

DISTRICT ATTORNEY FAMILY SUPPORT DIVISION MORE THAN JUST COLLECTIONS

SUMMARY

The purpose of the Family Support Division of the Office of the District Attorney is to collect money for child support. In 1998, only 64% of those requesting child support in Orange County have been through the court to establish a court order. Of those with court orders, two-thirds of the cases make payments. The Grand Jury applauds the Family Support Division in its significant improvement in collections (over \$100 million collected in 1998) over the past few years, however, the percentage of cases receiving payment can be increased. This improvement in collections by the Family Support Division can be accomplished by utilizing more efficiently the procedures already available. A means of achieving this would be to increase the number of Deputy District Attorneys and support staff.

INTRODUCTION AND PURPOSE

Every child should have support from both parents. The District Attorney Family Support Division has the charge to see that children who do not live with both parents obtain that support. Enforcement of child support proclaims the social message that we care about our children, that all resources are going into that care, and that parents will be made to meet their obligations concerning their children.

The Grand Jury's purview in the area of family support is limited to examining the family support division's methods and systems of performing its duties. The Grand Jury recognizes that the county is governed by state and federal regulations. The Grand Jury is also mindful that the California Legislature is looking into a total revamp of child support enforcement procedures. One of the options being considered is to transfer the program from the Office of the District Attorney and create a statewide, centralized collections unit with a high-ranking administrator. Another highly debated issue is whether the process should be *administrative* or *judicial*. Advocates of the administrative procedure believe California should use the administrative process rather than the courts for establishing support orders, while the defenders of the judicial process believe that child support cannot be separated from family law.

The scope of the recommendations in this report will be limited to Family Support Division of the Orange County District Attorney's Office.

METHOD OF STUDY

The Grand Jury toured the facilities of the Family Support Division, including the recently-opened separate section devoted to public service at 901 Civic Center Drive, Santa Ana. Panel members had several interviews with personnel from the District Attorney's office, several judges of the Superior Court and private attorneys specializing in family law. Several custodial and non-custodial parents were also interviewed. Panel members consulted state statutes related to failure to provide, a report published by the Little Hoover Commission, several hours of video on the joint hearings held by the State Assembly and Senate Judiciary Committees, and the Price Waterhouse audit of the Family Support Division commissioned by the Office of the District Attorney in 1994.

BACKGROUND

Like many of the human services in the county, the child support program is federally funded, state supervised and county administered. In 1975 the U.S. Congress enacted Title IV-D as part of the Social Security Act. Title IV-D provided the funding to all states for establishing paternity and support orders and to collect child support on behalf of children receiving public assistance. The primary purpose of Title IV-D was an effort to reduce the cost of welfare. In 1978, as a preventive measure, the program was expanded to include families not on public assistance. Locally, the services were to be administered by the elected District Attorney.

In California the Office of Child Support in the state Department of Social Services (DSS) receives the federal monies for the child support program. This agency is responsible for program administration in accordance with its requirements. In 1991 the state initiated annual audits to measure compliance with federal and state child support laws and regulations in effect for the time period being reviewed and in accordance with specified eligibility requirements. Based on the results of the performance audits, the DSS distributes millions of dollars in incentive payments. Although Orange County had not been in compliance until 1998, the incentive funding was not withdrawn completely. The primary reason the DSS did not withdraw funding was that doing so would greatly disturb the efforts to collect child support. Instead, Orange County maintained a "Hold Harmless" status, meaning it received less program funding from DSS. The recent audit, covering the period of May 1997 through April 1998, found Family Support Division met all federal and state standards and is in compliance. The Family Support Division is eligible to receive the maximum incentive payment from the DSS (13.6% of total collections).

PLAN OF COOPERATION

Each county District Attorney signs a Plan of Cooperation with the DSS which is the contract to carry out the child support program in accordance with applicable state and federal laws and regulations. In turn, the state commits to forward federal matching dollars and conduct state level activities such as monitoring performance, developing and maintaining procedure manuals, and operating statewide matching systems.

As stated, the Plan of Cooperation makes the statewide matching systems available to each county District Attorney. One example is the contract with the Employment Development Department (EDD) to intercept unemployment benefits, to supply information on newly hired employees and give employer address information. Another example is the contract with the Franchise Tax Board that allows collecting money from bank accounts and wages to pay for child support, intercepting tax refunds, identifying assets, and getting social security numbers for use with other automated match systems.

A complaint heard by the Grand Jury regarding the matching systems was that the social security number alone was used for means of identification. Reportedly this has resulted in some incorrect matchings because counterfeit social security cards are easily available in southern California. The wrong identity can be embarrassing and costly to the victim.

Following is a partial list of other statewide intercept and information systems available to the Office of the District Attorney as enforcement tools.

Assets Match Program—Identifies interest and dividend income paid to non-custodial parents who owe past-due child support.

Internal Revenue Service and Franchise Tax Board Tax Refund Intercept Systems—Intercepts non-custodial parents' state and federal income tax refunds to pay their past-due child support.

Lottery Winners Intercept—Intercepts lottery winnings owed to non-custodial parents to pay past-due child support.

New Hire Registry—Employers in 17 industries must report new or rehired employees to the Employment Development Department within 30 days. Matches with the New Hire Registry provide the Family Support Division with early identification when a non-custodial parent becomes employed.

State Licensing Match Systems—Denies permanent state-issued business, professional and driver's licenses (for example: cosmetologist, contractor, doctor, teacher, attorney, truck driver) to non-custodial parents who owe past-due child support and apply for a license or a renewal.

Unemployment Insurance Benefit Intercept System—Intercepts a portion of state unemployment payments owed to the non-custodial parents to instead pay past-due child support.

Workers' Compensation Appeals Board Match System—Collects workers' compensation lump sum payments owed to non-custodial parents who owe past-due child support.

CLASSIFICATION OF NON-CUSTODIAL PARENTS

In addressing the hearing of joint committees concerned with child support, Laura Kadwell, Esquire, Title IV-D Director of the state of Minnesota, offered that there are five kinds of parents in child support enforcement: those who are *ready*, those who are *uninformed*, those who are *unable*, those who are *reluctant* and finally those who are termed the active *evaders*.

- **Ready**—These parents deserve mention, because they recognize their obligation and readily support their children.
- **Uninformed**—These parents can easily become the ready parents and need only to become aware of their obligations and the consequences for failure to provide child support. For these parents, information needs to be available, not only in the Family Support Division office, but also in the community.
- **Unable**—These parents do not have the ability to meet their obligation. This may be the group which is hardest to define and recognize. Low-income, non-custodial fathers can accrue a debt to the government so large that it discourages them from supporting their family when welfare benefits expire.
- **Reluctant**—These parents have the knowledge and the ability to pay, but usually have other issues, such as custody or visitation. These parents are more likely to pay if those issues are resolved.
- **Evaders**—These parents will do everything and anything to avoid paying child support. These are the people for whom the strongest mechanisms of enforcement are needed to compel them to pay.

THE CHILD SUPPORT PROCESS

The road map to a child support order may encounter several forks in the road, but most cases in Orange County follow the outline here.

- **Open a case**—Social Services Agency staff refers case to Family Support Division when a family with an absent parent applies for assistance, or a non-welfare parent may open a case by filling out an application in the Family Support Division office.
- **Locate the non-custodial parent**—If the location of the non-custodial parent is not known, the Family Support Division checks databases such as EDD and Department of Motor Vehicles (DMV) to find the non-custodial parent.
- **Paternity**—If the parents are not married, the Family Support Division will take steps to establish paternity before a support order can be obtained. The alleged father is served with a summons and complaint and has 30 days to respond. Failure to respond often results in a default judgment by the court.

- **Support Order**—If no support order exists, paternity is no longer an issue, and the non-custodial parent’s whereabouts are known, Family Support Division will take steps to establish a court order for support. The issue of health insurance for the child is usually part of the support order.
- **Enforcement**—Family Support Division arranges for child support to be taken out of the non-custodial parent’s paycheck. Self-employed parents mail checks to the Family Support Division office. In welfare cases, the money goes to the Social Services department; in non-welfare cases the money goes directly to the custodial parent.

ORANGE COUNTY

The Office of the District Attorney that employs the greatest number of attorneys in the county, has two primary missions. The first is to prosecute criminal violations of state law occurring in the county. The second mission of the Orange County District Attorney relates to the Family Support Division.

The mission of the Family Support Division is to establish financial and medical support orders for children and parents, to instill in parents a sense of responsibility, to enhance the quality of life and self-esteem of children, and to strive to educate the public about these issues. The Family Support Division seeks to serve the public interest in an efficient and professional manner.

PROCESS SERVICE AND DUE PROCESS

In order to have due process in the court system, three things have to be present:

- *notice* that a hearing will be held at which an order may be made by the court,
- the *hearing* in court at which all parties may be heard by the bench, and finally,
- the right to *appeal* the order.

In the interest of getting a support order as expeditiously as possible, the district attorneys can make use of the default judgment. This happens after a non-custodial parent has been given notice (summons and complaint) to establish paternity and a support order. He has 30 days to file a response. Otherwise, the court can adjudicate the paternity issue and set amount of child support based on estimated earnings and attach wages without the non-custodial parent’s presence in court.

The non-custodial parent who evades or ignores notice does not engender sympathy. However, comprehensive efforts must be made to let the non-custodial parent know all the risks and costs involved in not complying with a summons. Once the court has ruled on paternity, that action is permanent, and the financial obligation is there until the child reaches the age of 18. An informed non-custodial parent is more likely to comply, and voluntary compliance is far cheaper than enforcement.

The Family Support Division carries out the process service in several ways. The Family Support Division staff can mail the notice or serve notice to a “walk-in” non-

custodial parent. A party in an action may serve a summons and complaint by mail accompanied by an acknowledgement of receipt, but for service to be valid, the defendant must sign and return the acknowledgement. Code Civ. Pro. Sec. 415.30. Service may also be accomplished by personal service (i.e., service that is delivered to someone personally) or substituted service, and in either case service must be made by someone who is not a party to the action. Code Civ. Proc. Secs. 414.10, 415.10. Personal service may not always be possible with the population who is typically a defendant in a paternity action. Substituted service on an individual may only be made after a diligent attempt has been made to effect personal service.

Substituted service is accomplished in two steps. The first step is leaving a copy of the summons and complaint with a competent member of the household at the defendant's residence, or with a person in charge where the defendant works. The second step is mailing a copy to the place where the summons and complaint were left. Code Civ. Proc. Sec. 425.20 (b).

Service can be completed by the staff of the Orange County Sheriff's Department if the non-custodial parent is known to be in the County jail, or by State prison officials if the non-custodial parent is in State prison. The Orange County Marshal's Office serves some notices, but most of the service process is contracted to a private company.

In interviews conducted by the Grand Jury, one of the recurring complaints from non-custodial parents and private attorneys was that notice was never received because notice was served at an outdated address. We recognize that this might be a usual excuse from an evading parent, but the nagging presence of this complaint warrants review of how the process is served.

Below are the statistics provided by the Family Support Division concerning civil process service for the months of July, August and September 1998.

TABLE 1
CIVIL PROCESS SERVICE

	July 1998	August 1998	September 1998
Cases Awaiting Service	1,915	2,235	1,382
Served by FSD staff, including mail	434	332	272
Served by Peace Officers/Corrections	112	152	187
Served by Private Contractors	1,500	662	637
Total Served	2,046	1,146	1,096

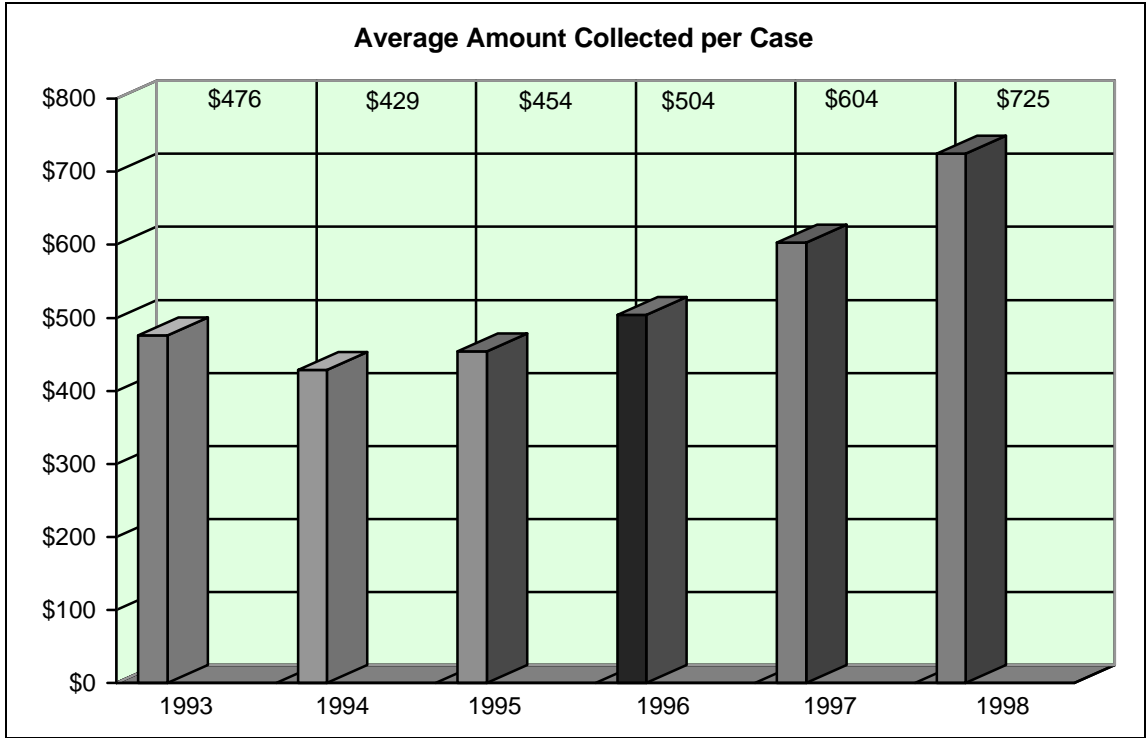
COLLECTIONS

The 1998 Annual Report of the Office of the District Attorney for Orange County states the amount of child support dollars collected and distributed is the single most important number tracked by the Family Support Division. Collections have increased during the 1990s—at times steadily, at times dramatically. Since 1993, collections have more than doubled. Net collections (the amount actually distributed) were \$47.4 million in 1993 and rose to \$107.3 million in 1998. The average number of dollars collected per case is illustrated in Graph 1. The average was calculated by dividing the total collections per year by the average caseload. The 1998 level of \$725 collected per case is a 52.2% increase over 1993.

Collections have historically increased as the number of staff in Family Support Division has increased, as illustrated in Graph 2. Of further significance in the graph, is the distance between number of employees and collection amount has also increased. The District Attorney is requesting an addition of 114 positions for Family Support Division.

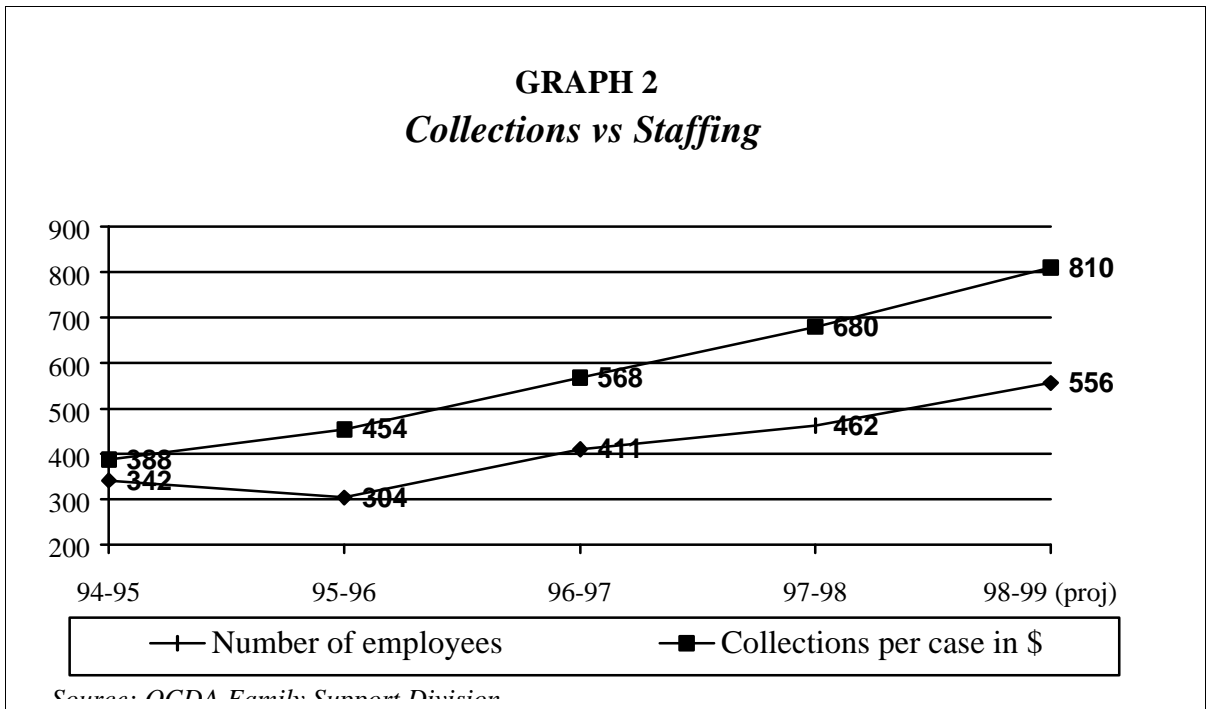
In comparison to other southern California counties, Orange County leads in collections per case as illustrated in Graph 3.

GRAPH 1

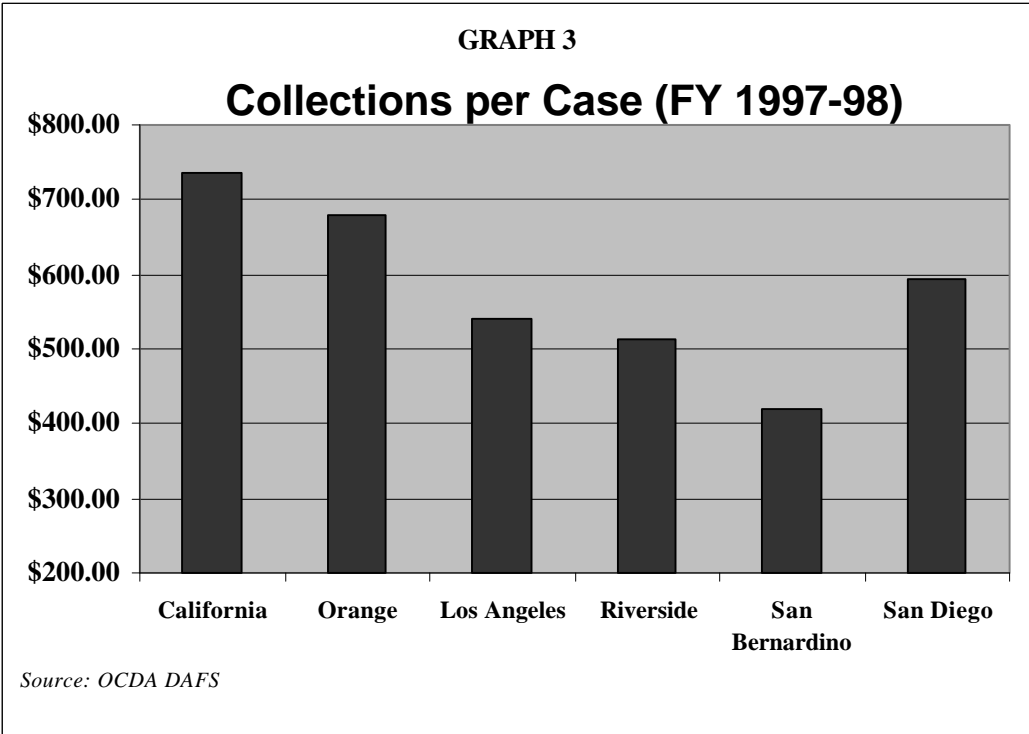


Source: Orange County District Attorney

GRAPH 2
Collections vs Staffing



Source: OCDA Family Support Division



CUSTOMER SERVICE

In 1994 the Price Waterhouse audit team interviewed 400 parents (both custodial and non-custodial) to reach their findings and recommendations regarding customer service. The Grand Jury, in contrast, interviewed only a dozen parents who were waiting in the Family Support Division reception area. We make no scientific claims. Our only questions were how long each person (or family) had been waiting, whether an appointment had been set, and whether he/she wished to disclose the reason for visit. All indicated that they did not have an appointment, although one stated she had been told by someone in the Social Services Agency to return to the Family Support Division office. Our informal interviews took place at about 11:30 one Monday morning. We randomly chose people from those waiting to be seen. Below is the result of our interviews:

TABLE 2
INTERVIEWS OF PEOPLE WAITING

Custodial or Non-Custodial	How long have you been waiting?	Reason for visit
NC	1:00	Wanted information to modify court order.
NC	0:45	Had questions on his arrearages.
C	1:10	Initial meeting. Had filled out an application. Was not on welfare.
NC	0:20	Had requested appointment, and had been told the waiting period was two weeks.
NC	0:30	Did not say.
NC	0:20	Had called Friday and waited until 3 p.m. He took off work today. Did not state reason for visit.
NC	0:10	Wanted to make a payment, but needed to get release form to get driver's license back.
NC & C	2:00	Wanted to report that couple had reconciled. Had two small children with them.
NC & C	1:00	Had been requested by welfare department to report to Family Support Division. No appointment had been set.
NC	0:45	He wanted to report he now had custody of the children.
NC & C	2:00	Welfare reimbursement only case. He had fallen behind in payments. Wages to be garnished by 50%.

If the times estimated by those interviewed are correct, 5 out of 11 (or about 45%) of the cases had been waiting for an hour or longer. Of those 5, four were non-custodial parents, or had been, and one was a non-welfare custodial parent just initiating the process.

One of the recommendations of the Price Waterhouse audit was the establishment of a separate organizational unit dedicated to responding to public inquiries. The Public Service Center office was opened in August 1998.

Another effort to improve customer service was facilitating a "drop box" just outside the new Public Service Center for after hours payments.

OMBUDSMEN

The two ombudsmen, recommended by the Price Waterhouse audit, have been in place since July 1994. An ombudsman is an experienced family support officer who is

given wide latitude and authority to immediately resolve a “problem” case. The use of ombudsmen is limited to solving problems which have come to the attention of “high level” officials. That is, when a parent, out of frustration, contacts the Governor, a legislator, the Board of Supervisors, or the Grand Jury, for example, then an ombudsman steps in to resolve the problem. The Grand Jury believes the ombudsmen are underutilized and should be more visible. Cases, especially those which have been open for a number of years and/or involve more than one child, can get very complicated. Table 3 below helps to illustrate the underutilization of the ombudsmen. The Public Service Response System reports reflect an average of 208 inquiries per month referred to the ombudsmen, an average of 165 of those by telephone and average of 43 letters. Dividing by 20 working days results in only 8.25 calls per day and 2.15 letters per day on average for two ombudsmen.

Table 3
Public Service Response System

1998	Phone	Letter	Total Inquiries
Jan	104	51	155
Feb	78	40	118
Mar	70	64	134
Apr	168	52	220
May	164	30	194
Jun	229	58	287
Jul	242	55	297
Aug	214	52	266
Sep	178	24	202
Oct	168	31	199
Nov	177	18	195
Dec	185	38	223
Total	1977	513	2490
Average	165	43	208

Source: OCDA FSD

The existing telephone answering system at the Family Support Division is not unlike many other automated “menu” systems that currently proliferate the business milieu. It nevertheless adds to the frustration level of the parent needing to get or give information. The Grand jury was advised that a new, improved system would soon be installed. The Family Support Division office mails out informational newsletters every few months to both custodial and non-custodial parents. In addition to announcements, the newsletter includes suggestions/instructions on how to contact the Family Support Division by telephone or by mail. The newsletters are a great effort in educating the public. The office

also has a 24-hour voice mail system. The Family Support Division needs to continue its efforts to improve public service.

THE SUPPORT ORDER

Before collections can be obtained, a court order setting the amount of child support is required. In California child support is established by a formula set forth in the *California Family Code* (§4050-4076). Judges and commissioners use a computer program to determine the amount of child support to grant. Although the state provides the standard formula for establishing child support, the court may change the amount under specific circumstances. The 1988 Family Support Act (*Public Law 100-485*) requires universal wage withholding in all cases.

The judge or commissioner considers the following to determine the amount of child support.

- Income of each party - the court needs to have evidence of income from all sources on the day of hearing.
- Overtime - is it regular and consistent or seasonal?
- New spouse income - used for tax purposes only.
- Child support in another case - considered only if paid pursuant to a court order.
- Realty purchase sums - realty taxes and interest on mortgage.
- Hardship claimed for other child supported in custody of the payer.

Computer program - all factors programmed. (DISSOMASTER is the software currently being used).

The Family Support Division deputy attorney's role in the court is to file income and expenses declarations, income tax returns, pay stubs (if self-employed, profit and loss statements) for both parents. The deputy attorney calculates overtime for "normal work regimen," sets forth medical insurance information, and presents an honest status of visitation ratio.

At the time of hearing, the court may proceed and set the terms of child support or grant a continuance and refer the respondent to a private attorney, a contract attorney or a court facilitator. A continuance may also be granted by the court to give the respondent an opportunity to secure documents.

In Orange County the percentage of all cases with support orders was about 64% in 1998, at the end of the first quarter in 1999, that percentage had increased to 68.5%. Almost 20% of those with orders were cases with orders for zero cash support or were medical only cases. About two-thirds of the cases with court orders for support make payments.

Attorneys in private practice interviewed by the Grand Jury were of the opinion that the Family Support Division attorneys need better training. Prior to 1995, Family Support

Division was the entry stage to the career path of the deputy attorneys in the DA's office. The Price Waterhouse audit recommended that the Family Support Division attorneys should be "dedicated" to the child support division, and that has been the policy in hiring new attorneys for the division. However, the private bar still perceives that the Deputy Attorneys in the child support cases are not sufficiently experienced. Private attorneys complained that the Deputy District Attorneys lack insight of court procedure, do not have the discretion to deal with the respondent's attorney, and at times, are unfamiliar with the cases being heard. Another complaint was the inaccessibility of the attorneys. An attorney prefers to deal with another attorney, not a support officer, even if the support officer is more familiar with the case. It is reasonable to believe, however, that more cases can be kept off the court calendars, if the respondents' attorneys are able to negotiate with the deputy attorneys. Family Support Division needs more deputy attorneys who are experienced, well trained, committed to child support, and who can be accessible to a respondent's attorney.

FINDINGS

Under California *Penal Code* §933 and §933.05, responses are required to all findings. A response to all six findings is required from the **Office of the District Attorney**.

1. The Orange County District Attorney Family Support Division utilizes some of the intercept programs available for child support enforcement. Problems have been reported regarding incorrect matching due to counterfeit social security cards.
2. Many of the child support orders initiated by the Family Support Division are awarded by default. In some cases the service of summons may be faulty. Failure to respond to a court summons to establish paternity and amount of support payment can have serious consequences.
3. Collections in Family Support Division have increased greatly since 1993. The 1998 level of \$725 collected per case is a 52% increase over 1993. Historically, collections have increased as the number of staff in Family Support Division has increased. The District Attorney is requesting an addition of 114 positions for Family Support Division.
4. The Family Support Division has expanded its facilities to make public service more accessible, however, a visit to the lobby area indicated it was still crowded with people who had been waiting for service for long periods, some for more than an hour. Two ombudsmen currently resolve problem cases which have come to the attention of "high level" officials. An improved phone system has been proposed in next year's budget.
5. Some Deputy District Attorneys may not be experienced in handling child support cases. Only since 1995 has the Office of the District Attorney been recruiting for Deputy District Attorneys permanently assigned to the Family Support Division. The Deputy District Attorneys are not easily accessible to private family law attorneys.

RECOMMENDATIONS

Under *California Penal Code* §933 and §933.05, the Grand Jury requires responses from the appropriate agencies and officials to each of the following recommendations. Based on the findings, the 1998–99 Orange County Grand Jury recommends that:

1. The Orange County District Attorney Family Support Division continue to avail itself of all the enforcement resources including the federal and statewide intercept programs. Caution must be taken that identification of non-custodial parents does not rely solely on a social security number. (See Finding 1.)

A response to Recommendation 1 is required from **Office of the District Attorney**.

2. The Orange County District Attorney Family Support Division maintain greater control on the service of notices to appear for hearings by confirming addresses. The Family Support Division needs to broadcast the message that all unpaid support earns interest at ten per cent per annum, and that arrears accumulate quickly, especially if the order is high. The message needs to be in English and Spanish and in plain language explaining the consequences of not paying court ordered support and options to modify a support order. Given the gravity of a default judgement, the Office of the District Attorney Family Support Division should exercise comprehensive efforts to inform the non-custodial parent of risks and expenses involved in not responding to a summons. (See Finding 2.)

A response to Recommendation 2 is required from **Office of the District Attorney**.

3. The Orange County District Attorney proceed with request to increase the number of personnel in the Family Support Division. (See Finding 3.)

A response to Recommendation 3 is required from **Office of the District Attorney** and **Board of Supervisors**.

4. The Office of the District Attorney Family Support Division continue with its efforts to improve public service. It is commendable that a separate facility has been organized to better serve the public, but waiting periods are still too long for some. The Office of the District Attorney should proceed with the proposal to improve the telephone system. Consider using ombudsmen to clear as many complicated problems as possible, not only those which come to the attention of high level officials. (See Finding 4.)

A response to Recommendation 4 is required from **Office of the District Attorney**.

5. The Orange County District Attorney increase the tenure of Deputy District Attorneys in the Family Support Division and recruit more who are committed to the mission of Family Support. An increase in the number of deputy attorneys in Family Support Division will make their accessibility easier. (See Finding 5.)

A response to Recommendation 5 is required from **Office of the District Attorney**.

COMMENDATION

The staff of the Orange County District Attorney Family Support Division is commended for its dedicated professionalism and its courteous cooperation in working with the Grand Jury. The Grand Jury found the staff to be sincerely committed to the mission of placing the interest of the children first. The Grand Jury applauds the harmony and working relationship between the Office of the District Attorney and the Family Support Division.

APPENDIX

RESOURCES CONSULTED

Annual Report, 1998. Office of the District Attorney, December, 1998.

California Penal Code § 270 - Failure to Provide (Exhibit A).

Enforcing Child Support: Parental Duty, Public Priority. The Little Hoover Commission Report, 1997.

Joint Committee Hearings on Child Support, (Videotape), January 26, 1999, State of California Assembly.

Review of the Family Support Function, County of Orange, Office of the District Attorney. The Price Waterhouse Audit, May 4, 1994.

Senate Bill 1058 (Speier), 1996. [Under the plan, requests to establish paternity and to establish, modify and enforce child support orders must be referred to a child support commissioner for a hearing. It also established the offices for court facilitators.]

Understanding the legal process and the child support system. State of California Child Support Handbook, (no date).

INTERVIEWS AND TOURS

- Visited the Family Support Division facilities.
- Interviewed personnel from the District Attorney Family Support Division.
- Interviewed judges, commissioners and other personnel in Family Court at the Lamoreaux Justice Center.
- Observed court proceedings in courtrooms of two commissioners.
- Interviewed several private attorneys with specialty in family law.
- Interviewed custodial and non-custodial parents with active cases in the Family Support Division.

EXHIBIT A

California Penal Code § 270. Failure to provide; parent; punishment; effect of custody; evidence; applicability of section; artificial insemination; treatment by spiritual means

If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison for a determinate term of one year and one day, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so.

Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

The court, in determining the ability of the parent to support his or her child, shall consider all income, including social insurance benefits and gifts.

The provisions of this section are applicable whether the parents of such child are or were ever married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as this section is concerned.

The husband of a woman who bears a child as a result of artificial insemination shall be considered the father of that child for the purpose of this section, if he consented in writing to the artificial insemination.

If a parent provides a minor with treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof, such treatment shall constitute “other remedial care”, as used in this section.