



County of Orange

California

Michael B. Giancola
County Executive Officer

August 1, 2013

Honorable Thomas J. Borris
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, *"Fixing the Law – Cutting Through the Tangle of Child Support and Custody"*

Dear Judge Borris:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondent is the Orange County Department of Child Support Services. If you have any questions, please contact Margaret Cady of the County Executive Office at 714-834-3646.

Sincerely,

Michael B. Giancola
County Executive Officer

Enclosure

cc: Orange County Grand Jury Foreman
Frank Kim, Chief Financial Officer
Mark Denny, Chief Operating Officer
Steve Eldred, Director, Child Support Services
Winnie Hewitt, Chief Deputy Director, Child Support Services
Margaret Cady, County Executive Office/Budget

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COUNTY OF ORANGE

Responses to Findings and Recommendations

2012-2013 Orange County Grand Jury Report

“Fixing the Law – Cutting Through the Tangle of Child Support and Custody”

Department of Child Support Services

Background:

The Orange County Grand Jury issued a report on May 30, 2013 entitled *“Fixing the Law – Cutting Through the Tangle of Child Support and Custody.”* This report directed responses to findings and recommendations from the Orange County Department of Child Support Services (CSS). The Grand Jury recommended the County of Orange initiate a legislative amendment to FC § 17400 of the California Family Code to enable local child support agencies statewide to advocate child custody (Parenting Time) issues before the IV-D Court in order to obtain equitable orders. The Grand Jury suggests language in the report to amend Family Code § 17400 (a) and (d) (1) to allow local child support agencies the ability to determine the percentage of time each parent or pertinent party has custody of the children to establish the amount of the order.

As noted in the Grand Jury Report, the proposed Federal Office of Child Support Enforcement (OCSE) FY 2014 Budget supports increased access and visitation services, and promotes integrating these services into the core child support program. The expected outcome is improved collections. Research does show that fathers engaged in the lives of their children are more likely to meet their financial obligations. The federal proposal requires states to establish access and visitation responsibilities in all initial child support orders just as custody arrangements are typically settled at the same time divorces are finalized.

Specifically, the OCSE proposed budget language makes resources available to states that choose to include parenting time responsibilities in initial child support orders beginning in FY 2014. All states would be required to include parenting time responsibilities in all new child support orders beginning in FY 2019. OCSE is taking a phased in approach to allow some states to begin immediately and to provide an opportunity for all states to learn from the lessons of those who are early participants. At this time, these changes are administration proposals, not actual requirements.

Furthermore, CSS is currently working with the Orange County Superior Court to develop a pilot project to offer access and visitation setting with initial orders, in some cases, when there is agreement by both parents. One exception is to exclude cases where domestic violence is identified.



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Responses to Findings F.1 through F.10:

F.1 CSS is tasked to establish child support orders in accordance with state guidelines.

Response: Agrees with the finding.

F.2 Child Support Court is tasked to make orders setting child support in accordance with state guidelines.

Response: Agrees with the finding.

F.3 State guidelines for child support require determination of the percentage of child custody/visitation allotted each parent.

Response: Agrees with the finding.

F.4 Orange County’s interpretation of both IV-D and California Family Code § 17000 et al does NOT permit CSS to make orders regarding parental custody.

Response: Disagrees partially with the finding. To clarify, CSS may present “an agreement” by the parties to a custody time-share, and may present the facts of a time-share dispute to a court. CSS may not advocate for a parent’s requested time-share and does not “make orders.” Only the court may make an order.



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F.5 Child Support Court is the judiciary organ created to adjudicate issues of child support brought by CSS. FC § 4252 does NOT deny CSS from suggesting orders regarding child custody.

Response: Agrees with the finding.

F.6 Denial of either CSS or Child Support Court to make custody orders creates an intolerable hardship on the parents, their children and the California Superior Court system by requiring parents go to Family Law Court to get a custody order and then return to the Child Support Court for a support order.

Response: Agrees with the finding.

F.7 An amendment to FC § 17400 specifically authorizing CSS to advocate custody order would greatly improve both CSS and Child Support Court's ability to efficiently make child support orders as they are mandated to do in IV-D.

Response: Agrees with the finding.

F.8 The County of Orange is in a position to seek legislation authorizing CSS to advocate for child custody orders.

Response: Agrees with the finding. However, even though Orange County has the ability to sponsor such legislation if it chooses to do so, it may not be the best course of action based on pending actions by the Office of Child Support Enforcement (OCSE). The Grand Jury Report references pending actions by OCSE in the proposed FY 2014 Federal Budget: “Federal resources are [to be] made available to states that choose to include parenting time responsibilities in initial child support orders beginning in FY 2014 and all states are required to include parenting time responsibilities in all new child support orders beginning in FY 2019.”



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F.9 Continued denial to CSS and Child Support Court to make child support orders is an absolute waste of human effort.

Response: Disagrees partially with the finding. Having the ability to establish access and visitation responsibilities (Parenting Time) in initial child support orders is a service for CSS customers the department supports and wants to offer; however, the current efforts of CSS and the Courts to work with parents to establish and enforce child support orders is effective and of the highest level of quality customer service.

F.10 The federal OFFICE OF CHILD SUPPORT ENFORCEMENT is proposing inclusion of custody/visitation orders in all CSS support orders by 2014 and mandating same by 2019.

Response: Disagrees partially with the finding. The federal proposal includes making available establishment of access and visitation to states (not just CSS) that choose to include parenting time responsibilities in initial child support orders beginning in FY 2014 and all states are required to include parenting time responsibilities in all new child support orders beginning in FY 2019.”

Response to Recommendation R1:

R.1 CSS should initiate a legislative amendment to FC § 17400 by adding language which would enable CSS to advocate child custody issues before the Child Support Court in order to obtain equitable child support orders (Findings F1, F2, F3, F4, F5, F6, F7, F8, F9, F10).

Response: Disagrees with the finding. CSS is in support of specific language being placed in legislation to allow all local child support agencies, including CSS, to have the ability within its delivery of services to customers to establish access and visitation (Parenting Time) responsibilities in all initial child support orders except in the situation where domestic violence



COUNTY OF ORANGE

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is identified. There is proposed Parenting Time legislation from the Federal Office of Child Support Enforcement (OCSE) in the proposed FY 2014 Federal Budget. OCSE's proposed budget language offers to make resources available in FY 2014 to states that choose to include parenting time responsibilities in initial child support orders, and to all states beginning FY 2019 as they will be required to include parenting time responsibilities in all new child support orders at that time.

The State of California Department of Child Support Services (DCSS) is the single statewide agent for the federal child support program. DCSS is charged with the responsibility to manage the funding and policy mandates of the federal program. Given their statewide responsibility and control of the child support program, they are in a much better position to determine when and how such legislative changes would be proposed. Orange County would support any State DCSS efforts to explore such change.

In addition, CSS is currently working with the Orange County Superior Court to improve the current process consistent with existing law.