligibility for Aid to Families with Dependent Children (AFDC) and Medicaid recipients. If an AFDC parent does not cooperate with the child support agency, the public assistance agency has a responsibility to impose a sanction (loss of the parent's share of the AFDC grant), unless the parent is determined to have a "good cause" for her action. The AFDC agency currently has the responsibility to make the cooperation determination and impose a sanction if the mother fails to cooperate.

Because a number of problems with the current rules and procedures have been identified (such as, delayed interviews, vague and often unenforced cooperation requirements, poor AFDC and Child Support Agency communication and a slow, labor intensive process for paternity establishment), each of the three proposals for reform address the cooperation issue.

The Work and Responsibility Act clearly defined the responsibility for paternity establishment. We would say to mothers, "Help us identify and locate the father, or you cannot get public aid, because parents have the primary responsibility for supporting their children." But at the same time, we would hold the state child support agencies accountable for having programs that get paternity established in a timely manner. We would require an up-front determination of cooperation, prior to receipt of benefits, and clearly specify both the responsibility of the IV-D agency to determine cooperation and the responsibility of the mother to cooperate under a strict definition of cooperation. The legal process for establishing paternity would be streamlined. The Senate bill takes a similar approach to that of the Administration (with the exception that it doesn't require the determination to be made prior to receipt of benefits and it is not as clear about the responsibility of the mother).

H.R. 4, however, takes a different and troubling approach that ignores the complexity of establishing paternity. Put simply, it penalizes AFDC families with children for whom paternity has not been legally established by reducing AFDC benefits until paternity was established. The penalty would either be $50 or 15 percent of the child's portion of the monthly benefit, whichever the state elects. Once paternity was established, the monies withheld as a penalty would be remitted to the family.

This provision would subject approximately 3.2 million children to a reduction in benefits. These children would have their benefits reduced **even if** the mother fully cooperated in establishing paternity. Although the bill does contain the

streamlined processes for establishing paternity, paternity establishment will still require a legal determination that will take time and the children would be subject to the reduced benefit for that entire period of time. In effect, the children would be punished because of the action or inaction of the state child support agency. This would be compounded in cases in which the father lives in another state. That is unfair. Children should not be punished when the state is at fault for not quickly establishing paternity.

Additionally, this escrow scheme sets up a perverse incentive. Since the money held in escrow would presumably revert back to the state if the mother left welfare and paternity was still not established, states could financially benefit from failing to establish paternity.

Ideally, child support enforcement reform should contain all of the paternity establishment provisions provided in the Work and Responsibility Act. In comparing the House and Senate versions, the Senate approach is closer to that of the Administration and is much more sensible and fair.

Pass-through and Disregard Policy

Under current law, AFDC recipients assign their rights to child support payments to the state as a condition of receipt of AFDC benefits, but they are entitled to receive a pass-through of the first $50 of child support paid for the month that is disregarded in eligibility determinations. This disregard is intended to provide an incentive for noncustodial parents to pay child support and custodial parents to assist states in collecting support. For low income fathers, whose children are on AFDC, this is their only direct financial contribution that reaches the family. In addition, it provides direct income support for the child. For example, in a low benefit state that may only pay $150 per month for a mother and two children, an extra $50 per month can mean the difference between the children having a new pair of shoes for school or going without.

H.R. 4 effectively eliminates the $50 pass-through by prohibiting as a condition of a state's block grant payment the disregard of any child support paid to the family. This not only eliminates state flexibility to maintain the current $50 pass-through but also eliminates current state flexibility to maintain various other disregard and pass-through policies that several states are now using under welfare reform waivers. The Senate bill is somewhat better, but still is problematic. While it technically allows a disregard of child support, the state would be penalized because it would have to pick up the full cost of the disregarded amount, rather than sharing the cost with the Federal government, as under current law.

The Administration supports the current policy on the $50 pass-through and favors giving states wide flexibility in their disregard policies. At a minimum, the language should be clarified to provide a state option to maintain current pass-through and disregard policy.

From a broader distribution perspective, and consistent with the Administration's proposal, we note that both the House and Senate bills change child support assignment and distribution policy by putting families first. The bills make two changes to accomplish this--first, families would no longer assign to the state child support owed to them for periods when they were not receiving AFDC benefits; and, second, when families leave welfare they would be paid any arrearages owed to them before the state could recover AFDC benefit costs. I understand that these changes are being questioned at this time, and I wanted to reiterate the Administration's strong support for retaining both of these

provisions. These changes in assignment and distribution policy serve as a welfare prevention measure because they provide financial support to those who have left welfare for work. In addition, they serve as an incentive for the non-custodial parent to pay arrears because the family would directly benefit.

In summary, the Senate Finance Committee bill made some improvements over the House passed version. The Senate Finance Committee bill added some provisions, such as passport restrictions, rights to notifications and hearings, and a child support guidelines commission, which we support. A number of changes of a technical nature also were made. These changes as well as the technical changes I referenced earlier should be included in the final bill. We look forward to working with you on these issues over the next several weeks.

Cost-Recovery

I would like to turn now to an issue that does not originate in the welfare debate per se but was included in the House Budget Committee Report -- the issue of recovering the costs of the child support program. As we understand it, the Committee Report suggests that a potential $1 billion per year savings could be achieved by charging a 15 percent fee on all non-AFDC child support collections. This fee would be imposed in <u>every</u> case off the top of collections where the family is not on AFDC.

The Administration has serious reservations about imposing such a fee on single parent families. A mandatory percentage fee on child support collections would reduce the amount of child support paid to the children for whom the support is ordered. The vast majority of persons who receive child support enforcement services have low or moderate incomes. In fact, of those requesting help in 1991, fully 73 percent had income below $32,580.

Charging fees could make it more difficult for welfare recipients to make the transition to work and self-sufficiency. Welfare recipients are often economically vulnerable when they make the transition off welfare and charging them with a fee on their child support as soon as they go off welfare, may make the transition more difficult. It may also affect the welfare recidivism rate; low income single parents not on welfare would have less income and might be more likely to apply or reapply for assistance.

We would note that states have flexibility to charge percentage collection fees now. Experience shows that almost all states prefer not to do so however, recognizing that either the fees will be uncollectible, given the existing requirement that child support must be paid before fees are retained, or that they will effectively reduce the support available to the family. Currently only 15 states charge some type of cost recovery fee and, of those, 4 collect solely from the individual owing the support.

The Administration does not oppose fees in general. In some cases, it is entirely appropriate to charge fees, interest, or penalties on noncustodial parents who are capable of paying child support but fail to do so, and so long as those fees are not passed on to the custodial parent. We are willing to work with this Subcommittee on possible alternatives. We are concerned, however, that a percentage fee on all collections would place a new billion dollar tax on single parent families. This would hurt millions of low and middle class families. We believe that states should retain the option of determining whether a cost recovery policy meets their program philosophy and to design the scheme that would best fit the states' need.

Conclusion

Once again, Mr. Chairman, I want to congratulate you for the outstanding work that this Subcommittee and your staff has done on child support enforcement. With a few additional modifications we could pass child support provisions that will have real impact on improving the lives of millions of parents and children. We in the Administration look forward to working with you further on this issue. I would be pleased to answer any questions that you may have at this time.

Chairman SHAW. Thank you. I would also like to thank you and the administration as to this one portion of the bill. I think we had some great cooperation.

Mr. Collins

Mr. COLLINS. No questions.

Chairman SHAW. Mrs. Kennelly.

Mrs. KENNELLY. Madam Secretary, how long would you think it would take the average recipient of child support to reimburse the State for that collection of the 15-percent fee? How do you perceive it as you see it written out?

Ms. BANE. The 15-percent fee, as I understand the proposal, would be a 15-percent fee all the time; it is not related to the cost of actual collections.

One of the previous witnesses made the point that the collection fee would take 15 percent away from everybody for all time, irrespective of how much was actually collected. It could be very unfair to people whose costs were very low.

Mrs. KENNELLY. It could be higher than the administrative costs were——

Ms. BANE. Absolutely.

Mrs. KENNELLY. When you say that so quickly, in many cases it would be higher?

Ms. BANE. Yes.

Mrs. KENNELLY. That is why you say that rather than calling this a fee you look at it as a tax?

Ms. BANE. Yes.

Mrs. KENNELLY. Thank you.

Chairman SHAW. Mr. McCrery.

Mr. MCCRERY. Thank you, Mr. Chairman.

Ms. Bane, in the establishment of the paternity question, in the Senate bill or in the administration's proposal, how is cooperation determined? Is there some objective standard to determine whether the applicant is cooperating?

Ms. BANE. We tried to say more clearly what cooperation involves. It involves giving the name of the absent parent and giving a couple of pieces of identifying information. We spelled out some options in our bill last year.

Paul.

Mr. LEGLER. Beside the name, you would have to give information such as place of employment, school the person attended, Social Security number, things that the agency could use to track the person to serve them with the necessary papers to start a paternity action.

Mr. MCCRERY. So if the person were to say "I don't know the name of the person," is that deemed not cooperative?

Ms. BANE. Yes.

Mr. MCCRERY. So, in that instance, we could hold up payments?

Ms. BANE. Yes.

Mr. MCCRERY. Talking about cost recovery, I understand that the Budget Committee in its list of things we might do to achieve their numbers didn't intend for us to assess a 15-percent fee against every collection. It was their estimate that we might get 15 percent of collections through some means. Is it your position that

we ought not even assess some fee for recovery for middle-income families or——

Ms. BANE. It is complicated, as the previous witnesses testified. Our position is that it is a good policy to have the child support system serve a wide range of people, and it should be easy for people to come into the child support system because it is better for them to be receiving child support than to be on welfare. This is our general position.

Our own bill said that there shouldn't be application fees, that there could be some cost recovery assessed against the noncustodial parent in cases where that was appropriate. But we do think that, in general, it is better to make the system as cheap and easy as we can for folks.

Mr. MCCRERY. But, in principle, you are not opposed to recovering some costs?

Ms. BANE. That is correct.

Chairman SHAW. Mr. Nussle.

Mr. NUSSLE. Thank you.

I had a question about that. Because in reading the language out of the budget, it didn't seem to go along with what you were saying. There is certainly nothing mandatory in there. It was for middle income, I think was the intent, as well as it also indicated that the application fees are administrative nightmares, and this service fee would ensure that families are only charged when the service has been successfully performed. So I don't think it is a tax. It is a cost recovery, at the very most.

The other thing I wanted to ask you about was there has been some confusion about the amount of money that is going to be necessary in order to implement the automated data processing service through the States.

It is my understanding that the administration proposed $260 million. We pretty much adopted that as the figure. We now hear from the CBO, Congressional Budget Office, that they are suggesting that it may take upward of $400 million to implement this process.

This is, obviously, one of the more important facets of success, so we want to make sure it is done correctly. Is the $260 million earmark for the data processing enough? Is that—how are you going to be able to successfully spread that through the States so that we have a successful program?

Ms. BANE. I think we probably want to relook at that number. The $260 million was our best estimate at the time that we submitted our bill of what it would take for the additional computer requirements that were in our bill.

The bills that the Senate and the House have now passed contain some additional requirements on the States, particularly the new hire registries, which in your bill is at the State level rather than at the Federal level, and some other things as well. Our sense is that there are some new costs to the States that would be involved above and beyond what we had estimated.

I think it would probably be worthwhile to do more work on the estimates, because I believe everyone agrees that automation is a key to successful child support enforcement. We don't want to be penny wise and pound foolish here.

Mr. NUSSLE. Do you have a new estimate? The thing that concerns all of us is that that is almost double the amount. So we want to make sure that everybody gets the right information. We want it to be successful. It is not something that we are trying to underfund right off the bat.

Ms. BANE. We don't have an estimate that is done at this time. I think we are working on one.

Mr. LEGLER. The Senate bill came out of committee very recently, but we will certainly work on an estimate.

Mr. NUSSLE. Assuming that we can arrive at an agreeable and feasible number, have you thought it through at all—there is a concern on the part of the States that they get their fair share so that this is done correctly. Do you have any ideas yet on how distribution to the States will be made so that they can get their data processing services up and running?

Ms. BANE. We would have to look very carefully at when the legislation was going into effect, where the States were, and what the add-on costs would be. Devising allocation formulas is pretty difficult because you are balancing various dimensions of fairness. In our own bill we didn't specify an allocation formula. We said that the Secretary would examine all the factors that were in place. We can certainly work on this for you.

Mr. NUSSLE. Last was a similar question that Ms. Dunn asked with regard to the paternity establishment standard of 90 percent over a period of years. Based on your contact with the States, is that something that is feasible based on conversations that you have had? We have been encouraged but, just to close the loop, what have you been hearing?

Ms. BANE. Very few States are close or anywhere in that vicinity.

I think it was interesting that the child support official, Ms. Smith from Massachusetts, said that even with paternity establishment in the hospital, which you would expect to be a high percentage, they were achieving 64 percent. She noted, that is much higher than any other State.

Our own bill left the goal at 75 percent, and I think that will be a stretch for the States.

Mr. NUSSLE. Thank you.

Chairman SHAW. To follow up, Ms. Kaiser and Ms. Burke both raised the question of the possibility that we could be getting into an unfunded mandate, and we have to be cautious. We don't want this to break down because of that. So any information that you could give to the Senate would be helpful.

Ms. BANE. On paternity establishment?

Chairman SHAW. That and the computer system. We want to be sure this is costed out so we don't fall into that trap.

Mr. Rangel.

Mr. RANGEL. Dr. Bane, do you have any idea how many of these fathers are teenagers? I thought a lot more than actually——

Ms. BANE. Actually, it is quite a small percentage. The percentage of moms who are teen moms is relatively small, and the fathers tend to be older than the moms, so it is actually a very small percentage. I don't know the exact number. We can get that for you.

[The following was subsequently received:]

State vital statistics agencies report birth registration data to the Public Health Service's National Center for Health Statistics (NCHS). While information on the age of unmarried mothers is routinely gathered, states have different rules concerning recordation of information about the father for children born out-of-wedlock. Thus for the most recent year available, 1992, NCHS can only report the age of the father for 42 percent of the children born in that year to unwed teenage mothers.

In 1992, 365,039 children were born to unmarried teenage mothers. For the 153,866 births where the fathers' age was reported, only 40 percent of the fathers were also teenagers. The following table shows the percentage distribution by age of the father for children born to unmarried mothers under age 20.

BIRTHS TO UNMARRIED MOTHERS UNDER AGE TWENTY - 1992

		Fathers age							
Mothers age	TOTAL AGE SPECIFIED	under 15	15-17	18-19	20-21	22-24	25-29	30+	age not specified
under 15	2,876	115	1,235	819	394	219	75	19	8,285
15	8,737	88	2,978	2,966	1,540	768	326	71	16,722
16	19,226	58	4,614	7,101	4,063	2,249	893	248	29,795
17	31,312	35	4,506	10,687	8,361	4,948	2,175	600	42,791
18	42,605	19	3,212	12,444	12,484	8,865	4,236	1,345	53,404
19	49,110	10	1,720	9,746	14,881	13,227	7,113	2,413	60,176
Total under 20	153,866	325	18,265	43,763	41,723	30,276	14,818	4,696	211,173
Percent Distribution	100.0%	0.2%	11.9%	28.4%	27.1%	19.7%	9.6%	3.1%	

Source: National Center for Health Statistics, unpublished data

Mr. RANGEL. There should be other tools in terms of child molesting. Is that a factor in this estimate, where adults are taking advantage of younger children?

Ms. BANE. There have been recent studies of teen pregnancy that were certainly a surprise to me in that they suggest at least for the younger teenagers, a quite large proportion of pregnancies had resulted from——

Mr. RANGEL. Could you direct me to that study?

Ms. BANE. Yes.

Mr. RANGEL. President Clinton signed an executive order requiring all Federal agencies to facilitate the payment of child support. What does it do and how does it work?

Ms. BANE. Basically, it tries to make the Federal Government a model employer. It says that the Federal Government, as we expect other employers to do, should comply with child support enforcement actions relating to its employees, it should attach their wages, if necessary, and so on. I think it is a very important order. We are well on the way to putting it in place and making sure that we act like a model employer. We are working very hard with DOD and other departments who are cooperating in making sure that we do put these procedures in place.

Mr. RANGEL. Thank you.

Chairman SHAW. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

I was interested in Mr. Nussle's questions regarding paternity, and you heard Ms. Smith's answer earlier. I liked her answer better than I liked yours.

So I would like to encourage you and—if this 90 percent figure stays in H.R. 4 and is signed by the President—to join with us and with the States. I think 90 percent and pushing for that goal is far better than 75 percent which was your answer and which Mrs. Smith says she will achieve in her State by next year. I would like to invite you to join with us.

I want to make this into a huge educational campaign. If we put together the sort of public relations campaign that was put together by private industry and by government on, as Ms. Smith said, the whole issue of youth smoking, maybe we could get the stigma back into paternity and the creation of unwed children, which is the problem for all of us and what we are trying to solve. I hope you would look favorably toward that.

Mrs. KENNELLY. Would the gentlelady yield?

Ms. DUNN. Yes.

Mrs. KENNELLY. I want to add that, having worked with Dr. Bane over the years, I don't know anyone more dedicated to solving this problem and eliminating it completely.

I think what has happened is Dr. Bane has just become very realistic, and it would be like heaven if she could get to 75 percent, but she is very realistic that sometimes you cannot find out who the father is for a number of reasons that are fact-of-life type things. But I think she would love the 90 percent.

Ms. BANE. I certainly would.

Ms. DUNN. It is a great goal, if we could achieve that, looking at Massachusetts, within 5 years.

Ms. BANE. Absolutely. I am pleased both bills, as current law does, recognize that States need time to get to 75 percent or to 90 percent. It gives them improvement standards which I think is the real key here. This is an area where we want continuous improvement toward the highest achievable goal.

Mr. LEGLER. I might note that the national average right now is 45 percent, so we have quite a ways to go just to get to 75 percent.

Ms. DUNN. But I think with proper methods and focus that we ought to be able to get there.

Mr. LEGLER. I agree.

Chairman SHAW. Dr. Ensign.

Mr. ENSIGN. You mentioned in your testimony that there were financial incentives for the State to take advantage of their people. They would be rewarded for not giving as many services.

Implied in your testimony—and maybe this is where I was misreading it—do you feel that the States care less about their people than the Federal Government so that they would care about that money more than they would care about their people?

Ms. BANE. Of course not. My statement was about the relatively narrow cooperation proposal, the proposal that benefits be reduced, that the money be put in escrow, and then under certain circumstances that money reverts to the State.

I think what is important in establishing paternity and support orders is that we make sure everybody has a really strong incentive to do everything they can, that both the parents have every incentive to cooperate, and that the State has every incentive to invest the resources and the effort to make sure that they do their part in establishing paternity. I don't think it makes sense to have incentives in place that don't push in those directions.

Mr. ENSIGN. Thank you.

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

I am pleased to hear both you Ms. Bane and some of my colleagues talk about the equipment, the database, as well as the hardware and software, and providing it for the States. I argued that point until I was blue in the face in some of our deliberations, the fact that we should—if we are going to require and participate in child support recovery, we should provide the equipment and the database.

The incentive here on our part is the fact that we in the past have walked into this quicksand because we, with the entitlement program called welfare, were trying to recoup some of those benefits that we were putting out.

What would be your position if we are going to provide the database, hardware and software, and the Federal registry and means of cross-checking registries to help locate, a greater incentive being that the State could keep all funds that they collected if they recovered the cost in AFDC cases?

Ms. BANE. It would certainly cost the Federal Government money.

Mr. COLLINS. Would that not be an incentive for the States to collect those funds, being we are block granting down then?

Ms. BANE. I understand. I would have to think through that proposal.

The Federal Government now, and under both bills that are being considered, pays the majority of the costs of the child support system—it is two-thirds plus incentives in your bill——

Mr. COLLINS. It gets very complex.

Ms. BANE. I think it is important that the States pay a share of that cost. This is part of what makes the system cost effective. But, obviously, we think that it is good policy for the Federal Government to pay a substantial share of the cost. There are various ways to structure incentives, such as the structure that is in the bill now where the Federal Government pays a percentage of the costs. Another is performance incentives for the States, which we very much support.

Mr. COLLINS. I can appreciate that, but I think the best performance incentive would be for the States to be able to maintain and keep all funds that they were able to recoup through collections. Thank you.

Chairman SHAW. Dr. Bane, as usual we appreciate your taking the time to visit with us and the good information that you were able to give to us.

The full committee, as we speak, has reconvened on the tax bill markup that we are engaged in, so we are going to recess this subcommittee.

We have been told that it is expected that we might finish up in the full committee room at 4:30, so those of you that are interested in listening to the other witnesses—along with the other witnesses, if you could check back here by 4:30; and if we are not ready to go, we could give a progress report.

[Recess.]

Chairman SHAW. I am going to wait just a moment and let more Members return to the hearing room, but in the meantime, if the panel could come up and seat themselves at the table. We have Nancy Ebb, a senior staff attorney at the Children's Defense Fund here in Washington; Ronald K. Henry, a partner of Kaye, Scholer, Fierman, Hays & Handler, Washington, D.C.; Harry Wiggins, vice president, Child Support Services for Lockheed Martin IMS, here in Washington; and Jane Ross, who is the director, Income Security Issues, the U.S. General Accounting Office, here in Washington.

I will hold the testimony for one or two more moments because I want to be sure somebody from the minority side is here to represent them on the questioning. We will only wait for just another few more moments.

I am going to go ahead and start the hearing. We have your written testimony so any Members that are not here can review that and bring themselves up to date.

Ms. Ebb.

STATEMENT OF NANCY EBB, SENIOR STAFF ATTORNEY, CHILDREN'S DEFENSE FUND, WASHINGTON, D.C.

Ms. EBB. Thank you for the opportunity to testify, Mr. Chairman. The CDF, Children's Defense Fund, works intensively on child support, and we believe very strongly it is a key building block toward family self-sufficiency.

I would like to focus our oral remarks on two important issues for conference, the first being distribution. We strongly support the

steps that the House took putting children first in the distribution of arrears. We think this is one of the strongest provisions in the House bill to assist families toward self-sufficiency and leaving welfare, and we hope that it will be retained in conference.

Letting children keep child support before the State is one small way of helping make up for the hardships they face when child support is not paid. Many families that don't receive child support delay going on welfare, trying to get by, using up family resources and savings and trying to avoid going on the welfare rolls. A number of them ask for child support help during this time but don't get it.

Nationally, we know that of nonwelfare families seeking support from agencies, of those with child support orders where child support should be readily collected, in nearly 6 out of 10 cases, child support is not collected. So for many of the families who are trying to delay going on welfare seeking child support services, the precipitating event for going on welfare may be the inability to get child support help in the first place.

By the time families go on welfare, many have exhausted resources. The irony of the current distribution system is that the families who have struggled longest trying not to go on welfare are the biggest losers if arrears are collected. The longer they delay going on welfare, the larger the pre-AFDC arrears and the larger the windfall for the State if the State comes first in the distribution of arrearages. Such a policy really sends all the wrong signals. If we are really trying to urge families to stay off welfare and to succeed once they leave the welfare rolls, these are the very families we should be putting first.

Children suffer when they don't get child support. This is a story from a New York teenager who was on welfare. She says:

> My parents were divorced when my twin sister and I were 4. Right after the divorce, our father visited and paid support for about 6 months. Then he stopped paying. In order to survive, our family was forced to accept welfare because without the child support payments, our mom could not earn enough to support us.
>
> To get off welfare, my mother began working two and three jobs to support us. My sister and I never really got to spend much time with our mom because she was working so many jobs. My father is angry that my mother is trying to collect child support. The child support enforcement system has let my father get away with breaking the law. It has allowed him to abandon Heather and me.
>
> My mother has always been the one that had to say no to us; no, we could not have nicer clothes, no, we could not go to the dentist, we could not go to the doctor unless it was really an emergency. The money that we should have received from my father could have paid for the basics such as food, clothing, and medical care.

It just seems fair that children like this should benefit from child support paid when they were trying to keep off welfare, but it is an investment in self-sufficiency too. We know when families go off welfare they are often very poor and particularly with time-limited welfare, it is important to help them succeed when they go off welfare for work.

We know there is a demonstrable link between the collection of child support, the decision to take a job, and the ability to stay off welfare. The best thing for those families would be regular, reliable, current support. But failing that, at least allowing them to keep the back support provides them with a very important economic cushion to help them through hard times when they are off welfare and to ensure that they will succeed.

To turn briefly toward paternity, we strongly support encouraging paternity establishment in every possible case where a child is born out of wedlock. Both the House and the Senate bills take strong measures toward that, totally denying welfare to families that do not cooperate with efforts to establish paternity. The House bill goes one step further, reducing welfare benefits even to families that are cooperating if legal paternity is not established.

We think that goes too far. It doesn't make sense if a child's family has done everything possible to cooperate with paternity establishment but it hasn't happened yet, and unfortunately, in many instances, the system just doesn't perform for children. Even when parents provide the necessary information, the system doesn't respond or responds agonizingly slowly.

An Arizona study looked at cases in which the State agency had the names and addresses of 159 alleged fathers. It also had the Social Security numbers of 109 of those men. That should be enough information to meaningfully work those cases. But 2 years later, paternity was only established in 10 cases and there are similar process studies from other cases showing long delays. Given those kinds of delays, we really have serious concerns about a policy that reduces benefits to children when there has already been a determination at the time of application that the family is cooperating.

So we hope that you revisit the issue in preparation for conference. We appreciate the work that you have done on this important issue and look forward to working with you.

[The prepared statement follows:]

STATEMENT OF NANCY EBB, SENIOR STAFF ATTORNEY
CHILDREN'S DEFENSE FUND, WASHINGTON, D.C.

The Children's Defense Fund ("CDF") appreciates the opportunity to testify about differences between House and Senate child support legislation that may arise at conference, as well as cost recovery measures proposed by the House Committee on the Budget. CDF is a privately supported charity that advocates for the interests of low income children. We work intensively on the issue of child support, a key building block in family self-sufficiency. CDF has worked hard on the House and Senate child support provisions.

We have strongly advocated for many provisions contained in the House and Senate child support bills, which we hope will be retained in conference: distribution rules that can help families succeed when they leave welfare; strengthened enforcement techniques (such as new hire reporting and centralized monitoring and collections) that build on successful state experience; and improved techniques for establishing paternity on behalf of children born out of wedlock. We are troubled, however, by proposals that penalize children -- unrealistically high cost recovery provisions proposed by the Committee on the Budget; penalties for failure to establish paternity imposed on families that are cooperating; and the elimination of the $50 passthrough for welfare children on whose behalf child support payments are made. We welcome the opportunity to express both our congratulations and our concerns.

Distribution

The provision governing when back child support owed to a family takes priority over child support owed to the state is one of the most important child support improvements made by the House -- and included in the Senate Finance Committee's markup -- to increase the likelihood of a family's success in leaving welfare. It is crucial that it be retained.

When families leave welfare to work, many of them remain very poor, and very vulnerable to a return to welfare. Child support can be a critical factor in helping families stabilize employment. The House distribution provision helps families by providing that former welfare families can keep not only current support paid on their behalf, but also back support that came due before the family went on the rolls, or after the family left the rolls.[1]

We know that many former welfare families remain vulnerable: research by David Ellwood suggests that nearly half of mothers who received AFDC returned after their first welfare "spell" ended. Many of these mothers remain very poor when they leave welfare:

- A 1995 study by Gary Burtless concluded that even full-time employment would not remove an important minority of AFDC recipients from poverty, in large part because their educational attainment and skills give them access only to very low wage jobs.

- Similarly, a study by the Institute for Women's Policy Research found that welfare parents who go to work find jobs in the lowest-wage occupations, earning an average hourly wage of $4.29 (1990 dollars).

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[1]Under current law, when a family applies for AFDC, it assigns to the state the right to collect current support, as well as any support that was owed before the family applied for welfare. Except for the first $50 of current support paid in a month, the state keeps child support collected while the family is on AFDC to offset the cost of welfare (except if the support payment is higher than the welfare payment). When the family leaves AFDC, the family gets back the right to receive current support. The state keeps the right to keep pre-AFDC support that was owed to help offset the cost of providing welfare to the family. If post-AFDC support also is due to a family, the state has an **option** about how to distribute collections of back support: the state can choose to distribute post-AFDC arrears to the family before it retains pre-AFDC arrears to offset the cost of welfare help, or it can keep pre-AFDC arrears to pay off the cost of AFDC before it distributes any post-AFDC arrears to the family. **According to the U. S. Department of Health and Human Services, nineteen states now give back support owed to the family priority over back support owed to the state.**

We know, too, that reliable child support can play a pivotal role in the decision to work and the ability to stabilize employment when a family leaves welfare:

- A 1995 study by Peter David Brandon found that the rate of return to welfare is greater among former AFDC mothers who experience highly variable spells of child support. The ability to secure quickly a steady stream of income is one of the most significant predictors of whether a family will return to welfare.

- The Institute for Women's Policy Research used Census Bureau data to conclude that welfare mothers who receive child support are significantly more likely to work than mothers who do not receive child support.

Given how vulnerable these families are, the House provision allowing them to keep back child support paid on their behalf just plain makes sense. Allowing children to benefit from support payments that help keep them off welfare is particularly important in a world of time-limited welfare, when child support payments can be the boost families need to stay off the welfare rolls and avoid bumping up against a lifetime limit on welfare.

It's especially fair that children should benefit from back child support collections because children are the ones who suffer when child support is not paid: a 1992 survey of 300 single parents in Oregon, New York, Georgia, and Ohio found that during the first year after the parent left the home, more than half the families surveyed faced a serious housing crisis. Over a third of custodial parents reported that children went without medical care when they were sick; nearly a third reported that children went hungry at some point during the year; and over a third reported their children lacked appropriate clothing, such as a winter coat.

Many of the families that do not receive child support delay going on welfare. They use up family savings and lose family resources in the effort to get by without child support and without asking for help from the state. By the time they **do** ask for welfare help, they often have exhausted the resources that could help them stabilize employment and succeed once they get back on their feet and leave welfare.

If back child support is collected that covers this difficult pre-welfare time, it just makes sense that it should go to the family. It will help them rebuild the economic cushion that sustains their post-welfare work effort and to make up for the harm the family underwent when it could not get child support and was struggling to get by without welfare.

The irony is that if states are allowed to keep pre-welfare arrears, the families that tried the hardest to avoid welfare are the biggest losers: the longer the family tried to get by without child support and without asking for welfare, the greater the pre-welfare arrears owed to them, and the greater their loss if the state rather than the family gets to keep those arrears once they are collected. Such a policy sends all the wrong signals. If families have worked hard to get by without welfare, they are the very ones we should sustain by our child support policy.

Finally, it makes sense to give arrears to families before the state because in a number of cases the family has vigorously sought child support help before going on welfare. The existence of pre-welfare arrears may reflect the failure of the child support system to perform the way it should on behalf of non-welfare families.

While states have worked hard to improve their performance for these families, the numbers show that prospects for many of them are still bleak. According to the most recent federal data, some collection is made in only 31.3 percent of all non-AFDC child support cases that have an outstanding child support order -- less than one out of every three cases.

When states have failed so dismally to help non-welfare families, they should not be rewarded by a later windfall -- the right to keep pre-welfare arrears -- if the family goes on

welfare and the state collects arrears that built up before the family went on welfare and did not get effective help from the state in collecting current support. Indeed, allowing states to keep pre-welfare arrears gives them a perverse incentive: the less effective states are in collecting current support for non-welfare families, the greater the possible benefit to the state if those families subsequently go on welfare and the state collects support owed to them before they went on the rolls.

Recommendation:

The House distribution provision should be retained.

Cost Recovery

The Committee on the Budget proposes to harvest $1 billion in savings from children by charging a 15 percent service charge for non-welfare children whose support is collected by state child support agencies. We understand the importance of recovering government funds when services are provided to individuals or businesses that can reasonably be expected to pay for them. **We strongly believe that the method of cost recovery proposed by the Budget Committee, however, saddles our most vulnerable children with a form of tax for government services that is beyond their means, contrary to the purposes of the program, and without any relationship to the value of services provided to them.**

We oppose the proposed cut for the following reasons:

- Requiring savings of this magnitude from child support slashes federal expenditures by far more than has been proposed in virtually any program. In FY 1993, the federal share of child support enforcement spending (for welfare and non-welfare families) was $1.5 billion. The proposal would reduce federal spending by $1 billion -- an unprecedented reduction in a federal program that plays such a prominent and important place in pending welfare reform proposals.

- Requiring a 15 percent cost recovery from every collection made on behalf of a non-AFDC child effectively taxes a small minority of low-income children for the costs of services provided -- often unsuccessfully or ineffectively -- to a larger group of non-welfare children. The Budget Committee proposes that this Subcommittee recover 15 percent from collections on behalf of non-welfare children because that percentage offsets the **total cost** of services provided to **all** non-welfare clients, including those where the state does not succeed in making any collection. Because only slightly more than one out of every four non-welfare children (26.1 percent) served by state agencies actually had **any** child support collected on their behalf, this means that a small group of children will be held responsible for services provided to a far larger population.

- The fifteen percent figure proposed is thus especially unfair because it bears no relationship of the actual services provided to a child on whose behalf a collection is made. There is no evidence to show that fifteen percent is a fair rate of recovery based on what the government has actually expended on this important service. Instead, the evidence is quite to the contrary. Because GAO and the Budget Committee arrived at that figure by looking at **total** expenditures for non-AFDC enforcement (including enforcement in cases in which no collection is made), it is quite clear that services to the much smaller number of non-welfare cases in which some collection is made cost far less than the proposed fifteen percent recovery charge.

- The unfairness of holding a small group of children responsible for services provided to a far larger group is even more troubling because many of these children are quite low income. According to Census Bureau data provided by the U. S. Department of Health and Human Services, nearly one out of every

two non-welfare children served by states has non-child support family income of $21,720 or less (200 percent of the federal poverty guideline for a family of three). Three out of every ten non-welfare children has family income of $16,290 or less (150 percent of the federal poverty guideline). These families are often just a paycheck away from welfare. Taking such a huge chunk of child support recoveries to offset the costs of services provided to **other** families as well as to them doesn't make any sense, and jeopardizes their hard work to stay off welfare.

- Instituting mandatory fee recovery policies of this magnitude also takes away state flexibility they have under current law to decide whether fee recovery makes sense. Current law allows states to decide the amount of the application fee (if any) they will collect from non-welfare families that ask for help, as well as whether they should recover fees or costs from either the custodial or non-custodial parent. According to a study by the GAO, most states charge only the most minimal application fee (31 states charge $1 or less) - apparently because they do not want to discourage non-welfare families from asking for help. Only 15 states now charge some type of cost recovery fee, and four of those collect only from the non-custodial parent.

- Finally, collecting such imposing fees may have the unintended, but serious, effect of discouraging low income parents from using the child support system because they cannot afford the fee and gamble that they do not need help with enforcement. They may leave the child support system when payments are regular, only to come back in when payments fall apart. This "revolving door" effect can drive up administrative costs -- as cases must be opened and closed on a revolving basis, and as cases become harder to work because the agency has not been monitoring them and responding promptly when problems arise. It also can have great personal costs to the family, since many of the non-welfare families served by the child support system are barely scraping by, and may experience real crisis when child support payments are not monitored and fall behind.

We recognize the legitimacy of the argument that consumers of government services who can afford to pay should be asked to do so. Applying this concept in the child support arena, however, involves a difficult balancing of competing factors: the likelihood that cost recovery will be counterbalanced by administrative burden; the prospect that cost recovery may backfire, hurting vulnerable children in the process; and the possibility that the "good actors" -- custodial or non-custodial parents who take their responsibilities seriously -- may be asked to shoulder an unfair burden.

If this Subcommittee does wish to institute any form of cost recovery from child support, there are some important criteria to apply in deciding what form of recovery is appropriate:

- **Cost recovery should not hold the good actors responsible for costs created by bad actors.** The form of cost recovery proposed by the Budget Committee -- a flat fifteen percent fee to recover from collections the costs of enforcement for **all** non-welfare cases (including those with no collections) -- makes children and custodial parents who have aggressively and successfully sought to hold non-custodial parents to their responsibility responsible for paying the cost of the entire system. Similarly, proposals which have been floated to add a large collection fee onto routine payments by non-custodial parents have the similar effect of penalizing the non-custodial parents who are living up to their responsibilities.

- **Cost recovery *should* hold the bad actors responsible for costs they create.** When system costs are driven up because parents fail to pay without good reason, it is fair to ask them to contribute towards the cost of holding them accountable. States currently have the option of charging late fees (3 - 6

percent of the overdue amount), though few states do so.

- **Cost recovery should be commensurate with a family's ability to pay.** Some users of the IV-D system -- both custodial and non-custodial parents -- can afford to pay for child support services. But Ivana Trump does not frequent the IV-D waiting room. Many IV-D parents are relatively low income, with roughly half of the non-welfare parents at or below 200 percent of federal poverty. Charging them high fees significantly undercuts their ability to provide children with the most basic protections -- reliable rent, food on the table, and enough money for clothes, child care, and medical services. Fees charged to both custodial and non-custodial parents should reflect ability to pay.

- **Cost recovery should not be applied to the most vulnerable families.** Given all the investment and energy directed towards moving families towards self-sufficiency, it does not make sense to jeopardize their success by burdening vulnerable families with high child support costs. These costs create barriers to crucial child support services that help families maximize income and increase the likelihood that they will succeed in their effort to leave public assistance. Cost recovery should not be imposed on families that are former welfare recipients, or that are currently receiving subsistence benefits such as Food Stamps or Medicaid.

- **Cost recovery should not directly or indirectly reduce payments to a child below the bare minimum a state has determined is appropriate based on family income.** In 1984, and again in 1988, Congress delegated to states responsibility for setting state guidelines that reflect the amount a child needs for support based on the child's needs and the family's income. If fees are charged that significantly reduce the child support amount below state guidelines, then this determination by the state is undermined by federal intervention.

  Similarly, if a high fee is added to the obligation of the non-custodial parent, the state's determination of what that parent can afford to pay is undermined. Moreover -- as a paper prepared for HHS notes -- "[s]tates with cost recovery fee systems report that judges are reluctant to impose substantial costs on non-custodial parents in addition to the child support owed. If it is charged, it is difficult to collect." One very real risk is that judges concerned about the inequity of high fees will respond by setting the child support order lower than it otherwise should be, thereby reducing the amount state guidelines dictate is right for a given child.

- **The cost recovery mechanism should not be so burdensome to administer that it has the unintended effect of creating new child support costs by creating more paperwork.** As the HHS paper points out, the "payoff of fees is not always readily apparent. Some fees systems are expensive to maintain." In the past, some states have been reluctant to institute cost recovery because of their concerns that the cost of setting up and operating such a program outweighs the benefits of cost recovery.

Recommendation:

Because the Ways and Means Committee is not bound by the Budget Committee's recommendations, we urge that fee recoveries from other, wealthier consumers of government resources -- such as large corporations -- be used to accomplish the proposed savings. At a minimum, the savings accomplished through cost recovery from child support enforcement should be sharply reduced from those unrealistically high levels proposed by the Budget Committee.

If the Subcommittee does adopt some form of cost recovery, we urge that it respond

to the criteria we have outlined. Based on these criteria, CDF recommends that the Subcommittee not adopt the approach recommended by the Budget Committee. Fairer approaches could include:

- requiring states to collect interest and/or late fees from non-custodial parents when they owe back child support, and requiring that this income be re-invested in the child support program; or

- requiring states to collect modest fees from non-custodial parents participating in wage withholding (for example, $2 - 4 per collection or $25 per year), but exempting very low income parents (for example, those whose income is below 150 - 200 percent of federal poverty). Because states have access to the income of the non-custodial parent at the time they establish the child support order, making a determination about whether the non-custodial parent should be exempt from cost recovery does not impose the same administrative burden as is posed when states are asked to make the same determination about custodial parents.

Paternity Establishment

For children born out of wedlock, establishing paternity is the gateway to child support. CDF has strongly supported efforts to improve paternity establishment performance for these children. Both the House and Senate bills contain provisions intended to obtain greater cooperation from parents. They part ways, however, on the issue of what should be done once a determination has been made that a parent is genuinely cooperating, but paternity has not yet been established.

The House bill provides that in this case, a family must be penalized by having its aid reduced by 15 percent (or $50, at state option). These funds must be placed in escrow, and returned to the family if the family is still receiving welfare at the time paternity is established. The Senate Finance Committee bill does not contain a similar provision.

We are deeply concerned about the House provision. It blurs the distinction between the expectation that families cooperate with efforts to establish paternity and the ability of the child support system to respond quickly and successfully when a family has cooperated. The House and Senate bills already have a tough penalty for failure to cooperate -- an absolute denial of welfare benefits. The House bill adds on a further penalty for children whose parents **are** cooperating but on whose behalf paternity has not yet been established.

We believe it is unfair to reduce help to a child until paternity is established if that child's family has done everything within its power to cooperate. It penalizes a child for delays that are often wholly beyond the control of the child and custodial parent.

While there have been improvements in paternity establishment, the system still responds poorly. and slowly, in many instances where families cooperate and even aggressively seek help with establishing paternity:

- Even when welfare parents provide detailed information, some state agencies often fail to act. For example, an Arizona study examined cases in which **the state agency had the name and address of 159 alleged fathers.** The agency also had the Social Security numbers of 109 of the men. Over two years, the agency located 140 putative fathers, contacted 19, and **established paternity in only 10 cases.**

- A Wisconsin process study found it took an average of 18 months to establish paternity. A 1990 Nebraska process study by Policy Studies Inc. found it took an average of 17.5 months to get paternity established. These studies support the findings from the Arizona study that establishing paternity is often a very slow process, even when ultimately successful.

It seems unfair to penalize a child for delays in establishing paternity that neither the child nor the mother can solve.

The provision that funds be held in escrow until paternity is established, moreover, seems both burdensome and unrealistic. If states must separately keep track of funds held in escrow, a significant administrative burden is imposed on them for the dubious purpose of penalizing children who do not have paternity established but whose parents have already been found to be cooperating (a determination that must be made before the family is found eligible for welfare help). And if children have left the welfare rolls by the time that paternity is established, under the terms of the House provision they are apparently ineligible for funds that have been placed in escrow on their behalf. This provision creates a perverse incentive for states to delay establishing paternity until children have left welfare (thereby saving for the state funds that have been put in escrow while the child receives welfare and paternity has not yet been established).

Recommendation:

We strongly urge that at conference the House recede to the Senate on this issue.

Central Collections and Case Monitoring

Having a central state system for collecting support is an important feature of child support reform. It simplifies child support withholding for employers, allows states to monitor cases and to respond quickly when payments fall behind, and saves scarce resources by enabling states to do highly automated matches between child support records and other information systems that may yield important information about where noncustodial parents are working or have assets.

Some states have county-based rather than state-based systems. Where these systems work just as well as a central state system, there is no sense in disturbing them. Where they operate at greater cost, or with less effectiveness, however, they do not make sense.

The House and Senate bills contain similar provisions on central case collections that differ in one technical, but important, respect. Both allow states to substitute a county-based system for a central state system if they can demonstrate that a county-based system will not require more time or greater cost to get up and running. **Only the Senate bill, however, provides that these local systems are permissible only if once set up they *perform* as efficiently and cost-effectively as a central system. This Senate provision is key**. If a county-based system operates at greater cost, or more slowly than a central system, it potentially hurts families, employers, and the federal government.

Recommendation:

The Senate provision should be accepted at conference.

Child Support Benefits for Welfare Families

We are concerned about both House and Senate provisions that undermine the benefit of child support for welfare children. Under current law, the first $50 of **current** support received on behalf of a welfare family is "passed through" to the family without lowering their welfare grant. This provision is important because children get a direct benefit from child support paid on their behalf, and **may** also be important as an incentive for custodial parents to seek support and noncustodial parents to pay it.

Particularly in states with very low welfare grants, this $50 child support payment can make a huge difference in a child's well-being, adding as much as a third more income for a family of three. In FY 1993, welfare children got a total benefit of $364 million from this provision. Doing away with it is a significant loss for children.

The House bill essentially eliminates the $50 passthrough. Although states may pay child support directly to families, **all** child support is considered income for purposes of calculating their eligibility and grant. The Senate bill appears to give states an option of disregarding some portion of child support, but only if the disregard is wholly funded with state dollars (as opposed to joint federal-state dollars under current law).

Both the House and Senate provisions are a serious disservice to children -- the House provision because it wholly eliminates the disregard and the Senate provision because states cannot afford to fund it without federal cost-sharing. Particularly in a time-limited welfare system, when families should be encouraged to pursue child support because they will shortly be off the rolls and must maximize all sources of income, it is a mistake to eliminate an incentive for welfare families to routinize child support. Research about the jobseeking behavior of welfare recipients cited earlier in this testimony underscores the importance of having families see a benefit from child support: welfare parents are more likely to obtain jobs while on welfare if they have other sources of income, including child support.

State opposition to the provision generally has focused not on its incentive effect, but rather on the administrative burden states report experiencing when they try to document whether a support payment is "current" and therefore eligible for the $50 passthrough. We agree that the current federal regulations are cumbersome, and impose unnecessary burdens on states. This problem, however, can be resolved by streamlining the system for deciding when payments are received (and therefore whether they are considered current support). There is no need to eliminate an important benefit for children when administrative burdens can be eased in other ways that address state concerns without hurting children. We would be happy to pursue with staff how to address reasonable state concerns about determining when payments are timely.

Recommendation:

Because the $50 passthrough provision is important, we urge that conferees adopt a fair alternative to the House and Senate versions. We hope that conferees will follow the Senate approach by giving states the flexibility to decide whether to give welfare families a $50 incentive when current support is paid on their behalf. Like current law, we hope that a final version will give states a meaningful choice of this option by sharing its cost between the state and federal governments.

* * * * * * * *

The Children's Defense Fund appreciates the opportunity to present testimony at this timely hearing. We are grateful to the Subcommittee for all its important work on child support, and its effort to thoughtfully prepare for conference. We look forward to working with you and your staff on this issue.

Chairman SHAW. Thank you.
Mr. Henry.

STATEMENT OF RONALD K. HENRY, PARTNER, KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, WASHINGTON, D.C.

Mr. HENRY. Thank you, Mr. Chairman, and subcommittee members. I am something of a specialist in analyzing the unintended consequences of well-intentioned policies.

I work with the American Law Institute on its family law project, the National Commissioners on Uniform State Laws, and the ABA. We are working to try to get through some of the difficulties and tangles that have been created for the States, created sometimes at the Federal level. I want to salute the subcommittee for the fine work that it has done in trying to untangle some of those Gordian knots, to return the power to the States, to give the States the opportunity to work things out since they are the frontline defense, and to innovate and let a thousand flowers bloom.

I want to speak about three specific issues: No. 1, cost recovery. The suggestion that there ought to be a surcharge on non-AFDC cases, to a great extent, gets the cart before the horse. Most of this child support is going to be paid anyway on a voluntary basis. One of the problems we have in child support right now is that States are encouraged to create a massive bureaucracy, and force all sorts of cases to go through the conduit to justify their own existence. Much of this represents money that had been paid voluntarily before the bureaucracy got involved.

I suggest that we ought to be looking at whether some of the existing services for non-AFDC cases are already counterproductive rather than finding ways to make them more profitable for the bureaucracy. The 15-percent surcharge that has been proposed actually reduces the resources available to the child and increases the complexity of getting money into the child's hands.

No. 2, the question of distribution of arrearages. I think that the key issues that need to be addressed are: How do we get money into the children's hands, how do we reconnect the noncustodial parent with the child, how do we show the parent and child that the money coming from the noncustodial parent is intended for the child and that the government does not need to be a pass-through?

The parent and child can be linked together. I suggest that rather than limiting yourself solely to the pass-through of arrearages, you should recognize that currently we are handling the whole process of noncustodial payments backward. Why should money go through the State followed by a calculation of how much welfare to give to the custodial parent? Wouldn't it be better to let the child support be paid directly to the child? Once we have seen how much child support has been paid and available to the child, how much parental resources are available, only then do we need to calculate the possibility of a supplement through welfare.

I submit that if you allow the money to go first to the child, you will reconnect parent to child and you will reduce welfare dependency. Then you will only be asked to make welfare payments for the shortfall rather than for the entire amount up front, followed by costly efforts to obtain reimbursement later.

No. 3, the question of escrow until paternity is established gets the cart before the horse. If you look at State law in most jurisdictions, you will find that a child is born automatically into the joint custody of both parents. If you simply allow one parent to walk down to the welfare office and say, pay me, you are disregarding State law with respect to the custody of that child; you are disregarding the fact that the other parent may already have joint custody or may, in some cases, even have sole custody, and you are putting one parent on welfare, often perhaps unnecessarily.

The question of whether you escrow those funds is one that is highly appropriate and I think can be a beneficial step toward expediting both parties efforts in addressing the needs of the child, to look at where does custody of this child actually reside. Studies have indicated that fathers of unwed children have an average income approaching $20,000 a year. That is not enough for them to support two households, they can't take care of themselves and transfer enough money to the mother to get her out of poverty, but they do have enough money to care for the child themselves.

By getting the cart before the horse, by allowing one parent to go in and claim welfare dependency before you even look at the question of who ought to have custody of the child increases dramatically and unnecessarily welfare dependency. We need to allow the States to resolve custody, find out whether the child even needs to go into welfare, before we start talking about how best to maximize welfare payments.

Mr. Chairman, that gets to my fundamental point, which is that you have done a brilliant job with AFDC and many other social programs by untying the hands of the States. You have given them the freedom to experiment, the freedom to work with the problems that they understand best. I suggest that you give similar freedom to the child support enforcement apparatus. It doesn't require one more dollar.

You can give a great deal of freedom to the States, you can allow them to serve children's needs more broadly and more effectively by simply giving them fewer restrictions on how they spend the existing money. For example, each couple that gets married and forms a family is a child support enforcement success story. You don't need a paternity order, a custody order, a support order, or an enforcement apparatus. You have that child taken care of because you assisted family formation.

Each couple that is kept together is a child support enforcement success story. In divorce, each couple that works out a joint parenting agreement so that they care for the child voluntarily is a child support enforcement success story. My suggestion is, give the States the freedom to use the existing child support enforcement budget to encourage family formation and family preservation, not just the entry of more orders, because fundamentally the Federal Government's interest is a simple one.

The Federal goal is to maximize the number of children who are supported by their own parents, not merely the number of child support orders. If you give States the freedom to take care of children through family formation and family preservation, you will serve a great many more children than by simply coming up with more coercions to process more cases through the courts. The

States we can find more ways to avoid the courts and can move more expeditiously in serving children's needs if we allow more freedom in their use of existing funds.

Thank you, sir.

[The prepared statement and attachments follow:]

**TESTIMONY OF RONALD K. HENRY, ATTORNEY-AT-LAW,
BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES,
COMMITTEE ON WAYS AND MEANS,
UNITED STATES HOUSE OF REPRESENTATIVES, JUNE 13, 1995**

Introduction

Just as the bills pending before both Houses of Congress recognize the importance of giving States broad flexibility in the administration of welfare programs, so too must the States receive broad flexibility in the administration of child support enforcement programs. The goal of the federal government should be to maximize the number of children who are supported by their own parents, not simply the number of children who have court-ordered child support awards.

Each couple that is brought together in marriage is a child support enforcement success story. Each couple that remains together in marriage is a child support enforcement success story. Each couple that agrees to shared parenting after an unavoidable divorce is a child support enforcement success story. To achieve the federal goal of maximizing the number of children who are supported by their own parents, we must broaden the definition of permissible State activities under child support enforcement programs.

We must also change the measures of program performance. For example, instead of measuring simply the volume of child support dollars flowing through a government conduit, we must begin to measure such factors as the State's success in avoiding the need for bureaucratic intervention, by reducing unwed births and encouraging family stability.

The immediately following sections summarize the necessary actions. Subsequent text more fully describes each recommendation.

Summary of Recommendations

1. Broaden the range of permissible child support enforcement activities to include non-adversarial initiatives.

2. Alter performance measurements to reward State's success in family formation, family stability, and voluntary arrangements rather than simply the volume of cash flowing through the government as a conduit.

3. Mandate paternity establishment or good faith compliance with paternity establishment efforts in all cases as a condition for welfare eligibility.

4. Assign the federal income tax dependent exemption to the parent providing more than 50% of the financial support under the State's child support guidelines.

5. Require employer notification of both new hires and terminations for processing by State child support enforcement officials as a material change of circumstances.

6. Require reimbursement of the adult's portion of AFDC benefits (AFDC to an adult should be a loan, not a grant).

7. Modify the Bradley Amendment regarding the retroactive modification of support arrearages to acknowledge that some arrearages are truly uncollectible and that the child is injured when the obligor goes underground (See Washington Post article on June 10, 1995).

8. Require proof of custody as a condition for welfare eligibility. Currently, welfare offices typically assume that the mother has custody without examining court records and State laws conferring sole or joint custody upon the father.

9. Require assessment of the availability of kinship care as an alternative to welfare and as a precondition to welfare eligibility.

10. Recognize that minors are the responsibility of their own parents in all 50 States and that the birth of a child to a minor should not create welfare eligibility.

11. Require effective sanctions for fraud (in the District of Columbia, for example, a convicted welfare cheat is required only to make restitution which is paid out of future welfare benefits).

12. As a condition for federal funds eligibility, require that State statutes include a provision recognizing the detrimental effect of welfare dependency as a factor to be considered in determining the best interests of the child in child custody and foster care placements.

Description of Recommendations

WELFARE REFORM: CHILD SUPPORT ENFORCEMENT

Federal involvement in family policy is massive and pervasive. The theory behind block grants is that the federal government has taken over too many state functions and micro-managed too many areas for which it is not competent to provide leadership. This micro-management has led to unintended consequences under, for example, the Mondale Act which immunizes abusive bureaucratic behavior and the Bradley Amendment which causes the buildup of uncollectible, unmodifiable child support arrearages by unemployed obligors.

Before we can speak seriously of federal efforts to help children, we must first obey the physician's creed of "do no harm." Current federal restrictions and mandates drive the states in unproductive and, even, damaging directions.

Child support enforcement is a good example of the unintended consequences of micro-management. We spend approximately 2 billion dollars per year on child support enforcement but place so many restrictions upon the states that failure is assured. Although research demonstrates that the three best predictors of child support compliance are (1) establishment or modification of a fair order; (2) enforcement of access to the child; and (3) employment stability, current federal rules largely limit expenditures to punitive measures to collect arrearages rather than measures to prevent the buildup of arrearages. Without spending any more money, the federal government can dramatically improve child support compliance by simply broadening the permissible uses of the current funds. Parenting training, mediation, access enforcement, job counseling, neutral drop-off sites, and similar programs improve parental responsibility, enhance employment stability, and have been shown to improve support compliance in demonstration projects.

Since the federal goal is to assure that children are supported by their parents, the states should not be limited to tools which are designed simply to collect child support arrearages. Each unwed couple that marries is a child support success story. Each married couple that avoids divorce is a child support success story. Each shared parenting agreement that keeps both parents involved physically and emotionally in the child's life is a child support success story.

Downward adjustment of an unfair order is enforcement; job training is enforcement; mediation of access disputes is enforcement; encouraging family formation is enforcement; marriage counseling is enforcement; reducing the need for income transfer and the sense of estrangement after divorce through thoughtfully developed plans for shared parenting is enforcement. To succeed with non-custodial parents, we must begin to hear them and respond to their concerns and parents and as human beings. Children are born with, want, love and need two parents. Family formation, family preservation and respect for non-custodial parents as parents offer the greatest hopes for major improvements in child support compliance.

We don't need to spend more money; we can make progress simply by giving states the freedom to use the existing funds more flexibly. Rather than the mountains of regulations currently in place, w should judge the states on their ability to reduce the need for child support orders (family formation and family preservation) and on the percentage of child support obligors who are in compliance (establishment and modification of fair orders, job counseling and training, enforcement of access, etc.).

LEGISLATIVE LANGUAGE

Section _____. The purpose of this title is to increase the number of children who are supported by their own parents.

Section _____. The funds appropriated under this title shall be available for state programs which encourage two-parent family formation, two-parent family preservation, and the active involvement of both parents in the life of the child where two-parent family formation or preservation have not occurred.

WELFARE REFORM: STATE CHILD SUPPORT ENFORCEMENT PERFORMANCE MEASUREMENT

The activities undertaken by the states in child support enforcement programs are in large measure dictated by the performance measurements established by the federal government for determining reimbursement eligibility and amount. To date, performance measurements have been narrowly addressed to only a small part of the child support enforcement problem and, in fact, drive the states in counterproductive directions.

For example, if the state establishes a child support order, collects $200 per month in accordance with the child support guideline, and pays welfare benefits for the rest of the child's needs, the state achieves a perfect score on current quantitative standards which are geared to maximize the number of dollars that flow through the enforcement bureaucracy. If, instead, the state offers mediation and counseling which causes the couple to marry and leave the welfare roles entirely, federal reimbursement is unavailable under the current quantitative measures which do not even record this family formation success. Since the federal goal is to increase the number of children who are supported by their parents rather than to merely increase the number of child support orders, performance measurements need to be properly focused. Current quantitative measurements, however, focus exclusively upon each state's success in increasing the size of the bureaucracy (number of orders entered, number of dollars passed through the bureaucracy) rather than on the state's success in reducing the need for bureaucracy (family formation and family preservation).

Since all organizations shape their behavior to respond to the measurements of success which have been defined for them, it is essential to design more sophisticated and appropriate measures of success for child support enforcement. Recognizing that the federal goal is to increase the number of children who are supported by their parents rather than to simply increase the number of support orders allows at least the following reforms:

1. Measure changes in the ratio of marital to unwed births. Programs which encourage family formation increase the number of children who are supported directly by their parents without the need for bureaucratic intervention.

2. Measure changes in the number of children experiencing divorce. Each couple that avoids divorce is a child support success story. Child support enforcement is simply not an issue for cohabiting couples and marriage is the best anti-poverty program, vastly reducing the probability of recourse to welfare.

3. Measure post-birth family formation. Current measurements fixate on the establishment in collection of child support for non-marital children. The greatest child support success, however, is found in those couples which come together as a family and eliminate the need for government intervention.

4. Measure compliance rates rather than gross collections. Current measurements drive the states to establish uncollectibly high support levels and many states flatly refuse to process downward modifications for obligors whose earnings have declined. The problem is in the measurement system which rewards states for gross collections (even when abusively high orders become a basis for civil disobedience) rather than measuring rates of compliance with fairly established orders. The current measurement system leads to absurdities like the Virginia Ten Most Wanted list attached. All are blue collar workers, all have impossibly high arrearages, none can afford a lawyer to go back into court and the state refuses to process downward modifications. No one can be surprised that such people have gone underground with the result that the children receive no support rather than a fair amount of support. Changing the measurement system to acknowledge the percentage of child support orders that are paid on time rather than gross receipts causes the states to review and establish orders that are, in fact, collectible.

LEGISLATIVE LANGUAGE

Section _____. In determining eligibility for the funds made available under this title, the Department of Health & Human Services shall establish performance standards based upon the following factors:

(a) Reductions in the number of children awaiting the establishment of a child support order. Reductions in the number of unwed births, reductions in the number of children of divorce, and increases in the rate of post-birth family formation shall each be separately identified and considered in determining the number of children remaining who are in need of establishment of a child support order.

(b) The percentage of existing child support orders which are paid on time and in compliance with their terms.

Look at Virginia's "Most Wanted" List -- All are blue collar workers, all have hopelessly high, uncollectible arrearages; none can afford a lawyer to petition for a modification of the support order; the state bureaucracy refuses to obey the federal law requiring it to process administrative petitions for downward modifications; Can anyone honestly be surprised that they have gone underground?

TEN MOST WANTED LIST RELEASED

1. JAMES LUTHER ADAMS, JR.
Owes: $12,826
Born: 5/6/43 Height: 6'1" Weight: 175 lbs.
Last Known Address: Red Bank, Tennessee
→ Occupation: Food Service/Restaurants
Children: Three

2. SAUNDERS WILLIE BIBBINS
Owes: $42,235
Born: 3/22/52 Height: 5'7" Weight: 230 lbs.
Last Known Address: Parksley, Virginia
→ Occupation: Poultry Catcher
Children: Six

3. ALONZO ROSS BOWDEN, SR.
Owes: $22,230
Born: 4/19/55 Height: 5'7" Weight: 155 lbs.
Last Known Address: Portsmouth, Virginia
→ Occupation: Laborer
Children: One

4. RONALD CARL CLINE
Owes: $21,458
Born: 11/25/33 Height: 5'11" Weight: 185 lbs.
Last Known Address: Unknown
→ Occupation: Construction
Children: One

5. PURCELL LEE FORD, JR.
Owes: $20,868
Born: 12/19/50 Height: 5'7" Weight: 180 lbs.
Last Known Address: Arlington, Virginia
→ Occupation: Salesman
Children: Two

6. JAMES DENNIS MURPHY, JR.
Owes: $10,609
Born: 7/18/45 Height: 5/10" Weight: 180 lbs.
Last Known Address: Summerfield, Florida
→ Occupation: Works with Dogs
Children: One

7. STEPHAN RANDALL SMITH
Owes: $11,450
Born: 7/23/58 Height: 5'11" Weight: 180 lbs.
Last Known Address: Longwood, Florida
→ Occupation: Construction/Sales
Children: One

8. ROMLANDO VIRGILIO SPENCER
Owes: $9,027
Born: 8/30/54 Height: 6' Weight: 175 lbs.
Last Known Address: Fairmount Hts, Maryland
→ Occupation: Truck Driver
Children: One

9. WILLIAM ROBERT VANDYKE
Owes: $33,268
Born: 4/13/48 Height: 6'2" Weight: 190 lbs.
Last Known Address: Cedar Bluff, Virginia
→ Occupation: Truck Driver
Children: One

10. DAVID THOMAS WILLIAMS
Owes: $15,043
Born: 10/2/56 Height: 6'2" Weight: 260 lbs.
Last Known Address: Norcross, Georgia
→ Occupation: Construction
Children: Two

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Bob Osburn, Editor
Michael Harvey, Assistant Commissioner
Carol A. Brunty, Commissioner

WELFARE REFORM: PATERNITY

LEGISLATIVE LANGUAGE

Section _____. No funds shall be made available under this chapter unless:

(a) paternity has been established for the child for whom assistance is sought; or

(b) the state certifies that it is actively pursuing diligent efforts and has the full cooperation of the mother in seeking to establish paternity.

Eligibility based upon the certification in subparagraph (b) above shall terminate after three (3) months and can be renewed for periods not to exceed three months each after review and approval of the state's ongoing efforts to establish such child's paternity by the Department of Health and Human Services.

Acknowledgement of Parentage – In Hospital Establishment

Laurie A Casey
Senior Policy Analyst, The Children's Rights Council - Vermont Chapter

Introduction

If our children are to be successful in experiencing their heritage firsthand they must be united with both parents. A union that includes the much needed financial and emotional support of a family orientated environment.

Today, with welfare reform looming, political heat has been placed on the financial support of one's children. If for no other reason, this gives us hope that the equally important issue of "emotional support" will become a recognized factor involved in the healthy development of today's children.

Why In-Hospital Acknowledgement of Parentage

It has become a necessity of the times to search out and to locate the parents of children born today. The statistics alone speak of the epidemic upon our society and the grave childhoods many of our children face. Out of wedlock childbirth continues to soar. In 1993 it had reached another "all time high" of some 34%. Inner city rates reach upwards of 90% of children born out of wedlock.

This is not only a crisis for our country, it is a personal barricade for many children, who are raised without any knowledge of their fathers.

This represents the lessening of "family values" and "family support networks". It is the direct byproduct of today's great welfare system and all it has to offer.

It is necessary therefore, to develop, implement, and ensure, that each child born is afforded every effort to locate and identify his or her parents. To do this the cooperation of the mother is essential. For, it is this individual who can shed the brightest light on the trail to this child's heritage.

It is not merely for financial support for which we should search. Any program must encompass emotional and physical support issues as well. We all know that a monthly child support check can not comfort a child deprived of one parent. The level of intensity placed on financial support issues by our state and federal government must be matched with an equal importance of emotional support issues of both parents.

Recommendations Include:

- Increase awareness that a child, a father, and a mother constitute a family.
- Introduce non-gender biased language, replace "paternity establishment with "acknowledgement of Parentage"
- Nurture an environment for teamwork, encourage parents to act responsibly and together to promote an end result that is beneficial to the child, and finally,
- Uphold the Fifth and Fourteenth Amendment Rights of the United States Constitution which guarantees all citizens EQUAL PROTECTION AND DUE PROCESS UNDER THE LAW.

Rights and Responsibilities of Parents and Their Children

These issues are both financial and emotional. 45 CFR 466(a)(5)(E) cites the requirement of States to "have laws and procedures under which the voluntary acknowledgement of paternity must be recognized as a basis for seeking a [financial] support order without first requiring any further proceedings to establishing paternity". If 45 CFR is to benefit the children allowances must be made to recognize the emotional needs and rights of these children.

Currently, State and Local laws allow for Judges and non-legal magistrates to decide on emotional support issues, i.e.: parenting plans and parenting time, with only a stipulation for modification or a motion for the establishment of financial child support. This current process allows family courts and district courts to enter decisions on non-financial support issues without the knowledge of the non-custodial parent. The unsettling fact lay before us, Judges and Magistrates are deciding the fate of our children without the full knowledge and understanding of their parents. This is case enough to include in any legislation full disclosure on the rights and responsibilities of parents to their children and vise versa.

The results of these procedures are evident in our overburdened court systems. These procedures rise to increasing numbers of adversarial cases which pit one parent against another while leaving the child awaiting a decision which will be beneficial to the family. Yet, as we consistently witness, it is not a beneficial outcome to the family, but more litigation, more court time, and less paternal involvement due to the acceptance of biased and discriminatory action and reaction by an unrelenting, misinformed system which discourages instead of encourages family for-

mation and preservation within our society.

Recommendations include the following:

• Encourage family formation and preservation by requiring legislation to guarantee "due process" and to include written documentation procedures and written acknowledgement by the parents regarding "rights and "responsibilities" of parentage.

• Written documentation procedures would incorporate three forms. 1) Voluntary Acknowledgement of Parentage. 2) Voluntary Agreement - Parenting Plan, and 3) Voluntary Access/Parenting Time Agreement. (see examples)

• Requirements would include the above mentioned forms as an inclusive need before any action be taken by a State's Family or District Court pertaining to the financial and emotional support order.

• Require the registration of birth certificates to include both parent's names when parentage is acknowledged and upheld by the appropriate jurisdiction. and finally,

• Amend any current or proposed legislation which would allow for a conclusive presumption without genetic testing of parentage to restrict this presumption to only an ongoing financial and emotional support network. It must be made very clear that this presumption would not be applicable to adoption and/or SRS intervention processes.

Summary of Recommendations

Proposed rules and regulations must include clear definitions of "rights and responsibilities" and "due process". Currently, the States rely on the interpretation of Federal Regulation to guard them from fully implementing fair and equitable solutions.

The Federal Government, electing to be involved in family formation and preservation from a mere financial standpoint is not adequate in alleviating the problems of poverty and out-of-wedlock childbirth. Nor, it is providing for the necessity of parental involvement in our children's lives. Hence, the Federal Government has created a system that, in itself, has discouraged family formation and further implemented emotional poverty onto our children.

In order for our children to prosper, the Government must act responsibly by recognizing that "rights and responsibilities" include emotional support issues. Furthermore, Federal Regulations must impose upon the States to document, in writing, the information and the receipt of information pertaining to these rights and responsibilities by the parents involved. And if the Federal directive is lacking, then it is the responsibility of the States' to ensure a child's right to both parents.

Legislation must require that, at a minimum, any process of voluntary acknowledgment of parentage include the three main ingredients of parenthood, ie: financial support, emotional support, and parenting time. This can be accomplished by including the recommended forms as previously suggested. (see examples) This requirement would ensure that the rights of each parent is duly noted and accepted as part of any judicial procedure where any of the foregoing is considered by a Judge or Magistrate and where a Judge or Magistrate is to be given the power to pass judgement.

Above all, since the Federal Government has initiated a process by which the States are required to adhere, it is imperative that any Federal mandate/directive explicitly acknowledge and define the scope of its intent without leaving room for mis-interpretation which will ultimately result in the discrimination of an individual or individuals and where due process will not be afforded in a manner consistent with the Constitution of the United States.

Conclusion

Approaching issues relative to children and their parents from a non-gender biased position is the responsibility of all individuals involved. The United States prides itself on the freedom it affords its citizens. Yet, it continues to overlook the moral and legal implications of using terms such as "paternity establishment".

In order for our children to achieve financial and emotional security, we must first acknowledge that the parents of these children and the children themselves are to be treated equal under the law. This requires acknowledging that there exists an equal obligation to provide emotional support as well as financial support and that accountability is equal.

Legislators must engage upon a campaign that incorporates these rights and responsibilities with the inclusion of family formation and preservation.

By redirecting the energies of current policy to a broad based approach incorporating a panoramic view of children and their parents, these individuals will be leading the way to a financially and emotionally prosperous future for our children.

Until we focus our efforts upon the family unit, i.e.: a child, a father, and a mother, as a whole, the introduction of consistently gender biased regulations and punitive mandates will result in a continued decline in family values and family formation practices. It will also continue to encourage the underground economy of the non-custodial parent and the underground railroading of a child's right to both parents.

It is time to take notice of the growing population who continue to ask " Who is Caring for Our Children?".

WELFARE REFORM: PARENTAGE FORMS

Section _____. Each state, as a condition for eligibility for the funds provided under this title, shall establish an in-hospital parentage identification program. The parentage identification program shall, as a minimum, provide for the identification of the mother and the father, explain the custodial and support rights, responsibilities, and options available to the parents and provide a mechanism for unwed and non-cohabitating parents to identify and record any voluntary agreement respecting the custody and support of the child. Such voluntary agreement shall be admissible as a rebuttable presumption in any subsequent court proceeding to modify the custody or support of the child.

WELFARE ELIGIBILITY: PROOF OF CUSTODY

Children are born with two parents. Any child for whom welfare eligibility is sought may be in the custody of the mother, the father or both jointly. One source of fraud in the current welfare system is that the bureaucracy fails to determine whether the parent seeking welfare coverage actually has custody of the child. If one parent presents a child for welfare eligibility while the other parent (or the parents jointly) actually have legal custody of the child, a fraud has been committed. For example, children born to married couples in all states are deemed to be in the joint custody of both parents unless and until a court order is entered restricting the custodial rights of one of the parents. This joint custody status remains in effect even if the parents separate and one of the parents uses the child as a basis for a welfare application. The joint custody status of children born out of wedlock differs among the states.

If one parent uses the child to apply for welfare but the child is actually in the sole or joint custody of the other parent who does not need or seek welfare assistance, welfare should not be provided. Accordingly, a parent seeking to use a child to claim welfare benefits should be required to submit proof of sole custody under the law of the state in which benefits are sought. If the parent seeking welfare benefits does not have sole custody of the child, benefits should be denied unless it is found that the parent actually having sole or joint custody is also eligible for benefits under the program.

LEGISLATIVE LANGUAGE

Section ____. No funds shall be available under this title for payment to a parent on behalf of a child unless the parent seeking eligibility has sole custody of the child or, in cases of joint custody, the parents apply jointly for benefits.

CHILD SUPPORT AND WELFARE REFORM

Child custody and child support reform have implications for welfare reform. In a typical welfare case, the custodial parent welfare recipient has zero income while the non-custodial parent has, perhaps, $20,000 income. The parent with $20,000 income has sufficient resources to support the child in his or her own home but not sufficient resources to support two households. Accordingly, child support payments will not raise the second household out of poverty and the demand for welfare assistance continues. As between two fit and loving parents involved in a custody dispute, why was a state court permitted to ignore the parents' resources in entering a custody order that resulted in the creation of a federal welfare payment obligation? As a condition to the receipt of federal funds, states should be required to consider the probability of welfare dependency as one factor in determining the "best interests" of the child in custody proceedings.

CHILD SUPPORT REFORM

The federal government currently spends approximately $2 billion dollars per year on child support enforcement. The enforcement bureaucracy and custodial parent advocacy groups are demanding yet another increase in enforcement efforts but continue to evade the question of why past enforcement efforts have failed. As with so many other federal programs, the call to spend more money, the demand to push harder in the wrong direction, is not the solution.

Everyone is familiar with the Census Bureau figures on child support non-compliance but no one has investigated the reasons for the non-compliance. How many of these obligors are unemployed, disabled, supporting second families, engaged in civil disobedience because they have been denied access to their children, imprisoned, or even dead? Incredibly, all of these categories, even the dead, the ultimate "deadbeats", were lumped together as "non-compliance" by the Census Bureau. This occurred despite the fact that the Census Bureau's own data showed that 66% of custodial mothers reported the reason for non-compliance as "father unable to pay."

The image of the deadbeat in the Mercedes is false and has distorted our handling of child support cases. Look at Virginia's "Most Wanted" list (see reverse side). All are blue collar workers. All have hopelessly high, uncollectible arrearages. None can afford a lawyer to petition for modification of the support order. The state enforcement bureaucracy refuses to obey existing federal law requiring it to process administrative petitions for downward modifications. Can anyone honestly be surprised that these people have gone underground?

As to those parents who have income, our policies have been no less misguided. We know that the support of children during marriage is not a problem, the children are supported. A change occurs during the divorce process and "deadbeats" emerge. Since the same parent who once supported the children now does not, we must ask why, what changed? The change is the intervention of a court order that bifurcates rights (custody) and responsibilities (child support). Look at the compliance rates for different types of court orders. According to the Census Bureau:

- 90.2% of child support is paid in cases of joint custody;
- 79.1% of child support is paid where visitation with the child is protected by court order; and
- Only 44.5% of child support is paid where neither joint custody nor visitation are protected.

When the parent-child relationship is severed by a winner-take-all custody order, when one parent is disenfranchised or restricted in access to the child needing support, no one can be surprised that civil disobedience results. Add to this the fact that the gender bias commissions in each state whose report has been published to date have found systematic gender bias against fathers in child custody and support proceedings. Is it either wise or just for the federal government to spend $2 billion dollars per year enforcing gender biased orders?

Child support reform is needed but that reform must recognize obligors as citizens and as parents, not as anonymous beasts to be herded more efficiently. We know that the three best predictors for child support compliance are (1) the fairness of the original order, (2) the obligor's access to the child, and (3) the obligor's work stability. Improvement in child support compliance must be addressed to these factors and not to old myths and stereotypes.

"MAKING WORK PAY" - RHETORIC AND REALITY

Work always pays. Our problem is that we have established a parallel system under which non-work often pays better. Most law abiding citizens work 40 - 45 years to qualify for a social security benefit that is smaller than a teenager's welfare package. Many welfare recipients are not unemployed as much as they are prematurely retired. We have long recognized that Social Security rules discourage paid employment among welfare recipients. The cornerstone of welfare reform must be a fundamental respect for the importance and dignity of work. Except for the small number of people who are genuinely unable to make any contribution to their own needs, welfare must be a supplement, not a substitute, for work.

Welfare reform requires attention to four areas: responsibility, paternity, accountability, and eligibility.

1. Responsibility

Responsibility should be immediate, mandatory and universal. Beginning immediately with entry into any welfare program, every recipient should be required to devote 40 hours per week to some combination of job search, training and work, with a strong emphasis on work. Actual work experience is generally the best qualification for entry or reentry into the workforce. An immediate, universal responsibility requirement also eliminates the "no job" option and encourages serious search efforts for the best available job.

The responsibility requirement can be satisfied by private employment or by unpaid public service in exchange for receipt of the welfare benefit. Work programs should not discriminate against the non-welfare working poor. Vouchers and other special incentives to hire welfare recipients create the risk of displacing other workers. We should not support programs that have the unintended consequence of encouraging people to enter welfare as the path to job preferences. Community service jobs (e.g. assignment to charitable organizations) provide benefits to the community and training to the transitioning recipient at little or no government cost. Many of the current, unmet needs of communities can be satisfied by this readily available pool of labor as a supplement to, rather than a substitute for, current employees.

All programs must support the goal of ending the current discrimination against two-parent families. In two parent families, at least one parent must satisfy the 40 hour requirement.

Welfare reform should also begin the process of examining barriers to entry-level job creation. Many worthy tasks in society are not performed because the total cost of obtaining labor, including regulatory and record keeping burdens, exceeds the value of the service. We must examine the extent to which willing workers have been priced out of the market by government mandates.

Child care may be less of a problem than some suggest. Most working parents utilize a no-cost, or low-cost combination of kinship (family) care, friends and school to satisfy day care needs. As discrimination against two parent households is eliminated, a greater number of children will have access to child care from both parents.

Finally, a portion of the community service assignments can be made to child care organizations in order to increase the available supply with little or no incremental cost increase. The Head Start Program already utilizes large numbers of low income parents who begin as unpaid interns and progress to paid staff and supervisory positions.

2. Paternity

Current policy fails to distinguish between "runaway" and "thrown-away" or "driven-away" parents. The federal government spends approximately two billion dollars per year on child support enforcement but purposefully and consciously excludes fathers from all parent-child programs. Under current Aid to Families with Dependent Children (AFDC) rules, the low income father who wishes to be a physical and emotional asset to his children also becomes a financial liability by disqualifying them from most assistance. Research conducted by Health and Human Services (HHS) itself confirms that both mothers and fathers distrust the bureaucracy and work

jointly to conceal paternity. We cannot be surprised by low income parents who separate or conceal paternity when our policies make such behavior the economically rational course. A work requirement for single parents and an end to discrimination against two-parent households will change the dynamics of paternity establishment.

Eligibility for all federal programs should require establishment of paternity, beginning with eligibility for the Women, Infants, and Children (WIC) program. That program itself must be revised to develop and encourage the roles of fathers in children's lives.

In-hospital paternity establishment forms should encourage the parties to voluntarily establish custody and visitation as well as financial support. Avoidance of poverty and welfare dependence are directly linked to the involvement of both parents. Voluntary child support compliance exceeds 90 percent in joint custody families. Child poverty and welfare dependency rates are much lower in father-custody and father-involved families than in mother custody. Women's work force participation, economic security, and freedom are increased in joint-custody and father-custody families. Two parent families allow relief from the constant stress and pressure on the single parent trapped in welfare.

3. Accountability

AFDC and other programs are intended for the benefit of the dependent children. Adults receive the benefits and are expected to participate in the programs in support of the children's needs. Failure or refusal to participate in required programs or to spend the cash payments for the benefit of the children should be seen as evidence of child neglect or abuse. Such evidence should weigh heavily in determining whether it is in the best interest of the child to transfer custody to a more responsible relative or to consider alternative care placement. Prior efforts at reform have been reluctant to impose sanctions upon uncooperative and irresponsible adults because of a fear of "punishing the child." The reality is that current policies allow children to be held hostage to guarantee continued subsidy of adult irresponsibility. Irresponsible, if not criminal behavior, always has deleterious effects on children.

All recipients should be required to reimburse the value of benefits received. Currently, child support paid by non-custodial parents is used for reimbursement after a $50 per month waiver. The custodial parent should have the obligation to reimburse one-half of the welfare payments made on behalf of the child and each adult should have the obligation to reimburse benefits paid on behalf of that adult. Many welfare recipients require only short-term assistance and that assistance can fairly be treated as a loan or a line of credit rather than as a grant. A uniform reimbursement requirement also encourages all recipients to minimize the period of dependency, take no more benefits than are required, and resume paid employment at the earliest possible date. Community service should be counted toward the reimbursement obligation but should be valued at a level that does not compete with the attractiveness of paid employment.

4. Eligibility

Under the law of each state, parents have an obligation of financial responsibility for their minor children. If the minor children themselves become parents, the minor parents should continue to be the obligation of their own adult parents. Accordingly, the birth of a child to minor

parents may create a requirement for welfare assistance to the new infant but does not create a requirement for assistance to the minor parent unless their own parents are unable to supply the required support. Minor parents must live with or at the expense of their own adult parents. Payments on behalf of the new infant, if needed, should be made directly to the adult parents of the minor parents as their guardians, not directly to the minor parents.

Welfare payments should be limited to citizens and to immigrants with refugee status.

Income-based eligibility standards should consider both the income of the parents and any resources that are voluntarily available from the kinship network.

5. Fraud

Fraud must be addressed as a serious matter. Welfare benefits are based on the applicant's self-reporting of available income. If welfare fraud has concealed additional income, welfare eligibility must be recalculated, at a minimum, to include the demonstrated capacity for self-support. Other fraud reduction mechanisms including electronic transfer tracking and improved identification verification must be adopted.

6. EITC

The Earned Income Tax Credit (EITC) must be modified to reduce the incentive and opportunity for strategies such as over-reporting of income to maximize benefits and to reduce discrimination against two-parent families. Currently, many working-class couples are ineligible for EITC but, by simply splitting into two dysfunctional fragments, both become eligible.

WELFARE REFORM THROUGH KINSHIP CARE

There is much discussion about alternatives to allowing children to be raised in a perpetual and cyclical welfare environment. Kinship care (the practice of looking to a capable and willing family member as a care provider for children living on the welfare dole) is a positive step toward breaking the cycle of dependency and reducing the economic burden of providing benefits where family care is available. Kinship care reduces the necessity of placing children in either welfare or charity situations while strengthening the child's chances for economic and emotional success through immediate and extended family bonding. Kinship care is the most practical and ethical means of reducing economic and emotional poverty for children without government intrusion into family life. This idea is based upon the assumption that the Federal bureaucracy can not, and should not, replace a child's family.

There is broad consensus that welfare dependency is not in the best interests of children. Recent legislative initiatives have begun to examine structural flaws in existing welfare programs. One of the best opportunities for reducing welfare dependency is to be found in the development of more thoughtful eligibility criteria to better identify which children are actually in need of welfare assistance

Most welfare programs only look at the cash income of the custodial single parent without regard to the availability of voluntary kinship or extended family assistance. The attached proposal provides that welfare eligibility should be determined by examining all resources that are available voluntarily through the child's kinship network.

The use of kinship care does not relieve the child's parents of their obligations nor does it impose new obligations on other relatives. Only voluntary kinship assistance is considered.

Examples:

- Brother is willing to care for child of drug abuser with or without a change of custody/guardianship. Welfare dependence is not in the best interests of the child and eligibility should be denied based upon available and willing kinship care.

- Father of child is willing to provide child care with or without a change of custody while mother works. Welfare dependency is not in the best interests of the child and eligibility should be denied based upon available and willing kinship care.

- Adolescent mother lives with her parents. The adult parents have a legal obligation to support their adolescent daughter and are willing to care for grandchild while daughter completes school or works. Welfare dependency is not in the best interests of the child and eligibility should be denied based upon available and willing kinship care.

CHILDREN'S WELFARE REFORM THROUGH KINSHIP CARE ACT OF 1995

Bill No._____

Section One

Findings and Purposes

The Congress of the United States of America hereby resolves that:

Welfare programs are intended to provide temporary economic sustenance for individuals while they seek to enter the work force and eventually extricate themselves, and their dependents, from poverty.

Welfare programs have fallen short of this goal, as individuals receiving assistance are usually unable to find and retain jobs.

The inability to find and retain jobs often is caused by the duties of caring for dependent children.

The failure to escape poverty persists through the generations, as children of welfare families go onto welfare rolls as adults, resulting in a needless waste of human potential as well as economic and other costs to society.

A primary cause of intergenerational welfare dependency is the adverse impact of the welfare environment upon children.

To break intergenerational welfare dependency requires, where possible, the separation of children from the welfare environment and their placement into family situations that will be conducive to rejection of the welfare career.

Current welfare provisions lack measures that would assist in the elimination of intergenerational welfare dependency and, indeed, actually encourage such dependency by ignoring the availability of non-welfare alternatives for dependent children.

It is therefore in the public interest to amend the welfare laws to eliminate the encouragement of intergenerational welfare dependency and to promote the placement of children in non-welfare environments more conducive to an economically and socially productive adulthood.

Section Two

Amendment to Public Law No. _____Section _____ of Public Law No. _____ is hereby amended to add a new subsection ___ as follows:

No person shall be eligible to receive benefits under this program by reason of the need of that person to support one or more dependents under the age of 18 unless the administrator [or agency or other appropriate official] has certified, after undertaking diligent efforts, that there are no relatives of such child who are fit and willing to provide for the needs of the child [or assume custody} without resorting to welfare dependency. Such certification shall be required prior to initial entry into the program and, thereafter, upon periodic annual reviews of eligibility. An applicant's preference for welfare payments rather than family assistance shall not be a basis for granting welfare eligibility unless the administrator [or agency or other appropriate official] has certified, after making diligent investigation, that family assistance will be detrimental to the safety of the child.

TEENAGE PARENTS - WELFARE ELIGIBILITY

Under the law of every state, parents have an obligation of financial responsibility for their own minor children. If the minor children themselves become parents, these minor parents should continue to be the obligation of their own adult parents.

Current welfare eligibility rules subvert this basic rule of parental responsibility and create perverse incentives for teenage child-bearing. Simply by having a child, federal programs give the teenager an independent income source and relieve the teenager's parents of the obligations imposed by state law.

Under state law, a minor must live with or at the expense of his or her own parents. The birth of a child to that minor should not be a basis for the federal government to override state law. The federal government should not subsidize the establishment of independent households by minors and abrogate familial rights and responsibilities.

If the parents of the minor are already on public assistance, their payments should be governed by the rules applicable to other families experiencing the birth of an additional dependent. If the parents of the minor are a danger to the minor or grandchild, the case should be processed under the normal rules of guardianship used by the state. Again, there is no justification for a federal program which automatically establishes all minors as independent households upon the birth of a baby.

DIVORCED FAMILIES - DEPENDENT TAX EXEMPTION

Prior law provided that the dependent exemption for a child of divorced parents was available to the parent providing greater than 50% of the child's support. At that time, it was difficult to determine which parent provided greater than 50% of the support and the law was changed in 1984 to create a presumption that the exemption would be given to the custodial parent. The current law has created some new problems and has not kept pace with federally imposed changes in the establishment of child support orders.

Most divorce litigants do not have lawyers and, even with lawyers, most divorce decrees fail to address the allocation of the dependent tax exemption. Some courts have taken the position that they do not have the authority to allocate the exemption to the non-custodial parent, even in cases where the custodial parent is unemployed and it is clear that the non-custodian is providing 100% of the child's financial support. Allocating the dependent exemption to a household with no income does not help the child and, in fact, reduces the after-tax income available to support the child.

Recent federal legislation governing the establishment of child support orders has eliminated the uncertainty which motivated the 1984 law regarding allocation of the dependent exemption. In the past, child support orders were subjective, ad hoc determinations that did not identify each parent's share of the child's financial costs. Federal law now requires that each state have a presumptive, mathematical guideline for the establishment of child support. Under the "income shares" model used by most states, the state determines a child's costs and then allocates these costs in proportion to each parent's income. The child support computation formula thus establishes unambiguously which parent provides more than 50% of the child's financial support.

The law should be revised to provide that the dependent exemption shall be allocated to the parent who bears more than 50% of the child's financial support as established by the applicable child support order. To avoid ambiguity and dispute, the taxpayer claiming the exemption could be required to submit a copy of the court order as an attachment to the tax return. Most child support orders are now generated by computers using the state's child support formula and are set forth in a one page computer printout.

RESPONDING TO WELFARE FRAUD

In the District of Columbia and in most states, welfare fraud is a no-risk adventure.

If caught, the standard guilty plea merely requires restitution (sometimes only partial) which is paid out of future welfare benefits! Welfare is a disastrously anti-family program in which the government offers itself as a substitute for responsible two-parent family behavior. Welfare fraud multiplies the problem by making welfare more lucrative.

Welfare benefits are predicated on the assumption that the welfare recipient cannot earn outside income and that a government subsidy is required for basic needs. Initially, we accept the applicant's unilateral assertion of this inability to earn an income. In the case of the welfare cheat, however, behavior proves that an income can be earned and the receipt of welfare benefits is simply a theft of benefits that are not needed. Having proved that an income can be earned, the welfare cheat should be disqualified from receiving benefits in the future at least to the extent of the earnings potential that has been demonstrated.

Past enforcement efforts have been backward. The welfare cheat is permitted to quit the unreported job and go back to the dole. The reverse should be true. Having demonstrated earning capacity, the welfare cheat should be disqualified from again asserting an inability to earn income.

In the current economic crisis of budget deficits and soaring welfare rolls, it may finally be possible to impose serious sanctions upon welfare cheaters. The following legislative suggestions are offered:

1. The presence of unreported income means that the welfare cheater either does not need or has less need for welfare. Accordingly, the law should provide that welfare benefits will be reduced or eliminated on a forward-going basis to reflect the income that was being earned during the fraud and thus can be earned in the future.

2. State laws providing for mandatory jail terms of not less than 30 days for all persons convicted of welfare fraud should be required as a condition for a state's receipt of federal funds.

3. State laws providing that conviction for welfare fraud is a sufficient basis to support a judicial finding that it is in the best interests of the child for custody to be placed with another relative should be required as a condition for a state's receipt of federal funds.

4. State laws providing that conviction for welfare fraud is a sufficient basis to support a judicial finding of neglect or abuse so that the child may be placed in foster care should be required as a condition for a state's receipt of federal funds

Recommendations for Action

1. Assure that non-custodians and their advocates are adequately represented in the policy process. The importance of non-custodians as human beings and as parents is sometimes lost in the closed world of the child support enforcement bureaucracy. Each issue of the HHS Child Support Report lists a dozen or more child support enforcement conferences at which the presence of even a single non-custodial parent would be accidental. This insularity dehumanizes obligors as a class to be acted upon rather than as parents with whom we should communicate and cooperate. Every conference, meeting, or policy making session which is supported by direct or indirect federal funding should be required to include non-custodial parents and their advocates in equal proportion to the representation of custodial parents and enforcement officials.

2. Implement programs recognizing that child support enforcement is more than the mere invention of new coercions. Downward adjustment of an unfair order is enforcement; job training is enforcement; mediation of access disputes is enforcement; encouraging family formation is enforcement; marriage counseling is enforcement; reducing the need for income transfer and the sense of estrangement after divorce through thoughtfully developed plans for shared parenting is enforcement. Consider the popular movie, Mrs. Doubtfire. We should devote ourselves to maximizing the involvement of both parents before jumping to the conclusion that child support guidelines must contain an allowance for third-party child care.

3. Enforce the principle that the bureaucracy must represent all of the citizens. Federal law requires state enforcement agencies to process downward support modifications as well as upward modifications. A number of states refuse to obey this requirement because Federal regulations only provide reimbursement incentives for "more is better" collection efforts and no state offers equal access to services for custodial and non-custodial parents.

4. Require completion of the 1984 Congressional mandate to study and report on the "intricately intertwined" issues of custody, visitation and child support.

5. Give non-custodial parents the same access to federal services as custodial parents. For example, the Federal Parent Locator Service is currently unavailable to non-custodial parents even when the child's whereabouts have been concealed by the custodian and enforcement of child support continues through government agencies.

6. Authorize research into the gender bias in court determinations of custody and support orders.

7. Authorize research into the marginal costs of rearing children for purposes of providing assistance in the development of child support guidelines.

8. Authorize research to further measure the effect of joint custody and shared parenting upon child support compliance.

9. Authorize and fund permanent programs like those recently demonstrated under federal grants to encourage non-litigated resolution of access and support disputes through mediation, counseling and other conciliation services.

10. Mandate accountability for the expenditure of child support funds received by the custodian as is currently done for Social Security benefits received on behalf of a child.

Conclusion

For the past decade, child support policy at the federal and state level has been driven by the simplistic doctrine that "more is better." More dollars per month, more coercive enforcement, more is better. We need to acknowledge that "fair is better." When law-abiding citizens, who gladly supported their children during the marriage, become outlaws after going through the divorce process, it is appropriate to question whether the system rather than the people should bear the blame.

How many obligors are simply unable to meet the burden that has been imposed upon them by a chivalrous, high-income judge? How many of the "deadbeats" are unemployed, underemployed, disabled, imprisoned, or supporting two families to the best of their ability? How many are engaged in civil disobedience because they have been denied the opportunity to be real parents or even to have access to their children? Why has the Department of Health and Human Services, with all its billions of dollars, failed to carry out the 1984 Congressional mandate to study the "intricately intertwined" issues of custody, visitation and child support? Why did Wayne Stanton kill the Survey of Absent Parents? Why did the Department of Health and Human Services under the previous administration selectively report from the Census Bureau data and omit the fact that mothers themselves explain two-thirds of the non-compliance as "inability to pay"? Why did the Department of Health and Human Services absorb the negative stereotypes so fully that it was surprised to learn that non-custodial parents do care about their children?

Over the years, policymakers have developed an ability to discern the self-interest, self-aggrandizement, and instinct for self-perpetuation that afflicts the military-industrial complex and other bureaucracy/special-interest group alignments. The time has come to apply the same wisdom to the child support industry. There is no basis for further enforcement initiatives until the distortions of past stereotypes and the concealment of data have been corrected.

Chairman SHAW. Thank you.
Mr. Wiggins.

STATEMENT OF HARRY WIGGINS, VICE PRESIDENT, CHILD SUPPORT SERVICES, LOCKHEED MARTIN IMS, WASHINGTON, D.C.

Mr. WIGGINS. Thank you for the opportunity to testify today. I am Harry Wiggins, vice president, Child Support Services, Lockheed Martin IMS. Before joining Lockheed Martin in 1992, I served as the State child support director in Virginia for 5 years. Prior to that, I was State director in New Jersey for 8 years.

Lockheed Martin IMS currently operates 21 child support contracts in 17 States across the country. We process centralized payments in New York and Massachusetts, we have child support collection contracts and locate contracts in Georgia and several other States, and we also develop automated systems.

Lockheed Martin IMS is also part of a coalition of private companies that was put together about 2 years ago called the Human Services Information Technology Advisory Group that really serves as, essentially, free consultants to States and to Federal agencies to improve the delivery of human services through information technology. My testimony today reflects the position of that coalition.

Mr. Chairman, you asked me to address two items, and I will do that. The first is the child support enforcement automated data processing provisions in the legislation that particularly asks about the adequacy of the $260 million ceiling to pay for the additional automated technology. The second issue was the access to IRS data for the purposes of child support enforcement. I have several others I would like to discuss.

First, I would like to go on record in strong support of the child support enforcement provisions of H.R. 4 and the Senate Finance Committee version of the legislation. A number of folks were critical in putting that legislation together. You heard from Paul Legler from the administration who worked and put together the Work and Responsibility Act of 1994, Congresswoman Kennelly, Johnson, Morella, Schroeder, Congressman Ford, and your staff person Ron Haskins. The subcommittee should be congratulated for this effort.

Information technology will be a major factor in pushing forth the provisions of the act and we are concerned that, at least in the child support piece with a $260 million limit over 5 years, it is insufficient to bring forth those systems and those modifications to those systems.

We currently have contracts with six States to implement statewide systems. We have done a lot of work with our clients in the last couple of months looking at provisions of the act and what we think is going to be needed to bring the provisions of the act to fruition. We talked a lot within the Human Services Information Technology Advisory Group about the same issues, and our analysis tells us that something in the range of $400 million is going to be needed to do that work and that $260 million is not going to be adequate to achieve the requirements put forth in the legislation.

The second thing I would like to mention around automation is the October 1, 1995, date for achieving the automated systems re-

quirements of the 1988 act. A number of States are struggling to meet that date, and it is clear to me that probably 38 to 40 States will not meet that date. I am concerned that States are making serious mistakes in trying to achieve that date, making shortcuts, and we are going to end up with systems that are not rich enough to do the job. I would urge, and of course the Senate Finance Committee version extends the date to October 1, 1997—I would urge the subcommittee in conference to do the same thing.

Last, I would like to mention access to IRS data. We operate two child support offices in Virginia, full service offices, from intake through enforcement and location. We act, just as the State does in those offices, in terms of providing all services. We are concerned that access to IRS data, which the IRS routinely provides to States for enforcement of child support is limited, and that data provided to State and county child support agencies, it is not provided to private contractors—essentially acting as agents for the State.

We need to see that legislation changed, the IRS Code changed if the subcommittee is interested in having the private sector involved in child support. We believe that we make a significant contribution and make significant improvements in the program. So we ask the subcommittee to look at those provisions that make those changes.

I want to mention State case registries and centralized collection disbursement units. The subcommittee and the country will realize tremendously improved services to clients by centralized payment processing where an employer can send a check to a central unit in a State and have it distributed the very next day to a client.

We fully support State case registries in that regard and think that, based on the things that we do now in States where we do centralized payment processing, New York, Colorado, Massachusetts, and several others where we have realized a 40-percent reduction in costs to those States based on our doing the work as opposed to the States doing the work. So we bring tremendous technology to that effort.

Again, I would like to congratulate the subcommittee for putting forth some outstanding legislation and again urge the subcommittee to make some minor modifications to the legislation when it gets to conference.

Thank you.

[The prepared statement follows:]

UNITED STATES HOUSE OF REPRESENTATIVES

WAYS AND MEANS SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT
JUNE 13, 1995

Statement of
HARRY WIGGINS
Vice President, Child Support Services
LOCKHEED MARTIN IMS
and representing the
HUMAN SERVICES INFORMATION TECHNOLOGY ADVISORY GROUP

Chairman Shaw and distinguished members of the Subcommittee, thank you for this opportunity to testify before you concerning the child support enforcement provisions of H.R. 4, the welfare reform bill passed by the House in March, and the child support enforcement provisions included in the welfare reform bill reported by the Senate Finance Committee several weeks ago. I am Harry Wiggins, Vice President of Child Support Services for Lockheed Martin Information Management Services. Before joining Lockheed Martin IMS in 1992, I served in public sector child support agencies for more than 20 years including serving as the state child support enforcement director in both New Jersey and Virginia.

Lockheed Martin IMS currently operates twenty-one child support contracts in seventeen states across the nation. Our services range from full privatization, to privatizing certain functions such as payment processing, location of nonresident parents, collection of child support payments, and automated systems development.[1]

Lockheed Martin IMS is also an active member of a coalition of private companies working with state and local governments in the human services arena. The Human Services Information Technology Advisory Group (HSITAG)[2] was formed more than two years ago to serve as a source of knowledge about the ability of modern management methods and information technology to improve the delivery of human service programs and to provide an information technology industry perspective on issues related to the delivery of these services to the nation's human service agencies. Many of these companies, as well as others, are also engaged in providing services for state and local child support enforcement agencies. My testimony today reflects the positions of this coalition.

Chairman Shaw, you asked that I specifically address two issues: 1) the child support enforcement automated data processing provisions of the legislation, particularly the adequacy of the $260 million provided in the bills to pay for information technology; and 2) the issue of access to IRS data for the purposes of child support enforcement. There are also several other issues that I would like to bring to the attention of the Subcommittee including centralized registries and payment processing, privatization, and the critical need for information technology

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[1] Lockheed Martin IMS child support enforcement projects include: Georgia, location of nonresident parents; Connecticut, statewide collections; New York, statewide centralized payment processing; Pennsylvania, statewide automated system; and Texas, statewide location and collections. In addition, Florida has issued a request for statewide locations and collections.

[2] The following companies are members of the Human Services Information Technology Advisory Group (HSITAG): American Management Systems, Inc.; Andersen Consulting; BDM Technologies; Deloitte & Touche; Digital Equipment Corp.; EDS Corp.; Integrated Systems Solutions Corp.; Lockheed Martin IMS; Loral Federal Systems; Maximus; National Comprehensive Services Corp.; Network Six, Inc.; SHL Systemhouse, Inc.; Software AG; Sun Microsystems; and Unisys Corp.

in child support enforcement and other human services programs.

First, I want to go on record in strong support of the child support enforcement provisions of both H.R. 4 and the Senate Finance Committee's version of the legislation. When enacted, these provisions will dramatically strengthen the program to both reduce welfare dependency and improve the lives of children to whom child support is owed. As we all know, however, most legislation can be improved and your efforts to this end are to be commended. I realize the difficulties faced by this Subcommittee and Congress to craft these provisions in such a short period of time and greatly appreciate your recognition that further improvements can be made. I also want to take this opportunity to recognize the efforts of the many people who have contributed to this excellent legislation including the members and staff of the former U.S. Commission on Interstate Child Support Enforcement; Paul Legler and other members of the Administration who drafted many of the provisions of the legislation that were originally included in the Work and Responsibility Act of 1994; Congresswomen Kennelly, Johnson, Morella, and Schroeder and Congressman Ford who tirelessly campaigned to include child support enforcement improvements in the welfare reform legislation; Ron Haskins and the other staff of the Subcommittee who met with and discussed the various provisions with all segments of the child support enforcement community; and to you, Chairman Shaw, for leading the effort. I am particularly pleased that you continue to seek improvements in the legislation as the process moves forward as exemplified by today's hearing.

Information Technology

As you are well aware, H.R. 4 calls for a massive reengineering of the nation's welfare system. When enacted, the legislation will dramatically change how human service programs are operated and services delivered at all levels of government. Critical to the success of this effort and these programs is information technology. Unfortunately, the need for automation and information technology in these programs is most often not in the forefront of the debate and is usually given only passing thought and minimal resources. The question of "how" these programs will best be implemented is largely left to program administrators at all levels and is usually not the primary concern of policy-makers when crafting legislation. Lockheed Martin IMS, the other members of the Human Services Information Technology Advisory Group, as well as the state and local agencies who will be implementing these programs are once again concerned that information technology needs are not being adequately addressed in the current welfare reform debate.

This is not a small concern. I believe that meeting the goals of this legislation will require the greatest use of automation and information technology at all levels of government. Just a few examples of the program changes required by H.R. 4 make the need clear. The legislation would limit the provision of benefits to an individual recipient for no more than five years. This will require a tracking system and data base for all individuals who have received benefits over an unlimited period of time, across state lines on a nationwide basis. Limiting benefits to an individual who gives birth to a child while receiving assistance and to teenaged mothers who give birth out-of-wedlock will also require similar tracking and data requirements. The bill also requires states to collect data and report to the federal government a variety of program outcome and participant data, much of which is not being collected today. And, Congress will also want to know the bottom-line answer to the question of how states are spending their share of federal dollars.

Human service programs including the current Aid to Families with Dependent Children (AFDC) program, the envisioned state-based Temporary Assistance Program Block Grant, child protection programs, and the child support enforcement program are all dependent on good and timely data and information management systems if they are to be successful. They are needed not only to chart program operations and performance outcomes but to improve program efficiencies and reduce fraud. Block grants, as envisioned by the legislation will make these programs even more needful of good data and the information technology required. Most importantly for Congress to consider, I believe, is the question, "How will we know whether H.R. 4 is achieving its goals?" To even begin to answer that question will require good data and the information technology needed not only to collect the data but to actually implement and operate

these programs.

H.R. 4 does include a provision which requires the Department of Health and Human Services to conduct a study of and submit a report on the status of automated data processing systems in the states and on what would be required to produce a system capable of tracking participants over time. The report would also include a plan for building on current automated systems to perform these and other functions as well as the estimate of time and cost required to put such a system in place. While I believe such a study and report is beneficial, I also believe that a stronger commitment of federal resources--both funding and personnel-- is immediately needed to help to assure that the goals of welfare reform are achieved. As you know, experience shows that states cannot undertake these essential information technology initiatives without federal support.

As you continue to explore ways to improve the current welfare reform legislation, I urge you to thoughtfully consider the information technology and automation needs of these programs and to include adequate and appropriate federal resources for developing and implementing these critical systems. Without these systems in place, I fear that the goals of welfare reform will be extremely difficult to achieve.

Child Support Enforcement Automated Data Processing Requirements

Chairman Shaw, you asked that I specifically address the adequacy of the $260 million provided in the legislation for child support enforcement data processing. First, let me point out that the $260 million provided over five years for child support data processing and information technology requirements first appeared in the Administration's welfare reform bill in 1994. It is well known that the figure was determined in a purely arbitrary fashion and ignored the best estimates of the true cost of such technology needs developed within the Administration and the Congressional Budget Office. The $260 million figure has since resurfaced in a number of bills including H.R. 4 and the Senate Finance Committee's welfare reform bill.

The $260 million for automated data processing is clearly and woefully inadequate to meet not only the new requirements placed on states by H.R. 4, but also the continuing system development currently underway in the states to meet the requirements of the Family Support Act of 1988 and the 1993 OBRA legislation. The inadequacy of this funding level is recognized nearly universally. In fact, I personally know of no one who can legitimately support this level of funding.

Congress viewed it necessary--and this legislation continues to rightfully support--a strong federal role and requirements for state child support enforcement programs. This legislation also correctly supports the concept that the more automation and information technology available to state child support programs, the more successful these programs will be. As I noted previously regarding Congressional treatment of human service technology needs, in this case funding for these technology needs are treated somewhat as an afterthought.

Lockheed Martin IMS, the Human Services Information Technology Advisory Group, state child support enforcement officials, and others have long advocated for adequate funding without arbitrary funding caps to support the reengineering, planning, design, and development of new automated systems in order to actually accomplish the program improvements envisioned by this legislation. The fiscal reality and political common sense tell us all, however, that funding for these information technology improvements will likely be limited by a funding ceiling. The question then is: where should that funding level be set? Lockheed Martin IMS has discussed this issue with program experts at all levels and believe that a funding level of at least $400 million over five years is much more realistic. I therefore recommend that as you continue to refine this legislation you raise the funding limit for child support enforcement automated data processing to at least the $400 million level. Further, I recommend that you retain the provision in the legislation to require the Department to study and report on the ongoing information technology needs and costs such systems and to continue to provide oversight and attention to the information technology needs of the child support enforcement and other human service programs within your jurisdiction.

Deadline for Current Automated Systems

The Family Support Act of 1988 mandated implementation and certification of statewide comprehensive child support enforcement automated data processing systems by October 1, 1995. Enhanced federal funding at the rate of 90% is provided for this system development. Unfortunately, the late issuance of final federal regulations and certification requirements and other factors have resulted in most states running out of time to complete their automated systems by the current deadline. Lockheed Martin IMS and other member companies of the Human Services Information Technology Advisory Group are working with a number of states to implement these systems and know first hand the difficulties most states are having in implementing such complex systems within the current deadline. The concern is not only the fact that states face the loss of federal funds to administer the child support enforcement program if they fail to implement automated systems that meet certification requirements by the deadline, but also that many states are now "reaching for the deadline" and are sacrificing quality simply to meet the deadline. The last thing states, their private sector contractors, the federal Office of Child Support Enforcement, and hopefully Congress would want, is to rush these complex projects to completion and find that they can't do the job they were designed to do. This is especially critical since the child support enforcement provisions envisioned in the current welfare reform legislation will require a solid automated data processing foundation on which to build the new information technology requirements such as state registries and centralized collection and disbursement units.

The Senate Finance Committee's version of H.R 4 addresses this problem by extending the current system development deadline until October 1, 1997--one day for each day the final regulations were delayed. The bill would also continue to provide enhanced funding for system development at the 90% rate, but limited to the amount approved in each state's advance planning document submitted before May 1, 1995. It appears, however, that some states had been instructed to delay submission of advance planning documents updates due to uncertainty about the deadline. While we understand the desire of Congress to not substantially increase costs of current system development, I believe it may be wise to allow some flexibility in this date by granting the Secretary some discretion to approve additional costs based on ojective factors such as caseload growth which are beyond the control of the states. I strongly recommend that the Senate provision with greater flexibility be included in the final version of the welfare reform legislation.

Access to IRS Data

Chairman Shaw, I appreciate your interest in the issue of private contractor access to IRS data and am pleased to address this concern. One of the most serious issues facing states in their efforts to improve their child support enforcement programs through the use of privatization of various functions, is private sector access to information already provided to the states by the Internal Revenue Service. IRS data is one of the most powerful weapons in the arsenal of state and local child support agencies for locating nonresident parents and their assets through wage and tax information, for obtaining collections through the IRS tax refund offset program, and ultimately to payment processing and actual payments of collected wages and tax intercepts to custodial parents and their children.

Authority to use IRS data for these purposes is extended in the Internal Revenue Code, Sections 6103 (l)(6)(A) and (B), which allow disclosure of IRS data to Federal, State, and local child support enforcement agencies for the purposes of establishing and collecting child support, and Section 6103(l)(10), which allows disclosure to agencies requesting a reduction.

Many states and localities currently contract with private agents such as Lockheed Martin IMS for activities such as location, collection, payment processing, distribution of payments and fully privatized offices which inherently rely on IRS data. Some states also utilize non-state or local child support agency personnel such as Clerks of Courts for similar functions.

Although the aforementioned sections of the IRS Code allow disclosure of this data to state and local child support enforcement agencies, the IRS has recently been taking the position

that these provisions do not allow disclosure to private companies contracted to state or local child support enforcement agencies or to other non-state or local child support enforcement personnel because they are not specifically authorized for receipt of data under the code.

Frankly, I believe we all understand the need for privacy of IRS data. It does not seem unreasonable, however, that state and local child support agencies that choose to contract services with the private sector or with non-state or local child support agency personnel also be allowed to grant access to this information under the same safeguards, privacy and disclosure restrictions on the use of such data--and the same penalties for misuse of data--as are already spelled out in the code for child support enforcement agencies.

In fact, this is what is currently being done in every state where private companies as well as non-state and local child support enforcement agency personnel are under contract to provide services Every contractual arrangement clearly stipulates that access to IRS data is provided under the same rules and restrictions as the public agencies themselves and I am aware of no instances where this has created any problems. I can honestly say that Lockheed Martin IMS as well as the other private companies engaged in child support enforcement activities are extremely conscientious about handling this information because we are fully aware that any breach of such confidence could threaten our contracts and our business.

In order to best address this problem, it is essential that Congress amend the Internal Revenue Service Code so that IRS data can be made available not only to state and local child support enforcement agencies but also "to their contractual agents." Further, the Code should stipulate that the data would be disclosed on the same basis and under the same restrictions and penalties as to publicly operated state and local child support enforcement agencies. If this issue is not immediately addressed, there is no question that the movement toward program improvement through the use of privatization would be seriously jeopardized. It would also undermine the ability of child support enforcement agencies to utilize contractors for specific program functions such as automated systems development, location of nonresident parents, collection of support, and the operation of centralized registries and payment processing centers as envisioned in H.R. 4. I therefore urge you to quickly resolve this issue by including a provision amending the IRS code to grant access to IRS data to private sector companies or other non-state or local child support enforcement agency personnel operating under contract to state or local child support enforcement agencies.

State Case Registries and Centralized Collection and Disbursement Units

Lockheed Martin IMS and the member companies of the Human Services Information Technology Advisory group are in strong support of the requirement included in both H.R. 4 and the Senate Finance Committee's welfare reform bill that states implement and operate child support case registries and centralized collection and disbursement units. Central registries and collection and disbursement units were major recommendations of the former U.S. Commission on Interstate Child Support Enforcement and are supported by virtually all child support enforcement professionals.

Lockheed Martin IMS is currently providing centralized payment processing services in a number of states and localities including New York, California, Hawaii, and Colorado. Currently, at least twelve states have adopted some type of centralized collection and disbursement system and more and more states are moving toward these systems to more efficiently handle child support enforcement transactions. The legislation will further speed their development. Central registries and payment processing centers have proven to be more efficient and cost effective, provide better customer services, and result in improved enforcement and higher collections.

I do want to bring to the Subcommittee's attention one problem with the centralized collection and disbursement unit provision in H.R. 4 which can easily be addressed by adopting language included in the Senate Finance Committee's version of the provision and by adding additional language.

The version of the bill adopted by the full Ways and Means Committee allowed states to establish centralized collection and disbursement issues by linking local units through computer systems. Although seemingly harmless on first view, this approach is more expensive, operationally inefficient, and much more burdensome for employers. When this problem was brought to your attention, Chairman Shaw, you successfully offered an amendment on the floor to allow the linking of local collection and disbursement units only if the Secretary of the Department of Health and Human services agrees "that the system will not cost more nor take more time to establish than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent." Unfortunately, this language does not fully resolve the problem with potential costs. The problem is the ongoing operational costs of linking local units which can be addressed by adopting the Senate version of the provision. That provision states that the Secretary must agree that "the system will not cost more nor take more time to establish or operate than a centralized system."

The other potential problem with the linking of local units is the timeliness of payment disbursement to custodial parents. This problem can best be addressed by including language that stipulates that linking local units does not take more time to disburse payments to custodial parents than a centralized unit.

Privatization of Child Support Enforcement Services

In conclusion, I would like to take the opportunity to briefly discuss the privatization of child support enforcement services.

First, I want to make clear that I am not speaking of or supporting the private sector contingency fee based child support collection agencies that are paid out of funds paid as child support for children. Privatization of child support functions as I discuss does not divert any of the critically needed child support from children.

Many states have found it beneficial to privatize specific functions of their child support enforcement program such as location of nonresident parents, collection of child support, centralized payment processing, and establishing orders and paternity. As child support enforcement caseloads and program demands continue to increase while public sector resources are becoming more scare, many states are finding privatization to be a viable solution to maintain and improve the level of service to their customers.

States are now moving toward full privatization of child support services. Full privatization first began in the Commonwealth of Tennessee four years ago. Since that time, Arizona, Georgia, Mississippi, Nebraska, Virginia, and Wyoming have all implemented full privatization in certain areas and have been extremely satisfied with the results. In recent months, Virginia, Wyoming, and Tennessee have issued proposal requests to increase these efforts and many other states are actively considering privatization.

Lockheed Martin IMS currently operates two District Child Support Enforcement Offices for the Commonwealth of Virginia in Hampton and Chesapeake and Virginia will soon award contracts for the privatization of three offices in the Northern Virginia area. Staff of this Subcommittee, other Congressional staff, the General Accounting Office, and officials of other states have visited the Hampton or Chesapeake offices to learn more about these full privatization efforts.

In the Hampton and Chesapeake offices, Lockheed Martin IMS staff provide all of the same services for child support enforcement customers as Commonwealth staff provide in the twenty other district offices operated by the state. These services include intake, paternity establishment, order establishment, enforcement of orders, review and adjustment of orders, and location of nonresident parents. Our staff is responsible for all cases referred from the local welfare agencies as well as all non-public assistance cases where the custodial parent requests child support enforcement services.

We pride ourselves on customer service. In our Virginia offices, we have implemented

specialized customer service units that are able to receive inquiries by telephone, mail, fax, or in person. Premiums are placed on both timeliness and courtesy. Our customer service units are augmented by both an automated Voice Response Unit to provide case and general information 24 hours a day and a call distribution unit which ensures callers never receive a busy signal.

We also strive to make services more accessible to customers by having extended and weekend office hours and by providing services at various locations throughout the community such as schools, religious institutions, community centers, hospitals, and public health clinics.

In your earlier hearings, you heard testimony from a number of witnesses regarding the benefits of privatization. I too could spend a great deal of time testifying in support of these efforts. Let me simply say, however, not only as a representative of a company viewed as a leader in this field but also as a former state child support enforcement director, that the future success of child support enforcement lies in the public-private partnership of privatization.

Again, I thank you for the opportunity to speak to you today. Lockheed Martin IMS and the member companies of the Human Services Information Technology Advisory Group are eager to continue to work with you on this important legislation.

Deadline for Current Automated Systems

As addressed in my written statement, Lockheed Martin IMS supports an extension of the deadline for current automated systems to October 1, 1997 as included in the Senate Finance Committee's version of H.R. 4.

Lockheed Martin IMS also supports continued enhanced federal funding at the 90% rate to allow adequate financial support to assure the development of sound automated systems upon which the new systems required by H.R. 4 can be built. The Senate Finance Committee's version of H.R. 4 would continue to provide enhanced federal funding for system development at the 90% rate, but limited this to the amount approved in each state's advance planning document submitted prior to May 1, 1995. As stated in my testimony, I believe that some greater flexibility needs to be included in this provision to allow those states that may still be in the process of submitting updates to their advance planning documents the opportunity to receive funding at the enhanced rate to meet current system development requirements. The following language would address the situation by granting the Secretary of HHS some discretion in approving expenditures submitted after May 1, 1995:

Sec.454A. (b) (3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1) (B) as the Secretary finds are for a system meeting the requirements specified in section 454 (16), but limited to the amount approved for States in the advance planning documents of such States submitted before May 1, 1995. [*The Secretary may also pay to States 90 percent of State expenditures for costs approved in advance planning documents submitted on or after May 1, 1995 if the Secretary finds that such expenditures are the result of unanticipated caseload increases or other factors beyond the control of the State.*]

Chairman SHAW. Thank you, Mr. Wiggins.
Ms. Ross.

STATEMENT OF HON. JANE L. ROSS, DIRECTOR, INCOME SECURITY ISSUES, U.S. GENERAL ACCOUNTING OFFICE

Ms. ROSS. Thank you, Mr. Chairman. I want to talk about opportunities to defray the rapidly increasing costs of providing child support enforcement services. We believe at GAO that charging a percentage service fee on all collections of child support for the non-AFDC families would be an appropriate way to finance services for these nonwelfare clients. We have not recommended a particular percentage and we certainly haven't recommended 15 percent, but we have recommended that a percentage of collections would be a more desirable mechanism than the current application fee.

We know that the child support enforcement program is helping people that are nonwelfare families. Preliminary data for 1994 show that the program collected more than $7 billion for about 8 million non-AFDC families.

To help defray the costs of providing these services to non-AFDC clients, the Federal law requires that non-AFDC applicants be charged a mandatory application fee of up to $25. Last year, the administrative costs for this nonwelfare workload were $1.1 billion. This application fee brought in 3 percent of these costs; in other words 3 percent of them were recovered, or $33 million.

Most States charge their non-AFDC clients less than $1. What you should know about these administrative costs is that they are growing rapidly and we expect them to continue to grow rapidly so that by the year 2000, they will be over $1.6 billion. One important factor that led us to recommend a percentage fee based on collections rather than the current application fee is that many clients served by the non-AFDC program may not be exactly the low-income population that the Congress envisioned providing services.

In 1991 about ½ million men and women requested child support services. About 65 percent of them had incomes that exceeded 150 percent of the poverty line, and about 45 percent of them had incomes that exceeded 200 percent of the poverty level.

When we first reported on this issue in 1992, we evaluated and estimated the impact of several alternatives to the current one, including a mandatory application fee, an annual service fee, income tax offset fees, and various combinations of each. In evaluating these alternatives, we looked at three criteria, the effect on the potential client's access to services, the client's financial resources, and State administration of the child support program. After we looked at the alternatives and at these criteria, we came to the conclusion that charging a percentage fee on all child support collections and eliminating the current application fee would be the most appropriate mechanism, for several reasons.

The approach offers several advantages over the other alternatives and, quite importantly, it provides significant potential for increasing the recovery of Federal administrative costs.

But as to the advantages of this type of collection, No. 1, this is administratively very simple. No. 2, because there is no up-front cost to the client as with an application fee, it probably won't serve

to discourage non-AFDC clients from seeking other child support services like location and paternity establishment.

No. 3, because of that fact that you are paying only after some collections have been made, it would seem less burdensome to clients than other methods.

You asked us specifically to comment on how the alternative fee structure we recommend should be implemented. The administration of such a cost recovery system should be kept as simple as possible so as not to incur unnecessary administrative costs. Thus, every time $1 is collected, whether from an income tax refund offset, wage withholding, or just monthly child support collection, the percentage fee should be applied.

We believe that States should be given no discretion in applying the fee and should be required to apply it to every dollar collected. If, however, you decide that for people coming off the welfare program you wanted to make a special arrangement so they had no collection for the first year, that would be possible.

The amount of costs that were recovered under our approach would depend entirely upon the percentage fee that the Congress sets. We have a table in our written testimony showing everything from 15 percent down to one-half of 1 percent and, as I said before, we are not recommending a particular percentage but you can see the range of collections that is possible at all of those levels.

Mr. Chairman, that concludes my statement. I will be glad to answer any questions.

[The prepared statement and attachments follow:]

STATEMENT OF HON. JANE L. ROSS
DIRECTOR, INCOME SECURITY ISSUES
U.S. GENERAL ACCOUNTING OFFICE, WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss opportunities to defray growing taxpayer costs for providing child support enforcement services to individuals other than recipients of Aid to Families With Dependent Children (AFDC).

The purpose of the federal Child Support Enforcement Program is to strengthen state and local efforts to obtain child support for both AFDC and non-AFDC families. When the Congress created the program in 1975, it made child support enforcement services available to non-AFDC clients with the belief that many families might be able to avoid the necessity of applying for welfare by obtaining the support due from the noncustodial parent. Indeed, the Child Support Enforcement Program is helping nonwelfare families; preliminary data for fiscal year 1994 show that the program collected more than $7.3 billion for about 8.2 million non-AFDC clients.

Our testimony today, based on an update of our 1992 report,[1] will focus on four key points about the non-AFDC child support program: (1) growth in non-AFDC caseloads and related administrative costs to provide collection and other services; (2) income characteristics of non-AFDC clients, specifically, our finding that many are not within the low-income population to which the Congress envisioned providing child support enforcement services; (3) alternatives for increasing non-AFDC cost recovery; and (4) an alternative fee structure based on child support collections, and the degree of flexibility states should have in implementing such a cost recovery system.

In summary, our work has shown that providing child support enforcement services to non-AFDC clients is costly. Since 1984, federal and state government non-AFDC administrative costs have risen over 600 percent to over $1.1 billion in fiscal year 1994. During this time, non-AFDC caseloads have also risen sharply, and many non-AFDC clients being served may not be within the low-income population to whom the Congress envisioned providing services. States have exercised their discretion to charge these clients only minimal application and optional service fees, such as for offsetting federal and state tax refunds and, thus, are doing little to help recover the federal government's 66-percent share of program costs. While non-AFDC service costs increased significantly from 1984 through 1994, recoveries of these costs only increased from 2 percent to about 3 percent or from $3 million to $33 million. The national average cost per non-AFDC case in fiscal year 1994 was about $136, while the average fee collected was about $4. In contrast, private child support collection agencies, whose services are also available to non-AFDC families, may charge an application fee and a percentage fee, usually about 25 percent to 33 percent, of the support collected.

Because most states have opted to implement minimal fee policies, the federal government's two-thirds share of the unrecovered non-AFDC child support administrative costs is considerable--almost $715 million in 1994 alone. For this reason, we had recommended in 1992 that the Congress amend title IV-D of the Social Security Act to (1) require states to charge a minimum percentage service fee of each successful child support collection and (2) eliminate the mandatory non-AFDC child support application fee and optional federal and state tax offset fees. To date, the Congress has not acted on our recommendations.

BACKGROUND

Child support enforcement services are provided for both AFDC and non-AFDC clients and include locating noncustodial parents, establishing paternity, and obtaining child support orders. In

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[1] Child Support Enforcement: Opportunity to Defray Burgeoning Federal and State Non-AFDC Costs (GAO/HRD-92-91, June 5, 1992).

addition, services are provided to collect ongoing and delinquent child support through such means as mandatory wage withholding, federal and state income tax refund offsets, personal property liens, and reporting delinquent payments to credit bureaus.

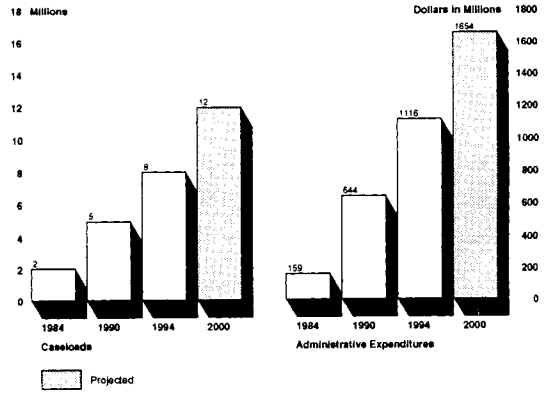
Federal responsibility for this program lies with the Department of Health and Human Services' (HHS) Office of Child Support Enforcement (OCSE). State child support enforcement agencies have responsibility for administering the program at state and local levels. The federal government and the states share program costs at the rate of 66 and 34 percent, respectively.

While AFDC recipients are required to participate in the child support enforcement program so that states may recover some portion of the AFDC grant, others not receiving AFDC may apply and receive the same services. In these non-AFDC cases, all child support is turned over to the custodial parent. To help defray the costs of providing these services, federal law requires that non-AFDC service applicants be charged a mandatory application fee up to a maximum of $25. This fee must be paid to the child support agency by the applicant or the state and may be recovered later from the noncustodial parent. States also have the option of recovering actual non-AFDC service costs from the custodial or noncustodial parent and charging fees for specific services, such as offsetting federal and state income tax refunds of delinquent noncustodial parents. The federal and state governments share cost recoveries at the same rate that they share program costs.

CASELOADS, COLLECTIONS, AND EXPENDITURES HAVE RISEN, BUT FEW COSTS RECOVERED

Since passage of the Child Support Enforcement Amendments of 1984, which provided incentives to states to strengthen their non-AFDC programs, non-AFDC caseloads, collections, and administrative expenditures have grown significantly. From 1984 through 1994, the non-AFDC caseload nearly doubled every 5 years and now exceeds the ongoing AFDC caseload. When we reported on this increasing trend in 1992, we estimated that non-AFDC caseloads and expenditures could exceed 7 million and $1 billion, respectively, by 1995. Non-AFDC caseloads and expenditures, however, grew even more rapidly than we predicted. Figure 1 shows caseload and expenditure growth from 1984 through 1994 and provides an estimate of both for the year 2000. From fiscal year 1984 through 1994, non-AFDC caseloads rose 340 percent, from 1.9 to 8.2 million cases, and administrative expenditures increased over 600 percent, from $159 million to $1.1 billion. The average annual service cost per non-AFDC case also increased about 60 percent over this period, from $85 to $136.

Figure 1: Fiscal Years 1984, 1990, 1994, and Estimated 2000 Non-AFDC Caseloads and Expenditures



Source: OCSE's annual child support enforcement reports to the Congress for fiscal years 1984, 1990, 1994 (preliminary), and GAO's estimates for fiscal year 2000.

The non-AFDC child support program collects billions of dollars in child support, but little of the costs of providing these services is recovered. From 1984 to 1994, collections increased about 432 percent, from $1.4 to $7.3 billion. During this period, the administrative expenditures to provide collection and other services has risen sharply. Because most states chose to charge minimum application and service fees, cost recoveries over this same period were small, increasing from $3 to $33 million or from 2 percent to about 3 percent of administrative expenditures. As we reported in 1992, most states charge non-AFDC clients an application fee of $1 or less. Appendix I provides detailed information on states' child support collections, expenditures, and costs recovered.

MANY NON-AFDC CLIENTS MAY NOT BE WITHIN THE POPULATION THE CONGRESS ENVISIONED SERVING

Many clients served by the non-AFDC child support program may not be within the low-income population to whom the Congress envisioned providing services. The Bureau of the Census' 1991 data, the most recent available, show that about 523,000 men and women, age 15 years and older, had requested child support services in that year. About 65 percent of these reported incomes, excluding any child support received, exceeding 150 percent of the federal poverty level.[2,3] As figure 2 further illustrates, of all clients requesting services, about 45 percent reported incomes

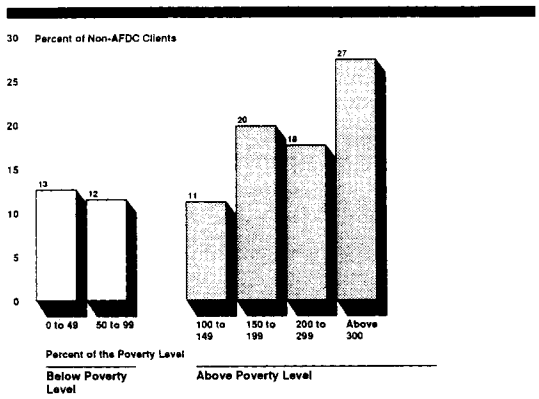
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[2]Census data are generally thought to underreport the receipt of income. Answers to questions about income often depend on the memory or knowledge of one person in the household. Also, recall problems can cause underestimates of income in surveys, because people can easily forget minor or irregular sources of income.

[3]In 1991, the poverty threshold for a three person household was $10,860.

exceeding 200 percent of the poverty level and 27 percent reported incomes exceeding 300 percent. Under current state fee policies and practices, taxpayers are paying most of the cost to provide child support enforcement services to non-AFDC clients.

Figure 2: Non-AFDC Clients' Income Relative to the Federal Poverty Level (1991)



Note: Data do not add up to 100 percent due to rounding.

Source: Unpublished tabulations by HHS computed from the Bureau of the Census' 1992 Current Population Survey Child Support Supplement, a public use tape.

ALTERNATIVES TO INCREASE COST RECOVERY

Federal law provides states considerable discretion in establishing fee policies to help defray non-AFDC child support administrative expenditures. Most states choose to exercise this discretion by adopting minimal fees, resulting in little cost recovery. With non-AFDC caseloads and administrative expenditures rising rapidly and the federal government paying two-thirds of the unrecovered costs, the non-AFDC fee structure and the rate at which child support services are being subsidized appear inappropriate for a population that the Congress may not have originally envisioned serving.

When we reported on this issue in 1992, we evaluated and estimated the impact of several alternatives for increasing non-AFDC child support cost recoveries. These alternatives included mandatory application, annual service, income tax offset fees, and various combinations of each. In evaluating each alternative, we considered the effect it might have on potential clients' access to services, clients' financial resources, and states' administration. We developed these criteria after interviews with federal and state child support officials and various child support public interest groups and associations.

After examining states' fee policies and practices and considering the various alternatives, we concluded that any approach to increase cost recoveries through amending existing non-AFDC child support fee policy should not include mandatory

application or fixed annual service fees. Many state child support officials view application fees as a barrier to clients who do not have the financial means to apply for services. Such fees may also discourage clients from seeking services, because the fees are paid whether or not any child support is collected. Some officials also believe that a fixed annual service fee could be cumbersome to administer, especially if it is to be recovered over a series of payments throughout the year. Finally, many state child support agency officials also oppose any fee that would be means-tested. A means test that requires states to validate clients' income through third parties would add considerable administrative and cost burdens to the program.

A MINIMUM SERVICE FEE STRUCTURE
WOULD HELP RECOVER TAXPAYERS' COSTS

After considering the various alternatives, we reported that (1) charging a percentage service fee of all child support collections and (2) eliminating the mandatory application fee and optional federal and state tax offset fees would provide the most appropriate alternative to finance non-AFDC child support services. This approach offers several advantages over the other alternatives we evaluated and provides significant potential for increasing the recovery of administrative costs. State child support officials with whom we discussed this approach believe that it would be simple to administer. In addition, because there is no up-front cost to the client as with an application fee, this alternative should not discourage non-AFDC clients' from seeking valuable child support services, such as location and paternity establishment, even if collections are not realized. The approach could lessen the financial burden on clients who have limited financial resources, because fees would be collected only when child support payments are received.

You specifically asked us to comment on how the alternative fee structure we recommended should be implemented, including our views on the degree of flexibility states should be afforded. The administration of such a cost recovery system should be kept as simple as possible, so as not to incur unnecessary administrative costs. Thus, every time a dollar is collected, whether from an income tax refund offset, wage withholding, or monthly child support collection, the percentage fee should be applied. States should continue to have the option to pay this fee themselves or pay the fee and recover it from the noncustodial parent. However, as under existing federal law covering application fees, states should not be able to claim the service fees they pay as a program administrative cost. With respect to states' flexibility, because most states have opted to adopt minimal fees that has resulted in recovering little of the costs of providing services to non-AFDC clients, we believe that states should have no discretion in applying the fee and be required to apply it to every dollar collected.

The amount of costs recovered under our approach would depend upon the percentage fee that the Congress would set. As illustrated in table 1, a 15-percent service fee on collections would have recovered almost all 1994 non-AFDC administrative costs. However, the Congress may not want to seek full cost recovery. At a minimum, a service fee of one-half of 1 percent (shaded row in table 1) would have recovered the $33 million realized through existing state fee policies.

Table 1: Sharing of 1994 Non-AFDC Child Support Administrative Costs Under GAO Alternative Fee Policy

Dollars in millions

Service fee (percent of collections)	Costs paid by	
	Taxpayer	Non-AFDC client
0.5	$1,083	$33
1	1,043	73
2	970	146
3	897	219
4	824	292
5	750	366
6	677	439
7	604	512
8	531	585
9	458	658
10	385	731
11	312	804
12	239	877
13	166	950
14	92	1,024
15	0	1,116

Note: The 1994 non-AFDC child support collections were about $7.3 billion and administrative expenditures were about $1.1 billion. Shaded row represents the fee that would have had to be applied to collections to equal the $33 million that states recovered through existing fee policies in 1994.

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Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions you or other members of the Subcommittee may have.

For more information on this testimony, please call David Bixler, Assistant Director, at (202) 512-7201. Other major contributors include Nora Perry, Evaluator; Kevin Kumanga, Senior Evaluator; and Chris Morehouse, Evaluator.

Non-AFDC Child Support Collections, Expenditures, and Recovered Costs (1994)

State	Collections	Expenditures	Costs recovered	Recovered costs	
				Percent of collections	Percent of expenditures
Alabama	$106,760,421	$27,379,463	$222,482	0.2	0.8
Alaska	32,206,621	6,082,670	4,060	0.0	0.1
Arizona	56,243,484	20,983,174	11,701	0.0	0.1
Arkansas	39,552,742	12,678,580	1,354,548	3.4	10.7
California	436,945,123	119,797,020	2,287,049	0.5	1.9
Colorado	50,872,695	23,518,908	69,556	0.1	0.3
Connecticut	56,982,657	17,034,182	61,075	0.1	0.4
Delaware	21,808,809	5,715,726	45,913	0.2	0.8
District of Columbia	18,464,994	5,356,147	61,459	0.3	1.1
Florida	249,915,705	46,058,374	1,389,589	0.6	3.0
Georgia	145,002,293	29,039,987	6,307	0.0	0.0
Guam	5,131,094	2,287,773	0	0.0	0.0
Hawaii	35,155,810	10,549,204	0	0.0	0.0
Idaho	26,855,589	6,123,094	561,678	2.1	9.2
Illinois	141,078,593	55,708,119	46,546	0.0	0.1
Indiana	99,680,394	6,130,016	152,431	0.2	2.5
Iowa	82,599,385	13,552,487	445,225	0.5	3.3
Kansas	62,012,286	15,444,924	12,439	0.0	0.1
Kentucky	83,448,345	10,615,707	37,120	0.0	0.3
Louisiana	91,293,397	17,719,733	259,320	0.3	1.5
Maine	23,401,836	5,634,229	2,100	0.0	0.0
Maryland	199,882,152	22,241,772	286,650	0.1	1.3
Massachusetts	127,087,260	27,694,569	3,702	0.0	0.0
Michigan	722,267,784	29,025,099	5,849,560	0.8	20.2
Minnesota	184,834,020	30,053,799	562,877	0.3	1.9
Mississippi	39,417,467	11,214,653	1,133,365	2.9	10.1
Missouri	158,402,857	22,152,762	0	0.0	0.0
Montana	15,245,016	4,234,453	4,864	0.0	0.1
Nebraska	70,924,708	8,185,082	0	0.0	0.0
Nevada	36,450,819	4,095,046	35,970	0.1	0.9
New Hampshire	27,091,788	7,137,494	235	0.0	0.0
New Jersey	353,390,163	37,675,370	742,322	0.2	2.0
New Mexico	16,693,060	6,355,248	381,378	2.3	6.0
New York	385,974,245	68,478,911	127,965	0.0	0.2
North Carolina	149,824,046	25,919,928	190,879	0.1	0.7
North Dakota	15,729,819	3,683,641	15,789	0.1	0.4
Ohio	675,894,719	57,401,631[a]	12,835,502	1.9	22.4

Oklahoma	36,760,444	12,043,014	80,964	0.2	0.7
Oregon	112,107,719	8,388,172	162,329	0.1	1.9
Pennsylvania	734,720,564	62,053,484	49,643	0.0	0.1
Puerto Rico	101,615,083	6,134,437	0	0.0	0.0
Rhode Island	13,361,090	3,528,607	18,080	0.1	0.5
South Carolina	63,565,001	15,310,723	23,166	0.0	0.2
South Dakota	15,711,411	2,866,229	85,688	0.5	3.0
Tennessee	106,536,188	12,679,939	21,438	0.0	0.2
Texas	291,341,238	83,369,939	159,999	0.1	0.2
Utah	40,444,643	8,313,480	628,286	1.6	7.6
Vermont	10,525,657	3,946,838	0	0.0	0.0
Virgin Islands	5,205,336	1,039,192	7,893	0.2	0.8
Virginia	145,207,273	40,179,196	310,168	0.2	0.8
Washington	236,425,254	45,762,269	19,511	0.0	0.0
West Virginia	42,024,701	18,619,013	61,364	0.1	0.3
Wisconsin	299,147,224	24,840,880	2,396,686	0.8	9.6
Wyoming	11,896,182	1,583,064	20,879	0.2	1.3
Total	**$7,311,117,204**	**$1,173,617,451[a]**	**$33,247,750**	**0.5**	**2.8**

[a]Because Ohio's fiscal year 1994 non-AFDC expenditures were not available, we estimated the amount by taking Ohio's fiscal year 1993 average cost per case and multiplying it by the fiscal year 1994 non-AFDC caseload. The total expenditures figure includes this estimate.

Note: Preliminary collections, expenditures, and costs recovered data from HHS' Administration for Children and Families, Office of Child Support Enforcement.

RELATED GAO PRODUCTS

Child Support Enforcement: Families Could Benefit From Stronger Enforcement Program (GAO/HEHS-95-24, Dec. 27, 1994).

Child Support Enforcement: Federal Efforts Have Not Kept Pace With Expanding Program (GAO/T-HEHS-94-209, July 20, 1994).

Child Support Enforcement: Credit Bureau Reporting Shows Promise (GAO/HEHS-94-175, June 3, 1994).

Child Support Enforcement: States Proceed With Immediate Wage Withholding; More HHS Action Needed (GAO/HRD-93-99, June 15, 1993).

Child Support Assurance: Effect of Applying State Guidelines to Determine Fathers' Payments (GAO/HRD-93-26, Jan. 23, 1993).

Child Support Enforcement: Timely Action Needed to Correct System Development Problems (GAO/IMTEC-92-46, Aug. 13, 1992).

Medicaid: Ensuring That Noncustodial Parents Provide Health Insurance Can Save Costs (GAO/HRD-92-80, June 17, 1992).

Child Support Enforcement: Opportunity to Defray Burgeoning Federal and State Non-AFDC Costs (GAO/HRD-92-91, June 5, 1992).

Interstate Child Support: Wage Withholding Not Fulfilling Expectations (GAO/HRD-92-65BR, Feb. 25, 1992).

Interstate Child Support: Mothers Report Less Support From Out-of-State Fathers (GAO/HRD-92-39FS, Jan. 9, 1992).

Interstate Child Support Enforcement: Computer Network Contract Not Ready to Be Awarded (GAO/IMTEC-92-8, Oct. 23, 1991).

Children's Issues: A Decade of GAO Reports and Recent Activities (GAO/HRD-90-162, Sept. 21, 1990).

Child Support Enforcement: More States Reporting Debt to Credit Bureaus to Spur Collections (GAO/HRD-90-113, July 31, 1990).

Interstate Child Support: Better Information Needed on Absent Parents for Case Pursuit (GAO/HRD-90-41, May 24, 1990).

Child Support: State Progress in Developing Automated Enforcement Systems (GAO/HRD-89-10FS, Feb. 10, 1989).

Chairman SHAW. Thank you.

Mr. Collins.

Mr. COLLINS. I pass.

Chairman SHAW. I have a couple of questions.

Ms. Ebb, you spoke of the penalty on the establishment of paternity. This is one we wrestled with hard and long because we do recognize that there would be some injustices. But what would be the incentive—or don't you think that there is a greater incentive, particularly when you are escrowing the back amounts due—to go beyond just simple cooperation, but also to help find the father and identify him and bring him along?

To me, we have given a tremendous incentive because we not only penalize by reducing the amount, but we allow that amount to build up to where it is almost a bounty at a certain time to solicit the increased cooperation of the mother for the identification of the father.

Ms. EBB. I guess there are two responses. One is that it is technically something of a flawed bounty because, as I understand the way the provision is drafted, if you are not on AFDC at the time the paternity is established, those escrowed amounts were not available to you. The bounty is available only if the family is on AFDC when paternity is established and because of a fluke of timing that the family actually has no control over.

The second issue is, particularly in a time limited welfare system where the family knows they are going to be off welfare and on their own, depending on that noncustodial parent for support at some point, they already have a compelling reason to cooperate independent of the escrow demands. So I think families have that incentive already.

What the effect of the penalty is, is to simply penalize the child when there is nothing at that point the mother can do to move the State along. I get frequent calls and letters from AFDC moms who are terribly frustrated by their inability to speed the process up and who are desperate to establish paternity or to obtain support.

Chairman SHAW. Let me ask this question, then. Given the fact that we may very well leave in the legislation the provision that would require a penalty to be incurred until paternity is established, what incentive would you suggest that we might give the State to move this process along as rapidly as possible for the women who are cooperating?

Ms. EBB. I can think of a bunch. Let me think about it—I think that if you keep that penalty for the family, you absolutely have to have a corresponding one for the State so that if paternity is not established in a very timely manner, a penalty begins to tick off to the State that accrues to the family. I would be happy to think through that and get back to the staff.

[The information was not available at time of printing.]

Chairman SHAW. I think we can agree on that particular point and should move it ahead faster.

Mr. Henry and Mr. Wiggins, I think you were somewhat in conflict in your testimony. Mr. Henry, I think you wanted to establish a situation where we would try to do without the collection process or the data process. I believe Mr. Wiggins was testifying that he

thought that was a very important facet on this whole issue of child support.

Would you like to amplify your difference?

Mr. HENRY. Certainly, Mr. Chairman. One of the reasons that the welfare bureaucracy has grown like Topsy is that we starting to pull in a great many cases that don't need to be there, cases that were in voluntary compliance prior to the child support bureaucracy becoming involved in it. Situations where the State bureaucracy tries to look good to the Federal Government by getting its per-case cost down simply by pulling in more and more volume.

You have seen the analysis of the data showing that if we only look at AFDC collections, the enforcement program costs more than it brings in. The States try to balance that out by saying, "Look how much money we are making on the non-AFDC cases." The reality is that a great amount of that money need not be spent on administration and enforcement because a lot of those cases don't belong there.

There is not one State that has an accurate list of obligors, obligees, and amounts owed. There is not one State that doesn't have as a big part of its caseload situations that would be paid voluntarily if the bureaucracy ceases to exist.

If we want to cut the cost of administration, one of the things we ought to do is motivate the States to distinguish between cases that need intervention and those that don't. If the government is simply serving as an unnecessary conduit, all we are doing is adding costs and delaying the flow of the money to the child because it takes more days to get the dollar from the custodian through the Government through the court to the child than it takes for it to go simply from the parent to the child. Let's get out of ministering to cases that don't need ministration.

Chairman SHAW. H.R. 4 provides that the parents, by mutual consent, can opt out or the judge can opt out in situations where he thinks the father is responsible. I have a very strong feeling that we shouldn't institutionalize the process where you have a noncustodial parent that is trying to be responsible. Many times that is a very important link to the child.

Mr. HENRY. Mr. Chairman, you are right. My concern is with the way the presumption is built, and bear in mind how people and particularly judges in the State courts operate. If the standard operating procedure is that everybody goes into the system unless there is a special effort to stay out, you will get massive overkill.

You need to be careful because people operate on the basis of the presumptions that we establish here. This is why I speak of the unintended consequences of our good intentions. Right now, because of the way we have phrased our Federal law, we are causing a great many cases to go unnecessarily into the enforcement apparatus simply because that is how we have structured the presumption.

It takes a lot of force to resist the natural downhill flow that is written into the words of the statute as it is right now. We need to be more discriminating about those cases which need to have services and those cases which will function just fine on their own.

Chairman SHAW. Would it be your position that we stay out of that and let the States decide who is in and who is out?

Mr. HENRY. Precisely so. I think that we need to give considerably more freedom to the States. We don't have here the capacity to understand differences by State, differences within States, differences from urban to rural areas, ethnic differences, employment differences. It is not possible for us to really identify the cases that truly need to have child support enforcement services. I think we are wasting a great deal of the limited Federal money chasing after cows that would come home to the barn anyway.

Mr. WIGGINS. I would submit a slightly different picture, not necessarily from my experience working with Lockheed, but having worked in two States—New Jersey and Virginia—as a child support director for 13 or 14 years. If everything were so wonderful, there wouldn't be a child support program. If everyone paid their support, there wouldn't be a child support program; it wouldn't exist.

The fact is there are 9 million orders; 3.4 million of those people pay at least one payment during a quarter, so I wouldn't say that we have all these willing payers. Based on my experience and the things that I have seen, I know that more than 90 percent of the IV–D cases fall into arrears during the life of an order.

So if 10 percent of the folks are pure and 90 percent of the folks aren't pure, I guess Ron would suggest, let's get the 10 percent, the 340,000 people with orders that pay all the time out of the system. But it is not the predominant number of cases. The predominant number of cases pay sometimes and don't pay other times. Equally important is we have nearly 6 million cases with orders that don't pay at all and another 8.5 million without any obligation at all.

Chairman SHAW. Do you have an opinion on this, Ms. Ebb?

Ms. EBB. I certainly agree with Mr. Wiggins in his view of the IV–D system. The next question is, with the non-IV–D cases, do you want some form of central case monitoring, which I think is what you heard from Texas this morning. Should States be able to decide that it is more cost effective at least to have an accurate record of whether payments are made in those cases, so that if payments fall behind, there isn't a dispute between the parties and you can go on to do faster, more efficient and cheaper enforcement if those cases do come into the IV–D system? If the State makes that decision, should Federal cost sharing be available?

I think that does make sense, recognizing that States will be able to have that choice and that the parties will be able to decide if they want to opt out of that system. But where a State makes the determination that that makes sense, it is a good investment at least to have accurate records.

Mr. HENRY. Mr. Chairman, if I might, this is a perfect opportunity to do a brief reality check that I think brings some of this into focus. If I could ask you and Mr. Collins to direct your attention to my testimony, you will see a chart which is a reprint from the State of Virginia most wanted list. This comes after my friend Mr. Wiggins left——

Mr. WIGGINS. I did it when I was there, also.

Mr. HENRY. If you take a look at the chart, you will get a grip on some of the consequences of what happens when bureaucracy runs amok. These are the 10 most wanted "deadbeats" in the State of Virginia, the people that we have to come down hard on. Mr.

Willy Bibbins Sanders, a "poultry catcher" who has built up an arrearage of $42,000. How is a poultry catcher going to come up with $42,000? Can we be surprised that he has gone underground.

If you look at that list, you will find that every one of those 10, every single one of them, Mr. Chairman, is a blue collar worker. Every one of them has a hopelessly high uncollectable arrearage. Not one can afford a lawyer to petition for a downward modification and the State's bureaucracy won't process downward modifications.

My understanding is that the State of Virginia won't touch a downward modification unless you have been out of work fully 6 months and built up an uncollectable arrearage. Mr. Chairman, we need to get a lot more realistic about the obligations we are imposing on people.

Chairman SHAW. But we are not imposing—H.R. 4 doesn't go in and tell Virginia how they are going to work on their decrees.

Mr. HENRY. If I may, H.R. 4 does continue the effect of the Bradley amendment which prohibits the States from making retroactive modifications. Once Mr. Bibbins built up his $42,000 arrearage as a poultry catcher, the State of Virginia was disempowered. It could not forgive that arrearage. This is a consequence of the Bradley amendment. H.R. 4 keeps that in place——

Chairman SHAW. You are talking about something that is already in the law.

Mr. HENRY. That is right. It continues that.

Chairman SHAW. I was listening and as you said, we did what?

Mr. HENRY. This is a provision of current law. When we talk about unintended consequences, we have to look at how all the pieces fit together. If we are going to get more strict, if we are going to say to Mr. Bibbins, you must do this, do that, revoke his driver's license and so on, we have to get realistic about the obligations we are seeking to enforce. We have to bear in mind some of the layers that we have already built into place such as the Bradley amendment.

Chairman SHAW. As I said in my opening comments, the information we gather here will help us in the conference process and maybe we ought to look at that Bradley amendment and see how we are intermeshing that with H.R. 4.

Mr. HENRY. I think the States would welcome the opportunity to revisit that because it does create difficulty. Not one of these people will ever be able to pay off that arrearage. We have just driven them underground, driven them away from their children. That is not going to help anybody.

Chairman SHAW. Yes, I see that.

Mr. Collins.

Mr. COLLINS. Mr. Wiggins, you heard Ms. Burke testify earlier about a pilot plan and proposal that all cases would go through child support recovery that were not opted out or approved by the courts. Is that kind of what you are proposing also?

Mr. WIGGINS. Mr. Collins, we would say that a central registry makes a lot of sense for all child support obligations, that we create a central registry and we have a permanent record. In my experience, these disputes that occur without a permanent record, without a true record of payments, turn into huge disasters that take

months and months and sometimes years to untangle. It is so much cleaner and more efficient with a central registry.

Mr. COLLINS. You are saying we would know within a short period of time whether someone was in arrears or not?

Mr. WIGGINS. We would know what they paid or did not pay.

Mr. COLLINS. We could put procedures into place to collect those funds if there was not already a payroll deduction in place based on an opt-out agreement that was approved by the courts?

Mr. WIGGINS. Yes.

Mr. COLLINS. Pertaining to the hardware and the equipment on the States, you estimated $400 million?

Mr. WIGGINS. Yes.

Mr. COLLINS. I believe we heard that figure earlier this afternoon, too; I am not sure—CBO.

Mr. WIGGINS. We have talked to a number of our colleagues, other companies that are putting up these systems. We talked to a number of our clients in the States and tried to do an analysis of what it was going to take to bring these changes to fruition, and we feel fairly comfortable with that number.

Chairman SHAW. I think that was in your testimony.

Mr. WIGGINS. Yes. I did speak to that.

Mr. COLLINS. I asked, I believe it was Ms. Burke about—no, it was Ms. Bane—the fact that we are in this is because of funds having to be expended through the entitlement program of welfare and we were trying to recoup those funds, so we got involved with the system for that purpose.

Now that we are block granting down to the States the actual welfare dollars, what do you think of the States being—they have all the options, you have all of the options of how to administer the program, whether it is paternity or arrears or whatever, and once they make those collections, they retain those collections to help offset their costs and our involvement would be the hardware, the software, and the Federal Register to cross-check with?

Mr. WIGGINS. I would say the Federal legislation involves—it still will be fairly prescriptive in terms of what States do in child support. The issue of recovering AFDC, the issue of establishing paternity, hopefully on more than 520,000 kids each year, the issue of preventing people from going on AFDC, and the more important issue, I think, is in a time-limited program, child support is going to be absolutely more critical than ever, that folks who are going off of AFDC, I think the crunch is really going to hit State agencies to establish and enforce obligations.

Mr. COLLINS. Well, that is true, but now we have two bureaucracies involved in the system. We have States trying to live by the Federal mandates. If you simplify that and put it down to the State level with States having reciprocal agreements about how they are going to collect across State lines, I think you would simplify the situation and bring it to something that is much more workable than it is today.

Mr. WIGGINS. States have reciprocal arrangements now in terms of trying to deal with those 30 plus or minus percent of cases that cross State lines.

Mr. COLLINS. They are limited agreements, though. When it comes to payroll deductions and such——

Mr. WIGGINS. That has been greatly expanded where, essentially, Virginia, for example, even before the law changed, routinely sent interstate income withholdings to employers out of State and employers routinely paid those income withholding orders and that has been modified also. I still believe that because of the paternity issue, because of the large interstate caseload, I think there is going to have to be strong Federal leadership in this program.

Mr. HENRY. Mr. Collins, Mr. Chairman, might I have a moment——

Chairman SHAW. Take 1 minute because we have another panel and we have a chairman of another committee who has to leave. She looks like she is waiting for a plane.

Mr. HENRY. You put your finger on the situation. We are asking each of the 50 States to dance a delicate ballet in terms of bringing children and parents back together and providing necessary support for children. I think it is entirely inappropriate for us in Washington to choreograph every gesture and say it has to be identical in each of the States.

If we are going to give them the respect of some freedom and some autonomy in AFDC enforcement, I think that you will find far better results in child support enforcement if we give them some of that same autonomy. Goodness knows, our efforts from the Federal level have been an absolute disaster so far. You will find agreement across the aisle on that from both parties, people across this panel, people to the left, the right, fathers' advocates, mothers' advocates. It is not working now. More dollars, more coercions, more Federal prescription is not the answer. I think that giving States some flexibility is.

Thank you.

Chairman SHAW. Thank you for staying so late and allowing us to juggle the schedule around for the out-of-state witnesses. I think we have learned a lot.

Mrs. Johnson, Mrs. Morella.

Mrs. Johnson, you may proceed as you wish. We know your schedule.

STATEMENT OF HON. NANCY L. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mrs. JOHNSON. Thank you, Mr. Chairman. I would ask that my entire statement be included in the record and then I will briefly summarize it.

Chairman SHAW. Without objection.

Mrs. JOHNSON. There are two things that I want to address. One is the Budget Committee's proposal to charge a fee in the form of 15 percent of child support collections on nonwelfare families using the IV–D services, and the second thing I want to address is the proposal in the House-passed bill assigning arrearages for post-AFDC families to the families first.

We discussed this at great length, both in our caucus, in your subcommittee, and in full committee. I won't belabor the point, but I think it is extremely important that we change current law so that families can receive the child support debt owed them before they came into the welfare system before the State receives repay-

ment for the support they gave that family while they were on welfare.

This policy currently encompassed in H.R. 4 accomplishes two things. First of all, it rewards families who get off welfare. The transition to self-sufficiency is a difficult one, and giving custodial parents the money they were owed before they were forced on to welfare is the fair thing to do. It helps them during a critical transition, and it makes successful independence far more likely. It is an appropriate and necessary method of welfare prevention.

Families often spend down their assets in an attempt to avoid welfare. Then when they come off, they have nothing, no bit of money to help them through a crisis, and with families there are numerous crises. If we want families to get off welfare, not fall back onto welfare, we ought to let them collect that child support debt that often forced them on to welfare to begin with before the State seeks repayment.

Some of the States have said this costs us money. Well, this provision of H.R. 4 has to be seen in the context of all the other provisions of H.R. 4, some of which save States lots of money. So I think, on balance, this could not possibly cost the States money. You will remember that one provision specifically eliminates the requirements for States to pass through the first $50 of child support collected monthly to the families.

So there are many things in our bill that save the States money, and this one, I think, putting them second in line for arrearages behind families is so important to successful independence for women and children that we ought to preserve it.

As to the 15-percent collections fee idea for non-AFDC families, I strongly oppose that. These families that rely on IV–D services to help them collect child support can't afford a lawyer. They are the marginal ones. They are not on welfare, so they don't get the service automatically, but they are not able to afford a lawyer, and it is a very tough row for them and we certainly can't make it any more difficult by requiring them to pay a 15-percent fee.

The bottom line is, in reality, the fee will come out of the child support for the children because the courts determine what level of child support the noncustodial parent can afford to pay and the courts are not going to require them to pay that child support plus 15 percent. The mother certainly doesn't have 15 percent. In the end, it is going to come out of the money for the child's well-being.

A far preferable approach, and the approach taken in the Congresswoman's caucus bill, would charge penalties for arrearages. The State would charge interest on arrearages as a method of cost recovery. I believe this would be a more appropriate solution that penalizes those who are not cooperating with the State and creates an incentive for noncustodial parents to comply with their court order and does not penalize parents who are in full compliance with child support orders.

The 15-percent proposal would penalize all those parents who, once they get in the system, are paying routinely and regularly, and they are very marginal. They would still have to pay the 15-percent penalty. It has nothing to do with performance, which is one of its weaknesses, whereas an interest charge on nonpayment

goes to the real culprit as well as collects the money the States need.

I am sure Connie will be able to answer any and all questions, and I thank you for your courtesy.

[The prepared statement follows:]

NANCY L. JOHNSON
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TESTIMONY BEFORE THE WAYS AND MEANS SUBCOMMITTEE ON HUMAN RESOURCES

REPRESENTATIVE NANCY L. JOHNSON

JUNE 13, 1995

Mr. Chairman, thank you for the opportunity to testify before your subcommittee today regarding child support enforcement. As you will recall, my colleagues from the Congressional Caucus for Women's Issues and I testified earlier this year in support of including strong child support provisions in the welfare bill. We are pleased with the House-passed bill, and come before you today with several concerns about new developments in the area of child support.

Two of the most significant child support issues currently facing Ways and Means are proposals to charge a fee, in the form of 15% of collections, for non-welfare families using IV-D services; and to modify the House-passed bill assigning certain arrearages for post-AFDC families to the families first.

I strongly support passing child support arrearage payments to the FAMILY FIRST, as spelled out in H.R. 4. In current law, when a family applies for AFDC, it must assign all child support arrearages to the state to help offset the costs of being on public assistance. When that family leaves AFDC, current law entitles the state to keep the arrearages before the family is entitled to any arrearages, up to the point of the total cost of their welfare. Since the family is not entitled to any arrearages up front, it becomes more likely that they will fall onto welfare once again. Changing current law to one in which the families receive the child support debt owed to them before the state receives its repayment accomplishes several important goals:

– It rewards families who have left welfare. The transition to self-sufficiency for families on welfare is a difficult one, and giving custodial parents the money they were owed before they were forced onto welfare is simply the fair thing to do, helps them during a critical transition, and makes independence more likely.

– It is an appropriate and necessary method of welfare prevention. Often, families not receiving child support spend down their assets in an attempt to make ends meet, only to wind up on AFDC when they have no assets left. By allowing families to keep arrearages owed to them in addition to their current support, it will provide a small financial cushion, so that an unexpected expense is less likely to force the family back onto welfare.

CBO has reestimated the cost of giving former AFDC families arrearage payments before the state, scoring it as a greater cost to the federal and state governments. Nonetheless, I urge you to stay with the House-passed language. The bill overall saves the federal government over $60 billion, while giving states tremendous latitude in how they operate their welfare, child welfare, and child care programs. Further, several specific child support provisions will actually save states money, such as elimination of the $50 child support pass-through for families on welfare. So, we cannot look at distribution rules in isolation from the other changes we are making in child support and welfare policy.

The second issue I would like to comment on pertains to the House Budget Resolution's line item calling for a fee equal to 15% of collections to be charged to non-AFDC families using IV-D services. This is problematic for a number of reasons.

Significantly, and I urge my colleagues to focus on this fact, non-welfare families using IV-D are, for the most part, barely making ends meet off of welfare. Middle and upper income families with problems collecting child support owed to them primarily use private attorneys to enforce their court order. Ivana Trump does NOT call up IV-D asking for help enforcing her child support order. The families who use state child support enforcement services depend on them as an essential tool to help the family remain independent of welfare.

Who should pay this fee? Most would argue that we should not reduce the amount of support going to the child. Yet we cannot say "just pass the fee along to the noncustodial parent." States' support order guidelines, which help to determine the level of the support award for a particular family, take into account the amount the noncustodial parent can afford to pay. Just because the state must impose a new 15% surcharge does not mean that the noncustodial parent can afford to pay 15% more. Instead, that amount of money likely will be deducted from the overall award amount, resulting in less money going to support the children.

Furthermore, charging a percentage of collections penalizes only those parents who pay their child support, since they wind up subsidizing the state's costs for trying to collect from more difficult cases. Even parents with excellent payment histories, for whom the state needs to do virtually nothing in order to pass along the paid support to the custodial parent, would be required to pay this surcharge.

Instead of charging a flat percentage of collections, I urge my colleagues to consider a provision similar to H.R. 785, the Caucus for Women's Issues bill upon which H.R. 4's child support provisions are based. This provision would charge penalties for arrearages, requiring, for example, the state to charge interest on arrearages as a method of cost recovery. I believe this is a more appropriate direction to head, since it penalizes those who are not cooperating with the state, and creates a strong incentive for noncustodial parents to comply with their court order. It does NOT penalize parents who are in full compliance with their child support order.

I am fully committed to balancing the budget by 2002, as the budget resolution sets out to do, however, I oppose the two child support enforcement proposals mentioned above. I am committed to working to find other ways to raise revenue that will not unfairly burden families struggling to survive independent of public assistance. Thank you.

Chairman SHAW. Before you leave, I do want to say for the record that you have certainly been one of the leading forces in getting this part of H.R. 4 accomplished and you have done a tremendous job. I would also like to comment briefly, the 15 percent is in the Budget Committee bill. We haven't done it yet, so there is no smoking gun in this subcommittee.

Mrs. JOHNSON. You are right. I meant to be clear on that.

Chairman SHAW. I think that any collection fee should probably go along as it does today. It is usually in the court order and I really would hesitate to get involved in that as to mandate any particular fee or how it is to be paid, because I don't think that is our business. I think that should be the original decree setting forth the support payment, and we should give the judges a great deal of discretion on this as to who is to pay for it and whether it is actually a charge on top of the payment. That is getting into micromanaging something that we have no business doing. The judge is sitting there and is in the best place to judge each particular case.

Mrs. JOHNSON. We often say one size doesn't fit all. This is certainly one of those situations. Thank you very much for this subcommittee's hard work on this issue, two of the most serious advocates of good, solid child support enforcement right here.

Chairman SHAW. Connie.

STATEMENT OF HON. CONSTANCE A. MORELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mrs. MORELLA. Thank you very much. Thank you, Mr. Chairman, Congressman Collins. Thank you for the opportunity to testify before you on this issue. I know you have had a long afternoon and you have been very patient and diligent.

I will certainly associate myself with what Congresswoman Johnson has said and I would say to you, stay the course. This subcommittee has been terrific in terms of child support. The innovative facets of the bill that you have put in I think are a tremendous improvement. So I want to urge you, Mr. Chairman, and members of the subcommittee, to continue to stand by the child support reforms that you have crafted to see that in the final House-Senate conference report, that the key innovations in child support that you included in the Ways and Means bill remain there.

Two issues I think are particularly important, distribution of collections and the fees for the non-AFDC families. The Ways and Means Committee bill stipulates that when the back-due child support is collected for families who have been on AFDC, pre- and post-AFDC arrears are paid directly to the family that is owed the support first, before the State reimburses itself for AFDC. This is done so that families can use the arrears to assist them in making the transition from welfare to financial independence.

It is a marked improvement over the current law, which turns the family's arrears over to the State at precisely the moment when the family needs the arrears most, when it is trying to build up savings that will protect it from falling back into welfare. So Ways and Means determined that current law is unfair, counterproductive, and that it deprives families of their rightfully owed

support and, at the worst possible moment, just as the family is leaving AFDC.

I urge you to stand by this conclusion. I realize that there are financial issues involved here for the States and the Federal Government, but I would suggest to you that of all the places in which to seek savings in the IV–D program, this is among the worst.

Why do I feel this way? Because distribution of arrears is critical to the economic independence of post-AFDC families. It is at the heart of the mission of the Personal Responsibility Act, to foster and maintain independence from welfare. These arrears, remember, were owed to the family. The only reason that States laid claim to the arrears is that these families have had to go on AFDC and, in many cases, the reason they have had to go on AFDC is because they were owed child support in the first place.

The vicious cycle is finally broken through the distribution provisions of the Personal Responsibility Act, and this subcommittee should be justly proud of that accomplishment. So I urge you to stay firm on that profamily measure which has been endorsed by the National Child Support Enforcement Association which represents our Nation's IV–D workers.

Also, the Congressional Caucus for Women's Issues, of which I am the Republican cochair, and Congresswoman Johnson is the Republican vice chair, feels strongly about that provision of H.R. 4. I would also like to urge you to reject any efforts to radically alter the fee structure for the non-AFDC families. Examining the fees for non-AFDC cases may well be appropriate, but the idea that non-AFDC families should be charged a whopping 15 percent of their monthly support for IV–D services is misguided. Who, after all, would pay the fees?

In effect, it would be those non-AFDC children receiving child support, since the money would be taken out of their checks. Who would not pay? For one, the noncustodial parent, since the 15-percent fee would come from the support check itself, not from any additional charge.

Let's remember something else. The only children paying the 15-percent fee would be those who are able to collect support at all. Any parent who evades child support would clearly not be paying anything, so the non-AFDC program would be financed in effect by that minority of children who actually receive support, and this doesn't seem to make sense.

So let's keep in mind as well that the classification non-AFDC family does not imply upper middle-class family or even middle-class family, whatever those things mean anyway. Non-AFDC clients in the IV–D are those who are not poor enough to qualify for AFDC and that doesn't mean much. After all, AFDC plus food stamps doesn't even bring a family of three to the Federal poverty level in 48 States.

Furthermore, non-AFDC families who have the resources to opt out of the IV–D program often do. It is generally those non-AFDC families without resources who stay in the program. So 15 percent of a non-AFDC family's child support check could mean a big difference for a family that is near or even below the poverty line. So if our goal is to keep these non-AFDC clients from becoming AFDC

clients, then taking 15 percent of their child support doesn't make sense.

So I urge this subcommittee to reject that proposal and consider more modest adjustments to the non-AFDC fee structure. I said it quickly. You have heard it before. I want to offer encouragement to stick with what you have done before and congratulate you for what you have done in terms of child support enforcement.

[The prepared statement follows:]

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SUBCOMMITTEES:
CIVIL SERVICE
HUMAN RESOURCES

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES
CO-CHAIR

Testimony of the Honorable Constance A. Morella
before the Subcommittee on Human Resources of the
Committee on Ways and Means
June 13, 1995

MR. CHAIRMAN, I THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE THE SUBCOMMITTEE. I KNOW THAT YOU HAVE A VERY FULL HEARING PLANNED FOR THIS AFTERNOON AND I APPRECIATE THE TIME YOU'VE ALLOCATED TO ME.

FIRST OF ALL, MR. CHAIRMAN, I WANT TO CONGRATULATE YOU FOR THE EXCELLENT WORK YOU HAVE DONE ON CHILD SUPPORT IN THIS CONGRESS, AND FOR THE HISTORIC CHILD SUPPORT REFORMS YOU WORKED TO INCLUDE IN H.R. 4. THE CHILD SUPPORT PROVISIONS OF THE BILL ARE TRULY INNOVATIVE IN SCOPE AND, WHEN ENACTED, WILL RESULT IN VAST, TANGIBLE IMPROVEMENTS IN THE IV-D PROGRAM.

I WANT TO URGE YOU, MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, TO CONTINUE TO STAND BY THE CHILD SUPPORT REFORMS YOU HAVE CRAFTED -- TO SEE TO IT THAT THE FINAL HOUSE-SENATE CONFERENCE REPORT CONTAINS THE KEY INNOVATIONS IN CHILD SUPPORT THAT YOU INCLUDED IN THE WAYS AND MEANS BILL. TWO ISSUES IN THIS REGARD ARE ESPECIALLY IMPORTANT: DISTRIBUTION OF COLLECTIONS AND FEES FOR NON-AFDC FAMILIES.

AS YOU KNOW, THE WAYS AND MEANS COMMITTEE BILL STIPULATES THAT, WHEN BACK-DUE CHILD SUPPORT IS COLLECTED FOR FAMILIES WHO HAVE BEEN ON AFDC, PRE- AND POST-AFDC ARREARS ARE PAID DIRECTLY TO THE FAMILY OWED THE SUPPORT FIRST, BEFORE THE STATE REIMBURSES ITSELF FOR AFDC. THIS IS DONE SO THAT FAMILIES CAN USE THE ARREARS TO ASSIST THEM IN MAKING THE TRANSITION FROM WELFARE TO FINANCIAL INDEPENDENCE. IT IS A MARKED IMPROVEMENT OVER CURRENT LAW, WHICH TURNS THE FAMILY'S ARREARS OVER TO THE STATE AT PRECISELY THE MOMENT WHEN THE FAMILY NEEDS THESE ARREARS MOST -- WHEN IT IS TRYING TO BUILD UP SAVINGS THAT WILL PROTECT IT FROM FALLING BACK INTO WELFARE.

THE WAYS AND MEANS COMMITTEE DETERMINED THAT CURRENT LAW IS UNFAIR AND COUNTER-PRODUCTIVE IN THAT IT DEPRIVES FAMILIES OF THEIR RIGHTFULLY-OWED SUPPORT AND DOES SO AT THE WORST POSSIBLE MOMENT -- JUST AS THE FAMILY IS LEAVING AFDC. THE COMMITTEE WAS RIGHT, AND I URGE YOU TO STAND BY THIS CONCLUSION. I REALIZE FULL WELL THAT THERE ARE FINANCIAL ISSUES INVOLVED HERE FOR THE STATES AND THE FEDERAL GOVERNMENT, BUT I WOULD SUGGEST TO YOU THAT, OF ALL THE PLACES IN WHICH TO SEEK SAVINGS IN THE IV-D PROGRAM, THIS IS AMONG THE WORST.

WHY? BECAUSE THE DISTRIBUTION OF ARREARS IS CRITICAL TO THE ECONOMIC INDEPENDENCE OF POST-AFDC FAMILIES; IT IS AT THE HEART OF THE MISSION OF

THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

THE PERSONAL RESPONSIBILITY ACT: TO FOSTER AND MAINTAIN INDEPENDENCE FROM WELFARE. AND REMEMBER, THESE ARREARS WERE OWED TO THE FAMILY; THE ONLY REASON THAT STATES LAY CLAIM TO THE ARREARS IS THAT THESE FAMILIES HAVE HAD TO GO ON AFDC -- AND IN MANY CASES, THE REASON THEY HAVE HAD TO GO ON AFDC IS BECAUSE THEY WERE OWED CHILD SUPPORT IN THE FIRST PLACE. THIS IS A VICIOUS CYCLE THAT IS FINALLY BROKEN THROUGH THE DISTRIBUTION PROVISIONS OF THE PERSONAL RESPONSIBILITY ACT, AND THIS SUBCOMMITTEE SHOULD BE JUSTLY PROUD OF THAT ACCOMPLISHMENT. I URGE YOU TO STAND FIRM ON THIS PRO-FAMILY MEASURE, WHICH HAS BEEN ENDORSED BY THE NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION, WHICH REPRESENTS OUR NATION'S IV-D WORKERS. I SHOULD ALSO SAY THAT THE CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES, OF WHICH I AM REPUBLICAN CO-CHAIR AND OF WHICH MY COLLEAGUE, CONGRESSWOMAN JOHNSON, IS REPUBLICAN VICE-CHAIR, HAS TAKEN A STANCE IN STRONG SUPPORT OF THIS PROVISION IN H.R. 4.

I WOULD ALSO URGE YOU TO REJECT ANY EFFORTS TO RADICALLY ALTER THE FEE STRUCTURE FOR NON-AFDC FAMILIES. EXAMINING THE FEES FOR NON-AFDC CASES MAY WELL BE APPROPRIATE, BUT THE IDEA THAT NON-AFDC FAMILIES SHOULD BE CHARGED A WHOPPING 15% OF THEIR MONTHLY SUPPORT FOR IV-D SERVICES IS MISGUIDED, IN MY VIEW.

WHO, AFTER ALL, WOULD PAY THESE FEES? IN EFFECT, IT WOULD BE THOSE NON-AFDC CHILDREN RECEIVING CHILD SUPPORT, SINCE THE MONEY WOULD BE TAKEN OUT OF THEIR CHECKS. AND WHO WOULD NOT PAY? FOR ONE, THE NON-CUSTODIAL PARENT, SINCE THE 15% FEE WOULD COME FROM THE SUPPORT CHECK ITSELF, NOT FROM ANY ADDITIONAL CHARGE. BUT LET'S REMEMBER SOMETHING ELSE -- THE ONLY CHILDREN PAYING THE 15% FEE WOULD BE THOSE WHO ARE ABLE TO COLLECT SUPPORT AT ALL. ANY PARENT WHO EVADES CHILD SUPPORT WOULD CLEARLY NOT BE PAYING ANYTHING, SO THE NON-AFDC PROGRAM WOULD BE FINANCED, IN EFFECT, BY THAT MINORITY OF CHILDREN WHO ACTUALLY RECEIVE SUPPORT. DOES THIS MAKE SENSE? I DON'T BELIEVE SO.

LET'S KEEP IN MIND, AS WELL, THAT THE CLASSIFICATION "NON-AFDC" FAMILY DOES NOT IMPLY "UPPER-MIDDLE CLASS FAMILY" OR EVEN NECESSARILY "MIDDLE CLASS FAMILY." NON-AFDC CLIENTS IN THE IV-D PROGRAM ARE SIMPLY THOSE WHO ARE NOT POOR ENOUGH TO QUALIFY FOR AFDC. AND THAT DOESN'T MEAN MUCH -- AFTER ALL, AFDC PLUS FOOD STAMPS DOES NOT EVEN BRING A FAMILY OF THREE TO THE FEDERAL POVERTY LEVEL IN 48 STATES. FURTHER, NON-AFDC FAMILIES WHO HAVE THE RESOURCES TO OPT OUT OF THE IV-D PROGRAM OFTEN DO; IT IS GENERALLY THOSE NON-AFDC FAMILIES WITHOUT RESOURCES WHO STAY IN THE PROGRAM. THUS, 15% OF A NON-AFDC FAMILY'S CHILD SUPPORT CHECK COULD MEAN A BIG DIFFERENCE FOR A FAMILY NEAR OR EVEN BELOW THE POVERTY LINE. IF OUR GOAL IS TO KEEP THESE NON-AFDC CLIENTS FROM BECOMING AFDC CLIENTS, THEN TAKING 15% OF THEIR CHILD SUPPORT IS COMPLETELY ILLOGICAL. I URGE THE SUBCOMMITTEE TO REJECT THIS PROPOSAL AND TO CONSIDER MORE MODEST ADJUSTMENTS TO THE NON-AFDC FEE STRUCTURE.

I THANK YOU AGAIN, MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, FOR YOUR EXCELLENT WORK ON CHILD SUPPORT, AND I URGE YOU TO STAY THE COURSE!

Chairman SHAW. Thank you. You were active on the floor during debate of this portion of the bill and we appreciate your continuing input and continuing interest.

Mr. Collins, do you have any questions?

Mr. COLLINS. Mr. Chairman, all I want to say—I had a lot of concern when I first found that we were handling non-AFDC cases and I asked child support people back home about that. I asked, should we charge a fee for that? You are telling me, we charge nothing in Georgia? They said no, because we are trying to prevent people from going into the AFDC system. It is like a preventive measure.

But if we have situations where we have non-AFDC and they get into the arrears, then I would have no problem with a penalty to the noncustodial for being in arrears. Maybe that would be a bit of intimidation, not an incentive, but intimidation, that it is going to cost them more than if they would keep their payments up.

As far as their arrears and as we collect arrears, the arrears that were prior to going on AFDC, there is an old saying in business, sometimes your first loss is the best loss. Therefore, our loss is when they were on AFDC. Those funds that are collected prior to AFDC belong to that child. We collect ours from the noncustodial based on when they begin to pay again, as they pay for the time that they were on AFDC. I agree that the arrears should go to the child.

Mrs. MORELLA. Thank you.

Thank you, Mr. Chairman. I really think that Congressman Collins, with your inspiration, has been dynamic on this issue.

Chairman SHAW. Thank you. I think this is a great issue that brings us all together.

Mrs. Kennelly gave the opening statement for the minority at the beginning of the hearing which was the statement that she was going to give as part of the panel, so she has been heard from. Thank you for staying with us.

I think it has been a very productive hearing. I for one have learned something and I am sure the other members of the panel have also.

[Whereupon, at 5:40 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

STATEMENT FOR THE RECORD
BY JUNE GIBBS BROWN, INSPECTOR GENERAL
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
JUNE 13, 1995

I want to thank the committee for the opportunity to submit a statement for the record on the important subject of child support enforcement. I wish to share with you our collective knowledge on the subject of child support enforcement and the lessons we have learned over the years about how to conduct successful child support enforcement programs.

Since the 1975 enactment of the Child Support Enforcement program to address the problem of nonsupport of children, the number of families in need has increased dramatically. Single-parent households have increased from 13 percent of all households in 1970 to 30 percent in 1993. In 1992, 1 of every 4 children in the United States lived in a family where the mother was never married or the father was not living with his child or children because of death, divorce, or separation. Children now constitute the largest group of individuals living in poverty in the United States. It has been estimated by the Urban Institute that the total potential amount of dollars that could be collected for child support exceeds $47 billion a year. In fiscal year 1993, $9 billion in child support was collected at a cost of approximately $2.2 billion.

Office of Inspector General Perspective

Clearly, child support enforcement is extremely important, but the underlying problems are extraordinarily complex. To be successful in obtaining the support needed to keep the ever increasing number of children living in single parent households out of poverty, our response must be relentless and multifaceted. Since reform of the welfare system is a national priority, improving child support enforcement must be an integral part of that initiative. Improving child support requires the attention of Federal, State, and local governments as well as the private sector to ensure our children receive the appropriate level of financial and emotional support from both their parents. Based on our work, consisting of numerous studies spanning 9 years, we believe that six key elements are necessary for a successful child support strategy. These elements are: establishing paternity quickly, periodically updating support orders to reflect changing earnings levels, vigilantly pursuing collections through every means possible and eliminating barriers to that effort, including medical support in court orders, establishing outcomes oriented performance based systems, and improving a range of administrative matters like making sure money is distributed promptly and correctly.

I discuss each one of these issues below.

Establish paternity quickly using the latest technology and streamlined administrative processes.

Over the years, three common themes for effective paternity establishment have arisen out of OIG work. First, establish paternity quickly. When first presented with the custodial parent whether they are applying for welfare, whether they present themselves for the first time at a child support office, or even when they are in the hospital after the birth of their child, child support agencies need to quickly establish paternity.

Second, develop flexible internal procedures and processes for establishing paternity. A compatible and flexible case tracking system should ensure that cases needing

paternity establishment are periodically re-visited in the event that the absent parent may be located.

Finally, we found in conducting a study of paternity establishment "best practices" that the utilization of community resources to identify and locate absent parents is quite important. Potential data matching possibilities include the Department of Motor Vehicles, State agency data bases, the post office, private locator services, the Federal Parent Locator Service, criminal records, banks, voter registration, court records, employers (including local, State and Federal employers), unions, and professional boards.

Over the years the Congress has strengthened Federal, State and local capacity to establish paternity through enhanced matching for the cost of blood tests, encouraging a simple civil procedure for establishing procedures that does not require the courts involvement, and establishment and continued improvements in the Federal Parent Locator Service to assist in paternity establishment across State boundaries. These advances have improved the States and locals capabilities in establishing paternity. However, more needs to be done.

Currently, we are reviewing efforts by States to collect for the costs of genetic tests in cases where a non-custodial parent has denied paternity. We also plan to review the effectiveness of State's efforts in implementing a simple civil process for voluntary paternity acknowledgment in hospitals.

Systematically update support orders to reflect changed absent parent circumstances, particularly increased earnings.

In a number of reports, we have demonstrated the effectiveness of systematically tracking absent parent earnings through matches with social security earnings records. We found that while absent parents may have little or no earnings when the initial court order was established, their earnings did increase over time. We conducted a study matching a sample of child support cases with the social security earnings file showing increased earnings of certain absent parents over time.

Other data sources, such as the Internal Revenue Service or State employment records, could be equally useful in determining absent parent employers, wages, and location.

We continue to support increased matching of child support records with IRS and Social Security Administration earnings data since these matches have the potential to significantly increase child support collections. We believe matching is an additional and significant tool for child support enforcement to use in conjunction with performance standards and periodic review of court orders.

Future work on these issues includes a review determining the effects of the Child Support Initiative on the collection of delinquent support payments. This initiative is an attempt to provide a remedy in assisting delinquent absent parents develop a source of income enabling them to maintain consistent child support payments. We also plan to review the extent and type of State child support collection methods for absent parent arrears on closed Aid to Families with Dependent Children (AFDC) and foster care cases.

Increase collections through coordination with other government entities, and increased use of wage withholding.

Government Entities: Federal employees should be in full compliance with child support obligations. A recent Executive Order from the President re-emphasizes the necessity of assuring that all Federal employees fulfill their child support obligations. Over the years, we have conducted a number of studies showing that significant

numbers of Federal employees, especially the military, the postal service, and the Veteran's Administration are in arrears of their support payments. Most recently, for military personnel, we projected that increased compliance with child support obligations would save the AFDC and Medicaid programs around $54 million. More frequent data sharing and matching of Federal personnel records would identify these delinquent payers and immediate wage withholding on paychecks would ensure that *all* Federal workers provide their children with appropriate child support assistance.

We are currently conducting a joint review with the Internal Revenue Service exploring the extent to which absent parents do not meet their child support obligations to their children, yet claim those children as exemptions on their Federal income tax returns, claim the Earned Income Tax Credit, or claim child care expenses inappropriately.

Our planned work focuses on collections. In support of the recent Executive Order, we will review how well Department of Defense and civilian agencies implement the Executive Order in promoting and facilitating the establishment and enforcement of child support. We are also looking at the extent of compliance with child support obligations of Federal departmental grantees (i.e., Medicare and Medicaid providers and research and evaluation grantees).

We plan to determine how States use data from the Federal IRS offset process to increase child support collections. We will assess the effectiveness of State programs which revoke various types of State licenses belonging to delinquent absent parents.

We will examine the procedures followed by States in validating and correcting social security numbers of delinquent absent parents to help improve collections through offset against income tax refunds. We identified a problem correcting erroneous social security numbers in a recent audit in a large State and have information that the problem may exist in other States. We will assess the implementation of privatizing traditional child support enforcement functions performed by the States. Privatization of some child support enforcement functions has been accomplished by some States as early as 1989 for reasons such as, shrinking resources, larger AFDC caseloads, more modifications of orders and the need to meet Federal time frames.

Finally, our criminal investigators are involved in a project with the Federal Office of Child Support Enforcement, and the Department of Justice enforcing the Child Support Recovery Act of 1992 which makes it a Federal offense to evade child support while living in another State.

Wage Withholding: Wage withholding is a powerful tool promoting increased child support collections. We were interested in employers perspectives of wage withholding and found they had concerns about some wage withholding procedures. It is important to consider the impact of wage withholding on employers and to minimize disruption for the employer in implementing wage garnishments. We encouraged child support agencies to use standardized formats and provide detailed guidance that discusses laws for child support garnishments. We also suggested that courts and agencies should limit data requested from employers, so as not to cause variances in an employer's normal pay or disbursement cycles. Finally, we encouraged child support agencies and other collection authorities that receive payments to establish an electronic fund transfer system to expedite the payment process.

Foster Care: There is a significant potential for collecting child support from parents whose children are in foster care. This is largely an untapped resource. Federal law requires pursuit of child support from low-income parents whose children are in foster care. However, for children in foster care whose parents have higher incomes, no such law exists to require child support from parents with higher incomes. Agencies are not precluded from pursuing collections from these families, however, they have

not focused on these families. These families are better able to financially contribute to their children's care, while their child is in foster care, than low income families.

In pursuing child support in any foster care case, the best interests of the foster child must be considered, which may include not pursuing child support. However, in instances where it is considered appropriate, cases should be referred to child support for collection. This referral should provide basic data such as the parents' social security number, employment information and date of birth when the information is available. We found this data was often available in foster care case records but not always provided to the child support agency.

Include medical support in the court order.

As a matter of parental responsibility and law, most children should be covered by the health insurance program of either parent before the child is considered for the Medicaid program. Ensuring that medical support is included in the child support court order is an important tool to ensuring the absent parent provides medical support. Identifying those absent parents who can provide health insurance for their children not only assures children of stable health care but mitigates the need for those children whose custodial parent is on AFDC to receive Medicaid. In 1991, we identified substantial cost savings if child support agencies adequately detected and pursued available dependent health insurance and absent parents had their dependents enrolled. However, we find that States could improve this targeting and increase the number of dependent children receiving medical support from absent parents, rather than Medicaid.

Develop outcomes oriented performance based management and financing systems.

Federal incentive payments are provided to encourage political subdivisions and States to cooperate in the collection of child support. The incentive formula was designed to encourage States to develop programs that emphasize collections on behalf of all children, improve cost effectiveness, and provide incentives be paid on both AFDC and non-AFDC collections. While the Federal law does not specify how States must use the incentives, we found that incentive payments were used primarily to fund the State or local jurisdictions' share of child support enforcement costs instead of expanding or improving the program. Some State governments realized significant savings from the State share of collections for AFDC, while their counties incurred the costs of operating the child support program. The method used for calculating the incentives was not based on the States' demonstrated capability to meet Federal child support enforcement requirements and performance objectives.

Costs to the Federal government for the child support program have continued to rise significantly, while States have recognized increasing amounts of savings. Most States received revenues from incentives and AFDC collections under the program which were greater than their costs. For example, the Fiscal Year 1992 budget estimated States' gains through incentives at $463 million and Federal costs at $626 million. At the same time, there is little evidence that incentives have measurably improved program performance. States effectiveness, as measured by the percent of cases with collections, remained about the same in the 7 year period from fiscal year 1983 through 1989, while incentive payments increased from $121 million to $235 million.

Public Law 98-369 requires that the first $50 collected on a monthly child support obligation be paid to the AFDC family. This $50 payment does not affect the family's AFDC eligibility nor the amount of assistance to which they are entitled. It is commonly referred to as the '$50 disregard.' The intent of the disregard was to secure greater cooperation from the custodial AFDC parent in locating the absent parent and to provide some additional income to the family. In reviewing 271 cases

in 5 States, we could not identify a single case where the $50 disregard served as an incentive for custodial parents to provide information to help locate absent parents and thereby increase collections of child support. State and county welfare officials routinely obtain information on absent parents in preacceptance and redetermination interviews. Those officials indicated the $50 disregard was not working as intended. Over a 5-year period savings to the AFDC program from eliminating the $50 disregard would amount to more than $1.5 billion.

Neither the Federal incentive payment to States nor the $50 disregard are working as incentives. In essence, they have become subsidies to States and custodial parents. Difficult policy decisions confront those modifying these programs. No doubt the subsidies are important to the States and to low income families attempting to care for their children. We can only recommend that any decisions about these programs be premised on the fact that they have become more of a subsidy than an incentive.

To assist the child support agency in developing outcomes oriented management systems, we are planning to survey State child support enforcement agencies on how they view the performance of the Federal Office of Child Support Enforcement in assisting State programs. This study will provide one mechanism to assess Federal performance in administering the program.

Improve program administration by ensuring that collections are promptly and correctly distributed.

Public Law 98-378 requires that a mandatory application fee, not to exceed $25 be imposed on those non-AFDC individuals who apply for child support services. The application fee is to be paid by the individual applying for such services, recovered from the absent parent or paid by the State out of its own funds. States have not implemented this fee as intended. Only token application fees of $1 or less were charged by 32 States and 24 of those States absorbed the fees rather than charge the applicants. Some of the lowest per capita income States were charging the maximum application fee. Although no States were required to charge an annual user fee in 1992, 23 States had implemented the option of recovering costs for certain child support services such as locating absent parents, establishing paternity, enforcing and collecting child support, and tracking and monitoring support payments.

Undistributed child support payments collected from absent parents deprive children of the support to which they are entitled. In six counties which accounted for over 32 percent of the child support collections in California, we found that the counties had accumulated child support payments of $8,314,805, of which at least $2,756,690 was over 1 year old and $832,643 was over 3 years old. The counties were not (a) reporting collections under the State's unclaimed money law, (b) returning the money to the absent parent, or (3) reporting the unclaimed money as program income.

Finally, when child support collections are made for foster care cases, the money is intended to benefit these children and defray costs of foster care programs. However, we observed that some child support collected from biological parents of a foster care child was not distributed to the foster care agency which has custody of the child. Some of these payments were incorrectly distributed to the AFDC program while some payments were distributed to parents, even though they had lost custody of their children. We encourage improvements in a system assuring appropriate designation of collected funds.

Conclusion

Much progress has been made in recent years in improving child support, but much more is needed. We believe that improvements in the areas indicated in our Statement will make it easier to help custodial parents take care of their children. As

part of our ongoing work, and as noted throughout our statement, we will continue to conduct reviews in child support.

At your convenience, we would be pleased to discuss in more detail the issues raised in our statement as well as our planned child support reviews. We have also attached, for your reference, a list of all our completed reports, to date, on child support issues. Thank you again for the opportunity to submit this statement for the record.

Attachment

List of Office of Inspector General Reports

Below is a list of major child support reviews the OIG has conducted over the years.

Paternity Establishment

Effective Paternity Establishment Practices: Executive Report (OEI-06-89-00910)
Effective Paternity Establishment Practices: Technical Report (OEI-06-89-00911)

Child Support Orders

Review and Adjustment of IV-D Child Support Orders (OEI-07-92-00990)
Improvements in Child Support Enforcement Collection Process Could Generate Millions (OAS-12-89-00154)
Child Support Enforcement Collections in AFDC Cases - Modification of Court Orders (OEI-05-87-00035)

Child Support Collections

Child Support and the Military (OEI-07-90-02250)
Follow-Up on AFDC Absent Parents (OEI-05-89-01270)
Child Support Enforcement Collection for Non-AFDC Clients (OEI-05-88-00340)
Child Support Enforcement Collections in AFDC Cases - Arrearages (OEI-05-87-00034)
Child Support Enforcement Collections in AFDC Cases -Pursuit (OEI-05-87-00033)
Child Support Enforcement Collections in AFDC Cases - An Overview (OEI-05-86-00097)
Survey of Title IV-A/IV-D Coordination at the State Level (OAS-05-93-00069)
Exceptions to Wage Withholding for Child Support (OEI-07-91-01220)
Employer Perspective: Fragmentation of State Practices Impair Ability of Employers to Effectively Implement Wage Withholding (OAS-12-91-00016)
Child Support for Children in State Foster Care (OEI-04-91-00980)
Child Support for IV-E Foster Care Children (OEI-04-91-00530)

Medical Support

State Child Support Enforcement Criteria for Targeting Medical Support (OEI-07-90-00120)
Coordination of Third-Party Liability Information Between Child Support Enforcement and Medicaid (OEI-07-88-00860)
Effect of ERISA on State Insurance Laws (OEI-12-91-01420)

Performance Management

Use and Equity of Child Support Incentive Payments (OAS-09-91-00034)
Child Support Enforcement Incentive Payments (OEI-05-91-00750)
Child Support Incentive Payments - Financial and Program Implications (OAS-09-91-00147)
Effectiveness of $50 Child Support Disregard on Collections Under the Child Support Enforcement Program (OAS-02-86-72606)

Program Administration

State Practice and Perspective for Assessing Fees for Non-AFDC Users (OAS-06-91-00048)
Cash Management Practices by State Child Support Enforcement Agencies (OAS-12-91-00018)
Undistributed Child Support Payments Collected From Absent Parents (OAS-09-93-00030)
Incorrect Distribution of Child Support Collected on Behalf of Children in Non-IV-E Foster Care (OEI-04-91-00981)

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

Statement of

SUSAN M. BROTCHIE

President

ADVOCATES FOR BETTER CHILD SUPPORT, INC (ABC'S)

June 13, 1995

Advocates for Better Child Support is a national, non-profit organization operated by an entire staff of volunteers. Founded in Massachusetts, in our first year alone, we answered to over 9,000 custodial parents seeking assistance and started chapters in 11 other states. We accept no salaries for ourselves and thrive on witnessing our membership succeed in securing child support owed to their children. This is often a long and painful road to travel, but along the way there are many accomplishments and goals our members have achieved other than in a purely monetary sense.

We are primarily a non-AFDC organization comprised of single, working parents. Advocates for Better Child Support is an active organization within NCSAC, National Child Support Advocacy Coalition. The majority of our membership are former AFDC recipients who have overcome great obstacles in the transition from welfare dependency to productive, tax paying citizens long before there was ever talk of "welfare reform". A typical ABC'S member is a low income custodial parent who must work two and three jobs, many without the luxury of health benefits, just to meet her monthly budget. The majority education level of our membership is high school graduates. She can not further her education because there is no money available after paying for necessities such as food, utilities and rent. There is no time left after working multiple jobs to support her family, and, she doesn't qualify for any aid because she is not receiving any government assistance. In many ways, she would be better off on welfare, instead she has earned a doctorate in budgeting and stretching a dollar. One trip to the pediatrician's office for a common ear infection or strep throat is enough to set her back for months.

It is for these members I offer my statement before this subcommittee on two issues that would have the most impact on theirs and their children's lives: cost recovery in the non-AFDC program and distribution of collections.

COST RECOVERY IN THE NON-AFDC PROGRAM

While Congress is focusing on helping mothers leave welfare, and acknowledging that the missing link in helping mothers achieve financial independence is establishment and enforcement of child support orders, lost in the shuffle are the children of single working mothers who also need their child support in full and on a regular basis. It has been stated that many members of Congress would support spending money to assist welfare mothers collect child support. What hasn't been given is the incentive for a mother who has been in the work force at low paying jobs, to remain there. They are the ones **who have contributed to a cost reduction of the welfare program,** receiving no health benefits, and because they have entered the workforce, are not eligible for any "entitlement" programs which their tax dollars help support. The one and only program paid for by her taxable income which is desperately needed and she is deserving of without any charges or fees is services from the IV-D program.

To consider assessing fees for services from Non-AFDC mothers who have played by the rules is equal to double taxation. In states that do charge for services, many single working parents have not even bothered to apply. These are the states that will find these women in their AFDC program because they are about to just give up. It is a well recognized fact that Non-AFDC mothers cooperate fully and assist the IV-D agency because the child support checks mean more food on the table for she receives no food stamps. Child support checks received on a regular basis and in full enables a parent to get her children to the doctor immediately when symptoms of an infection are present, rather than attempting to ride out the storm because of no money available for those unexpected trips to the doctor's office which almost always require a prescribed antibiotic. And more importantly, regular child support checks would allow the working mother to give up one of her part time jobs that earn her a mere $25.00 to $30.00 a week extra, but takes her away from her children at night or on week-ends.

Thousands of divorced or never-married parents do not utilize IV-D services because the non-custodial parent is responsible financially and morally to his children. The children of these parents are fortunate. Mothers who seek assistance from IV-programs do so because there is no compliance from the father and she needs her IV-D agency's intervention. Many mothers turn to their IV-D agency after becoming "in debt" to a private attorney, who is rarely successful in continuous enforcement. It was after I personally incurred $17,500 in attorneys fees that I turned to the Massachusetts Department of Revenue for help. The sum of my attorney's fees equal over three (3) years of child support that my daughter will never see. It defeated the purpose.

It is the absent parent who has forced the mother to become a statistic in the caseload of the Non-AFDC program. A simple analogy would be to compare this situation to the millions of Americans, who through their tax dollars, fund public education, yet never use the public schools, however, the schools are there for them should they start a family or find that the cost of private education is no longer affordable. Or the thousands of childless Americans who also have supported public education and various other social programs and do so willingly because of the end result in society. Child support enforcement is no different.

Service being provided by IV-D programs are a direct result of a default of a court ordered or otherwise agreed upon payment schedule. In the example of a creditor, (which in essence the non-AFDC parent is) would the credit grantor pay a penalty for late payments made by the grantee?! Of course not, but penalizing the recipient, who are indirectly the children, in the event of a default would surely seem just as absurd!

If cost recovery of the non-AFDC program is to become a reality, any assessment being considered should be against the parent responsible or rather irresponsible to the needs of his family. Consideration should be given to incentives for fathers to pay on time and in full, rather than disincentives for the non-AFDC parent to pursue IV-D assistance. Much like society pays their credit cards and mortgage payments on time to avoid "late charges" and "surcharges", perhaps similar measures taken against the delinquent parent would encourage regular payments. The rate of return would surely exceed contributions.

The belief that non-welfare, especially non-poor, parents should be required to pay for child support services is a biased one. What is considered non-poor? The 1992 GAO study found that the Bureau of Census data for 1989 showed that about 53% of the individuals requesting non-AFDC child support enforcement services in that year had family incomes exceeding 150 percent of the federal poverty level. The findings of those 53%, undoubtedly did not reflect the number of jobs those non-AFDC parents worked to get themselves above the poverty level or the number of mouths they were feeding. Exceeding 150 percent of the federal poverty level does not mean the children of these hard working parents are enjoying trips to Disneyworld. Plain and simple, it means they have pulled themselves up by the bootstraps by working as many jobs as necessary in order to remain off public assistance, but are unfairly classified as "non-poor".

The GAO report also stated that rising non-AFDC caseloads and new programs requirements could lead to administrative costs exceeding $1 billion by 1995, with very little offset from those benefitting from the services. The GAO report also stated, "Under current state fee policies and practices, taxpayers are paying most of the cost to provide child support enforcement services to non-AFDC clients." Non-AFDC clients are tax payers. They are paying for a service they have found an urgent need to utilize. Reality is not only the non-AFDC family benefitting from services provided, but also the government in the form of **cost avoidance**. $1 billion dollars pales in comparison to the cost of these families receiving public assistance. These non-AFDC families should be viewed as success cases and an inspiration for those AFDC families who may be reluctant to leave the welfare rolls. However, by Congress implementing cost recovery measures against the non-AFDC family would not only steal a debt owed to children, would be construed as a punitive measure rather than rewarding work over welfare, and would surely break the non-AFDC mother's spirit and motivation.

DISTRIBUTION OF AFDC COLLECTIONS

It is only common sense and good business sense to distribute pre and post AFDC arrears to families first. Across the nation, Americans are looking toward the 104th Congress to end welfare as we know it. Many of those Americans, are AFDC recipients who struggled to stay off public assistance. For years living on welfare's threshold, while accruing child support arrears. The single, most significant factor which led them to cross over that threshold, was the unpaid child support owed to their children. While accruing pre-AFDC arrears, we must not forget these mothers were working and making an admirable attempt to stay off welfare, paying taxes throughout the duration. For various reasons, they succumbed to the AFDC caseload. Assigning pre-welfare arrears to the states is similar to a "fencing" operation and is unfair to the children owed this money. Evelyn Reynolds, a member from Plano, Texas in a recent letter detailing the disadvantages she is experiencing in attempting to remain self sufficient, wrote "Finances play a pivotal role in all of our lives and determines what opportunities we all have." By not disbursing pre-AFDC arrears to families like Ms. Reynold's, opportunities for her children will never be realized. Every opportunity to invest in the future, which is in our children, is an investment made which in the long term, increases revenues to the state and federal government through zero contributions or, cost avoidance.

To enhance the number of families leaving the welfare rolls, and ensuring their AFDC cases remain closed, all pre and post AFDC arrears must go to the families first. This is not only a powerful incentive, but serves as a motivator in reinforcing empowerment versus entitlement. We firmly believe that Congress is committed to assisting families become and remain self sufficient. To opt for any other measure than putting families first, both pre and post AFDC, would be undermining the goal.

Sometimes, giving ourselves (and our children) what we need is work. It may mean eliminating or developing a certain characteristic. The same holds true for Congress. We need to give families who have a need to be motivated in becoming productive citizens a head start. That head start is ensuring all past and post arrears will go to those who need it the most - families. Families who are far less fortunate than those who have avoided the web of government assistance programs. Mothers who never had the opportunity to finish grade school or high school. Mothers who learned what they lived, becoming the 2nd or 3rd generation of welfare recipients, trying desperately to break the cycle, to make a better life for their children than what they were denied all of their lives.

If this cycle of dependency is to be broken, a true commitment of compassion and willingness to help, must be made to all former and present AFDC recipients. We must include those families who only for the grace of God, have not yet fallen across welfare's threshold. We as a nation must do more for our own, to end this vicious cycle of poverty or near poverty, that all too many children are being forced to live in. The investments made to the child support enforcement programs should have no strings attached for those children who represent the caseloads. To charge them, rather than invest in them, would be counter productive in achieving the final goal of self sufficiency, not welfare dependency.

"The most effective public official is one who, while finding passage through the maze of economic and governmental considerations, never forgets that compassion for people comes first." (Author unknown).

Advocates for Better Child Support believes this Congress can be effective in assisting families free themselves of welfare dependency, and putting the needs of those that have already left, along with those who are battling the fight to not give in. We believe this can be accomplished through encouragement and acknowledgement of both AFDC and non-AFDC families.

Cost Recovery in the Non-AFDC program and Distribution of Collections are two issues that if compassion and common sense are not considered, will not only prevent true independence, but will induce a negative attitude and sense of defeat among those single parents these two matters will directly impact.

American Society for Payroll Management
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**STATEMENT OF
THE AMERICAN SOCIETY FOR PAYROLL MANAGEMENT
ON EMPLOYER-RELATED CHILD SUPPORT PROVISIONS
SUBMITTED TO THE
SUBCOMMITTEE ON HUMAN RESOURCES
JUNE 13, 1995
BY
DEBERA J. SALAM**

The American Society for Payroll Management (ASPM) represents the nation's largest employers. Our members employ workers in numerous states and process hundreds of thousands of intrastate and interstate child support withholding orders each pay period. Through our work with the U.S. Commission on Interstate Child Support and with child support associations, we understand the magnitude of the child support enforcement problem. To this end, we have suggested ways in which the wage withholding system could be more efficient for all, including employers. We urge Congress to give serious consideration to the following recommendations in drafting final child support legislation.

***

• **Employer Reporting of New Hires.** Both the House and Senate have proposed that employers report information concerning new hires to a state registry. Because the states would be required to broadcast this information to a national new hire directory, ASPM has proposed that employers report directly to the national new hire directory. We continue to stand by our position that a state-based new hire reporting system is less efficient and more costly than reporting to a national new hire registry. First, the integrity and timeliness of the data contained in the national new hire directory is dependent on 50 or more fully-functional and compliant state systems. Interstate cases, which represent approximately 30% of child support orders, are not well served by this system, and in some instances may not be served at all. Second, accuracy is jeopardized because the information must first be processed by the state and then resubmitted to the national registry.

Finally, and of paramount importance to employers, is the lack of uniformity inherent in state-based reporting. Although federal legislation would define the data that employers must report to the states and would establish the frequency in which they must be reported, there is nothing to prevent some states from asking for more data in less time. Unreasonable requirements for new hire data (e.g., reporting of applicants who have refused a job offer, submission of data within 10 days of hire) by a few states would reduce employer compliance (as experience has shown), and the usefulness of new hire reporting. It should be emphasized that some states already impose unreasonable new hire reporting requirements. It is doubtful that these states (unless compelled to do so under federal legislation) will revise their reporting requirements to meet the more reasonable provisions contained in federal legislation.

H.R. 4 allows employers that report magnetically or electronically to report new hires only to that state in which they employ the greatest number of employees. In theory, this provision would reduce the reporting burden on multi-state employers—eliminating the need for new hire reporting to each state in which they hire employees. Though this is not the best reporting system in our view, it could be a suitable compromise if modified as follows:

(1) An employer may report to any single state of its choosing (whether or not it reports magnetically), and

(2) an employer shall not be required to report new hire data to more than one state, and

(3) an employer shall not be required by any state to report data more frequently than federal law requires or to report more information than required by federal law.

Without these provisions, federal law can be easily circumvented by states wishing to impose unreasonable new hire reporting requirements. For instance, states could require that new hire data be reported by all employers doing business in the state regardless of any new hire report submitted to any other state. Should this occur (as likely it will), the relief provided by Congress would be undermined.

• **Frequency of New Hire Reporting.** As proposed by the House, employers would be required to report new hires the later of 15 days from the date of hire or the date wages are paid. As currently worded, employers would be required to submit new hire reports each pay period. Some employers pay wages several times per week, others, such as employee leasing companies, pay wages on a daily basis. Compliance will be virtually impossible for these employers—the likelihood of magnetic reporting diminished because of cost. In order to increase the use of magnetic or electronic transmissions, we urge Congress to allow magnetic and electronic filers to report new hire data no more frequently than twice per month. The minimal delay in receiving new hire data is more than offset by the elimination of manual data entry and the associated data entry errors.

• **Penalties For Failure to Report New Hires.** Penalties for failure to report should not be excessive and should be consistent with the information return reporting penalties that currently exist (e.g., $50 for each failure up to a maximum of $150,000 per year). We also urge Congress to provide for a period of leniency while employers are preparing for and learning the new hire reporting requirements.

• **Direct Income Withholding.** Both the House and Senate propose verbatim adoption of UIFSA by all states. In those states that have already adopted the direct income withholding provision of UIFSA (Section 501), there is confusion as to the choice of law. We urge Congress to make it clear that the law of the employee's work state prevails.

• **Uniformity in Withholding Terms and Procedures.** Employer implementation of withholding orders under the UIFSA provisions will be unsuccessful unless the states are required to adopt uniform terms and wage withholding provisions. We support the Snowe-Dole proposal for a 12-member commission to make recommendations as to the feasibility of adopting uniform terms. We further recommend that at least one member of the commission, expert in employer administration of wage withholding orders, be appointed. Uniformity in the following areas is essential:

- ❒ The definition of income subject to withholding
- ❒ The definition of disposable earnings
- ❒ The maximum amount of disposable earnings subject to child support withholding (ASPM recommends a cap of 50%)
- ❒ The maximum administrative fee an employer can charge an employee (ASPM recommends a maximum fee of $5 per pay period)
- ❒ When an employer must begin withholding (i.e., 14 days from receipt of order)
- ❒ When an employer must remit amounts withheld (ASPM recommends payment within 10 days from date withheld)

- ❒ Whether or not medical support orders are considered in the CCPA limit; and
- ❒ The standard procedures that apply when there are multiple withholding orders and insufficient disposable income to satisfy all orders (ASPM recommends a uniform state-computed allocation)

• **Disbursement of Child Support Withheld.** Under the current system, most employers are required to issue a separate payment to each county or "registry" within the state. Texas, for instance, has 255 registries to which child support withholding is paid. Only 22 states at this time have one central payment location. The requirement to issue multiple payments to multiple agencies is not only costly for employers, but can create problems for the collection agencies, and ultimately, the custodial parent. We propose that a single collection and disbursement for both IV-D and non-IV-D cases be required in each state.

• **Bankruptcy.** Under current law, an employer is required to cease making deductions under a child support order unless instructed to continue such withholding by the bankruptcy court. There are some who believe that the 1994 revisions to Full Faith and Credit would require that employers continue wage withholding for child support unless instructed not to withhold by the bankruptcy court. Employer procedure under a bankruptcy order needs to be clearly explained in the law. We urge Congress to address this issue.

• **Uniform Wage Withholding Orders.** Today, there is virtually no uniformity in withholding orders, even within a single state. This lack of uniformity invites errors, many of them directly affecting the custodial parent. The mandated use of a uniform withholding order (designed with the input of employers) in both IV-D and non-IV-D cases will help employers to more correctly implement them in the most timely manner.

• **Broader Use of New Hire Data.** The new hire data provided by employers should also be used for the detection of unemployment and workers' compensation insurance fraud thereby reducing these costs to both government and business.

B.O.L.D., INC.
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Mr. E. Clay Shaw, Jr.
Chairman
Subcommittee on Human Resources
Room B-317 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20510

RE: Written Testimony for the Record

Dear Mr. Chairman:

We would like to congratulate you for an outstanding job and for giving us the opportunity to assist your committee in crafting a bill that deals with Welfare Reform that give power back to our states.

In looking at this historical moment we have for the last 4 years been seriously attempting to enforce the Economic Opportunity Act of 1964, 1967, 1972, 1978 and the Community Service Act of 1974 with technical amendments enacted in 1976. Most of your reforms that we support targets almost all of those programs being considered by this years budget resolution for cutting or elimination of programs that were formally administered by the Office of Economic Opportunity of 1964 in violation of law according to P.L. 88-452, 92-424, 93-644, 94-341 and P.L. 95-568.

Mr. Chairman, during the Nixon Administration all antipoverty programs were given by law to the Community Service Administration an independent corporation to be operated by the founder of the Economic Opportunity Act a Mrs. Mary L. Hill. With this organization being formed for positive change and in setting the debate across the nation for the returning of power back to the great state, B.O.L.D. would now like to request that our testimony and attachments be included in the congressional records for the purpose of being seened by our children, and grandchildren in the years to come in part to balance the budget by the 21st Century.

In closing, I personally in watching your committee have much respect for its commitment, boldness and intelligence and we ask that your committee sponsor a resolution in the conference committee that re-establishes within each Governor offices State Economic Opportunity Offices to work with the independent Community Service Administration as noted in P.L., 88-452, 92-424, 93-644, 94-341 and 95-568.

Keep up the good honest work by sending us a copy of the hearing and an indication that shows our testimony being included in the congressional record.

Again, thank you for your time and attention.

Respectfully,

Rubin Young, B.O.L.D.
President

Respectfully,

Felicia L. Young, B.O.L.D.
Vice President

cc: Susie Young, Treasurer
ENCLOSURES

SUBCOMMITTEE ON HUMAN RESOURCES
H.R. 4

Chairman E. Clay Shaw, Jr.
June 13, 1995
Testimony Submitted by Rubin and Felicia Young, B.O.L.D., INC.

RECORDED STATEMENT FOR THE RECORD

Mr. Chairman, we would like to begin our testimony with the early history of the Economic Opportunity Act of 1964 that was passed by the Congress in 1965. This program as put into law was founded by Mrs. Mary L. Hill/Chief Executive Officer of the New Daycare Human Services Program established in 1962 and passed the House due to the leadership of the late Congressman Adam Clayton Powell, Jr., Chairman of the House Labor and Education Committee to be included as part of President Lyndon B. Johnson's administration goals to end the "War on Poverty" and establish within the Executive Branch an Office of Economic Opportunity to administer all antipoverty program funds, research and demonstration projects and be headed by a Director under the leadership of Mr. Shriver.

Mr. Chairman, as this nation begin discussing how to better serve our nation's poor through the use of child support enforcement, supplement security income and welfare reform that empower our state Governments and local elected officials. We would like to also comment for the record about public laws that our Congress in 1972 and 1979 under the Nixon and Carter Administration passed and signed into law prior to this bill promoting the benefits of work through the creation of an independent corporation. This constituted law in (P.L. 94-341) was called the Community Service Administration that eliminated through amendments to this act in the 1980's the dangerous grips of welfare dependency.

Mr. Chairman, under the law it was the Community Service Act of 1974 (P.L. 94-341) duly enacted in 1976 that created the Community Service Administration for the purpose of becoming the successor agency to the abolished Office of Economic Opportunity of 1964. This independent corporation/agency assigned new internal revenue codes for IRS auditing purposes was given the authority under the Economic Opportunity Act of 1978 (P.L. 95-568) to extend and revise all programs under title I through title IX of the Economic Opportunity Act of 1964 as stated (hereinafter in this Act referred to as the "Act") that eliminated the waste and the duplication of all federal antipoverty programs.

Mr. Chairman, the Community Service Administration under the Community Service Act of 1974 superceded by law the authority given to the Department of Health and Human Services, the Department of Labor, the Department of Energy, the Department of Education, the Department of Commerce, the Department of HUD, and many other federal programs dealing with the administering of earmarked antipoverty

funds for the purpose of eliminating poverty. The Department of Health, Education and Welfare was abolished and in 1979 or 1981 under (P.L. 97-35) is known as the Department of Health and Human Services that continues to fund programs that had an early beginning in the former Office of Economic Opportunity creating its own Office of Community Services. The Community Service Administration (CSA) is the central agency for the developing, testing, and operating programs to reduce poverty and welfare dependency in the United States. CSA was created by law to carry out its role as an advocate for the nation's poor through and with the assistance of the agency's State and local grantees.

Mr. Chairman, CSA is the nations only legal legislative program constituted by law that represent a variety of activities including individual and group outreach and access assistance, community organization, research and demonstration and advocacy directed at policies and regulatory practices adversely affecting the poor and disadvantaged. In the 1970's as the Nixon administration's enthusiasm for the poverty program began to wane and ultimately turning Congress hostile towards Mr. Nixon's efforts to abolish the Office of Economic Opportunity, hope for a single coordinative agency at the Federal level began to diminish. By 1973, the role of OEO was limited primarily to Federal administration of community action funds. Mr. Chairman, in 1974, a separate agency (CSA) outside the Office of the President, was created by (P.L. 93-644) under the Headstart, Economic Opportunity, and Community Partnership Act.

The primary function of this new agency was to administer Federal funds for community action, special impact programs, and community economic development. In the ten years which preceded the passage of the 1974 Amendments, the success of efforts aimed at national coordination of antipoverty activities through OEO was limited and usually confined to modest attempts at coordination within single program categories. Mr. Chairman, the Bureau of the Budget, which was an important participant in the planning of the antipoverty program at that time strongly supported the community action program concept supporting President Lyndon B. Johnson's Task Force on Poverty. With the passage of the 1967 amendments to the Economic Opportunity Act made it a requirement that local communities CAA Boards for poor people be comprised of one-third elected officials or their representatives, one-third local private sector representatives, and one-third democratically selected representatives of the poor in order for the poor to become self-sufficient. Community action was the primary method through which CSA seeks solution to the social and economic problems related to poverty.

Mr. Chairman, in making this point one of the CSA's principal administrative mechanisms for accomplishing this cooperation was the Division of State and Local Government. It functioned in two fundamental ways: through the State Economic Opportunity Offices --SEOO's which were funded in all of the 50 States, the District of Columbia, the Virgin Islands, and Puerto Rico; and through coordinating the collaborative efforts of CSA headquarters, the

agency's 10 regional offices, and the 50 plus SEOO's. State Economic Opportunity Offices, usually located in the Office of the Governor of each State, and were essential to the overall operation of the Division of State and Local Government. They provide technical assistance to community action agencies particularly in rural areas, and served with the Community Service Administration as advocates for programs for the poor with other State agencies and as coordinators and liaisons with other Federal agencies in statewide and local programs. The Community Action concept although once controversial has proven to be an effective mechanism for the delivery of services and for communities to marshall their own resources to combat poverty.

Mr. Chairman, in an official letter Mrs. Mary L. Hill founder of the Economic Opportunity Act and the Community Service Administrative Director is responsible for establishing on behalf of our nation's poor an overall plan to govern the approval of research, demonstration, and pilot projects, in addition, to her being responsible for the use of all research authority under title I - Research and Demonstration projects. On May 15, 1978, Mr. Robert Levine, Congressional Budget Office Director at the time submitted a cost estimate report to the Honorable Harrison A. Williams and we quote. "Dear Mr. Chairman, pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office which prepared for the record, the attached cost estimate report for S. 2090, the Economic Opportunity Amendments of 1978. Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate". In other words CBO had indicated that the regulatory impact of the 1978 amendments would be minimal. Also, it stated that the number of people regulated, the economic impact on such people, the impact on their personal privacy, and paperwork resulting from regulations to be published under the terms of this bill will be essentially no different than under the current Economic Opportunity Act of 1964. All of the preceding estimates had assumed full appropriation of authorization levels as was approved and signed by Assistant Director for Budget Analysis a Mr. James L. Blum.

Mr. Chairman, as it relates to welfare reform that move poor people off the welfare dependency rolls to work that return power back to our states gives the Community Service Administration by law the authority to redelegate and reassume all of its duties to administer earmarked antipoverty funds that is currently being administered by Department of Health and Human Services, HUD, Labor, Education, Energy, Commerce and various other federal agencies in violation of these federal laws. The U.S. Constitution guarantees the people a Bill of Rights and the separation of powers among our three branches of government and should it be by law any bill and/or treaty signed under the authority of the United States by a duly elected President of the United States that bill and/or treaty shall become the supreme law of the land.

Mr. Chairman, also within that same vein the law establishes per these amendments a National Advisory Council of the poor to be made

up of at least one-half of low income persons representing the poor with people who were representatives of the public in general and the appropriate field of endeavors relating to the purpose of the Act. It is noted for the sake of history that we supported both the HOUSE AND SENATE Budget Resolution FY96 because "Although the economic well being and prosperity of the United States have progressed to a level surpassing any achieved in world history, and although these benefits are widely shared throughout the Nation, poverty continues to be the lot of a substantial number of people.

The United States can achieve its full economic and social potential as a nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society. It should therefore, be the policy of the United States to eliminate the paradox of poverty in the midst of plenty in the Nation by opening to everyone the economic opportunity for education and training, the opportunity to work and the opportunity to live in decency and dignity. It should be the purpose of this Act to strengthen, supplement and coordinate efforts in furtherance of this policy. It should be the sense of the Congress that it is highly desirable to employ the resources of the private sector of the economy of the United States in all such efforts to further the policy of this Act".

We request, Mr. Chairman, that your committee strongly consider presenting in a resolution to the House-Senate Conference Committee a rewrite of your bill and the Senate Finance Committee markup that re-establishes within each Governor office State Economic Opportunity Offices to coordinate efforts in working with Mrs. Mary L. Hill/CEO and National Regional Executive Director of the Community Service Administration to eliminate poverty throughout the nation.

Mr. Chairman, we also believe that child support enforcement and paternity establishment should remain within our states and the courts for enforcement. We believe that the Federal government in part to welfare reform efforts throughout our various committees appear to be superceding the House Judiciary Committee jurisdiction, where we believe court ordered child support enforcement is a civil issue and should be taken to court for consideration. Mr. Chairman, in recognizing our three branches of government, we support the "Separation of Powers" and this nation should not be federalizing social issues contrary to the purpose of the federal government that focus on criminalizing nonsupport of child payments. It should however in essence give to our courts and our legal system broader legal responsibilities which may impose upon already established parental paternities civil methods which places irresponsible parenting into contempt of court for their nonpayment. We should not federalize this issue when some state laws addresses the difference between welfare and court ordered child support enforcement.

Mr. Chairman, although there is nothing in our U.S. Constitution as debtor prisons this portion of the bill will bring back bounty hunters through the use of private investigators that will be looking

into such cases i.e., "in the 1980's a young man who grew up in poverty in a small town and seeing that he wanted to better himself decided that he would join the U.S. Army at the age of 17 years old. He went in the military with hopes of doing exceptional well to escape the impoverish conditions that he grew up in unknowing of any child. As time pasted his military career had gone through a change of events because while in the military a young girl who he once knew in his small town got pregnant by someone else and received from her mother the encouragement to purposely forge the young military man name to a birth certificate, so the family who is poor could receive some minimal welfare benefits. After serving two years in the military the young man now faces an injustice perpetrated upon him by the State Attorney Office for aiding in the matter and not properly investigating the case which contributed to the destruction of the young man's military career where he was also dealing with his military brother's death in Killeen Texas in 1981 at the time."

Mr. Chairman, in setting the stage for this unusual set of circumstances poverty is a virtuous reality throughout the nation and we believe that there could be many undocumented cases where some poor families who are the victims of poverty misuse the resources of their children by influencing them to solicit the system falsely for child support especially when they get pregnant and do not know who is the father of their child and this bill suggests for instance that the committee turn ordinary Americans into federal criminals when paternity should have been established at birth within our Hospitals and at the signing of the child's birth certificate. In our view it is unwise for us not to consider the poverty factors in this case and we support a bill that does not violate the constitutional rights of a few in paternity establishment cases because of this bill wanting to privatize the system and permit the hiring of private investigative agency to hunt down irresponsible parenting instead of creating a data base through a national network that contact only those parents whose paternity has been established, and yet they continue to neglect their responsibilities in caring for their child whereby they leave the jurisdictions of state lines. Mr. Chairman, when we improve the quality of life for parents through small business, medical and economic opportunities. They will in turn take the responsibility and care for their families, their children, their communities and become productive responsible members of society seeking less assistance from our government. In closing, included is 3 congratulation letters sent to the House Budget, Senate Budget and Senate Finance Committee.

This concludes the written testimony of **BLACKS ORGANIZING LEADERSHIP DEVELOPMENT, INCORPORATED, (B.O.L.D.).**, to be made part of the hearing congressional records.

RESPECTFULLY SUBMITTED to the Subcommittee on Human Resources of the Committee on Ways and Means on the 6th day of June 1995, United States House of Representatives, WASH, DC 20515.

RUBIN YOUNG, PRESIDENT

FELICIA L. YOUNG, VICE PRESIDENT

B.O.L.D.,INC.
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Mr. Pete Domenici
Chairman
Senate Budget Committee
U.S. Senate
Washington, DC 20510

Congratulations,

Dear Mr. Domenici:

We would like to congratulate you for the outstanding job that you and your committee had done in crafting this years FY 96 Senate Budget Resolution to balance the budget by the year 2002.

In looking at this historical moment with our pursuing for the last 4 years the enforcement of the Economic Opportunity Act of 1964, 1967, 1972, 1978 and the Community Service Act of 1974 with technical amendments enacted in 1976. Most of your reductions targeted all those programs that were formally administered by the abolished Office of Economic Opportunity of 1964 in violation to these laws according to P.L. 92-424, 94-341 and P.L. 95-568. Mr. Chairman, during the Nixon Administration all antipoverty programs were given by law to the Community Service Administration an independent corporation to be ranned by the founder of the Economic Opportunity Act a Mrs. Mary L. Hill. With our organization being formed for positive change setting the nations agenda for the returning of power back to the great states debate over the many years, B.O.L.D. would now like to request a copy of the original bill that passed the Senate to be included in our historical records for the purpose of being seened by our children and grandchildren in the years to come proving our part in this debate to balance the budget by the 21st Century.

In closing, I, personally in watching you have much respect for your commitment, boldness and intelligence and ask that you sponsor a resolution in the conference committee that re-establishes in each Governor offices State Economic Opportunity Offices to work with the independent Community Service Administration as noted in Public Law, 94-341 and 95-568. Keep up the good honest work by not allowing B.O.L.D. efforts to be omitted from our American history and remember to be BOLD.

Sincerely,

Rubin Young, B.O.L.D.
President

cc: Felicia L. Young, Vice President
Susie Young, Treasurer
All Concerned

OFFICIAL CORPORATE SEAL
BLACKS ORGANIZING LEADERSHIP DEVELOPMENT, INC.
FLORIDA 1994

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Mr. Bob Packwood
Chairman
SENATE FINANCE COMMITTEE
U.S. Senate
Washington, DC 20515

Dear Mr. Chairman:

On behalf of our members and organization, B.O.L.D. would like to thank you for your most gracious work in allowing us to join you in reforming the welfare system as we know it.

Mr. Chairman, as we debate the welfare reform proposals being offered by your committee, B.O.L.D. disagrees with your committee in including court enforcement orders as part of your original bill. There must be forever remaining in the United States Constitution the "separation of powers" where our courts have the exclusive powers to intrepret and enforce by warrants the violations of federal and states laws. B.O.L.D. hope that with your committee having the jurisdiction to negotiate this bill that it also provide for a resolution on the Senate Floor or through conference committee that reestablishes in each Governor offices State Economic Opportunity Offices by law to work with the independent Community Service Administration in coordination for the administering of earmarked antipoverty program funds as stated in the Economic Opportunity Act of 1964, 1972, and 1978 [P.L. 92-424 and 95-568] and the Community Service Act of 1974 with technical amendments duly enacted in 1976 [P.L. 94-341]. Mrs. Mary L. Hill who is the founder of the Economic Opportunity Act and national regional CSA executive director was charged in an official letter to run all antipoverty programs under her New Daycare Human Services Program in 1979.

Mr. Chairman, through B.O.L.D. pursuing these acts for the last 4 years we look forward to testifying before your committee on this important issue in the near future and we pledge our fullest support and ask that you remember to be BOLD.

Respectfully,

Rubin Young, B.O.L.D.
President

Respectfully,

Felicia L. Young, B.O.L.D.
Vice President

cc: Susie Young, Treasurer
Majority Leader Bob Dole
House Speaker Newt Gingrich
All Concerned

OFFICIAL CORPORATE SEAL
BLACKS ORGANIZING LEADERSHIP DEVELOPMENT, INC.
FLORIDA 1994

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Mr. John Kasich
Chairman
House Budget Committee
U.S. House of Representatives
Washington, DC 20510

MAY 24 1995

Congratulations,

Dear Mr. Kasich:

We would like to congratulate you for the outstanding job that you and your committee had done in crafting this years FY 96 House Budget Resolution to balance the budget by the year 2002.

In looking at this historic moment with our pursuing for the last 4 years the enforcement of the Economic Opportunity Act of 1964, 1967, 1972, 1978 and the Community Service Act of 1974 with technical amendments enacted in 1976 most of your reductions target all those programs that were formally administered by the abolished Office of Economic Opportunity of 1964 and according to P.L. 94-341 and P.L. 95-568 was given by law to the Community Service Administration an independent corporation to be ranned by the founder of the Economic Opportunity Act a Mrs. Mary L. Hill. With our organization being formed for positive change setting the nations agenda for this returning power back to the great states debate over the course of 4 years, B.O.L.D. would now like to request a copy of the original bill that passed the House to be included in our historic records for the purpose of being seened by our children and grandchildren in the years to come that prove our part in this debate to balance the budget by the 21st Century.

In closing, I, personally in watching you have much respect for your youthfulness, boldness and intelligence and ask that you say hello to the Speaker for us. Keep up the good honest work by not allowing B.O.L.D. efforts to be omitted from our American history and remember to be BOLD.

Sincerely,

Rubin Young, B.O.L.D.
President

cc: Felicia L. Young, Vice President
Susie Young, Treasurer
All Concerned

OFFICIAL CORPORATE SEAL
BLACKS ORGANIZING LEADERSHIP DEVELOPMENT, INC.
FLORIDA 1994

COMMENTS OF LESLIE L. FRYE
CHIEF, OFFICE OF CHILD SUPPORT
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
HEARING ON CHILD SUPPORT ENFORCEMENT
JUNE 13, 1995

We are pleased with the progress made by the Congress in developing a comprehensive approach to improving the Child Support Enforcement Program. We agree that the regular payment of child support is a key factor in breaking the cycle of dependency and enabling low income families to move into self-sufficiency. The Congress has listened well to Child Support Enforcement Program administrators across the nation who have offered their expertise and experience to the process of developing new and better ideas for enhancing the program. We are grateful for this opportunity to comment on the proposed legislation, and on the issue of cost recovery as requested by the Committee.

Cost Recovery

California has no experience with cost recovery in the Child Support Enforcement Program, because it has long held the position that charging nonwelfare parents fees for service ultimately results in a reduction of income for children. For the most part, our program serves low income families. Two-thirds of our caseload is receiving public assistance, and for the nonwelfare population, the average income of the custodial parent is $1,629 per month. We chose to set the mandatory application fee for nonwelfare families at one cent per year, and to absorb that cost. We have also been concerned about the administrative costs associated with charging a fee.

However, we also understand the perspective of some members of Congress that nonwelfare parents can and should be charged a fee for service. In determining priorities for spending scarce tax dollars, is it not reasonable to charge those who have sought the service voluntarily? In this regard, we would perhaps vary from the conventional wisdom about the party appropriately responsible to pay the fee. We believe it not unreasonable to charge the custodial parent (who in virtually all instances has requested the service) a nominal amount **of each collection,** such as one or two percent.

Such a system would be relatively easy to administer, since it would not require determinations of ability to pay at different income levels, nor detailed analysis of each component of program cost. It would avoid the conflict which can arise when the noncustodial parent becomes subject to features of the Child Support Enforcement Program, such as credit reporting, whether or not (s)he has ever been delinquent in payment--and is then asked to pay for the service. Unlike a fee assessed the payor, which is the at the bottom of the list of distribution priorities, it is certain to be collected. And it is paid only when there is a collection.

While we would prefer the flexibility, as exists under current law, for states to decide the issue of whether or not to charge fees, at a minimum we would want to see flexibility for states to determine how and from whom costs would be recovered. In addition, we recommend that persons who are moving off public assistance be provided services free of charge for a transitional period, such as 12 months.

Distribution of Collections

Both the House and the Senate recognized the value to custodial parents attempting to leave and stay off the public assistance roles of having arrears owed to them paid before any reimbursement to states for the costs of public assistance they received. Thus, both would remove states' flexibility to decide whether to pay these arrears first by setting the priority for

payment of family owned arrears. Further, arrears accrued before the welfare episode would belong to the family.

States agree with the policy of providing maximum resources to families attempting to achieve self-sufficiency. However, the costs of this policy are great. California does not see a huge fiscal impact of the change in assignment of pre-welfare arrears, because the vast majority of our families do not have awards for support when they apply for public assistance. However, we face a significant cost of a mandate to pay family-owned arrears first. We have roughly estimated the impact of this proposal at $70 million annually, and the Congressional Budget Office estimate of cost to the federal government is $292 million in the first year alone.

We would recommend a continuation of the flexibility now afforded states with regard to the priority of payment of arrears. States will be fashioning their post-public assistance policies in the context of their block-granted programs for families. If Congress decides to mandate states to redirect these funds in a specific way, it should hold states harmless for the costs of the policy. Last, any change in the law regarding assignment must be clearly prospective, to avoid potential litigation over ownership of these funds.

Federal Matching Payments; Performance Based Incentives

Both The House and the Senate would retain the federal matching rate at 66 percent, but would significantly change the performance based incentive system. Currently incentives are paid as a percentage of collections, at a rate that varies from six to ten percent, based on a single performance factor of collection-to-cost ratio. The proposed change would provide an increase in the federal matching rate up to 24 percentage points, based on a number of performance factors.

We agree that the performance factors considered in determining a state's incentive rate should be broadened, as the current policy drives states to behave in a way not supportive of overall program goals. However, we urge retention of the current structure of applying the performance rate to collections. Such a system enables states to fund program improvements through increased collections, which in themselves are an important measure of performance. Moving to a matching rate system will create unfunded mandates on states and inhibit privatization efforts, in which contracts with private sector partners are negotiated on a percent of collection basis.

Automated Data Processing Funding

We are pleased by the responsiveness of the Congress to states' concerns about the termination of enhanced federal funding for development and implementation of statewide automated child support systems. The Senate included a provision to extend enhanced federal funding for systems required by the Family Support Act of 1988 until October 1, 1997 in recognition of the two-year delay in issuance of regulations defining such systems and other factors which threatened the investment already made by states and the federal government in their development.

The Senate limited eligibility for enhanced federal funding to costs submitted before May 1, 1995, which causes some concerns for California. While we appreciate the need of Congress to ensure that the extension of enhanced federal funding would not result in runaway costs, we believe that there should be some flexibility for the Secretary to approve additional costs due to factors beyond the control of states, such as unanticipated caseload growth.

The current wording of the proposal will shift costs totaling approximately $10 million to California. We provided our updated costs to representatives of the Secretary on May 1, 1995, in accordance with an agreed-upon schedule for their submission. The increased costs are primarily driven by unanticipated caseload growth, which resulted in staff, site and capacity increases. These reasonable costs, necessary for the success of the statewide automated system, would have been eligible for enhanced federal funding either under current law or if they had been submitted one day earlier.

We believe that allowing no exceptions to the statutory limitation of costs based on an arbitrary date is unwise. We would ask that the Secretary be allowed to retain the discretion to approve reasonable additional costs, as is permitted in current law.

Last, we are concerned that the $260 million cap on future automation efforts will be insufficient to meet Congress' vision of enhanced systems capabilities. States have been working with their associations and Congressional staff to develop more realistic estimates of what it will take to achieve that vision. We urge the Committee to consider these estimates lest states face another un- or underfunded mandate.

Fair Hearing for Child Support Services Recipients

Unlike the House proposal, the Senate included language to require states to provide evidentiary "fair hearings" or an equivalent process to persons dissatisfied with the child support services they receive. California has been involved for several years in litigation on this very issue. Five million dollars and four years later, the federal court ruled that no such hearing is required unless there are issues related to AFDC eligibility, and a "complaint resolution process" (not an evidentiary hearing) is required only when the issues at hand relate to the actual collection and distribution of money. We would strongly recommend that the House not concur with codifying policy that has been rejected in federal court.

Paternity Establishment Standard

The House and Senate versions of the proposal both establish a 90 percent paternity establishment "standard" for states to achieve. We do not believe that this is realistic, with skyrocketing rates of out of wedlock births. Even with stricter cooperation requirements to qualify for public assistance and greater reliance on voluntary declaration of paternity, we believe states are being set up to fail. Congress has been reluctant to require that children have paternity established prior to receipt of public assistance, yet such a measure would be necessary in order to reach a 90 percent performance level.

We would recommend that the standard be established initially based on historic performance data, and then increased over time as states improve their outcomes.

Non-IV-D Wage Withholding

Neither the House nor the Senate versions of the proposal currently address a problematic feature of current law, as interpreted by staff of the Department of Health and Human Services. States are now mandated to "track and monitor" the wage withholding payments of persons who have not applied for (and presumably do not want) the services of the Child Support Enforcement Program through some "publicly-accountable" agency. While the origin of the interpretation is vague, the fact that there is no federal financial participation on this activity has been made very clear.

We believe this to be an inappropriate use of tax dollars, and are particularly concerned that it is **state** tax dollars that the federal interpretation is allocating. We request that the Committee examine this interpretation to determine if this is the intent of Congress. If so, the costs of the mandate should be funded. If not, clarifying language would prevent such an interpretation in the future.

Conclusion

In partnership with states, Congress has made great strides toward strengthening the Child Support Enforcement Program. We can envision a much-improved program in the future which will help families achieve and maintain self-sufficiency. We greatly appreciate the openness of both members and staff in crafting policy and listening to state concerns. Together we can put the final touches on landmark legislation that will help millions of children across the nation access the resources of both parents.

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June 26, 1995

Mr. Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: HR 4
Heard in the Sub-committee on Human Resources on June 13, 1995

Dear Mr. Moseley:

The California District Attorneys Association and the California Family Support Council offer the following statements to the House Sub-committee on Human Resources regarding HR 4:

I. SUBTITLE E-PROGRAM ADMINISTRATION AND FUNDING

Section 741. Federal Matching Rate
Section 742. Performance Based Incentives and Penalties

We are pleased that the proposed Family Self-Sufficiency Act includes new federal incentives that recognize levels of performance and improvement levels, especially in paternity. Our concern lies in the total elimination of collection performance as a basis for program funding. Collections are the "bottom line" measure of program effectiveness. There will be no "family self-sufficiency" without significant performance in the collection of support.

California has been studying the issue of performance standards and incentives to recognize superior performance since July 1988. Of the three major functions IV-D agencies must perform, paternity establishment, support establishment and support enforcement, we found that only the two establishment functions lent themselves to statistical performance measures. We found no accurate way of measuring enforcement effectiveness other than collections. Our conclusion: performance recognition should be linked to the standard measure of the success of the Title IV-D Program which is, and will continue to be, collections.

In recognition of these realities, California instituted a "Bonus Incentive" system, whereby the rate of certain additional incentives *paid on collections* (called Tier II incentives) is determined by a county's relative effectiveness in the establishment of paternity and support. County performance in these areas is measured against the statewide average, or improvement in the county's own performance in those areas from the prior year. For a county to be eligible for this additional incentive on collections, it must be among the State's top performers in paternity, and/or support establishment or have shown significant improvement in those areas. But, in the final analysis, the incentive payment is against the bottom line--collections. The result of this incentive program in California has been marked improvements in all three areas: paternity establishment, support establishment and collections.

We request that you consider amending the proposed Act to retain some payment of incentives measured by collections, qualified by performance in other areas. A reasonable alternative solution would be to reserve to the Secretary of Health and Human Services the flexibility and authority to implement such a program by regulation.

II. SUBTITLE A-DISTRIBUTION OF PAYMENTS

Section 702. Distribution of Child Support Collections

HR 4 proposes that pre-welfare support arrearages are not assigned to the state and federal government for repayment of welfare monies received. This creates several problems:

(1) A decrease taxpayer recoupment of welfare paid out.

(2) Changing existing law will cause a political cry of "foul" from those who have already received AFDC benefits and "paid" the price.

(3) Changing the law on assignment of pre-welfare assigned support will cause a huge *lawsuit against the Federal government* and California. The dispute will include demands by custodial parents for the government to give them monies collected and paid to the federal and state governments in past years. Lawsuits will also arise demanding money collected in the future when previously assigned child support is collected.

(4) Changing the law prospectively will be viewed as unfair, but changing it retroactively will be an *unconstitutional taking of property* from the state and local governments.

(5) Any change will require costly modifications to existing automated systems and an expensive time consuming manual data capture to reconstruct multiple unassigned, assigned, and unassigned time periods.

Proposal: Leave the law alone. This will avoid lawsuits, as well as a drastic drop in recoupment for the government and costly modifications to existing automated systems. If the law must be changed, the change must clearly apply only to child support due after the effective date of the new law, so that previously assigned child support remains assigned to the government. Sufficient time and funds must be provided to allow for changes to existing automated systems.

III. SUBTITLE A-ELIGIBILITY FOR SERVICES

Section 701. State Obligations to Provide Child Support Enforcement Services

We are very concerned and oppose the provisions that extend the availability of child support services to individuals who are "non-residents."

It makes little sense to make these services available in California to a resident of another state when services can be obtained in that state. It makes even less sense to make the services available to non-resident citizens of a foreign country that has not entered into a reciprocal treaty agreement with the United States. There will never be an incentive for another country to establish a reciprocal support agreement with the United States if the "non-resident" language is included in eligibility for services requirements. The practical effect will be to offer free

services to non-resident foreign citizens when their country does not, or will not, offer the same services to United States citizens.

The requirement that services be made available to non-residents on the same terms as residents is both impractical and unwise public policy.

IV. SUBTITLE D-PATERNITY ESTABLISHMENT

Sec. 731. State Laws Concerning Paternity Establishment

Subsection (B) (I) requires states to have procedures in contested paternity cases to require the child and all other parties to undergo genetic testing upon the request of any such party if the request is supported by a sworn statement establishing a reasonable possibility of parentage or non-parentage. However, in some states like California, present laws now allow the courts upon their own initiative or upon suggestion made by or on behalf of any person whose blood is involved, to order the mother, child and alleged father to submit to genetic testing to help determine parentage without the need for a sworn statement from the parties. In addition, if a party refuses to submit to the tests, the court may resolve the question of paternity against the party or enforce its order if the rights of others and the interests of justice so require. It is agreed that states must strengthen their paternity establishment laws. But in states where the present laws already require the parties to undergo genetic testing, the additional requirement of a sworn statement from the parties is unnecessary and will only unduly delay the establishment of paternity. Accordingly, we recommend that the provision be deleted or not required for states which already have laws requiring genetic testing.

Subsection (J) requires states to have procedure which require a temporary support order to be issued in paternity cases pending a determination of parentage "...where there is clear and convincing evidence of paternity." In those states which permit temporary support orders in paternity actions, the burden of proof to establish such an order is the same as the case in chief. In California, the burden of proof is preponderance of the evidence. (*Hall* v. *Hall*) (1950) (95 Cal.App.2d 541). Our concern is that the clear and convincing standard of proof for temporary support is higher than the preponderance of evidence standard of proof required to prove parentage in most states. Further, the effect of such a standard will be to discourage the obtaining of temporary support orders in paternity cases rather than to encourage them. Accordingly, we recommend that the provision be deleted or provide that it be no greater than that required to prove a paternity case in that state.

V. SUBTITLE B-LOCATE AND CASE TRACKING

Sec. 717. Collection and Use of Social Security Numbers for Use in Child Support Enforcement

Subsection (A)(13)(a)(b)(c) requires states to have procedures that Social Security numbers be placed on various documents including professional licenses, commercial licenses, divorce decrees, child support orders and paternity declarations.

We support this requirement to assist in the IV-D agencies efforts to locate non-custodial parents and the enforcement of child support orders.

Sec. 724. Use of Forms in Interstate Enforcement

We support the requirement that forms be standardized in interstate child support cases for wage withholding, imposition of liens and administrative subpoenas, in subsection (11)(A)(B)(C). .

Sec. 712. Collection and Disbursement of Support Payments

HR 4 promotes time frame mandates of two (2) business days for many transactions. Undoubtedly, automation has demonstrated that payment disbursement, locate and preparation of documents does reduce child support processing time. However, the proposed time frames are unnecessarily restrictive and create additional statistical data points to be monitored, reported on, and measured for compliance and comparison.

The general trend of legislation and regulation is to reduce mandated time frames and focus on outcome. This legislative proposal violates that trend.

Each mandated time frame forces child support administrators to dedicate some staff for monitoring and reviewing compliance, instead of productive child support work.

It is recommended that the restrictive two (2) day time frames be eliminated and program performance (outcomes) be established as the indicator for successful use of information.

VI. FEES AND COST RECOVERY

Although the issue of fees and cost recovery are not addressed in HR 4, this is our response to the sub-committee requests for testimony on these issues.

California's district attorneys and Attorney General have provided support enforcement services to all custodial parents **at no cost for over 100 years**. In California, as in many other states, the willful failure to provide support and the necessities of life for one's minor children is a crime. The district attorneys now use a variety of civil and administrative remedies to collect support in addition to criminal charges, but do not ask victims to pay for the prosecution of their cases.

At one time, a provision of California's law allowed imposition of a 2% service fee for support payments made through a probation officer or court trustee, primarily in cases handled by the district attorneys. The experience of the counties imposing the fee was that the amount of the fees collected did not cover the cost of processing, distributing, and accounting for the fees.

The following problems must be considered in determining whether to charge a fee for IV-D services in non-welfare cases:

(1) The fee must be high enough to cover the costs involved in processing, distributing, and accounting for the fee, in addition to providing some meaningful recoupment of the costs of the services.

(2) The fee must not be so high as to discourage custodial parents from applying for services. A substantial number of single-parent families subsist at or near the poverty level. If the fee is to be an ongoing fee deducted from collections, it will be coming directly out of support which the family may need to buy food and pay the rent.

(3) Setting the fee on a sliding scale based upon the applicant's income sounds fair, but will entail having a unit of eligibility workers in the IV-D agency to monitor custodial parents' incomes and determine fees.

(4) Charging an ongoing fee as a percentage of the amount of the collection would be easier from an administrative standpoint. However, it does not take into account the income and need level of the family, which may need the money desperately to keep the utilities on or make co-payments for medical services and prescription drugs.

(5) If a fee is to be charged, it makes sense to charge it to the non-custodial parent, whose failure to pay support may have precipitated the application for IV-D services. It would penalize noncustodial parents who do pay regularly, albeit by wage assignment. Given the current federal priorities for distribution of support collections, the fee could be collected only after all support and arrearages, including interest, were paid in full, providing little immediate fiscal relief to the IV-D program.

The vast majority of families on IV-D caseloads need the support owed them to provide necessities of life and perhaps a few of the extras, like Little League participation or music lessons. Charging fees to recipients of support enforcement services in most non-welfare cases will deprive single-parent families of the funds they need to live decently, without providing significant fiscal relief to the agencies providing the services. If we truly believe the failure to support one's children to be a crime, we should not require families to pay for the enforcement of this obligation.

VII. FAIR HEARING

We further wish to testify on the "Fair Hearing" provision of Senate Bill-Packwood Mark:

The Senate Bill- Packwood Mark, proposes that "individuals applying for or receiving services under this part have access to a fair hearing or other formal complaint procedure that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints...."

This is an enormous mistake. It will lead to multiple Federal and State lawsuits. It will be interpreted to create a required standard of performance, when performance is not possible in many cases. Federal standards require seventy-five percent (75%) compliance but no absolute compliance, in a given case. This proposal will allow parents to demand results in his or her case, when results may be impossible. There can be no collections when the father has disappeared, when blood tests are repeatedly inconclusive, or when the absent parent has no income or assets to collect from. There is no reason to conduct federal compliance audits and to give individuals the right to audit their case.

This proposal will cost millions of dollars in lost time, and millions of dollars in collections because staff are redirected to dealing with complaints in a formal fair hearing process instead of collecting child support. Federal financial participation because state administrative costs will be paid in part by the federal government.

This proposal will also violate federal privacy regulations. Confidential information in IV-D files will have to be disclosed to the complaining party in order to give him or her due process in the fair hearing. This proposal is fraught with costs and will create a litigation nightmare.

VIII. AUTOMATION

Extension of the October, 1995 deadline for Family Support Act Certified Systems.

California has made great strides towards implementation of a state of the art Family Support Act Certified System. Efforts to complete this system by October 1, 1995 have been hampered by a one and a half year protest by a vendor and a two year delay in receipt of requirements fro the Federal Office of Child Support Enforcement.

We support an extension of 90% funding for system cost to October 1, 1997. System costs should be limited to approvals as of October 1, 1995 plus any increased cost due to caseload growth.

Capped Cost on New Development

To cap future Enhancements of Automation at $260,000,000 is not realistic to accomplish the major system changes being envisioned in welfare reform. Failure to properly fund automation will result in an unsuccessful realization of the promise of welfare reform.

WRITTEN STATEMENT OF CALIFORNIA ATTORNEY GENERAL
DANIEL E. LUNGREN
CONCERNING CHILD SUPPORT ENFORCEMENT PROVISIONS
OF H.R. 4 AND THE SENATE FINANCE COMMITTEE'S
WELFARE REFORM BILL

I thank you for the opportunity to comment on the child support enforcement provisions of H.R. 4 and the Senate Finance Committee's responding bill. These provisions will have a profound effect on children in California and across the nation. It is crucial that we act to strengthen, not impede, the Title IV-D support enforcement program, which provides substantial relief to the taxpayers while lifting many children out of poverty and improving greatly the quality of their lives.

1. FUNDING/FISCAL INCENTIVES FOR THE SUPPORT ENFORCEMENT PROGRAM

I understand the importance of establishing the paternity of children born out of wedlock, for both the financial and emotional benefits thereby provided to the children. However, the proposed elimination of incentives based upon support collections in favor of additional program administrative funding based upon paternity establishment and other program performance standards puts too little emphasis on the former and too much on the latter. At a time when the program is being criticized in some quarters for not collecting enough support for our children, it makes no sense to remove all direct incentives earned by the states and counties for improving their support collections.

The proposed incentive structure will have a negative fiscal impact on states such as California which have disproportionately large paternity caseloads. California's total support caseload has grown by over 100% during the past five years, to a total of over two million cases today. Reducing our incentive funds will only hamper our efforts to improve our program and keep up with the demand for support enforcement services.

What is needed is a balance of incentives to inspire the states to perform well in all critical areas. I urge you to continue providing incentives based upon support collections, perhaps at a lower flat rate around 5%, and to reduce the proposed enhanced administrative funding tied to paternity establishment to a maximum of 6%. Adding the enhanced administrative funding for program performance in other areas, such as cost effectiveness and percentage of support orders established, provides a balanced incentive structure which will motivate states to improve performance in all important aspects of the program.

It also is important that the incentives tied to establishment of paternity and court orders be based upon the cases being handled by the state's support enforcement program. States should not be penalized by performance criteria based on factors beyond their

control, such as the total number of out-of-wedlock births in the state. The Title IV-D support enforcement program will not have cases open for all such children, and should not be penalized for not being able to establish paternity in those cases.

2. DISTRIBUTION OF SUPPORT ARREARS COLLECTIONS IN FORMER WELFARE CASES

Paying arrearage collections to families no longer on welfare, in addition to current support, may improve the families' chances of staying off the welfare rolls and the quality of their lives. However, we believe that the Office of Child Support Enforcement has vastly underestimated the fiscal impact of changing the present law, which requires that all arrears accrued up to the time the family goes on welfare become assigned to the state and federal government, up to the amount necessary to pay back the amount of AFDC benefits expended. California's Office of Child Support estimates that as much as 40% to 50% of California's welfare collections are of assigned support arrears. Since 50% of those collections go to the federal government, the impact of paying both pre- and post-welfare arrears to the family will be significant at both the state and federal level. I recommend further detailed analysis of the fiscal impact of the change in the assignment law before you put it into effect.

We also are concerned about the implementation of such a change. Will the pre-welfare arrears be considered unassigned only for families going on AFDC after a certain date? Or will welfare arrears which are presently assigned but uncollected, become unassigned after passage of this change? Will such a change in the law make it possible for families whose assigned welfare arrears have already been collected, to demand that these arrears now be paid over to them? If distinctions are made based upon the effective date of the assignment, or the date of the arrears collection, how are we to explain the difference to a family which but for the passage of a few days would have received arrears that remain assigned to the state and federal governments? I can support a change in law under which families no longer on AFDC receive payment on post-welfare arrears before the assigned arrears are paid to the state, as it helps the family to remain off the welfare rolls. Any other changes in the assignment law deserve much deeper analysis before you consider enacting them.

3. EXTENSION OF DEADLINE FOR STATEWIDE COMPUTER SYSTEM DEVELOPMENT

We strongly support the provision in Senate Finance's bill which will extend to October 1, 1997, the enhanced federal funding for development of statewide automated child support systems meeting the requirements of the Family Support Act of 1988. Automation is crucial to our meeting federal timeframes and mandates for handling our burgeoning support caseloads. Failure to extend the deadline will cost California and other states millions

of dollars we cannot afford, and will seriously jeopardize completion of our automated systems.

I am concerned about the $260 million cap on federal funding for computer development over the next five years. Costs for the extensive computer enhancements and new systems required by the bills now before you have been estimated to cost around $400 million. If there must be a cap, a more realistic figure would be $500 million, to allow for continued caseload growth and unexpected contingencies. I also support language which will give the Secretary of DHHS the flexibility to extend enhanced funding for system development costs which were not approved by DHHS prior to the May 1, 1995 deadline presently in the bill.

4. FEES FOR SUPPORT ENFORCEMENT SERVICES IN NON-WELFARE CASES

As in many other states, the failure to provide necessary support for one's minor children is a crime in California. The district attorneys who enforce our support laws do not charge fees to victims for prosecuting their cases, whether enforcement is accomplished by criminal penalties or civil remedies.

California law used to include a provision allowing the charging of a 2% service fee for processing of support payments made through a probation officer or court trustee. The counties which imposed that fee stopped doing so when they realized that the amount of the fees they collected did not cover the costs involved in processing and accounting for the fees.

Some further considerations on the charging of fees:

a. The fee should be high enough to cover costs of accounting for it, and to provide some significant recoupment of the costs of the services provided.

b. However, if the fee is too high, it will discourage single parents from applying for support enforcement services. Since a substantial number of single-parent families live at or near the poverty level, any fee paid by a custodial parent will be coming out of money that may be needed for basic necessities of life.

c. It sounds fair to set the fee on a sliding scale based upon the custodial parent's income. However, the support enforcement agency then will have to devote badly needed staff to monitoring custodial parents' incomes and calculating fees.

d. One proposal is to charge an ongoing fee based upon a percentage of each collection. This does not take into account the income level and problems of the family, which may need the money to buy food or pay for medical care.

e. Charging the fee to the noncustodial parent would solve the problem of depriving the family of badly needed funds. However, under the current federal regulations governing distribution of support payments, the fee could be collected only after all current support, arrears, and interest had been paid in full. Given the difficulties of collecting just current support in many cases, such a fee would provide little fiscal relief to support enforcement agencies.

Based upon California's experience and the considerations I have just listed, I recommend against charging a fee for support enforcement services in non-welfare cases. By far the majority of families receiving support enforcement services need the support collected to provide them with basic necessities, and to improve the quality of their childrens' lives. We should not charge our youngest victims for prosecuting parents who have failed to live up to the basic obligation of supporting their own children.

5. TITLE IV-D AGENCY ACCESS TO LAW ENFORCEMENT AND CORRECTIONS RECORDS

I am very concerned about provisions in H.R. 4 and Senate Finance's bill which appear to open up law enforcement and corrections records to all state Title IV-D agencies. The first such provision is found in Section 715 of H.R. 4 and in Section 415 of the Senate bill. Both propose to amend 42 U.S.C. 666(a) to allow the federal and state parent locator services to have access to any state system used "to locate an individual for purposes relating to motor vehicles or law enforcement." The vague wording and use of the broad term "law enforcement" are troubling in themselves. They also open up the possibility that "law enforcement" records could be construed as those containing criminal offender record information (CORI).

The second provision is found Section 725 of H.R. 4 and Section 425 of the Senate bill, which otherwise concern expedited procedures for establishing and enforcing support orders. H.R. 4's Section (c)(1)(D) and the Senate bill's Section (c)(1)(E)(i) will give the state IV-D agencies the authority to access the records of all other state and local government agencies, including those in automated data bases. H.R. 4 specifically mentions both law enforcement and corrections records; the Senate bill refers to corrections records.

Under present federal and state laws, access to criminal offender record information is strictly limited to law enforcement and criminal justice agencies. Automated computer systems which include CORI are required to comply with strict security requirements, including audit trails subject to review by the Federal Bureau of Investigation. Unauthorized accessing of CORI is a crime. California's Parent Locator Service is located within the Attorney General's Office, and the district attorneys carrying out the support enforcement program at the county level qualify as criminal justice agencies. Thus, we have been able to provide law

enforcement records, including CORI, to the district attorneys to assist in locating noncustodial parents and enforcing their support obligations.

However, the majority of state Title IV-D agencies and Parent Locator Services are not located in criminal justice or law enforcement agencies. Most are found in social service or welfare agencies, or in agencies collecting state taxes and revenues. While language in both H.R. 4 and the Senate Finance bill speak to providing for the security and confidentiality of information accessed and kept by state IV-D agencies, we find no guarantees that the present requirements in other statutes for security of records containing CORI will be provided by IV-D agencies. I recommend that the provisions in H.R. 4 and the Senate Finance bill concerning state IV-D agency access to records that contain criminal offender record information be deleted from the bill unless language can be added providing present levels of security and restrictions on access to criminal offender record information.

6. REQUIREMENTS FOR NON-WELFARE TITLE IV-D SERVICES

Present Title IV-D law and regulations impose no requirements for eligibility for support enforcement services in non-welfare cases other than the filing of an application. Applicants need not be either U.S. citizens or residents. The federal Office of Child Support Enforcement has interpreted the law as requiring that Title IV-D services be extended to illegal aliens, and to citizens and residents of other countries. Section 701 of H.R. 4 and Section 401 of the Senate bill contain language requiring that IV-D services be provided to "nonresidents on the same terms as to residents." Nothing in the bills limits this provision to residents of the United States.

OCSE's interpretation of present law, which is strengthened by the proposed amendment, creates problems in requiring us to provide support enforcement services to residents of countries with which we do not have reciprocal support enforcement agreements. For example, we currently have several pending requests from custodial parents living in the Philippines for help in collecting support from absent parents living in the United States. Investigation has determined that the Philippines has no agency comparable to our Title IV-D support enforcement agencies which can provide support enforcement services for children in California whose absent parents live in the Philippines.

If Philippine citizens can obtain Title IV-D enforcement services by applying directly to Title IV-D agencies in the United States, the Philippine government will have no incentive to go to the effort and expense of setting up an agency to provide reciprocal support enforcement services to children in the United States. The Title IV-D program thus ends up providing services to foreign residents and citizens which it cannot provide to children living in the United States. I do not believe this to be the

result Congress intended. I propose that the language in H.R. 4 and the Senate bill amending 42 U.S.C. 654(6)(A) be changed to say,

"(A) services under the plan shall be made available to all residents of the United States, its territories, and its possessions; to all United States citizens regardless of residence; and to residents of countries which have established reciprocal support enforcement agreements with the United States or with the state in which the obligor parent resides."

7. COMPLAINT PROCEDURES FOR RECIPIENTS OF IV-D SERVICES

Section 403 of the Senate Finance Committee's bill contains an amendment to 42 U.S.C. 654(12)(B) which requires that recipients of Title IV-D services be given "access to a fair hearing or other formal complaint procedure.." for resolution of unspecified complaints. The "fair hearing" referred to apparently is the administrative hearing now provided to applicants for or recipients of welfare benefits who disagree with an action taken by welfare department. It is an expensive process, and far more formal than what is required to resolve a question or complaint concerning support enforcement services.

This proposal poses a significant problem for California. The district attorneys who carry out our support enforcement program at the local level are independent elected officials. Under our state Constitution and statutes, the only entity with any authority over the district attorneys is the Attorney General. Branches of the Legal Services Corporation to date have filed one federal class action lawsuit and two separate writs attempting to assert that a state administrative law judge conducting a "fair hearing" has the authority to direct a district attorney to handle a support case in a given way, or to take specific legal actions. Since even the California courts have no authority to tell a district attorney how to prosecute a case, or under which statute to file a complaint, we maintain that an administrative law judge cannot do so either. Otherwise, the support enforcement agencies will spend precious time and resources responding to parents' attempts to second-guess the actions taken on their cases, or to dictate that a specific remedy be pursued even though the district attorney has determined that the legal basis for that remedy does not exist, or that it will not be effective.

Federal courts in other states have determined that custodial parents do not have the right to demand that specific actions be taken in their support cases under the Title IV-D program. We urge Congress to reject this attempt to achieve a contrary result by legislation.

8. PATERNITY ESTABLISHMENT PROVISIONS

We are concerned with the following proposed provisions for establishing paternity and obtaining support orders, found in Section 431 of H.R. 4 and Section 731 of the Senate Finance bill:

a. Age of Majority

Under California law, an action to determine the parentage of a child may be brought at any time. Since the basic purpose of the Title IV-D program is to establish and enforce support obligations, the support enforcement agencies have interpreted their authority as being to establish paternity for children for whom a support obligation is owed. In California this includes unemancipated children under the age of 18, and full-time high school students up to age 19 or high school graduation, whichever comes first.

The Senate Finance bill will amend 42 U.S.C 666(a)(5) to require IV-D agencies to establish paternity for children up to 21 years of age. This is well beyond the age of majority in California. It will require support enforcement agencies to establish paternity for children for whom a support obligation is no longer owed, which we do not construe as an appropriate mandate under Title IV-D. We suggest that this provision in the Senate bill and its counterpart in H.R. 4 be amended to require paternity establishment up to the applicable age of majority in the state in which paternity is being established.

b. Affidavit for Paternity Blood Testing

Both H.R. 4 and the Senate Finance bill require that genetic tests to establish paternity be ordered by the "State" upon the filing of a "sworn statement" by either "party" establishing the likelihood of "requisite sexual contact between the parties." This is more restrictive than present law in California and other states which have adopted the Uniform Act on Blood Tests to Determine Paternity, which allows an order for testing to be made upon the request of any party, any person whose blood is involved, or by the court on its own motion, in any case in which paternity is a relevant fact. We believe it most important that court orders be obtained directing the parents and child to submit to blood tests, to provide mechanisms for compelling reluctant parties to participate in testing or suffer resulting consequences. We recommend that the requirement for an affidavit be deleted, and that the Uniform Act be used as a model for legislation in this regard.

c. Standard of Proof for Temporary Support Order

Both H.R. 4 and the Senate Finance bill require proof of parentage by "clear and convincing" evidence to obtain a temporary support order in a paternity case. This is higher than the normal preponderance-of-evidence standard in civil cases. We ask that this provision be deleted, or that it be amended to provide for a burden of proof no higher than that required to establish paternity in the state.

d. Waivers of Rights in Voluntary Acknowledgments

Both bills contain provisions requiring that parents signing voluntary acknowledgments establishing paternity be advised orally and in writing of the legal consequences, rights, and responsibilities arising from execution of the acknowledgment. Such voluntary acknowledgments amount to confessions of judgment. The United States Supreme Court has held that confessions of judgment are unconstitutional unless accompanied by a knowing and voluntary waiver of rights executed by the confessor. The requirement for such a waiver must be incorporated into law, to ensure the validity of the thousands of paternity judgments that will be entered pursuant to this statute

Again, I thank you for the opportunity to comment on these most important bills.

DANIEL E. LUNGREN
Attorney General

Pamela L. Cave
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(703) 817-9466

Testimony Prepared for Submission to
the Subcommittee on Human Resources of
the United States House of Representatives
June 13, 1995

I am presently a single-parent to five, young children. My husband and I are still married even though he chose to leave our household and take up residence elsewhere on May 16, 1990. When I got married in 1986, I made a commitment that I believe in deeply and with that, I have been blessed with five special kids. They are by far the best part of my life and will always be.

When my husband left, he left us with no provision for our expenses. I had several young children and was expecting at the time. I never wanted or expected our government to take over the responsibilities my husband had left on our doorstep. But, when it became quickly apparent to me that my local family court would not provide me with speedy justice regarding his obligation to provide for his family, I felt as if I had no other choice.

Our case was a caseworker's dream. I kept careful track of his employment and place of residence. We remained married, therefore, paternity of the children was never an issue in need of determination or litigation. There was no need to locate him on the part of the agency. This case, according to proposed legislation, should have been easily managed and the order enforced in a timely manner. But, this was not the case. The process of moving this case from ADC to non-ADC status took approximately two and one-half years. Remember, our case was a caseworker's dream. No difficult tracking. No challenge of paternity.

When considering cost-recovery issues, we must look to the issue of ADC recoupment if we hope to collect significant revenues worthy of impacting the deficit. Procedures for such recoupment are now in place, but due to large, burdensome caseloads, many agencies are not able to effectively implement recoupment mechanisms.

What message do we send to our country if we focus on issues such as charging non-AFDC clients for child support enforcement services while not charging all clients? Are we saying that only the families receiving AFDC should have free access to the law and child support enforcement? Can we say that some children have greater priority than others in deserving the support, provision, and accountability of both parents? If we legislate subsequent to this kind of thinking, we will endorse the idea that child support should not be a priority for our government and our system of justice.

Yes, our government programs must be paid for. But, are

our citizens generally charged for day to day law enforcement? We must be certain that our children know that they are important enough to us as parents, and to our country as citizens, that we will research, propose, and enact legislation that will realistically, effectively endorse the idea that parental accountability will be demaded in our country. Regardless of a parent's personal situation, he or she will be expected to reasonably provide for his or her child or children. Excuses will not be accepted. Lack of accountability will not be tolerated.

If a driver runs a red light in full-view of a police officer, he or she will likely get a ticket and be held accountable, under penalty of law, to satisfy the consequences of the ticket. Why can't we have the same type of brief process in place for something as important as the care and well-being of our children? Don't they deserve that?

Thank you.

Pamela Cave
15215 Bannon Hill Court
Chantilly, Va. 22021

May 23, 1995

Dear Ms. Cave,

I apologize for the length of time it has taken me to respond to your request that our staff fill out your graduate research questionnaire.

The questionnaires were given to me some time ago to handle. Unfortunately, the Communications Team I work with is down 1.5 positions. We are extremely busy with the communication demands of our programs, the new requirements of Virginia's welfare reform legislation, and the consolidation of our agency into the Department of Family Services.

In addition, the program manager for Benefits has requested that we not ask staff to take time to respond to the questionnaire. This staff is already overburdened with large caseloads, and she does not wish to add the questionnaire to their workload.

I am returning the copies of your questionnaire. We regret that we are not able to assist you.

Patricia Clarke

Patricia Clarke
Public Information
Fairfax County Department of Human Development
12011 Government Center Parkway
Fairfax, Va. 22035

STATEMENT OF VICKI TURETSKY
SENIOR STAFF ATTORNEY
CENTER FOR LAW AND SOCIAL POLICY

The Center for Law and Social Policy (CLASP) appreciates the Subcommittee's willingness to consider additional testimony on child support issues in preparation for House-Senate conference action. We share the Subcommittee's concern about the need to do a better job of establishing paternity. Both H.R. 4 and the Senate Finance Committee bill address three distinct steps that need to be taken to strengthen the system:

- **Improve the initial intake process.** There is an overwhelming body of research on state child support programs that concludes that there is a very poor interface between the welfare and child support programs. Frequently, custodial parents provide information to the welfare agency that is never transmitted to the child support agency. As a result, efforts to find the putative fathers are delayed. Both the House and Senate Finance Committee bills address this problem by moving intake to the child support agency and making the child support agency responsible for determining whether the custodial parent has provided the necessary information.

- **Remove the systemic barriers to paternity establishment.** Many parents want to establish paternity voluntarily. They should be able to do so without the need for judicial involvement. Both the House and Senate bills take a number of steps to make voluntary acknowledgement more accessible to parents, while requiring expedited handling of contested cases.

- **Educate the public about the importance of paternity establishment.** All too often, paternity issues are not addressed until a family seeks public assistance. Yet, children and society are best served when paternity is established at birth. Many would then never need public assistance. Both the House and Senate bills require the states to encourage parents to establish paternity at the time of birth, and to publicize the availability of paternity acknowledgement procedures.

More controversial is whether the cooperation requirement applicable to those receiving public assistance should be made more stringent than it now is. As discussed below, there is almost no evidence that custodial mothers of children now receiving AFDC are engaged in widespread noncooperation with the system. Nonetheless, there is a concern that there has not been enough emphasis on the importance of the custodial parent's active participation in the paternity establishment process. To address this concern, the House and the Senate bills tighten cooperation requirements, requiring families to provide the father's name and other information needed by the child support agency in order to qualify for assistance.

However, the House bill goes even farther than this. It compels states to reduce benefits by $50 or 15 percent to families with a child whose paternity has not been established when the family has fully met the state's cooperation requirements. Under H.R. 4, the child support agency first determines whether the family is cooperating with paternity establishment. If the child support agency is not convinced that the mother has told everything she knows, the entire family will be denied assistance. However, in those cases where the agency is fully satisfied that the family is cooperating, the states must nonetheless reduce the family's benefits until each child obtains a paternity order. We strongly oppose this provision because:

- It will impose an additional penalty on families for administrative delays and other circumstances entirely beyond their control. Under ordinary circumstances, it takes the state more than a year to establish paternity, even in relatively straightforward cases where the mother is fully cooperating and the state has sufficient information to proceed. And in some cases, paternity will never be established no matter how hard the family tries to cooperate.

- It will eliminate state discretion to make case-by-case judgments about the family's level of cooperation, sufficiency of available information, and workability of the case. The provision prohibits states from making any exceptions, forcing the state to apply sanctions even when fully satisfied with the level of cooperation offered by the family. The state

could have complete information in the case, yet would be required to reduce benefits until the father is served and the paternity order entered.

- It will reward states with a slow paternity establishment process. The provision weakens the state's financial incentive to move cases at a faster pace because the state saves money every month that paternity is not established. In addition, the state gets to pocket the entire withheld amount if family leaves welfare before paternity is established. The longer it takes to establish paternity, the more a state can save.

- It will reward families who stay on welfare long enough to recover withheld funds. The only families who will receive the withheld funds are those families that remain on welfare after paternity is established. Half of AFDC families leave AFDC within a year, while an average paternity order takes 15 or 16 months. Most families will never recoup the withheld funds.

- It will discourage relatives from taking in children in need of care. Many children are now taken in by grandparents, aunts, uncles and cousins. These relatives may have no information about the father's identity or the mother's whereabouts. Paternity may never be established. In the meantime, the relative will receive permanently lower benefits for the children. Under those circumstances, the relatives may unable to take the children in. Children will lose the benefit of family care, and the taxpayer will pay more in foster care costs.

We base our analysis on the large body of social science research, as well as a survey of 47 state child support directors conducted last year by the Center for Law and Social Policy (CLASP).[1]

I. ADMINISTRATIVE PROBLEMS ARE THE MAIN REASON FOR LOW PATERNITY ESTABLISHMENT RATES.

States are not keeping up with current paternity caseloads. In 1992, 30% of children in the AFDC caseload - 2.8 million children - lacked a paternity order.[2] Yet, states only established paternity in 17% of AFDC cases needing a paternity order in 1993. States did *worse* in non-AFDC cases where mothers voluntarily applied for services, establishing paternity in only 14% of non-AFDC cases. This suggests that the explanation for low paternity establishment rates is something other than the failure of AFDC mothers to cooperate with the process. [3]

Paternity orders take a long time to obtain. U.S. Department of Health and Human Services (HHS) unofficial data on successful paternity establishment cases indicates that on average it takes 470 days to obtain an order. In some states, the average number of days exceeds 1000. Similarly, a Wisconsin study[4] found it took an average of 18 months to establish paternity, while a Nebraska study[5] found it took an average of 17.5 months. In a substantial number of cases, paternity is never established, despite the mother's cooperation.

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[1] See Paula Roberts and Jacqueline Finkel, *Paternity: Establishing Paternity for Children Receiving AFDC: What's Wrong and What's Right with the Current System*, Center for Law and Social Policy: Washington, D.C., 1994.

[2] U.S. Health and Human Services, *Characteristics and Financial Circumstances of AFDC Recipients FY 1992*, Table 16, and CLASP calculations.

[3] HHS, *Child Support Enforcement: Eighteenth Annual Report to Congress FY 1993*, Tables 37 and 45, and CLASP calculations.

[4] Sara McLanahan, Renee Monson, and Pat Brown, *Paternity Establishment for AFDC Mothers: Three Wisconsin* Counties, SR #56B, Institute for Research on Poverty, University of Wisconsin: Madison, WI, 1992.

[5] David A. Price and Victoria S. Williams, *Nebraska Paternity Project: Final Report*, Policy Studies, Inc., Denver, CO, 1990.

Many paternity cases are lost or neglected. The U.S. General Accounting Office (GAO) concluded that child support agency efforts to establish paternity and support orders for AFDC children were inadequate in 4 out of 10 cases.[6] The GAO found that poor case management meant that many cases fell between the cracks: they either were not referred by the AFDC agency or not opened by the child support agency. A high proportion of cases were simply missing or "lost." Among open cases, the GAO found that 60% remained unattended for at least six months, and over 20% had not been worked for more than two years. More than a third of the cases were closed prematurely.[7] Several other studies have noted a large number of missing child support cases, the absence of case-tracking mechanisms, fragmentation, and confusion over who is responsible for moving the case forward.[8] According to the GAO, child support workers handle a median caseload of 1,000 per worker.[9]

Automation of the paternity function is lacking. The GAO stated in a December 1994 report that: "Massachusetts, a leader in using automation to seize noncustodial parents' bank accounts, still has a limited system for case management. The current system provides little support for case initiation, management, and automated tracking of efforts to locate parents, paternity establishment, and court proceedings. Caseload intake and noncustodial parent location functions are primarily handled manually by child support personnel."[10] Massachusetts is not alone. Many state systems can not perform the basic functions required by the 1988 Family Support Act.[11]

Coordination between AFDC and child support agencies is poor. Researchers agree that poor coordination and information transfer between the AFDC (IV-A) agency and child support (IV-D) agency is one of the most critical barriers to more effective paternity establishment. The GAO found that inadequate communication between AFDC and child support offices results in incomplete intake referrals and delays. The GAO noted that Oregon has been more successful than the other reviewed states in confronting and reducing the interface problem. Oregon child support officials attributed good communication with the AFDC office to having the same oversight agency, a single computer system, cross-agency training, and cross-agency development of AFDC intake procedures.[12] Other researchers have found that co-location of welfare and child

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[6] GAO, *Child Support: Need to Improve Efforts to Identify Fathers and Obtain Support Orders*, GAO-HRD-87-37, Washington, D.C., 1987. The initial 8-site study, included sites in California, Florida, Michigan, and New York. In a 1994 study of eight states, the GAO found that "very little had changed" since its earlier study. GAO, *Child Support Enforcement: Families Could Benefit From Stronger Enforcement*, GAO/HEHS-95-24, 1994. The eight states in the 1994 study were Arizona, Iowa, Kentucky, Massachusetts, New York, Oregon, Texas, and Virginia.

[7] GAO, 1987.

[8] Roberts and Finkel, 1994; Ann Nichols-Casebolt, *Paternity Establishment in Arizona: A Case Study of the Process and Its* Outcomes, SR #56B, Institute for Research on Poverty, University of Wisconsin: Madison, WI 1992; McLanahan, et. al, 1992; Joseph L. Penkrot, "Can AFDC Parents Pay Child Support?" *Journal of Policy Analysis and Management*, 8(1):104-110, 1989.

[9] GAO, *Interstate Child Support: Wage Withholding Not Fulfilling Expectations*, GAO/HRD-92-65BR (Feb. 1992)

[10] GAO, 1994.

[11] Roberts and Finkel, 1994; GAO, *Child Support Enforcement: Families Could Benefit From Stronger Enforcement Program*, GAO/HEHS-95-24 (Dec. 1994); *Automated Welfare Systems: Historical Costs and Projections*, GAO/AIMD-94-52FS (Feb. 1994); *Child Support Enforcement: Timely Action Needed to Correct System Development Problems*, GAO/IMTEC-92-46 (Aug. 1992); *Interstate Child Support: Wage Withholding Not Fulfilling Expectations*, GAO/HRD-92-65BR (Feb. 1992); *Child Support: State Progress in Developing Automated Enforcement Systems*, GAO/HRD-89-10FS (Feb. 1989); HHS, *Child Support Enforcement: Eighteenth Annual Report to* Congress, 1995; U.S. Commission on Interstate Child Support, *Supporting Our Children: A Blueprint for Reform*, 1992; Hearing Before the Human Resources Subcommittee of the Ways and Means Committee (February 6, 1995) (statement of Wallace Dutkowski, Michigan state child support director, on behalf of American Public Welfare Association).

[12] GAO, 1994.

support offices helps, as does out-stationed child support workers in welfare offices, program liaisons, cross-training, and jointly-developed intake protocols.[13]

The initial AFDC interview is often inadequate. Child support agencies have a problem obtaining high quality paternity information from the AFDC intake process. During the initial interview, AFDC workers may fail to follow-up on vague or incomplete client responses about paternity during the interview, fail to respond to the client's questions about how the child support system works, fail to notify clients about the cooperation requirement, fail to reinforce the importance of paternity establishment and child support, or fail to refer the case to the child support agency at all.[14] More than a third of state child support directors surveyed by CLASP reported that AFDC workers do not give high priority to collecting paternity information, and most said that there are no written protocols or effective incentives for AFDC intake workers to collect good information.[15]

Follow-up efforts to obtain missing information are often insufficient. About a third of child support state directors responding to the CLASP survey agreed that child support workers are not as persistent as they might be in obtaining more information. Almost half the state child support directors reported that the child support agency has no written procedure on what steps to take if the referral from the AFDC agency lacks full information. Two-fifths of directors reported that child support workers do not consistently remind mothers of the cooperation requirement, and many reported that recipients were not told about the benefits of establishing paternity and support orders.[16] The GAO found that those child support agencies reporting less complete information from AFDC referrals made little or no attempt to obtain the missing information, not even by interviewing AFDC mothers.[17]

State attempts to find the father are often minimal. An 11-state study conducted by the HHS Office of the Inspector General (OIG) found that most child support agencies simply will not pursue cases without a social security number. For cases with a social security number (about half of the cases), the child support agencies only made limited attempts to locate the putative father, even though wage records indicated that most fathers had earnings. Many cases sat idle after the initial locate attempt. The study found that the agency tried only once to locate the putative father in three-quarters of long-term AFDC cases.[18]

Good information often languishes in the child support system. The GAO found that in nearly 40% of reviewed cases, the child support agencies knew the location of the putative fathers, but took no action for more than six months.[19] An Arizona study found that one county had the putative father's name and address in 159 cases. The agency also had the social security numbers of 109 of the men. Over two years, the agency located the father in 140 cases, but it attempted to contact only 18 fathers, reached 14 fathers, and established paternity in 10 cases.[20]

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[13] Roberts and Finkel, 1994; Nichols-Casebolt, 1992.

[14] Roberts and Finkel, 1994; GAO, 1987.

[15] Roberts and Finkel, 1994.

[16] Roberts and Finkel, 1994. These findings are consistent with other research. *See* Nichols-Casebolt, 1992; McLanahan, et. al, 1992; Price and Williams, 1990; Esther Wattenberg, Rose Brewer, and Michael Resnick, *Executive Summary of a Study of Paternity Decisions: Perspectives from Young Mothers and Young Fathers*, Institute for Research on Poverty, SR #56B,1992.

[17] GAO, 1987.

[18] Joseph L. Penkrot, "Can AFDC Parents Pay Child Support?" *Journal of Policy Analysis and Management*, 8(1):104-110, 1989.

[19] GAO, 1987.

[20] Nichols-Casebolt, 1992.

Delays often result in stale information. Time is of the essence in paternity establishment. The potential of cases declines rapidly as they age, and good information may become useless when it sits in the system too long.[21] The research indicates that when there are significant case processing time lags, the father often has moved on, and workers are forced to repeat work in a constant "catch-up" effort.[22]

States that use better management practices have better success. The research indicates that states that develop strategies to reduce the number of older children coming into the system, improve the quality of paternity information, and reduce the amount of time paternity cases remain in the system are more effective.[23] For example, Texas recently reported that it increased its number of established paternities from 684 per year to 32,000 per year between 1987 and 1994 (a 47-fold increase) by streamlining its judicial process, simplifying its voluntary acknowledgment procedures, increasing automation, and conducting a parent education campaign.[24] Iowa reported that when the child support agency conducts one-to-one interviews with the mother, 95% of the mothers named the child's father and paternity has been established in 90% of those cases.[25]

II. THE PATERNITY PENALTY APPLIES ONLY TO FAMILIES WHO HAVE FULLY COOPERATED AND REWARDS STATES THAT TAKE A LONG TIME TO ESTABLISH PATERNITY.

The paternity penalty applies only to families who have satisfied the state's cooperation requirements. The paternity penalty appears to be based on a misconception that substantial numbers of AFDC mothers deliberately withhold information about the fathers, and that they need an additional spur to cooperate. In fact, there is almost no evidence that mothers are engaged in widespread noncooperation. However, regardless of whether noncooperation is perceived as problem, the cooperation provision gives states all the clout they need to deny assistance to families who have not been completely forthcoming during the process. By contrast, the paternity penalty applies only to families who have fully satisfied the state's cooperation requirements. The paternity penalty ties the hands of state officials who are in a better position to make case-by-case judgments about the family's level of cooperation, the need for further information, and the suitability of sanctions.

Most state child support directors say that AFDC mothers are usually willing to cooperate. Over two-thirds of surveyed child support directors in the CLASP study agreed that mothers applying for AFDC are usually willing to cooperate with the child support agency in establishing paternity and will provide complete and correct information to the best of their ability. While directors said that noncooperation does occur, most directors said that the mother's lack of cooperation is usually not the main reason for incomplete information, and that overt noncooperation is rare.[26]

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[21] GAO, 1987.

[22] Nichols-Casebolt, 1992.

[23] The House and Senate bill adopt a number of strategies highlighted in the literature for improving paternity establishment rates, including outreach campaigns, expanding access to voluntary acknowledgment procedures, improving automation capacity, addressing the IV-A and IV-D interface problem, and expanding expedited procedures.

[24] *Initiatives Pay Off as Texas Paternity Establishments Climb,* NCSEA NEWS, vol. XXIV, no. 1 (Wint. 1995).

[25] Bob Huibregtse, *Paternity Establishment: Where Welfare Reform Starts,* NCSEA NEWS, vol. XXIV, no. 1 (Wint. 1995).

[26] *Id.*

In fact, most AFDC mothers provide information about the father when asked. Nearly all studies have found that AFDC mothers provide a high level of information about the father.[27] Separate studies in Arizona[28] and Nebraska[29] found that more than 90% of custodial mothers named the fathers, almost 50% provided his address, and about 30% provided other identifying information, including a social security number, telephone number, or employer's name. Similarly, the Wisconsin study[30] found that 90% of AFDC mothers interviewed provided the father's name, birth date, and state of residence. A four-county study[31] of AFDC and non-AFDC custodial mothers found that 100% of the mothers interviewed provided the father's name, 87% his home address, 74% his social security number, and 66% his work address to the child support agency. In addition, the OIG study found that about half of the cases had social security numbers.[32]

But some families simply do not have information, and are incapable of obtaining it. There are many cases where a mother and her older child have had no contact with the father for years, where the father is hiding or transient, where the mother or child is a victim of domestic violence, where the father used another name or refused to reveal much about his situation, where the pregnancy resulted from a one-time sexual encounter after contraception failed, or where the grandmother has taken in the child and has no idea who the father is. Some of these children will never obtain a child support order, no matter how hard the family tries to cooperate with the paternity process.

Older children will be hard hit by the paternity penalty. The research indicates that many mothers are in contact with the fathers around the time of the birth, but that contact drops off quickly.[33] Mothers of older children are unlikely to be able to obtain current information. Many mothers lack information about the child support system and do not attempt to legally establish paternity at the time of the baby's birth. For example, many think that paternity is established when the father's name is on the birth certificate. Months or years may lapse before the mother realizes the significance of paternity establishment. In addition, many children are conceived and born before the mother has any idea that she will need AFDC. Whatever information the mother may have had at the time of conception and birth is likely to be stale or forgotten.

Victims of domestic violence will be hard hit by the paternity penalty. The only exceptions to the paternity penalty are rape and incest. No exception is made for domestic violence. Those mothers and children who can not risk contact with the fathers will be forced to accept reduced benefits. Many victims of domestic violence are afraid to disclose the abuse because their partners have threatened retaliation. In addition, abusers often conceal basic information about identity, employment, and bank accounts from their victims.

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[27] The one exception is an unpublished paper by Rutgers University's Kathryn Edin, who states that her sample is neither random nor fully representative. *Single Mothers and Absent Fathers: The Possibilities and Limits of Child Support Policy* (1995).

[28] Nichols-Casebolt, 1992.

[29] Price and Williams, 1990.

[30] McLanahan, et. al, 1992.

[31] National Child Support Assurance Consortium, *Childhood's End: What Happens to Children When Child Support Obligations Are Not Enforced*, Uniondale, NY, 1993. CLASP is a consortium member and helped conduct the study. The four counties were Suffolk County, NY, Trumbull County, OH, Fulton County, GA, and Portland, OR.

[32] Penkrot, 1989.

[33] Wattenberg, 1992; Dan Bloom and Kay Sherwood, *Matching Opportunities to Obligations: Lessons for Child Support Reform from the Parents' Fair Share Pilot Phase*. Manpower Demonstration Research Corp.: New York, 1994; Sandra Danzinger, *Father Involvement in Welfare Families Headed by Adolescent Mothers*, discussion paper no 856-87, Institute for Research on Poverty, University of Wisconsin: Madison, WI, 1987.

Children of fathers on the run will be hard hit by the paternity penalty. There are some fathers who deliberately evade their responsibility to support their children. They move from state to state, job-hop, work in the underground economy, use pseudonyms, and transfer their assets. Other fathers may not be citizens or residents of the United States. Children can not get their paternity established if their fathers can not be served with legal process.

Children of deceased fathers will be hard hit by the paternity penalty. Paternity can be impossible to establish posthumously if the putative father failed to acknowledge his child while he was living. The state agency may be able to verify the father's death, but have no means to establish his paternity.

Grandmothers will be hard hit by the paternity penalty. The paternity penalty will discourage relatives from taking in children in need of care. Many children are now taken in by needy grandparents, aunts, uncles and cousins. These relatives may have no information about the father's identity or whereabouts. Even if they can provide useful information about the father, the mother may be missing. Unless both parents can be found for service of process and genetic testing, paternity can not be established. In the meantime, the relative will receive permanently lower benefits for the children. Under those circumstances, the relatives may unable to take the children in, further straining the public foster care system.

The withheld funds are only paid to families who stay on welfare. The only families who will receive the withheld funds are those families that obtain a paternity order, and stay on welfare long enough to collect. The data from a number of states indicates that half of single parent families leave AFDC within a year and three-quarters leave within 2 years.[34] Since the average paternity order takes 15 or 16 months, most families needing paternity established will never recoup the withheld funds. In effect, the penalty provision rewards the family's longevity on welfare, while families who leave quickly will lose out, even if they remain in the state child support system and can be easily found.

The paternity penalty weaken the state's financial incentives to establish paternity quickly. The provision rewards states with a slow paternity establishment process, because the state saves money every month that paternity is not established. In addition, the state does not have to repay the withheld amount if family leaves welfare before paternity is established. The requirement also imposes a substantial tracking burden on state computers.

III. CONCLUSION

We urge you to recede to the Senate on the paternity penalty issue. There is no evidence that paternity penalty will improve the quality of paternity information, increase parental cooperation, or facilitate paternity establishment. However, there is every likelihood that families will be hurt for no real gain. In fact, the incentives run the other way: states with slower paternity processes will gain, and families who do everything to cooperate with paternity establishment and who leave welfare quickly will lose.

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[34] Mark Greenberg, *Beyond Stereotypes: What State AFDC Studies on Length of Stay Tell Us About Welfare as a "Way of Life,"* Center for Law and Social Policy: Washington, D.C., 1993.

STATEMENT
BY THE
INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES
TO THE
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

The Interstate Conference of Employment Security Agencies is the national organization of state administrators of unemployment compensation laws, public employment offices, and labor market information programs. ICESA's members have several concerns about provisions of the welfare reform legislation currently under consideration by the Congress which would require that information about the employment and wages of all workers collected for unemployment compensation purposes be provided each quarter to the Federal Parent Locator Service for purposes of the National Directory of New Hires (Section 716 (f) of H.R. 4).

The Federal Parent Locator Service (FPLS) has access currently to wage information collected quarterly by state unemployment compensation agencies. FPLS provides the names and social security numbers of absent parents to unemployment compensation agencies which then cross-match those with their files and provide information on any "hits" to FPLS. It appears that there would be little gained by having this information aggregated into a national database by FPLS.

Duplicating these state records at the national level would be a large and expensive undertaking. There are about 120-125 million records reported to state unemployment compensation agencies each quarter--about 500 million per year. The Bureau of Labor Statistics (BLS) recently completed a report at the direction of Congress on procedures for establishing a nationwide database of information on the wages and employment of all individuals for whom such information is collected and stored by state unemployment compensation agencies. The BLS report outlines procedures for a decentralized database providing access to current UC files for employment and training program evaluation purposes and a centralized longitudinal database of older data for research purposes.

Clearly, the interest in having access to unemployment compensation wage and claim information is widespread. However, given the volume of data, the expense involved in its maintenance, and its sensitive nature, duplicating these state data numerous times at the national level makes no sense. Such a database (or databases)--containing information about the employment and wages of almost every worker in the nation--would be a tempting target for unauthorized and improper use.

In addition to our concerns about the cost and security of establishing such a database, we are also concerned that the legislation would require each state legislature to amend its unemployment compensation law to provide for--

> "The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453 (i) (3) , and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports."

Requirements to provide unemployment compensation data to other agencies has generally been made a condition of administrative grants--not a requirement for inclusion in state UC laws--and such legislation has always provided that the information be provided on a reimbursable basis. By requiring that this provision be included in each state's unemployment law, the cost of providing this information--in whatever format and complying with any requirements the Secretary of Health and Human Services chooses to impose-- would be borne by grants to states for administration of unemployment compensation programs, not by appropriations for child support enforcement activities. In the coming years as federal appropriations are restricted by efforts to balance the budget, unemployment compensation agencies will be struggling to maintain basic services to unemployed workers. Shifting costs for child support enforcement activities to unemployment insurance programs will place an unfair drain on resources that are needed to provide for the prompt payment of unemployment benefits.

As you continue to refine your welfare reform proposal, we urge you to reconsider the approach that the current legislation takes in making unemployment compensation records available for child support enforcement purposes.

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT LEGISLATION
JUNE 13, 1995

Written Comments of

JAMES HENNESSEY, Bureau Chief

BUREAU OF COLLECTIONS
IOWA DEPARTMENT OF HUMAN SERVICES

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to provide written testimony in preparation for House-Senate conference action on child support.

Having now had the opportunity to study both the House and proposed Senate welfare reform bills, and having had the time work with colleagues to propose, rework, discard and/or consider numerous revisions to proposals, we are now in a position to share with you the results of our research and study. We believe these are the most innovative, workable recommendations possible to use as you go to conference on the child support provisions. These recommendations center around the following principles:

Balance Uniformity with Flexibility

Congress can provide the necessary uniformity and standardization which will enhance child support enforcement efforts (especially in the 30% of cases which are interstate), while still allowing flexibility for each state to shape its child support program in the context of its own unique welfare reform program and financial environment. Welfare reform and child support enforcement are integrally connected. States must have the control over both programs to make the best use of limited state and federal dollars.

Helpful to Children and Families

States will do what is in their own best interests. Federal law must, therefore, be such that it is in a state's best interest to collect child support, establish paternities, and get and keep families off welfare.

Parental Responsibility and Affordability

We must constantly examine our child support and welfare reform policies to eliminate nuances which encourage parents to look to government for long term, routine support of their children. That is the only way to ensure an assistance program which is affordable for taxpayers on both federal and state levels.

It is within the parameters of those guiding principles that the following recommendations were developed. Most of our comments focus on funding considerations impacting families, federal and state governments, and taxpayers, but we also comment on policy concerns and issues raised by differences between the House and Senate bills.

Congress is considering monumental, pervasive and potentially costly changes to both federal, and ultimately state, child support laws. We recognize

our responsibility to assist in the development of those changes and offer these recommendations only after many hours of study, research and deliberation.

DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

This is one of the most difficult child support issues Congress faces in trying to enable true welfare reform, and still avoid unfunded mandates to states. But if left as currently written, the House and proposed Senate bills will be impossible for most states to implement, and too expensive.

As written, at the most, only 5 states in the United States would be able to comply with the law. The bill would require states to pay child support pre-assistance arrears collections (which had been assigned to the state to become entitled to AFDC) to the family. States do not have all the records and historical data needed to distinguish between support due for months the family was on assistance and for months before that, since all that was assigned to the state.

In addition, neither the State nor the Federal government can afford to stop using all pre-assistance arrears to recover for taxpayers up to the full amount of cash assistance paid to the family. Block grants will freeze federal money to states at 1994 levels. However, having now studied the numbers and seen CBO reports, we know changes in pre-assistance arrears distribution will substantially decrease money currently available to states for temporary family assistance, for jobs, and for transitional child care. That resource reduction may have been unintentional, but it should be corrected. State taxpayers cannot afford to waive these debts, and it is not fair for Congress to mandate they do so.

Finally, block granting in order to achieve welfare reform must include flexibility for States to design what will work best in their individual environments to get and keep people off welfare. That will involve a combination of cash grants, work opportunities, and incentives and expectations. Those expectations should permit the states to hold parents responsible for the cost of supporting their children. If parents believe the government will care for their children for several years with only a partial expectation of repayment (e.g., only assign support due for months on assistance) it may encourage reliance on the government rather than self-reliance.

We, therefore, recommend:

States should be given flexibility to retain or "keep assigned" any support that was assigned before the law changes. In addition, in amendments to Title I for Temporary Family Assistance, give states the option to assign and retain support already due at the time the family requests public assistance.

For families currently receiving assistance, give states flexibility to pay disregards, and retain or distribute collected support to the family. However, clarify the government may only retain support up to the amount of assistance paid to the family. That also means that if a state chooses to distribute child support and disregard that income in determining the amount of cash assistance, the federal government will not participate in paying for part of that disregard. States will bear the full cost of paying disregards.

For families who formerly received assistance, retain the bills' requirements that states pay all current and post-assistance arrears collections to the family first before the government is reimbursed. It is likely that the bulk of the federal cost of this policy change would be offset by eliminating the $50 disregard as proposed. After that, allow states the

option (consistent with their assignment policy) to retain or distribute any other support -- up to the amount of assistance paid to the family.

Protect the federal government even though states are given flexibility in assigning, and limited flexibility in distribution, by disengaging the "federal share" from some of the flexibility factors. Do this by defining the pool from which the federal government receives reimbursement as the amount of support due for months the family was on assistance, and unpaid support due when the family applied for assistance, up to the amount of assistance the family would have received had no support been collected for as long as the family received at least some assistance. This guarantees the pool from which the federal government is reimbursed regardless of what a state chooses to do with its assignment, distribution and disregard policies.

Protect states from further federal policy changes in distribution of federal tax refund offsets. This can be done by allowing a state to collect support up to the amount it was allowed to retain (after reimbursement to the federal government) in 1994, before the federal government may begin receiving reimbursement. This would prevent further damage to states' ability to provide child support enforcement services and/or cash assistance to families needing temporary assistance.

Clarify proposed changes to federal tax offset distribution to clearly provide those collections will be distributed the same as other collections, rather than implying amounts must always be paid to the family regardless of the distribution statute.

PERFORMANCE-BASED INCENTIVES, FEDERAL FINANCIAL PARTICIPATION AND MAINTENANCE OF EFFORT ISSUES

Performance-Based Incentives

Just as important as distribution questions which balance the needs of former assistance families with those currently on assistance is developing an incentives formula for states' child support programs that targets results we truly want to encourage.

We agree with provisions in the bills that incentives should be performance based. We agree they should reward states that do a good job getting legal paternities established, getting legal orders to pay child support, collecting support and collecting it timely, and doing all this as cost-efficiently as possible. What we do not understand is why Congress would want to tie the rewards to higher expenditures rather than higher collections. Nor do we understand why Congress wants to discourage states' initial efforts to privatize aspects of the program, or damage the current method of sharing incentives with counties and local governments to offset non-federal costs of their child support programs.

The current language in HR 4 and the Senate proposal would pay incentives to states based on a percentage of expenditures. We recommend incentives be based on a percentage of collections, since those are the results we want.

Also, rather that adjusting FFP by incentive amounts, states should receive the incentives with the flexibility to use them in the best way possible. We agree the incentives formula should be revised, but to be true "incentives", states must have some flexibility in their use.

There should also be a requirement that if States share incentives with political subdivisions, they must use the money only in their child support programs.

We propose a new collections-based incentives formula to be developed in concert with the states, which will take into account a state's performance in several areas in comparison to other states, a state's success at getting people off welfare, and simplicity, accuracy and fairness in getting the data needed to determine the incentives amount.

Federal Matching Payments (FFP) and Maintenance of Effort Issues

Discussion of incentives is integrally connected to the bills' provisions' on the level of federal funding participation in the child support program.

Over the past several years the number of IV-D services states must provide and the number of cases the states must serve under federal law has steadily increased, but the percentage of federal participation has decreased (to a current base amount of 66%). In Iowa, the unduplicated count of the child support enforcement caseload has increased from 99,847 in July 1990, to 148,560 as of May 1995. Individual child support workers carry staggering caseloads of over 1000 cases each. The bill, as written, appears to benefit states by allowing a higher FFP (as incentive adjustments). In effect, however, by removing the flexibility of collections-based incentives, states are facing a significant new, unfunded mandate.

In addition, the maintenance of effort provision is technically inaccurate because it refers to only a 66% FFP rate. By omitting the 90% FFP for genetic testing and automated data processing in current law, the bill requires states to increase rather than maintain the state effort.

Finally, the maintenance of effort language in combination with the proposed adjusted FFP results in another unfunded mandate. States will lose flexibility they now have to use incentives in the child support program as the States' share for the 66% federal match. They will have to find new, non-federal funding. We understand Congress' concern that States not reduce their child support enforcement efforts, but this can be done in another way.

States will do what is in their best interests. If States are rewarded by incentives which they have flexibility in using, and by public assistance reimbursement, they will do what is needed to provide an efficient child support program to maximize returns for both the child support and temporary family assistance programs. To mandate maintenance of effort in one program removes opportunities to seek even better solutions. For example, efforts to establish paternity are essential, but they are second best solutions compared to a method which would successfully reduce out of wedlock birth rates.

However, if there must be a maintenance of effort requirement, it should at least be a correct dollar amount.

We would prefer the FFP be returned to 75%.

We would prefer deletion of the proposed language which provides expenditure-based incentives and substitution of collections-based incentives as recommended above.

If the maintenance of effort requirement is not deleted, the states should be required to maintain their base year state expenditure level rather than total expenditures reduced by 66%.

AUTOMATED DATA PROCESSING REQUIREMENTS

Several sections of the bills specifically refer to automated data processing requirements, but additional requirements can be found throughout the balance of the bills. Because of the volume of the proposed new mandates, we believe a 90% FFP, as was provided in the Family Support Act of 1988, is appropriate. The best way to help assure effective and efficient implementation of the new policy components of HR 4 and the Senate bill is to encourage the development of the most highly automated case management and processing techniques possible. A higher dollar investment at a higher FFP rate now will pay off well in the future.

Since we are recommending an incentives formula different than the proposed adjusted FFP, the funding formula for automated data processing in the bill should also be replaced.

Certification for the 1988 requirements should be extended to October of 1997, as provided in the Senate bill, also at the 90% match rate, but limited by the amount states estimated needing as of May 1995.

Finally, the $260,000,000 national cap is unreasonably low and should be replaced with an amount commensurate with the federal share of the actual cost of meeting the new system requirements.

COST RECOVERY IN NON-AFDC CASES

We are aware of the appeal to members of Congress to require cost recovery for services in non-AFDC cases because we have debated and experimented with this funding mechanism on the state level for years. We do not recommend any change in the current federal requirements for cost recovery.

The problem is in the collection of the fee. Ultimately the money will come from the child. It may come directly out of the child support, or it may be added to the support and be collected from the same parent whose limited resources we tap for child and medical support. It may, ultimately, be deducted from the obligor parent's income and reduce the child support order. If it is collected along with child support payments, it will only be paid by those parents who pay their support. We would also see it as an ineffective and imprudent use of limited resources to have child support staff do income eligibility determinations and verifications to assess a fee only from parents of a certain income level.

Our response might have been different if recovery of fees from support had initially been a routine part of non-AFDC cases, but in light of public expectations, it is too late to implement that change now.

IRS DISCLOSURE TO ENTITIES UNDER CONTRACT WITH CHILD SUPPORT AGENCIES

Because of mushrooming caseloads and limited resources, States have begun contracting with private companies to assist in providing child support services. Contractor services may include selected establishment, enforcement or collection and distribution functions, or full-service programs. The IRS, however, has taken a narrow reading of current statute to preclude these private entities from access to IRS tax information, which hampers their ability to function as efficiently as their governmental partners.

Congress should remove this barrier to States' initiatives to privatize by clearly allowing contractors access to tax information provided that they comply with the same confidentiality requirements as state and local child support

agencies, and are subject to the same Federal penalties for unauthorized disclosure.

NEW HIRE REPORTING

Both bills contain provisions for State new hire directories to which all employers must report. HR 4, however, contains a special provision to accommodate multi-state employers to allow them to report all their employees to only one state rather than to several states. Early reporting of newly hired employees has been an extremely effective enforcement tool in states which have already adopted it, and we want to foster continuing good working relationships with employers. To that end, we recommend inclusion of an exception allowing employers who have employees in more than one state the flexibility to report to the directory in the one state of their choosing.

In addition, Federal agencies should also be subject to reporting requirements, and should be required to report directly to a single federal entity -- the Federal Parent Locator Service -- rather than to each State.

QUARTERLY WAGE WITHHOLDING BY GOVERNMENTAL ENTITIES

Currently all private employers must report wage information quarterly to a State agency for unemployment, child support, statistical and other governmental purposes. Child support agencies use this information to locate parents and to establish and enforce child support orders. We do not, however, have that information for employees of local, state or federal governments -- and those are major employers in every state.

We recommend that the Federal government be required to report quarterly wage information to one central location, the Federal Parent Locator Service, which in turn would share the information with states. In addition, State and local governments should make quarterly reports in the same manner as other employers in their State.

FEDERAL FINANCIAL PARTICIPATION FOR DATABASE MAINTAINED BY BIRTH RECORDS AGENCIES

Current federal regulations require each State to designate an entity to which hospitals must send all acknowledgments obtained in their hospital based paternity acknowledgment program. The child support agency has access to that statewide database to obtain information and documentation needed in IV-D cases to establish support orders. Although it is logical that the statewide entity chosen to store and record these documents be the same agency that stores and records birth records, and even though both bills would require paternity acknowledgments and adjudications of paternity be filed with the State registry of birth records, there is no federal financial participation (FFP) available for the additional costs of that agency.

We recommend that FFP be made available through cooperative agreements with State birth record agencies for the costs of filing voluntary acknowledgments and adjudications of paternity, and for matching that database with the State case registry.

STATUTE OF LIMITATIONS

One issue causing problems in interstate enforcement of child support orders is the lack of uniformity among states in the length of time arrearages may be enforced. Some states have no laws, some have no limitation and some have a limit of only 10 years, with various methods of calculating the time. This is an area which is appropriate for Congressional action to set a minimum statute

of limitations so that all states would have the same minimum expectation for enforcement of delinquent support regardless of which state the parent has moved to.

We recommend each State be required to have procedures for the collection of arrearages at least until the child attains age 30.

DENIAL OF PASSPORTS TO CERTAIN CHILD SUPPORT DELINQUENTS

The proposed Senate bill in Section 471 requires each state to report certain delinquent parents to the Federal government for sanctioning of their passports. The threshold for reporting those parents is arrearages exceeding $5000 or "an amount exceeding 24 months' worth of child support". Because of the administrative difficulty and cost in tracking 24 months' of support on a high volume of cases, we recommend that the triggering threshold be only the dollar amount and not an amount due over a certain period of time.

CONSUMER COMPLAINT PROCESS

The proposed Senate bill contains a federal mandate requiring each State to establish procedures for fair hearing or formal resolution of complaints. States are aware of parents who are dissatisfied with services, and therefore, have already developed procedures for resolution of these problems. If Congress, however, requires formal fair hearings or other formal complaint resolution processes it will significantly add to program costs and strain existing resources with no appreciable change in the outcome of the complaints, nor in increased support for children.

We recommend Sec. 403 of the proposed Senate bill be deleted.

EXPANDING SCOPE OF IV-D CHILD SUPPORT CASELOAD TO ALL CASES RECEIVING SERVICES UNDER IV-B

Language in the child support titles regarding public assistance cases which require child support services will be affected by other titles of the Act dealing with child protection. Regardless of the outcome of those discussions, the Title IV-D caseload should not be inadvertently expanded with inappropriate cases. Child support services would be appropriate in any case in which the child is not living with the parent. Therefore, we recommend in section 401 or 701 of the child support title, rather than referring to cases receiving benefits or services under Title IV-E or IV-B, that cases be limited to those receiving foster care or out of home placement benefits under IV-B or IV-E, whichever is appropriate in the final bill.

Also, if child protection is included in the Act, that title should include a requirement for assigning child support to the State in those cases.

90% PATERNITY ESTABLISHMENT RATE

Both bills would raise the paternity establishment rate from 75% to 90% even though experience has shown that is unrealistic. Although it may be desirable to have a higher rate of paternity establishment, threatening sanctions unless an unrealistic rate is attained will not result in attaining that rate.

Despite aggressive efforts to establish paternities there are a variety of reasons why it cannot always be achieved: the mother may not know who the father is, his name or his location; sometimes paternity cannot be pursued because of threats of violence to the mother or child; 30% of genetic tests nationwide to determine paternity result in exclusion of the alleged father, and there is a continual influx of new cases. That means that regardless of the

number of paternities an agency establishes each year it is offset by an ever-increasing universe of cases needing paternity establishment.

We recommend retention of the 75% rate as passed in OBRA '93.

USE OF FORMS IN INTERSTATE CASES

Both bills contain a section requiring the Secretary to develop 3 forms which all states must use in interstate child support cases. However, there is no requirement for state involvement in their development. In order to ensure the forms will contain the information states need for income withholding, administrative subpoenas and the imposition of liens we recommend language be added requiring the Secretary to convene an advisory committee of state IV-D directors to assist in the development of the forms.

ADMINISTRATIVE DEFAULT ORDERS

Both bills contain a requirement for states to have procedures for the IV-D agency to enter an administrative default order if a putative father refuses to submit to genetic testing or a parent fails to appear at a hearing to establish or modify the amount of support. These requirements are what remain of the Clinton Administration's 1994 Work and Responsibility Act's mandates for broader administrative processes. Since the bills passed by the House and proposed in the Senate do not require states to substitute their entire judicial processes with administrative processes, it makes sense that this holdover from the earlier bill be also deleted. States should not be required to fund an entire administrative process just to obtain default orders.

COLLECTION AND USE OF SOCIAL SECURITY NUMBERS

Both bills contain mandatory license sanction sections which include sanctions of driver's, professional and occupational, and recreational licenses. However, the section authorizing and requiring states to obtain social security numbers in connection with applications for licenses does not include recreational licenses. It will be administratively impossible to have a recreational license sanction program without use of social security numbers, but the Social Security Act needs to specifically require applicants to supply the number. We recommend recreational licenses be added to the requirements for social security numbers in Sections 417 and 717.

DEFINITION OF SUPPORT ORDER

The proposed Senate bill has a much broader definition of support order than HR 4 and we are concerned the new language will significantly add to the IV-D mandate on states. The Senate definition includes attorney fees which could be interpreted to mean the IV-D child support agency would be required to enforce orders to pay attorney fees along with orders to pay child support. Although we understand why it may ultimately benefit families to include that in mandated government services, we would prefer to concentrate on child support.

SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

The proposed Senate bill differs from HR 4 in that it requires reviews and adjustments of orders every 3 years if the parent (or State if there is an assignment) requests such a review. States have found the review and adjustment process to be very labor intensive, but the involvement of a parent (or State) actually seeking that service should facilitate the overall process. We support the Senate language.

Both bills also require states to review and adjust an order at any time at parental or State agency request if there is a substantial change in circumstances. The 3 year requirement is reasonable considering the volume of cases, but the mandate to review and adjust anytime there has been the requisite change of circumstances could force states into constant review of thousands of orders, creating a revolving door for many of our cases. We would recommend the deletion of this new mandate.

CONCLUSION

These are summaries of our major recommendations. You are shaping our future and our children's futures and we stand ready to assist in any way we can in providing detailed technical advice, assistance with drafting language or any other request. Thank you again for this opportunity to comment and share our experiences with you.

STATEMENT OF WALLACE N. DUTKOWSKI
MICHIGAN DEPARTMENT OF SOCIAL SERVICES

June 13, 1995

Thank you for the opportunity to submit written comments to the committee. I would like to specifically address three issues concerning child support enforcement: cost recovery; distribution of child support collections; and the financing of the child support system.

Cost Recovery

One of the issues facing the Committee is whether the Child Support Program should try to recover costs for services provided by the program from non-AFDC cases.

Many states recover some costs from non-custodial parents today. In FY '94 Michigan collected court fees of over $10 million (for all IV-D cases). Per current federal regulation these fees were deducted from child support program costs. The reduction in costs associated with these fees is shared between the federal government and the state therefore, the fees saved the federal government approximately $6.67 million. Michigan's experience reflects the difficulty of collecting fees as shown in the following example: The $10 million Michigan collected is about 37% of the fees charged. In other words Michigan's experience in collecting fees is similar to our experience in collecting support. That is, the people who pay their support regularly also pay the fees, and those who do not pay their support do not reimburse the program.

However, this becomes worse as the amount of the fees increase. Along with visitation complaints, non-custodial parents complain most about the excessively large amount of their income required to be paid in support. This issue was highlighted by a non-custodial parent from Michigan on a recent documentary regarding Child Support, called "The Vanishing Father", on PBS' Life Line series. The parent said he was going to be arrested for not paying the full amount of his support order, so why bother to pay any? Fees increase the amount of money a non-custodial parent must pay. Therefore, it is likely that as the fees go higher so will the number of non-custodial parents who reach the point where they decide the amount is too great and begin to withhold support payments. In addition, a payment that does not go to a child is not viewed as a child support payment. This further reduces the likelihood of parents paying the fee.

If we ask parents to pay more for the benefits received from the child support system, it could produce two other types of results. First, due to the Guideline process states must use to determine the amount of child support non-custodial parents have to pay, a higher fee results in lower child support payments. This will reduce the amount of money going to children who are due support. If custodial parents are also asked to pay fees it will, in effect, result in less child support being passed through to the children. The net result is less money will be available to raise children in single parent families.

The second issue revolves around a proposal to have fees charged only to those who can afford to pay the fees. The focus is on the Non-AFDC caseload. This suggestion assumes that the entire Non-AFDC caseload is financially independent. The fact is, this caseload is comprised of many former AFDC recipients, a large share of whom have just left the assistance program due to the combination of earned income and child support. In addition, there are many families with earned income and child support who live near or below the poverty level, yet refuse to apply for assistance payments due to their sense of independence. To require either of these groups to share in a fee or to accept less in child support due to the imposition of a fee would place both groups at substantial risk of turning to the public assistance program for help. The only way to prevent the poorest from paying is to set up a means test to determine who should pay a fee. Such a test would be administratively difficult to implement and would take time away from other more productive activities such as locating absent parents and enforcing child support orders. The additional fee would also most likely fall on the shoulders of the same group of non-custodial parents (the 37% mentioned above) who are already paying their court fees.

Being fiscally frugal is important for government. Fees help pass the costs of services on to the individuals receiving the services. But at the same time we must be careful we are not building disincentives into an already beleaguered program. IV-D was designed to offset the costs of Public Assistance by reimbursing the state and federal government for assistance received. It was expanded to prevent children from coming on assistance in the first place. Cost savings need to be built in to the program but not by putting a further burden on either parent which might result in unintended negative effects on an already *at-risk* population. If sufficient tools are provided to the states to stringently enforce current support orders, cost savings in the Assistance Payments Programs and Food Stamps will produce the savings being sought.

Distribution Issues

Should we change the rules for distribution of Child Support? Are states willing to absorb the CBO estimate of $220 million a year it is expected to cost states to pay all arrears to the client first? Will the provisions in H.R. 4 actually help mother stay off welfare?

The distribution rules in H.R. 4 are close to the ideal for the child support program. Ideally, all payments at all times would be passed through to the families. Reality however, dictates that we must have incentives to keep people off assistance and we must have an affordable, easily administered program. H.R. 4 sets up a distribution process few states can either comply with or afford. Michigan cannot comply with the requirement to go back and establish to whom all of the currently pending *pre arrears is owed. (Pre arrears* are arrears owed to families before they apply for public assistance). We simply do not have such data. One factor is clear to Michigan, the requirement to modify distribution must be only prospective with respect to the issue of pending arrears.

The issue of not assigning pre-assistance arrears creates a situation where there is little lost for a family to go on assistance. It must be remembered that the state can only keep the arrears it collects up to the amount of public assistance it provided. Changing this process will be costly. Michigan calculated the costs to the state to make the changes mandated in HR 4. Michigan will lose, at least, ***$30.8 million*** in net collections annually! In addition the federal government loses ***$50.49 million*** annually. It is unclear whether either the federal government or the state could stand to lose this amount of funding.

Many groups, such as The National Governors' Association (NGA) the National Council of State Child Support Enforcement Administrators (NCSCSEA, whose membership is made up of the States' Title IV-D Directors) and APWA support language which allows the states to have an option on how they distribute payments accumulated pre-assistance and during assistance stays. For a block grant process it is **critical** that states be able to coordinate a process between child support and other programs to generate the appropriate incentives to keep people off assistance and to pass as much money through to clients as possible. Only with state flexibility can this occur. Therefore, any change in the currently mandated distribution process will potentially create design restrictions for states attempting to use the flexibility granted in the Temporary Cash Assistance Block Grant. When distribution changes are coupled with changes in incentives, funding and the $50 pass-through there is a potentially devastating impact on a state's ability to finance either child support or financial assistance.

Financing Child Support

What changes are needed in the financing and incentive system in the child support program?

I recommend a number of changes to the financing plan. First H.R. 4 shifts incentive payments away from any major focus on collections, resulting in a loss of a key program objective. The new formula largely puts emphasis on reimbursing costs with limited rewards for good performance. With the potential loss of the current incentive funding and with only 66% FFP, Michigan could lose up to ***$28.1 m***. Even at an 85% FFP rate (66% regular match plus 19% of

the maximum 24% incentive, a high rate of incentive!) Michigan still loses ***$6.2 m***. I believe that programs that have been cost effective for the federal government (Michigan is one of the few states returning money to Washington) should not suffer under the new funding formula. The child support program is short on resources and this funding plan does nothing to assist the program. In fact, the formula may actually be a disincentive to improve performance.

The proposed incentive formula can produce results which Congress never intended. If states close large numbers of difficult cases and only keep open those with payments or payment potential, the state can score well on most performance factors. The state could have a higher rate of cases with orders, cases with nearly full collection and a good cost benefit ratio by closing cases too soon or not opening them in the first place. This could have the effect of denying services to children who need support. This is not what Congress intended when they addressed the funding issue.

Another major fault with the enhanced FFP incentive plan is that it rewards states for expenditures without putting sufficient emphasis on collecting more child support. The only reinforcement for increasing collections is one performance factor that looks at cost benefit for the program. Through this new formula states could build up their programs to produce results desired with little or no effect on collections. There must be a major focus on increasing the amount and the rate of collection. An enhanced FFP incentive formula does not effectively lead to both desired outcomes.

Both APWA and NCSCSEA have proposed a funding formula that helps keep a major focus on collections. The proposal calls for the *incentive pool* to be built on the amount of support collected by the states. However, the distribution of the incentive would be based on the same performance indicators used in H.R. 4. Increasing the total support collected is a critical program outcome. Increased collections result in additional savings to both the federal and state governments and more money to children to keep them off assistance. Under this plan I recommend requiring reinvestment of all incentive payments in the program.

NCSAC

NATIONAL CHILD SUPPORT ADVOCACY COALITION

STATEMENT FOR THE RECORD

Submitted to

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT
and SUPPLEMENTAL SECURITY INCOME

JUNE 13, 1995

Prepared by

Ruth E.(Betty) Murphy
Director of Government Relations
on behalf of
The National Child Support Advocacy Coalition

The National Child Support Advocacy Coalition (NCSAC) is the oldest and largest national network of individual advocates and independent child support advocacy organizations across the nation. The testimony of NCSAC brings a broad based perspective because of its diversified membership representing AFDC, former AFDC and non-AFDC families. NCSAC leaders have long been recognized for their ability to bring a common sense approach to the child support arena. Our cooperative spirit of working in the best interest of the children has earned NCSAC members the respect of local, state and federal government officials. Our members serve on local and state commissions and special task forces assigned to monitor and recommend improvements to the child support enforcement program.

Many of our members have been involved with the child support program since before 1980. As a result, we have seen our children grow into young adults with little financial or emotional assistance from the absent parent. The nonsupport problem has now extended into the next generation. The non-AFDC child support enforcement issue has become a national embarrassment, far outdistancing the AFDC issue. Although typical non-AFDC families come into the state system with paternity already established and an court order for support through a separation or divorce decree, enforcement and collection of support eludes them.

The world of non-AFDC families is an unknown quantity. For every non-AFDC family that applies to a state agency and receives enforcement services, there are probably two families that do not because they: are private pay cases; simply do not want to apply; applied and were closed by the state using case closure criteria developed by OCSE; have given up; have children over 18 and cannot afford to pursue collection; or may not know of the availability of state services.

Of 11.5 million parents surveyed by the Census Bureau in 1991, 4 million had requested assistance from a government agency for obtaining child support and 2.5 received assistance. The Federal Office of Child Support Enforcement (OCSE) 18th Annual Report to Congress reports that states opened a total of 6.6 million cases in 1993. On the other hand using case closing criteria developed by OCSE, 5.1 million cases were closed.

Drawing upon our members' personal experiences from various states, NCSAC believes our observations represent a national perspective. NCSAC appreciates the opportunity to add a sense of reality to this hearing from parents who have had firsthand experience with the issue of child support enforcement.

COST RECOVERY IN NON-AFDC CASELOAD

Over the years this issue has been discussed in various reports:

* Maximus, Inc. (Evaluation of the Child Support Enforcement Program)

* Congressional Research Service in December 1989 (THE CHILD SUPPORT ENFORCEMENT PROGRAM: POLICY AND PRACTICE)

* General Accounting Office (GAO) in June 1992 (CHILD SUPPORT ENFORCEMENT: Opportunity to Defray Burgeoning Federal and State Non-AFDC Costs GAO/HRD-92-91)

* OCSE Annual Reports to Congress

When considering cost recovery in Non-AFDC cases, it is only fair to consider the AFDC (welfare) cost avoidance factors. Of these reports, only the Maximus Report and the CRS Report offer some insight on "intangible benefits" and indirect savings that are derived from the Non-AFDC component of the CSE program.

The following quotes and observations are taken from these two reports.

"...the non-AFDC component of the CSE program can achieve welfare cost avoidance in the following ways:

* by providing non-AFDC families with additional income sufficient to make them decide not to apply for public assistance (AFDC, food stamp, or Medicaid), even though eligible;

* by making non-AFDC families ineligible for public assistance and by continuing to make these families ineligible by reason of income; and

* by reducing the benefit levels of non-AFDC families who do receive public assistance benefits.

* The majority of non-AFDC clients do not go on public assistance even if they do not receive support.

* There is definite evidence that the IV-D (CSE) non-AFDC program is reducing the amount of public assistance being received in cases where the client does receive public assistance.

The CRS Report also notes "that once the CSE system "matures" (i.e., once the majority of existing cases have child support orders), the cost-effectiveness of the system probably will improve. Moreover, because the benefits of establishing paternity or a child support award occur in future years as well as the current year, a static, point-in-time, analysis of costs and collections fails to account for the complexity and dynamic nature of the CSE system".

A study conducted by Advanced Sciences, Inc. and SRA Technologies in June 1987 indicated that there was $1 in indirect savings (welfare cost avoidance) for every $5 collected on behalf of non-AFDC families. (CSR Report - page CRS-76)

OCSE Annual Reports to Congress comment:

"The Child Support Enforcement program produces indirect taxpayer benefits through cost avoidance. Cost avoidance refers to savings in public assistance programs (i.e., AFDC, Food Stamps or Medicaid), in which benefits are either reduced or not paid as a result of the receipt of child support. For example, services are provided to non-AFDC families who, without income from child support, might be forced to turn to public assistance. Similarly, sufficient support is collected on behalf of some AFDC families to eliminate their dependence on welfare and related assistance programs. We do not have current estimates of cost avoidance savings as it is difficult to determine for a variety of reasons how much might have been spent on various assistance programs had it not been for child support income."

In June 1990 in their response to the Subcommittee's request for "Written Comments On Possible Amendments to H.R. 4229 Miscellaneous Human Resources Amendments of 1990", OCSE allows that they anticipate continued cost avoidance from the extension of the non-AFDC tax refund intercept for child support enforcement purposes. Clearly, there is a strong need for OCSE to evaluate the Non-AFDC cost avoidance factor.

<u>Lets examine the ramifications of cost recovery:</u>

* could be considered a tax
* depending upon the percentage imposed on either parent, the case may become eligible for modification and review
* would result in overloading court dockets in some states
* would result in additional legal fees
* Judges would be inclined to include the fee when calculating the initial child support award or modification
* States would incur untold delays required to reprogram computer systems, not yet in place.
* resulting in contract renegotiations
* in turn, adding to the funding problems states face with the enhanced FFP 90% cutoff of 9/30/95.
* ultimately would be viewed as taking money from the children

Now lets examine who would benefit from such a fee:

* Private contractors with state computer contracts
* Private child support collection companies
* Private consultant firms
* Private Attorneys

Who are the losers:

* Federal Government
* Taxpayers
* State Government
* Parents
* and ultimately, the very children for whom the program was supposed to help.

Lets not overlook the fact that Non-AFDC families are taxpayers. Their taxes not only pay the cost to provide services to AFDC families, but also pay the cost for the Non-AFDC families. "The Child Support Enforcement Amendments of 1984 reemphasized the Congress' commitment to the program by establishing new child support services and ensuring that all services would be fully available to both AFDC and non-AFDC families." (GAO/HRD-92-91) I can find no indication in these Amendments that Congress envisioned providing services to only "the low-income population" as inferred by this same GAO Report. Prior to these Amendments, many non-AFDC families were discouraged from applying for services because fees were based on income. This practice varied from state to state and county to county and resulted in a 1984 class action lawsuit in the state of Maryland.

Before regressing to pre-1984 conditions, which in essence created **"PROGRAM AVOIDANCE"** and/or imposing a cost recovery fee on either parent, Congress would be wise to evaluate the far-reaching "domino" effects that such an imposition would create on all phases of the child support enforcement program. NCSAC believes it is in the best interest of Congress to require additional research into this issue by the Congressional Budget Office (CBO) to avoid the appearance of operating an AFDC biased child support enforcement program.

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Statement of
The Honorable Marge Roukema
before the
House Ways and Means
Subcommittee on Human Resources
June 13, 1995

Before starting my testimony, I want to first thank my distinguished colleague, Clay Shaw of Florida, for giving me this opportunity to testify on some important child support enforcement issues facing the Subcommittee during the upcoming Budget Reconciliation process, as well as during the expected conference committee on H.R. 4, comprehensive welfare reform legislation passed by the House earlier this year.

The topic of child support enforcement reform is something near and dear to my heart, because as many Subcommittee members may recall, I had the honor of serving on the U.S. Commission on Interstate Child Support Enforcement (along with, among others, my good friend and colleague Barbara Kennelley), which conducted a comprehensive review of our child support system and issued a series of recommendations for reform in August of 1992. Prior to serving on the Commission, I was actively involved in the enactment of major child support enforcement reform legislation in 1984 and 1988.

Before starting my remarks on the issues of fees for non-AFDC clients receiving child support services and distribution of collections, I want to briefly comment on the paternity establishment provisions of the House welfare reform bill (HR 4) and the Senate Finance Committee-approved measure.

Establishing paternity establishes a potential for future financial support; but, most importantly, it re-establishes a code of conduct that fixes responsibility on the male, as well as the female, in the rearing of children -- Reconfirming these principles are essential to restoring respect for the family unit in our society.

Failure to pay court-ordered child support, which is predicated upon the establishment of paternity, is not a "victimless crime". The children going without these payments are the first victims.

But, the taxpayers are the ultimate victims, when they have to pick-up the welfare tab for deadbeat parents who are evading their financial obligation.

Thus, I was very pleased that the House-passed version of H.R. 4 put some real teeth into our paternity establishment laws so that mothers receiving public assistance understand the basic choice they will be faced with: cooperate with the state in their efforts to establish paternity and protect your eligibility, or refuse to cooperate and accept the consequences of that choice.

In particular, the H.R. 4 included language requiring that mothers provide the state with very specific information about putative fathers, including home and work addresses, telephone numbers, information about the putative father's automobiles, and his family. Under H.R. 4, if the mother fails to meet these requirements, she can be penalized by a reduction in her benefit levels.

Regrettably, the Senate Finance Committee failed to include strong penalties for uncooperative mothers in its welfare reform plan. It is absolutely essential that

mothers who refuse to cooperate with states in establishing paternity not have their behavior rewarded by not facing any benefit reductions.

Without such penalties, the paternity establishment procedures will not have any credibility, and all subsequent efforts to collect child support payments suffer accordingly. Enforcement powers for the states are vital, and we must take strong, corrective action in this area of the law.

The percentage of unwed mothers in the United States, on welfare benefits but without any paternity established, is growing at an alarming rate. In fact, we outdistance all other countries in this respect, and that's one reason why welfare costs have increased so dramatically in recent years.

I hope that the final, Senate-approved version of welfare reform will have language included that ensures uncooperative mothers face serious penalties. If not, I would strongly urge the Subcommittee to uphold this aspect of the House-passed bill during the conference committee negotiations.

Tough new paternity establishment requirements, with strong penalties for lack of cooperation, must be included in any welfare reform legislation this Congress sends to President Clinton.

Absent this action, children will continue to be victimized by deadbeat parents who successfully "game the system", and taxpayers will have to continue absorbing the costs of a welfare system that is in dire need of fundamental reform.

With that said, I understand that the two key child support enforcement reform topics the Subcommittee will be examining today are: Distribution of Collections and Cost Recovery in non-AFDC cases.

DISTRIBUTION of AFDC COLLECTIONS:

With respect to this issue, the Commission concluded that the current system is "a major problem" especially when the custodial parent is receiving, or has received, AFDC benefits.

After extensive review and consideration, the Commission recommended that, other than funds collected by intercepting a tax refund, states should distribute child support payments in the following order:

* First, to the family for the current month's obligation;
* Second, once the current month's obligation has been fulfilled, then to debts owed the family;
* Third, if child support rights had been assigned to the state, then all arrearages that accrued after the child no longer received AFDC benefits are to be given to the family
* Fourth, to reimburse the state making the collections for any AFDC debts incurred.
* Fifth, to reimburse any other state for their AFDC debts.

Consequently, I was very pleased to see that Title V of H.R. 4, the child support enforcement reform title in the Personal Responsibility Act, adopted the essence of the Commission recommendations for changing the distribution system -- namely, that any child support collections above the current obligation amount are paid directly to the custodial parent until all unpaid support (including any amounts accumulated before and after receiving AFDC benefits) has been paid.

In fact, the Ways and Means Committee report that accompanied its portion of the welfare reform bill stated that implementing this change would cost the relatively modest amount of $200 million over 5 years while "helping mothers stay off welfare". The Committee report went on to note that this change "will provide a new source of income for mothers trying to work to support their children without relying on public aid"

In my view, the Ways and Means Committee did the right thing by incorporating the Commission's recommendation into H.R. 4, and I strongly urge the Subcommittee to refrain from any ill-advised attempt to reverse this essential reform.

After all, when we're talking about reforming our welfare system isn't our primary objective helping mothers with children become productive members of society rather than wards of the state?

COST RECOVERY in NON-AFDC CASES:

When the Subcommittee announced its intention to hold this hearing, Subcommittee Chairman Shaw's statement cited a 1992 General Accounting Office (GAO) report on the fees charged for child support enforcement services for non-AFDC families as another area of particular concern.

According to the GAO report, in 1990, almost 5 million non-AFDC individuals collected $4.3 billion under the child support enforcement program. Yet, at the same time, of the $644 million in administrative costs associated with this program, the States were able to collect only $22 million (which represents about 3.5% of these costs) through fees from non-AFDC clients.

The GAO report goes on to note that by 1995, within three years of the report's release date, administrative costs for the child support enforcement program were projected to exceed $1 billion. If states are continuing to collect less than 4 percent of the administrative costs of their child support system from non-AFDC individuals, that means states are collecting less than $30 million from non-AFDC clients receiving child support services.

I certainly share the Subcommittee's concern about this trend, and its implications for the ability of states to provide vital child support services to non-AFDC clients.

With this in mind, I would suggest that the Subcommittee give serious consideration to asking the GAO to determine if this report can be quickly (and inexpensively) updated so that the Subcommittee and its members has the most current information possible.

If not, there might be other ways in which this information can be gathered, so that the Subcommittee can make any recommendations for change based on information more current than the information in the original GAO report, which by now is 4 or 5 years old.

My final comment on this issue is that, whatever changes to the fee structure for non-AFDC clients are proposed, I hope that the Subcommittee will bear in mind that the fact even though some non-AFDC families utilize a state's child support services program that does not mean these families are well-to-do, and thus can afford steeper fee structures.

In many cases, non-AFDC families that use a state's child support services are

hard-working, lower-income people who earn just enough to stay off of the welfare rolls, but not much more than that. Simply assuming that states can, and should, dramatically increase their fees for non-AFDC families using child support services could turn-out disastrous for many of these families.

It is reasonable to assume most wealthy families that need child support services use private sector means (e.g., private attorneys, private collection agencies, etc.) to collect their payments. Consequently, that leaves middle class families, and lower-income families that exceed AFDC threshold limits, as the largest non-AFDC population group that use a state's child support services program.

Just because these families don't receive AFDC benefits, doesn't mean they can afford to absorb large increases in a state's fee structure in order to continue receiving state child support services. If the Subcommittee determines that the existing fee structure must be changed, the income status of non-AFDC families must be taken into account when devising a new fee structure.

I would also like to share with the Subcommittee my concern about certain aspects of the House-passed FY 96 Budget Resolution (H.Con.Res. 67), which assumed $7 billion in program savings from the child support enforcement program over the next 7 years.

While I voted in support of the Budget Resolution, and I have long advocated that we reach a balanced federal budget through spending reductions, not tax increases, I'm not sure that the Congress can achieve such dramatic cost savings without doing very real damage to ongoing efforts to operate strong child support enforcement programs.

I hope that, once a conference report on the FY 96 Budget has been ratified, the Subcommittee proceeds carefully in this respect. Many of the reforms included in HR 4 represent real progress in a long-running fight to ensure that non-custodial parents live-up to their legal, moral, and financial obligations to their children.

Strong child support enforcement reforms are welfare prevention! Efforts to generate large program cost savings could easily jeopardize the strong reforms included in HR 4, and I hope that the Subcommittee will continue to work with me and other members throughout this process to ensure that we move this country forward, not backward, with respect to child support enforcement reforms.

Mr. Chairman, that concludes my statement. Again, I thank Chairman Shaw and the Subcommittee for providing me with this opportunity to testify on this topic.