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PRESS★

STATE SOCIAL WELFARE BOARD

Preliminary Report of the Task Force on ABSENT PARENT CHILD SUPPORT



**STATE OF CALIFORNIA
HUMAN RELATIONS AGENCY
Department of Social Welfare**

OCTOBER 1970

DEPARTMENT OF SOCIAL WELFARE - 744 P STREET

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The Honorable Ronald Reagan
Governor of the State of California
State Capitol
Sacramento, California 95814

Dear Governor Reagan:

Transmitted herewith is the preliminary report of the State Social Welfare Board's Task Force on Absent Parent Child Support.

Our interest in child support problems arose from the many statements of concern and complaints made by citizens at our public meetings held throughout the State during the last two years and statistical information, which disclosed that only twenty percent of the estranged fathers of AFDC children are contributing to their support.

The task force determined that there is a serious lack of uniformity in the enforcement of child support obligations among the counties. Further, many public officials, including members of the judiciary, express a total lack of concern over the fact that countless court orders are unenforced and children do not receive the support to which they are legally entitled.

In addition, many mothers, unable to afford private counsel to enforce the support obligation, turn to public assistance because of a lack of prompt and effective child support enforcement by public agencies. In this atmosphere, California is acquiring a reputation as a sanctuary for fathers who desire to abdicate their primary responsibility of support of their children, thereby forcing added burdens on publicly supported welfare programs.

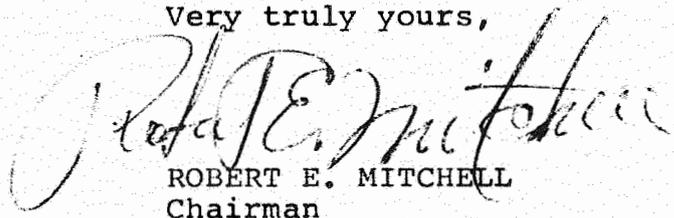
This preliminary report discusses some of the major problems requiring attention. The task force will be developing additional information on these points as well as a

number of other related subjects. This is an action-oriented effort, and the members of the task force have committed themselves to the task of assisting with the implementation of the recommendations. When our final report is presented, we are hopeful that we will have your personal support in implementing these recommendations.

We believe that a public reawakening to the basic and primary parental obligation is needed. This can be achieved only by the making of a firm and clear restatement of our public policy. This would be the first step in achieving a basic change in the attitudes of the public and of the individuals who occupy positions of responsibility in our public agencies who appear to be unaware of the moral, social and economic implications of this problem.

To this end this preliminary report is respectfully submitted.

Very truly yours,



ROBERT E. MITCHELL
Chairman

REM:ce
encl.

STATE SOCIAL WELFARE BOARD
Preliminary Report of the Task Force on
Absent Parent Child Support

October 1970

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Absent Parent Child Support

1. Purpose and Scope of the Problem

Statistics on divorce in California provide some indication of the seriousness of this social problem affecting children. One element of the problem resulting from the breakdown of family life is enforcing the continuing obligation of parents to support their children. This is the primary moral and legal obligation of the parents which should only be assumed by others when circumstances beyond their control prevent the fulfilling of this responsibility.

The failure to enforce the support obligation of parents has serious economic ramifications on publicly-supported assistance programs, as well as on the parent remaining with the children. The Aid to Families with Dependent Children program has been expanding at an alarming rate with over nine hundred thousand children in California now receiving assistance. Of those cases involving an estranged father, eighty percent pay no child support whatsoever leaving their obligation to be met by the taxpayer.

Statistical information is not readily available with respect to the level of child support payments to nonwelfare families. Most public agencies restrict their child support enforcement activities to welfare families. In some cases, the mother has sufficient means to retain private counsel to aid her in obtaining support for her children. However, in most situations, the mother does not have these means. Often the line separating nonwelfare mothers from welfare mothers is thin indeed. Receipt of child support payments on a regular basis does make the difference.

The purpose of this preliminary report and subsequent reports by the State Social Welfare Board's Task Force on Absent Parent Child Support is to:

- a. Impress and persuade the public and concerned agencies with the nature and magnitude of the absent parent child support problem.
- b. Develop more effective remedies to compel enforcement of child support obligations.
- c. Propose model funding and organizational patterns for effective enforcement units, as well as service units designed to gather and disseminate information needed in enforcement work.
- d. Point up the need for continuing efforts to achieve greater coordination among those agencies and individuals involved in child support enforcement activities.
- e. Encourage state and local governments to place greater importance on this problem and to devote more resources to its resolution.

2. Attitudes and Education

Concern is expressed at the cavalier attitudes on the subject of child support expressed by some individuals whose work responsibilities put them in daily contact with persons affected by the problem. Some of these individuals believe that child support is punitive and that public assistance programs were designed as a more acceptable alternative to the enforcement of parents' responsibility. This attitude has become more pervasive in recent years. This abdication of parental responsibility eats away at the moral fiber of society; promotes dependency on public programs; interferes with parent/child relationships and places a huge and inequitable fiscal impact upon our taxpayers.

Recommendation #1

There should be a clear restatement of public policy that parents have primary responsibility for the care and support of their children and that a family breakdown, separation, divorce or private dispute does not absolve them of this moral and legal obligation. This obligation exists whether the child was born to parents who are married or not.

There are a number of individuals and agencies at all levels of government who have an official involvement in the problem of absent parent child support. These include:

- a. District Attorney's Offices
- b. County Welfare Departments
- c. Probation Departments
- d. The Judiciary
- e. Public Agencies Responsible for Service of Process
- f. Boards of Supervisors
- g. State Department of Social Welfare

The complex interrelationship of these government entities compounds efforts at problem-solving and underscores the need for coordination. Each group involved needs to have a clear understanding of its role and responsibilities, and an awareness and knowledge of the function performed by others in the network. The effective functioning of a number of agencies can be negated by the failure or lack of interest on the part of any single agency involved.

Recommendation #2

There is a need for the development of a positive attitude on the part of all public agencies involved in the process of the enforcement of child support obligations, including members of the judiciary. A default by one of these individuals or agencies will result in the failure of the entire system.

3. Identification and Location

Prompt action is the key to an effective support enforcement effort. The first step is to ascertain the location of the absent nonsupporting parent. A number of resources are available at the local and state levels to assist in locating

absent parents. In recent years, certain federal records have been made available for this purpose. However, the system for extracting information from federal records is cumbersome and this resource is not effectively used at this time.

In 1953 a Central Registry was created in the Office of the Attorney General for the purpose of providing a focal point through which local agencies could channel requests for information from various state agencies. This unit functioned as a part of the Bureau of Criminal Identification & Investigation which was also an information-contributing agency, along with the State Departments of Motor Vehicles and Human Resources Development.

Increased use of the Central Registry service by agencies of county government, lack of centralized responsibility for initiating requests for information, duplicatory requests and staff shortages have combined to hamper the Central Registry's ability to respond to information requests on a timely basis. Inquiries have increased from 1500 to 5000 per month. The current backlog runs between 5000 and 9000 inquiries and response time averages about 90 days. Approximately 60% of the workload relates to welfare cases, with about 1% of the inquiries coming from out of state under reciprocity agreements with other jurisdictions.

A subcommittee of the task force was appointed to work with representatives of the Office of the Attorney General and the Central Registry who have long demonstrated their interest in providing an effective service. A key recommendation of this group was that the Central Registry should be designated

as an organizational entity separate and apart from the Bureau of Criminal Identification & Investigation. We are pleased to report that this organizational change was adopted by order of the Attorney General effective October 1, 1970.

The task force recognizes child support enforcement as primarily a law enforcement problem. The records of law enforcement agencies at the county level and their sources of information are of value in locating absent parents. The utilization of these sources of information will reduce the volume of unnecessary inquiries to the Central Registry. In addition, centralizing responsibility for making inquiries to the Central Registry will avoid duplicatory inquiries.

Recommendation #3

Responsibility for originating Central Registry inquiries should be placed with District Attorney's Offices throughout the state, regardless of the placement of the Family Support Division in the county organization structure (district attorney's offices or county welfare departments).

Currently, the Central Registry obtains information from the records of three state agencies to aid in locating absent nonsupporting parents. It is suggested that a similar relationship could be developed with other agencies and that the Central Registry could represent an important time-saving link in obtaining information from federal records. Such a change in the operations of the Central Registry should be accomplished by means of a demonstration project with a built-in evaluation component to test the effectiveness of this new format on the basis of input data from local child support enforcement units. In connection with the following recommendation, a letter of intent has been filed with the State Director of Social Welfare and task force members are negotiating for the funding of such a project with 50% federal matching.

Recommendation #4

The operations of the Central Registry should be changed to incorporate new approaches to its service function including linkage to federal information sources. This should be accomplished through funding provided by State Department of Social Welfare demonstration project funding, with federal matching, and should include an appropriate evaluation component for the purpose of testing the effectiveness of new approaches.

The small staff assigned to Central Registry is state funded. The 1967 Amendments to the Social Security Act provided for 50% federal reimbursement for extended effort beyond activities in a base period in the field of child support enforcement and establishing paternity. Since approximately 60% of Central Registry's workload is related to welfare cases, it is likely that some federal funds could be made available for this unit's extended effort beyond the base period. With respect to the following recommendation, members of the task force have started negotiations aimed at acquiring federal participation in the funding of part of the Central Registry's workload.

Recommendation #5

An effort should be made to obtain federal participation in the funding of the Central Registry based on the provisions of the 1967 Amendments to the Social Security Act.

4. Procedure - Welfare/District Attorney

The major objective of a suitable child support program is to promptly and efficiently secure the maximum support possible from the legally responsible parent (usually the father), whether or not the child is in need of public assistance. In order to achieve its prime objective, the program and administrative areas must be balanced to provide for law enforcement and collections in a businesslike manner.

The auspices must be clear, the focus of responsibility definitively placed, and the program consolidated in operations under a single administrative unit. The administrative philosophy of such a unit then is that "the buck stops here."

Uncertainty by the aggrieved mother and by many public servants as to which agency or department is responsible, and the lack of uniformity among the respective counties dictate that there exists a model organizational plan of enforcement. This organizational plan must be known to the agencies involved and publicized to the general public.

The model plan for an effective enforcement program must be comprehensive in scope, inclusive of the following components as to child support activities:

- a. Intake
- b. Enforcement
 - (1) Investigations
 - (2) Probation
 - (3) Civil
- c. Collections

Associated with such a plan as an additional function, under the primary auspices of the district attorney or county welfare department, may be units dealing with all aspects of fraud relating to public assistance programs.

The specific components and elements of a model comprehensive child support enforcement plan will be outlined in a future report of the task force. This plan will be applicable to less populous counties, as well as those California counties with large populations. The model plan will address itself to:

- a. A description and delineation of the interrelationships of affected county agencies.
- b. The forms and procedures for a sound child support system for incorporation in a computerized system, if possible.

There will be a defined approach as to external related functions not directly connected to child support as part of the total system. The district attorneys and law enforcement elements will be expected to use all possible legal remedies. The ideal arrangement is one centralized operational unit located in one place in the county. However, it is recognized that organizational areas must reflect the size and degree of the spread of the population. Special job classification and adequate employment criteria will be developed as part of the plan. While the plan will suggest local option in placing the child support unit in either the district attorney's office or the county welfare department, it will clearly reflect the view of the task force members that child support is a law enforcement problem and responsibility must be fixed at one point.

Following development and adoption of the model plan, it is suggested that action be taken to rewrite and distribute the Attorney General's publication, "Enforcement Officers' Manual and Guide to the Absent Parent Problem in California."

There will be need for widespread knowledge and discussion of the model child support enforcement plan if it is to stimulate the interest of those who will work with it. Support for the plan and increased enforcement effort can be effectively achieved through public appearances before boards of supervisors pointing out the advantages and disadvantages of alternative plans which can contribute to reductions in county property taxes. Related to this, the task force and the State Social Welfare Board supported AB 1648 and is gratified that the Governor has signed this significant legislation into law.

Recommendation #6

Following acceptance of the model plan, teams should visit counties for the purpose of appearing before boards of supervisors and acquainting them with the advantages of an effective support program. Teams should consist of representatives of the County Supervisors Association, State Social Welfare Board, District Attorneys Association, State Department of Social Welfare and other involved agencies.

5. Legal Remedies

A family breakup is a crisis of serious magnitude. Relationships between the adults are severely strained and often domestic anarchy exists within what remains of the family unit. In this tense emotional climate, bad attitudes and poor habits with respect to parental responsibilities can be formed. For the continued welfare of the children and to insure that appropriate attention is given to their care and support, early and effective steps must be taken to compel the attention of both parents to their rights and responsibilities with respect to the children.

In order to have effective compliance with the court's order for support, the order itself must be realistic in relation to the financial ability of the father. The Judge should have the advantage of the presence of both parents in court at the initial proceeding to insure a complete and accurate disclosure of the parents' financial ability. On this occasion, the court should also define and explain the rights and responsibilities of each of the parents to the children, including the husband's right of visitation as well as the husband's obligation to obey the court order.

Recommendation #7

The law should be modified to require the presence of both parents in any proceedings involving the children or their support and to provide the statutory power to subpoena parents who fail to appear.

Except in unusual circumstances, a financial crisis usually accompanies the breakup of a family. Creditors are often threatening and the parent remaining at home is sometimes hard-pressed to keep utility service and rent paid. This period of time immediately following the family breakup poses serious problems for the parent to provide the necessities of life for the children. Present judicial processes are too slow to provide for support of the children during this critical period. What is needed is a prompt remedy to establish a fixed support obligation during this crucial period.

Recommendation #8

The law should be modified to provide for the necessary forms and procedures whereby upon separation, but prior to the initiation of a Petition for Dissolution or Separation, a 3-day (court days) order to show cause could be filed in pro per. The citation would command the defendant's appearance for the purpose of fixing child support, and would be personally served on him or on his employer if he cannot be immediately located or if it is shown he is evading service. At the time of the hearing, both parents should be instructed as to their rights and responsibilities towards one another and the effect of their new relationship on the children. The court would be empowered to set temporary child support and make such other temporary orders to secure the stability of the parties. Counselling and efforts to reconcile the parties at this time would be authorized. It appears that the conciliation court would be the effective forum for this service. In our final report, the task force intends to set out the specific components of such a quasi legal remedy.

Recommendation #9

Upon the filing of a Petition of Dissolution, or Petition for Separation, the law would provide a 3-day (court days) Order to Show Cause procedure in those cases in which child support was an issue. Such cases would have a priority on the court's calendar. Continuance would be granted for purpose of obtaining counsel only, and then not to exceed 3 days. It would require the attendance of both parties. If one of the parties avoided service, then service of process could be made upon the employer. An ex parte order for child support could be made upon the employer where the party fails to appear in court.

Recommendation #10

To provide for effective enforcement of existing court orders, the law should be modified to permit mother to make application to court to obtain a forthwith order for enforcement of child support order, or husband to show cause why within 3 days (court days) he should not obey existing court order. Mother must show in her verified petition that father has failed to make support payment within last 30 days, or made only token payment; that she has actual physical possession of child or children, that she is without resources for the necessities of life; and that father is employed or is self employed and that she has reason to believe he has the ability to comply with the court order. She must further allege that she has requested payment and that father has refused or failed to pay.

The "Forthwith Order" may be served upon the employer should father avoid service. This would be deemed to be service upon father and notice to employer that there existed a lien upon husband's wages in that amount set by the court, and employer instructed not to pay over to father said sum until further instructed by court. Said lien could not exceed one-half of father's net wages.

The judiciary has ultimate responsibility for fixing child support payments. Acting under the provisions of Section 11476 of the California Welfare and Institutions Code, county welfare departments occasionally negotiate voluntary agreements with nonsupporting fathers to pay child support at less than the amount specified in the order. This action most often results from an attempt to get at least some part of the support obligation paid or from a support order which exceeds the ability of the responsible parent. These voluntary agreements confuse the issue since the agreement does not absolve the parent from responsibility for the unpaid amount of support.

Recommendation #11

The fixing and collection of child support should be based on the court's order. Section 11476, Welfare and Institutions Code, should be amended and the practice of welfare agencies making voluntary agreements for the payment of child support should be eliminated.

6. Resources

Federal law and regulation have long been a barrier to collecting absent parent child support from federal employees, retired employees and members of the military. The following proposals are designed to provide the means of enforcing support from these individuals who, because of the nature of their employment, receive protection not afforded to others in similar circumstances, to the detriment of their children and the taxpaying public.

Recommendation #12

Notwithstanding the doctrine of sovereign immunity, federal legislation should be enacted to provide for garnishment and execution of wages of federal employees, retired employees and members of the military as well as wage assignment for the purpose of collecting child support.

Recommendation #13

Section 464 of HR 16311 should be eliminated and provisions be substituted which would enable local agencies to take action with respect to unpaid child support for moneys owed to nonsupporting parents by the federal government, i.e., income tax refunds. Reimbursement of funds collected would be consistent with the funding formula.

Recommendation #14

Federal statutes and Department of Defense regulations should be changed to provide for support of an illegitimate child who is acknowledged by the father or legitimated by court order so as to be consistent with the Social Security Act.

7. Future Work of the Task Force

The task force is continuing its work on each of the subjects discussed in this report and additional information will be reported as the work progresses.

A subgroup of the task force is working on the subject of collections. We will propose a series of techniques and approaches which have proven most successful in child support activities for the guidance of agencies who would use this resource to upgrade their activities.

A subgroup is working on the feasibility and desirability of a family court concept.

The thought has been advanced that a higher level of support contributions would be received voluntarily if the absent father recognized that his children received some direct benefit from his payments. Under present welfare procedures, absent parent contributions to children on welfare are either used to offset the grant or, in some jurisdictions, to make up the difference between the grant and the established need. Members of the task force are working in this area in an effort to propose some type of approach which would represent an incentive to the absent father.