



The Sonoma County Grand Jury

CHILD SUPPORT PAYMENTS - PROCESS INTEGRITY

July 1, 2004

Summary

The 2003-2004 Sonoma County grand jury reviewed the Sonoma County Department of Child Support Services (CSS), with respect to its handling of child support payment collections. The jury reviewed the process from the original request for CSS services through the steps that lead to the collection of payments and the deployment of various legal collection enforcement mechanisms.

The jury found that CSS is sensitive to the needs of all parties and responsive to problems that arise. However, the jury recommends that the department improve communications to non-custodial parents with respect to the mechanics and timing of the payment process and the consequences of disputed late payments.

Reason for the Investigation

The grand jury received two complaints alleging mishandling of information that resulted in unwarranted attachment of bank accounts and tax refunds for collection of child support payment arrears.

Background

In 2002, CSS was formed as a new Sonoma County department inheriting the responsibility formerly held by the District Attorney's Office for fulfilling the state mandate to collect court-ordered child support payments. The custodial parent in a divorce settlement can request the services of CSS to assist in enforcing child support payments. If a non-custodial parent is late in making payments, CSS provides data to the Internal Revenue Service (IRS) and the State Franchise Tax Board, which have authority to collect the arrears by attaching personal bank accounts and tax refunds. The 2002-2003 grand jury reviewed CSS procedures and found the agency was generally fulfilling its mission under the state mandate.

Investigative Procedures

The grand jury:

Interviewed the following persons:

- Director, Department of Child Support Services
- Two complainants

Reviewed State of California documents:

- Child Support Handbook
- Helpful Guide to Resolving Problems With Your Child Support Case

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Reviewed Sonoma County CSS documents:

- Information Handbook
- *Guide for Parents Responsible for Paying Child Support*
- Non-Custodial Parent Contact Order
- Various communications sent to non-custodial parents and their attorneys
- Sonoma County court documents

Findings

- F1. As recommended by the 2002-2003 grand jury, CSS and an association of similar county groups lobbied the state to reduce the 10% interest rate on child support payment arrears in order to improve collection. It was discovered that reducing this interest rate for child support arrears alone would be discriminatory versus the interest rate on other late payments such as tax arrears where desires exist to keep the rate punitively high. No action is expected.
- F2. CSS uses computer systems to input actual child support payment data which is sent periodically during the month to a state computer system. The state consolidates CSS data with that of other counties and provides data to the IRS, Franchise Tax Board, and credit rating agencies who act upon individual balances that are past due or in arrears. If in arrears to CSS, the IRS will attach tax refunds. In the case of the Franchise Tax Board it will attach both tax refunds and bank accounts.
- F3. There is an unintentional systems' delay between the time when payments made to CSS are recorded, and when the information is received by the IRS or Franchise Tax Board. This could cause unwarranted attachments. CSS is aware of this shortcoming and has implemented tracking and override procedures to reduce the chance of an unwarranted attachment. It was individual diligence that prevented an attachment in one of the cases reviewed.
- F4. Brochures have been developed by the state and CSS that outline its services and describe the child support collection process in general terms. These brochures are sent to the payers when collection management by CSS begins, along with a letter which also provides a phone contact number.
- F5. CSS payers are advised in general terms of the collection process, but not of the specific procedures when disputes arise. It is not sufficiently clear to the non-custodial parent that an immediate response to a dispute is imperative to avoid subsequent IRS or Franchise Tax Board action. Payers who are not in arrears and unfamiliar with the CSS process will not be aware that disputed amounts still under review might cause unwarranted penalties and consequences due to the automated workings of the computer system.
- F6. No evidence was found of CSS procedures not being followed or of processing delays within CSS.

Conclusions

Computer system lags allow for incorrect information to be acted upon, automatically penalizing and unjustly shifting the burden to the non-custodial parents to correct the problem created by the system. Due process requires that there be adequate disclosure and system safeguards so that penalties do not result inadvertently.

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The repercussions of IRS or Franchise Tax Board attachments and credit rating agency arrears notification are severe. As a result, it is important that all opposing parties have the opportunity to dispute transactions before the data is released to state systems. CSS staff must carefully research and confirm all data submitted.

CSS has done well in trying to communicate its role and responsibilities to all parties involved in this process. It could be improved, however, if their initial advice letter stressed individuals' prompt attention to their account balances and that any dispute be resolved quickly. In the meantime, CSS should control the release of that data until bona fide disputes are resolved.

Recommendations

R1. CSS should add a paragraph to the initial notification to non-custodial parents (*Contact Order*) that clearly outlines:

- How CSS calculates and establishes the account balances,
- The timing of those steps,
- How the non custodial parent will be notified of the specifics, and
- The potential consequences of non-response.

R2. CSS staff involved in the calculation of account balances must be made aware of the need to verify arrears with all parties involved and balance their considerations before data is released to the state systems that trigger tax refund or bank account attachments. This assumes the parties have been given proper notice and have had the opportunity to respond.

Required Responses to Findings

Director-Child Support Services – F5

Required Responses to Recommendations

Director, Child Support Services – R1, R2