

New Approaches to Child Support Arrears: A Survey of State Policies and Practices

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In a recent memo by the Commissioner of the Office of Child Support Enforcement, State IV-D Directors¹ were reminded of the flexibility that exists under Federal IV-D requirements in setting support obligations and securing collections from low-income noncustodial parents (NCPs). Directors were told that:

- 3 States may not retroactively modify arrearages, but have discretion to compromise arrearages owed to the state;
- 3 States can take steps to limit the number of cases where income is imputed;
- 3 States are allowed to use minimum orders, but only if the minimum amount is rebuttable under criteria established by the state;
- 3 States have flexibility to determine whether to establish an amount representing support for periods prior to the date of the support order; and
- 3 States can make referrals to Welfare-to-Work programs and use other nontraditional approaches to assist low-income noncustodial parents.

Commissioner Ross urged states to examine their policies for dealing with low-income noncustodial parents and identify those that might contribute to the growth of arrears as well as those that might avoid problems with compliance and encourage payment. Given the level of federal flexibility that exists, Ross concluded that it was well within the power of

¹ Ross, David Gray, "State IV-D Program Flexibility with Respect to Low Income Obligors—Imputing Income; Setting Child Support Orders and Retroactive Support; Compromising Arrearages; Referral to Work-Related Programs and Other Non-Traditional Approaches to Security Support." PIQ-00-03, September 14, 2000.

the states to develop child support policies and practices that “more effectively service low-income fathers.” Indeed, for states like Colorado² that administer their child support programs at the county level, it may well be within the power of individual counties as well as the state to design and implement responsive policies.

This report presents the results of a survey of selected states regarding policies and practices dealing with arrearages. It highlights Colorado’s policies in relation to those adopted by other states. We focus on state practices dealing with retroactive support, default orders, the imputation of income, the accumulation of child support arrears during incarceration, as well as job programs and debt compromise arrangements.

In our search for strategies to prevent and manage the accumulation of arrears among low-income noncustodial parents, we also examine studies of unpaid accounts conducted by large organizations similar to child support agencies in that they cannot choose their clients, such as public utilities and the IRS. Finally, we examine the literature on child support arrears, including recent surveys conducted by the Office of the Inspector General (OIG) and other accounts of innovative legal and policy approaches that states have adopted to set child support awards and compromise arrearages owed to the state.

Background

Like many other states, Colorado is concerned about the problem of unpaid child support debt. One of the performance indicators for the child support program is the number of cases with arrears balances that show some collection activity. This increases the importance of obtaining at least some arrears payment from delinquent noncustodial parents. Another factor that may have spurred interest in the problem of child support arrears is pressure on states to maximize the payment of current support. Although the data does not exist to support this contention, some father advocates maintain that large

² The Colorado child support program is state supervised and county administered. Twenty-nine of the 63 counties share a child support office with one or more other counties, for a total of 47 county-level agencies. One of the units serving two counties is operated by a private company. Although most of the child support regulations and procedures that affect low-income parents are federally mandated and/or state generated, county units in Colorado have discretion in some areas, such as assessment of interest, establishing retroactive support, negotiation of settlements, and maintenance of cases with old debt.

arrears balances discourage low-income noncustodial parents from paying current child support.

Finally, states like Colorado are understandably concerned about carrying large arrears balances and the costs of trying to collect them. Although Colorado has approximately 1.1 percent of the national total caseload for child support, the program carries more than 2 percent (\$1.4 billion) of the national total of unpaid child support.

Some information on child support arrears in Colorado can be gleaned from a report by the State Auditor. Using data for the Federal Fiscal Year 1997, the Auditor found that approximately four-fifths (81%) of the support owed in Colorado was "prior year support due," meaning it has been owed for more than a year (Colorado State Auditor, 1999). According to the Auditor, while the rate of collection for current child support in Colorado in FY 1997 was 47.8 percent, the rate of collection for prior support due was only 5.5 percent.

Another finding of the State Auditor's Report was that the average prior year support due for a case in Colorado was \$4,400, compared to the national average of \$2,263 per case. This difference is attributed to Colorado's policy of routinely establishing retroactive support when opening a case (*Ibid.*, p.29). Finally, the audit team identified a problem concerning case closures. Cases for which there is little potential of obtaining a payment can add substantially to the accounts receivable of a state. The audit report estimated that 9 percent of the state caseload met the state and federal criteria for closure.

At least some of the conclusions of the Colorado Auditor are consistent with those reached in studies of arrears in other states. For example, the OIG (2000) review lends support to the Auditor's observations about the routine award of retroactive support. Based on a review of 402 cases sampled in ten states, the OIG concluded that while most states routinely charge noncustodial parents for retroactive support, this policy contributes to the build-up of arrears, with longer periods of retroactivity associated with lower rates of payment of current child support. Another finding of the Auditor report — reductions in the collectibility of old debts — is consistent with studies on unpaid tax (GAO, 1998) and child support obligations (Conte, 1998), which show that age is a major factor in the "collectibility" of a debt.

This report describes how various states address the problem of child support arrearages. We contrast Colorado's policies with those identified in selected states and note those that attempt to contain the growth of arrears. We conclude with approaches that appear to be most promising with respect to the treatment of underemployed or unemployed obligors and serve to enhance their payment behavior.

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Methodology

Our study of arrears is based on interviews with child support representatives in 20 states. We targeted states with characteristics that matched the child support program in Colorado. As a result, we picked states that had a state-supervised, county-administered program and those with a caseload that was similar in size to Colorado's. We also interviewed states known to be innovative in their child support practices and/or those that had developed a debt compromise or amnesty program specifically dealing with arrears. Finally, we considered the ratio of the state's percent of national total prior year support due to the state's percent of national total average caseload for FY1997 as a way of identifying states with comparable caseloads and relatively low arrearages. Table 1 shows selected characteristics of the 20 states that participated in the survey.

Table 1. States Interviewed for Survey

State	County Admin.	Similar Caseload	Incentive Program	Percent of National Total Prior Year Support Due	Percent of National Total Average Caseload (1997)	Resulting Ratio
Alabama	X			1.9	1.9	1
Arizona				2.7	1.4	1.92
California	X			16.4	12	1.36
Connecticut		X		1.4	1.2	1.16
Indiana	X			3.0	2.2	1.36
Iowa		X		1.8	1.05	1.71
Maryland	X			2.0	2.1	.95
Massachusetts		X	X	1.9	1.2	1.58
Minnesota	X	X		1.3	1.3	1
Missouri			X	2.8	1.65	1.69
New Jersey	X			3.19	2.67	1.19
North Dakota	X			.11	.24	.46
Ohio	X			4.1	5.1	.80

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Table 1. States Interviewed for Survey

State	County Admin.	Similar Caseload	Incentive Program	Percent of National Total Prior Year Support Due	Percent of National Total Average Caseload (1997)	Resulting Ratio
Oregon				1.6	1.5	1.06
South Carolina		X		.61	1.2	.51
Virginia			X	.62	2.1	.30
Washington				1.09	2.0	.54
West Virginia				.14	.62	.22
Wisconsin	X			2.4	2.0	1.2
Wyoming	X			.49	.35	1.4
Colorado	X			2.1	1.1	1.9

We collected the bulk of our information in 40- to 80-minute, semi-structured, telephone interviews with child support staff in each state. The questionnaire was sent to each designated respondent several days prior to the interview. Some agencies circulated the questions to several staff members prior to the interview and elicited their input. Others discussed the questionnaire at a staff meeting and incorporated the observations of several individuals in their telephone interview. Three states had a team of two staff take part in the interview. Interviewees included agency administrators, policy analysts and program managers.

The questionnaire was developed by CPR in consultation with Colorado CSE staff. The topics included default orders and imputation of income; retroactive support and arrears; arrears and low-income obligors; state debt; agency policies regarding arrears in negotiations or forgiveness programs; and other factors that contribute to arrears. Respondents talked about the philosophy of their agency with respect to arrears, and offered their opinions of what helps obligors comply with their current child support orders and avoid the generation of arrears. The survey did not cover a number of policies that can affect the generation of arrears including minimum orders and other features of child support guidelines; procedures to modify orders, especially downward modifications;

calculating interest on child support arrears; and charging front-end fees for genetic testing, birth-related medical costs and court fees.³

In the following sections of this report, we summarize the major themes that emerged from the interviews. Where appropriate, we incorporate findings from relevant studies conducted by public utilities, the IRS and other child support agencies.

Default Orders and Imputing Income

A default order is one in which the obligor is absent from the process of determining its amount. Federal law requires that states have the ability to establish default orders, but allows them discretion in the use of such orders [45 C.F.R. § 303.101(d)(4)]. Colorado, like every state but the District of Columbia, Connecticut and Mississippi (OIG, 2000), imputes income if the noncustodial parent fails to provide income information and is unemployed or underemployed. In some states we interviewed, the child support agency will set an administrative default order when the potential obligor does not respond to a notice or does not appear for a hearing. In other states, default orders can only be established judicially. Two state agencies that are "heavily administrative" reported that their standard procedure is to initially set an order amount based upon staff research and to send it to the obligor. If there is no response, the proposed amount becomes the amount of the order by default. In all cases, the default order is both valid and enforceable, but also subject to a rebuttable presumption [45 C.F.R. § 302.56(f)].

Agencies employ a number of resources to establish the person's occupation, income level, and earning capacity when entering a default order: Department of Labor records, the National Directory of New Hires, testimony of the custodial parent, occupational category charts, and records reflecting the educational level and past work history of the noncustodial parent. Like 34 other states (OIG, 2000), Colorado attributes the minimum wage at 40 hours per week to noncustodial parents who do not appear and provide income information or if none can be found through an automated interface with the state labor or tax record systems. Table 2 shows the factors other states consider in the imputation of income.

³ Colorado recently conducted a study of the pros and cons of charging interest on child support arrears. See "A Study of Interest Usage on Child Support Arrears" by Jane Venohr, David Price and Esther Griswold, submitted to the Colorado Department of Human Services, Division of Child Support Enforcement on June 1, 2000.

Table 2. Default Order and Income Imputation Policies: Selected States

State	When Default Order is Used	Basis for Order Amount or Income Imputation when Information is Lacking
Iowa	When party fails to respond	Annual IV-D average net income amount
Minnesota	When party fails to respond	150% of minimum wage
Oregon	Used often as part of administrative process	Minimum wage
Virginia	Default orders limited to use by courts	
Washington	Used as part of administrative process or when party does not respond	U.S. DOL Net Income charts for gender and age groups
West Virginia	When party fails to respond	Public assistance rate by family size
Wisconsin	When party fails to respond	% of standard minimum wage
Wyoming	When party fails to respond	Minimum wage
Colorado	When party fails to respond	Current federal minimum wage

Of the states we interviewed, Iowa and Washington go the furthest in trying to establish default orders that match the NCP’s ability to pay. In its efforts to “ensure that orders are accurate,” the Washington Division of Child Support puts its administratively established default orders into effect only when the NCP fails to respond to notification. The agency has also designed a procedure to review default orders that are perceived to be set too high. The “Revisiting Default Orders That Set Support Obligations” policy provides a range of acceptable reasons for a person claiming “good cause” for not responding to a notice or appearing at a hearing, and for requesting another hearing. Reasons for not responding include "excusable neglect," surprise, and "unavoidable misfortune." Additionally, this policy allows the obligor to petition to have the default order vacated.

Iowa has moved from using the annual median income for households in the state to median income for the IV-D caseload to establish default orders. Although people recognized that using the state median income resulted in high obligations, the legislature believed this would motivate obligors to respond to requests for information. Indeed, a 1998 study by the Iowa child support agency (Iowa Department of Human Services, Bureau of Collections, 1998) found that while only 2.5 percent of the orders established per year were default orders based on the median income for households, they resulted in average

orders of \$383 — a higher level than the \$250 average for orders based on actual financial information. This discrepancy was further reflected in the low payment rate for default orders (8%) compared to orders set using actual financial information (52%). The OIG reached similar conclusions when it found that half the cases with imputed income showed no payment activity over a 32-month period of time, as compared with 11 percent of cases with real income data (OIG, 2000: 3).

Noting that obligors within the state IV-D caseload had a much lower median income than the state as a whole, the Iowa child support agency recommended using it when setting a default order and imputing income. As the agency stated in the report submitted to the Iowa General Assembly, "We found that using methods of computing default obligations that are more likely to be paid in full and on time would benefit the interests of both custodial families and child support obligors." As of July 1999, the agency moved to basing the default orders on the IV-D average net income amount.

States differ on their view of income imputing and its impact on arrears. While a number of respondents say that their agency tries to set default orders at reasonable levels and avoid high orders that lead to arrears that potentially discourage obligors from paying support, others reject the view that default orders are too high and contribute to compliance problems. In their experience, default orders are simply the result of NCPs who are unwilling to pay child support, and the order amount is not the issue. After all, the obligors receiving default orders are not interested enough to respond to the notices. Said one respondent, "There are some NCPs who won't pay, no matter how small you make the order."

A recent study based on a random sample of 386 Colorado child support cases with a minimum arrears balance of \$1,500 shows that 11 percent had orders that were established through a default process. Extrapolated to the entire state, arrears balances for cases with orders established by administrative default amount to approximately \$118,390,190, or 10 percent of total child support arrears for the state. Although payment patterns are worse for cases with default orders than for those with real financial information, no causal link can be established. Indeed, it is likely that a third factor such as financial standing of the NCP or his responsibility level explains both the default status of the order and the payment patterns he displays (Thoennes and Pearson, 2001).

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Past Support and Arrears

When a current order is established, the state has the option to simultaneously set a support award for a prior period of time. Support for a previous time period is variously called past, back, or retroactive support, or accrued arrears. The past support award represents the amount of support that should have been paid during the period between parental separation and the establishment of a formal award. Colorado labels past support due in a non-public assistance action as "retroactive support" and terms past support due in a public assistance action as "child support debt." Setting past support is not a federal requirement. If states choose to establish a past support award, they must apply the state child support guidelines and "take into consideration either the current earnings and income at the time the order is set, or the obligor's earnings and income during the prior period" (OCSE, 1993).

Colorado statutes allow past support to be set "in an amount as may be determined... to be reasonable under the circumstances, for a time period which occurred prior to the entry of the order of support" [C.R.S. § 19-4-116(4)]. The policy of Colorado CSE is to calculate past support from the "date of the physical separation of the parents if they were living together" or "from the birth of the child if the parents were not living together" [6.700.37, (C.C.R. 2504-1)]. The decision to establish past support is left to each county. One county has stopped assessing past support, following a finding by the district court that seeking support for a time prior to the date of filing for an action is not in compliance with the Colorado Constitution. The case is currently under appeal.

While Colorado is similar to 45 other states in charging non-custodial parents for welfare debt or retroactive support for time prior to the establishment of the order (OIG, 2000), Colorado differs from most states in the length of time for which parents are subject to retroactive charges. Unlike most of the surveyed states that limit the period of retroactivity to one to five years prior to the date of filing for an order or to the date of application for services, Colorado goes back to the birth of the child. Table 3 presents the time period for past support for interviewed states.

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Table 3. Past Support and Arrears: Selected State Practices

State	Time Limits	Criteria	Details
Alabama	2 years prior to date of filing		
Arizona	3 years prior to date of filing or birth date of child	Paternity cases	Filed as a judgment, accrues interest, treated as arrears
Connecticut	3 years prior to date of filing	Paternity cases	No time limit for marital cases
Indiana	Judicial discretion	Paternity cases	
Iowa	3 years prior to date order was established	Public assistance cases only	Collected only for months the family received public assistance
Massachusetts	Date of birth of child	Party must request	Agency discretion to establish
Minnesota	2 years prior to date of filing		County agencies and courts have discretion to establish
Missouri	5 years prior to date order was established	Public assistance cases only	
Ohio	Date of birth of child	Public assistance cases only	County agencies have discretion to establish
Oregon	Date of application for services or October 1995, whichever is later		
South Carolina	The agency does not collect retroactive support		
Virginia	Date paternity was established	Public assistance cases only	Legal obligation begins when paternity has been adjudicated
Washington	5 years prior to date of filing	Paternity cases	Treated as arrears, used in negotiation
Wisconsin	Date of filing (as of May 1, 2000)	Paternity cases	Not classified as arrears, not interest-bearing, until past due
Colorado	Date of birth of child or date of physical separation of parents – Counties may choose to collect retroactive support or not	All cases	For marital cases, retroactive support limited to most recent event: date of physical separation, filing date of divorce petition, or date of service upon respondent

South Carolina is the only interviewed state that does not collect past support. According to the respondent, the state does not believe in “turning people upside down to shake out any money in their pockets.” In part, child support administrators think that treatments such as past support have the potential to sour the relationship between the

NCP and the child. "We don't feel that financial payment is the only measure of a relationship." Also, they question how useful it is to create arrears that in many cases will never be paid off.

There is clearly a wide range of opinions and policies on past support. For example, Wisconsin does not classify past support as arrears and does not charge interest on it, as long as the obligor keeps current with monthly payments on it. The respondent explained Wisconsin's viewpoint this way:

The idea is that you cannot charge interest on a debt for which the person has no knowledge. That is, until the NCP knows what s/he owes, you can't call it a debt and charge interest.

In other states, including Colorado, when past or retroactive support is established, it is considered arrears and is subject to enforcement remedies. Someone from a state where past support is labeled arrears voiced this concern:

If an NCP is given a child support order and a past support order at the same time, and he is faithful in paying and keeping current, why does his record show he owes arrears? Should he be subject to enforcement treatments such as passport denial? Did the [custodial parent] try to find him? Did our agency try to find him?

Another respondent, however, felt it is appropriate to establish past support as arrears for the "unknowing" NCP:

I am sure that in most cases the NCP knew about the child all along, so why wasn't he paying? He is guilty of not paying child support, even though [Child Support] just established the order. He deserves those arrears.

Finally, a respondent described how the child support agency in her state has shifted the focus of effort from back to current support:

Our official policy is that someone, either the [custodial parent] or the agency, must request that the court establish back support. For the most part, [the agency] stopped seeking back support years ago unless we know there is income to be collected. It distracts us from focusing on current support, which we believe is more important.

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The primary arguments for pursuing retroactive support noted by interviewees were as follows:

- 3 It is only fair that the custodial parent (CP) be compensated for that time when he or she was not receiving support;
- 3 The NCP should be held responsible for supporting his or her children; and
- 3 The child needs that financial support, even if it comes when the child is close to emancipation.

The main arguments for not pursuing retroactive support put forward by respondents were these:

- 3 Not seeking retroactive support would be a time-saver for child support agencies and would make their jobs simpler. The custodial parent (CP) can go after retroactive support on his or her own, using legal means.
- 3 Not establishing past support can be an incentive for an NCP to come in and negotiate his or her order, without having this large amount of arrears hanging over his or her head.
- 3 Retroactive support and arrears cause the agency's accounts receivable to look huge, and affect the public perception of the agency's effectiveness.

A study of Colorado child support cases with arrears of at least \$1,500 showed that 37 percent owed debt or retroactive support and that these obligations accounted for 19 percent of total child support arrears, or almost a quarter of a billion dollars (Thoennes and Pearson, 2001). There is some debate on the impact of debt and retroactive support obligations on the payment of current support. While the OIG (2000: 2) concluded that “the longer the period of retroactivity, the less likely it is that the parent will pay any support,” an experiment involving the forgiveness of debt and retroactive support on a random basis in a sample of new child support cases in two Colorado counties showed that dropping debt had no impact on the payment of current support obligations (Pearson, Thoennes and Davis, 1999). It will clearly take more research with larger samples of cases over a longer period of time to assess the impact of retroactive burdens on the payment of current support obligations.

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Policies Regarding Incarcerated Obligor

Statistics released recently by the U.S. Department of Justice show the number of people under the jurisdiction of federal or state adult correctional facilities in the United States increased 6.7 percent annually from 1990 to 1998 (GAO, 2000). At the end of 1998, 5.9 million people were on probation, in jail or prison, or on parole. Most were parents.

- 3 59.1 percent of women in federal prisons and 65.8 percent of women in state prisons were mothers with children under the age of 18 in 1997 (Greenfeld and Snell, 1999).
- 3 In 1998, approximately seven in ten women under correctional care had minor children (Greenfeld and Snell, 1999).
- 3 78 percent of men in federal prisons and 65.5 percent of men in state prisons were fathers in 1997 (GAO, 2000).
- 3 In 1997, more than 1.9 million children under age eighteen (2.8% of all children under 18) had at least one parent in a local jail or a state or federal prison (Greenfeld and Snell, 1999).

While the exact number of incarcerated parents with child support cases is not known on a national level, it is believed to be substantial. For example, an automated match of case files for inmates and parolees under the supervision of the Colorado Department of Corrections (DOC) and the cases known to the Colorado child support agency showed an overlap of 6,262. This comprises about 5 percent of Colorado's child support caseload. A review of automated child support records for a random sample of Colorado child support cases with arrears of at least \$1,500 found that incarceration of the obligor was mentioned as a possibility in 14 percent of the cases — a level believed to be an underestimate since this information is not required to be input by child support technicians (Thoennes and Pearson, 2001). More to the point, a Washington study of open child support cases with an arrears of \$500 or more and no payment in the past six months showed that “at least 12.2 percent were incarcerated at some time during the 29-month project and at least 30.6 percent had DOC records” (Peters, 1999).

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There are several reasons for states to be concerned about the child support status of incarcerated parents. First, they owe a substantial amount of past due child support. Based on Colorado's automated data match, known arrears for currently incarcerated and paroled obligors in Colorado exceeds \$53 million. This comprises 3.8 percent of unpaid child support in the state. A similar data match between the child support and state corrections agencies in Massachusetts found that 1,270 inmates are noncustodial parents with child support orders and that they owe \$22 million. Colorado's more recent study of cases with arrears of \$1,500 or more finds that those cases with a mention of incarceration had over \$200 million in arrears or 18 percent of the state's total child support arrears. An agency's failure to collect current child support and at least some payment toward arrears from incarcerated parents negatively affects its performance profile and may reduce its revenues under the new federal incentive scheme.

Child support debt may also reduce the chances of an inmate making a successful transition from prison to the community. Child support obligations continue during a parent's incarceration. Unless an order is modified, the monthly obligation remains what it was prior to incarceration. It is up to the incarcerated individuals to request a modification, something they rarely do. More to the point, Colorado courts and child support agencies differ in their response to such requests. While some jurisdictions modify orders for incarcerated parents to a minimum level of \$20 to \$50 per month, others view incarceration as a "voluntary reduction of income" since imprisonment is a foreseeable result of criminal activity, and thus refuse to modify the order (Griswold and Pearson, 2000).

For these reasons, when they leave prison, many parents find they have accumulated significant child support debt that they are expected to begin paying off as soon as they become employed. Without intervention, they may face wage attachments of up to 65 percent to cover their child support obligations. They may also face harsh enforcement remedies such as driver's license suspension, which may limit their work options. Advocates for incarcerated parents are concerned that current child support policies may discourage released parents from legitimate employment, drive them away from their families, and contribute to recidivism.

In light of these patterns and concerns, we asked states if they had developed policies to control the growth of arrears of incarcerated NCPs. Table 4 shows the results of that inquiry. While no state automatically suspends child support during incarceration or initiates a review and adjustment process on an automatic basis, several permit minimum or reduced orders for incarcerated NCPs if they request it.

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Table 4. Incarcerated Obligor: Policies of Selected States

Arizona	An order established while the NCP is in prison is set at \$0 until 30 days after release. Obligor who enter prison with an order must request a modification. Recent statute allows court to suspend accrual of interest on arrears during incarceration of NCP [A.R.S. § 25-327(D)].
Iowa	An order is set at the \$50 minimum when established for an incarcerated NCP. Obligor entering prison with an order may request a modification; if net income has changed substantially, the case will receive a review and determination will be based on current income in prison.
Maryland	Each jurisdiction has judicial discretion.
Massachusetts	Policy under consideration: NCP will file for modification, but no action will be taken on case until the inmate is released. At that time, a hearing will be held: modification of order and case management plan will be worked out, with waiving of arrears linked to maintenance of current payments.
New Jersey	Recent case law favors modifying an order when an NCP is incarcerated. Some judges establish order at minimum level.
North Carolina	Statute allows obligation to be suspended when obligor is not participating in a work release program and has no resources from which to pay support [N.C. Gen. Stat. § 50-13.10(d)(4)].
Ohio	County policies vary regarding modification for NCPs in prison with obligations. Some may set a minimum order and establish an income assignment. Others may deny a request for modification. Statute requires that 25% of any money earned in prison or jail by NCP be applied to the child support obligation [O.R.C. § 5145.16].
Oregon	Developing a rule to set the order amount for incarcerated NCPs at \$50.
South Carolina	State statute requires DOC to remit 35% of the obligor's wages to child support obligation [S.C.St. § 24-3-40].
Utah	State policy permits arrearages accrued during incarceration to be discharged if the obligor pays CSO and assessed arrears for 12 consecutive months. This policy will be rescinded this year.
Wisconsin	When an order is set for an incarcerated NCP, the guidelines will base the order on 17% of the gross income.
Colorado	No state policy. Counties vary in treatment of incarcerated obligors. New statute allows CSE to issue administrative liens and attachments of up to 20% of bank accounts of incarcerated obligors [C.R.S. § 26-13-122.5].

Creating policies for working with incarcerated obligors is not an easy task. It is possible that within a state, the courts, the legislature and the agency hold conflicting views on the topic. For example, a bill passed by the Virginia Legislature in the 2000 session exempts establishing the presumptive minimum child support obligation of \$65 for imprisoned parents if they lack sufficient assets or “are otherwise involuntarily unable to produce income” [§ 20.108.2, Code of Virginia]. According to the respondent, the basis for this amendment to the child support guidelines was the realization by the guidelines review

committee that NCPs were being released from prison with unmanageable arrearages. On the other hand, the courts of Virginia often view incarceration as voluntary unemployment and ordinarily do not modify orders already established when the obligors enter prison.

Some states have developed effective ways of learning when an obligor is in prison, such as regular automated matches between the DOC population and the child support caseload. Other states, however, rely on the CP or the incarcerated obligor to inform them. Certain states have case law finding the incarcerated NCP to be "voluntarily unemployed" or voluntarily taking a reduction in income, and therefore not eligible for an order modification [*Topham-Rapanotti v. Gulli*, 289 N.J.Super. 626, 674 A.2d 650 (1995)]. According to several respondents, child support staff in their respective states object to implementing formal activities designed for incarcerated obligors on the grounds that it is "special treatment" that ordinary low-income NCPs are not given.⁴

Other agencies, however, take a more pragmatic approach and are exploring ways to increase the collections and/or curb the growth of arrears for this population. In some cases, the state is looking at ways to encourage modification of orders of obligors in prison. Massachusetts is exploring the feasibility of establishing a reserve order while the NCP is in prison in order to avoid the buildup of arrears. Still others are interested in wage withholding, even if the amounts collected are minimal, as a way to get the NCP into the pattern of monthly payments.

Colorado has been a leader in exploring policies for incarcerated parents. It recently enacted a law requiring that 20 percent of all deposits into an inmate's bank account be deducted and paid toward restitution and/or child support [C.R.S. § 26-13-122.5]. As part of a demonstration project conducted for the Federal Office of Child Support Enforcement, several counties are currently inviting incarcerated NCPs to request a review and adjustment and assessing the response of inmates to such offers, as well as the workload impact of the process for child support agencies and the modification activity that ensues. As part of another demonstration project, Colorado collaborated with its Department of Corrections to establish a one-stop reintegration center that offers paroled and released offenders assistance with child support, in addition to employment and family reintegration,

⁴ For a more detailed treatment of child support policies for incarcerated parents, see "Survey of State Child Support Policies, Programs and Procedures for Incarcerated Parents" by Esther Griswold, Jessica Pearson and Christine Allison, September, 2000. Prepared for the Colorado Department of Human Services.

with the objective of reducing recidivism and promoting the payment of child support (Pearson and Davis, 2000). Evaluations of these activities hopefully will add to national understanding on how incarcerated obligors should be treated to promote responsible behavior without contributing to recidivism.

Approaches to Minimizing Arrears

Most respondents feel the culture of child support has changed. As one respondent put it, "Fourteen years ago our motto was 'Pay up or die.' Now it is 'Fathers count.'" In many states, the change in attitude reflects a nuanced understanding that obligors with arrears are not all the same and that powerful enforcement remedies may not be effective with certain populations of NCPs. As a result, states are testing different approaches to encourage regular payments and contain the growth of arrears. Table 5 presents a variety of approaches states have developed or are testing to promote the payment of current support among NCPs who do not or cannot respond to regular enforcement treatments. They include incentive programs, referral to employment programs, and forgiveness or debt compromise programs.

Incentive Programs. One approach to controlling arrears involves offering obligors incentives to make regular payments or pay off their past due support. This is an approach adopted in Massachusetts, Minnesota and West Virginia, where obligors with arrears who pay their current support and/or their arrears within a designated time period are not assessed interest and penalties. Another type of incentive to encourage payment is the suspension of prosecution or other types of aggressive enforcement activity. For example, in 1997, Virginia offered delinquent obligors 30 to 45 days in which to contact their child support office and arrange a payment plan in exchange for suspending prosecutorial activity. Those who neglected to come forward or make payment were targeted for aggressive enforcement activity, including arrests, summonses and car boots. Oregon also suspends contempt actions for those who participate in a pilot Welfare-to-Work/Non-Custodial Parent Project. As an incentive, it also offers project participants who begin to make child support payments rent subsidies for six to nine months.

Employment Programs. Recognizing that many obligors with large arrears may lack employment, job skills, and training, IV-D agencies are now being encouraged to support Welfare-to-Work (WtW) and other job programs that assist with training and employment and to collaborate with state agencies and other organizations to make WtW services available to noncustodial parents (OCSE, 2000). In addition, in several states, the federal

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Office of Child Support Enforcement has sponsored both the conduct and evaluation of “responsible fatherhood” programs offering a variety of services to low-income, noncustodial parents in order to promote their financial and emotional involvement in the lives of their children (Pearson, Thoennes, Price and Venohr, 2000).

Little outcome information is available on the effectiveness of job programs with low-income, underemployed or unemployed obligors. The most substantial research to date comes from the Parents’ Fair Share (PFS) Demonstration Project. PFS, a long-running, multi-site project, offered lowered child support obligations to NCPs who participated in a multi-faceted intervention that included employment and training, along with peer support and parenting education. Although the number of parents who paid support during the project increased somewhat (4.5 to 7.5%), and the average amount of support paid by a parent increased, the project did not see consistent increases in employment and earnings (Doolittle, *et al.*, 1998). Only the “less employable” — those without a high school diploma and little recent work experience — experienced an increase in work and wages as a result of PFS (Martinez and Miller, 2000).

The more recent programs stressing jobs and responsible fatherhood often require that CSE collaborate or partner with a variety of community-based organizations and public agencies. In some cases, temporary suspensions of current support orders or reduction of arrears are used as “carrots;” in other cases, the threat of contempt proceedings is used as a “stick” to encourage participation.

For example, the Fathering Court Program of Kansas City, Missouri, tries to address the problems of non-paying obligors through case management, services and training. Directed by the county CSE prosecuting attorney, this small, diversionary program is offered to NCPs as an alternative to filing criminal charges for non-support. Each case is monitored by a commissioner, who works closely with the case manager to set out short-term and long-term goals for the obligor. The program uses child support modifications to generate orders that fit the circumstances of the obligor. In addition, participants receive training and employment services, as well as those needed to address their “root problems,” such as alcoholism and drug addiction, health and learning disabilities, and lack of organizational skills.

The Fatherhood Outreach Program operated by the Marion County Prosecutor’s Office may lower participants’ child support orders while they participate in the program’s training regimen. Iowa also offers deviations from the guidelines and frequent modifications of support obligations to participants in its Fatherhood and WtW programs.

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Colorado has several programs that offer job services for low-income, noncustodial parents who are delinquent in their child support payment. The Parent Project, conducted by Larimer County, offers parenting classes and employment help, and avoids the generation of arrears by paying the child support obligation of participants during their successful participation in the project. The Parent Opportunity Program of El Paso County, an OCSE-funded responsible fatherhood program, uses temporary suspensions of monthly support during project participation to help NCPs find employment and obtain training, but unpaid support amounts are credited toward arrears. As previously noted, Colorado has also collaborated with its Department of Corrections to create a one-stop service center offering paroled and released offenders assistance with employment and child support, including suspensions of monthly child support for up to 60 days, assistance with modifications, reinstatements of driver's licenses and suspensions of automated enforcement activity during project participation.

Although responsible fatherhood programs have become more popular in recent years, they are by no means prevalent. According to a recent study by the OIG, "few sampled child support agencies formally link with job programs" and "noncustodial parent participation in such programs is minimal" (OIG, 2000).

Forgiveness and Debt Compromise Programs. Federal policy distinguishes between arrears owed to the custodial parent and arrears owed to the state for repayment of public assistance. Although the Bradley Amendment does not allow child support orders or arrears to be modified retroactively [42 U.S.C. § 666(a)(9)], states can compromise debts owed to the state.

Approximately half of the states interviewed allow for debt compromise of state-assigned arrears when it is "in the best interest of the state," and/or have an informal policy of forgiving a portion of arrears when circumstances warrant it, such as a lump-sum payment. Respondents explained that in all cases, the consent of the CP is needed in order to forgive arrears or interest owed to the family. However, several states — Alabama and Indiana for example — do not allow for the waiver of child support, arrears, or interest by either the CP or the child support agency.

Perhaps the most widely advocated and adopted forgiveness policy deals with state arrears owed by low-income parents who marry or remarry (OCSE, 1999; Roberts, 1999). Minnesota, Vermont, Iowa and Washington have all implemented policies that allow for the suspension of arrears collection if a family reunites. In Minnesota, the NCP must request the suspension annually.

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Measures to forgive arrears among a broader group of obligors are rarer. A California measure to forgive arrears for obligors who owed \$5,000 or more and remained current with “all future obligations owed” was passed by the legislature but vetoed by the governor. More commonly, forgiveness programs are limited to participants in responsible fatherhood or WtW programs who adhere to specific payment conditions. For example, the Iowa Satisfaction to Support program allows for various amounts of state-owed arrears to be forgiven when a participant pays his total monthly support order for different lengths of time: 15 percent for 6 consecutive months; 35 percent for 12 consecutive months; and 80 percent for 24 consecutive months.

Maryland’s State-Owed Debt Leveraging Plan also waives debt for participants in three community-based programs that provide counseling, job search and placement services. Program participants may have up to 25 percent of their state arrears credited; those who pay their current support for 12 months receive an additional credit of 40 percent; and those who pay fully during months 13 to 24 have 100 percent of their state-owed child support debt waived.

Minnesota perhaps goes the furthest in forgiving debt for participants in its WtW program by offering 100 percent forgiveness of state arrears to those who successfully participate for 12 months.

Oregon adopts a different approach to debt compromise by offering unemployed obligors the opportunity to work off part of their arrears by performing community service. And Washington has created a Conference Board to handle write-offs of state debt and other accommodations of the child support program on a case-by-case basis.

Debt compromise and arrearage forgiveness policies are clearly in their infancy. The survey conducted by the OIG concluded that “most sampled States will not reduce debt owed to the State by the noncustodial parent except in rare cases” (OIG, 2000: 3). To spur states to consider debt compromise as a mechanism for facilitating the routine payment of support, the OIG urged OCSE to support research aimed at assessing the effectiveness of debt-reduction for low-income parents in exchange for the regular payment of monthly support orders and for reunified families. It is relevant to note that under a current demonstration and evaluation grant, two counties in Colorado are currently offering to forgive state arrears in current or former TANF cases in exchange for making regular payments over a ten-month period of time. A similar opportunity will also be available to paroled and released offenders who receive services at its one-stop reintegration center.

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Table 5: Selected Programs and Policies for Obligor to Promote the Payment of Current Support and/or Reduce Arrears

California	Pilot projects in seven counties, similar to the PFS program, work with unskilled NCPs to help them become employed. In some cases, the MSO is reduced, or the arrears to be paid each month is reduced. Assembly Bill No. 1995 was passed but vetoed by the governor. It would have provided a one-time, six-month amnesty program for obligors with arrears over \$5,000 owed to the state. Under this plan, all or a portion of arrears would have been forgiven had obligors remained current with “all future child support obligations owed.” A payment lapse of 60 days would have led to the reinstatement of all state-owed arrears and interest.
Indiana	The Fatherhood Outreach Program operated by Marion County Prosecutor’s Office partners with 30 service providers and training programs. During project participation, obligors may experience a lower child support order.
Iowa	Satisfaction to Support, a pilot program begun in October 2000, offers incentives to participants in Fatherhood and Welfare-to-Work programs. These incentives include deviations from the guidelines, modification of support obligations without regard to the two-year criteria and/or partial satisfaction of arrearages owed to the state. The “satisfaction” rules call for various amounts of state-owed arrears to be forgiven when a participant pays his total current support order for different lengths of time: 15% for 6 consecutive months of payment; 35% for 12 consecutive months and 80% for 24 consecutive months. There are severe penalties for missing a month of payment and each incentive can only be earned once.
Maryland	Initiation of pilot State-Owed Debt Leveraging Program in July 2000. NCPs who successfully participate in one of three community-based programs that provide counseling, job search and placement services may have up to 25% of their state arrears credited. Those who subsequently pay their current child support for 12 months receive an additional credit of 40%. Those who continue to fully pay during months 13 to 24 have 100% of their state-owed child support debt waived. There are penalties for those who fail to make full monthly payments and those who fail to pay fully for three non-consecutive months lose their eligibility for any credit.
Massachusetts	A policy that rewards obligors for keeping current. For those people with large arrears, if they pay the MSO for one year plus a small amount to reduce arrears, they will not be assessed interest and penalties.
Minnesota	Statute permits NCP to petition the court after 36 months of payments of current support and court-ordered arrears without lapse to ask that interest be forgiven. State law allows suspension of collection efforts for state-assigned arrears when the parents marry or remarry. Family must request this stay of action annually. Vermont, Iowa, and Washington have similar forgiveness or debt compromise programs for families re-uniting. Minnesota is finalizing a non-statutory debt compromise policy whereby NCPs who pay 75% of their arrears receive a 25% write-off. The 25% forgiveness is contingent on continued payment of monthly support. Participants in a Minnesota responsible fatherhood program (WtW) for low-income NCPs may receive 100% forgiveness of state arrears subject to successful program participation for 12 months.

Table 5: Selected Programs and Policies for Obligor to Promote the Payment of Current Support and/or Reduce Arrears

Missouri	<p>The state-operated PFS program combines employment with temporary reductions in monthly support and forgiveness of state debt for those who sign an agreement. Active PFS participants may receive temporary reductions in monthly support with steady increases to reach full support levels and unpaid amounts credited toward arrears. Those who sign an agreement, remain employed and make full child support payments for six consecutive months after leaving the program may receive forgiveness of up to 50% of their state-assigned arrears. Another 40% can be forgiven if participant makes full monthly payments for a year. Few NCPs sign up for the state debt forgiveness program since Missouri does not issue state debt in administrative orders. The Fathering Court Project of Kansas City is a diversionary and rehabilitative program that combines employment with case management but offers no temporary payment plans or debt forgiveness.</p>
Oklahoma	<p>Statute permits DHS to periodically offer an amnesty program that "may forego . . . accrued interest" for obligors with past-due support who pay by a certain date.</p>
Oregon	<p>The Welfare to Work/Non-Custodial Parent Pilot Project involves the Office of Support Enforcement Division, the Adult and Family Services Division (Oregon's TANF agency), and a number of community agencies and service providers. Obligor who meet the criteria and begin to make payments are eligible for rent subsidies for six to nine months. When employment barriers exist, the obligor will be assigned to a case manager who will make appropriate referrals. Entry into the program is offered as an alternative to contempt proceedings. In another pilot project, unemployed obligors are allowed to work off part of their arrears by performing community service work. The obligor can work up to 20 hours a week for community agencies, learn work skills, and receive credit against arrears at the rate of Oregon's minimum wage.</p>
Virginia	<p>In 1997, Virginia offered a 30- to 45-day amnesty program. Letters were sent to 57,000 obligors who owed at least \$500 in back support or had not made a payment in 90 days, encouraging them to arrange a payment plan with their child support office. Otherwise, their case would be referred to court, and the nonpaying NCPs risked arrest and jail time. CSE reported that more than 13,000 NCPs who received letters responded, paying or making arrangements to pay, with payments totaling \$6.8 million. This window of opportunity was followed by a series of "roundups" of obligors who did not respond to the letter. Enforcement tools included arrests, summonses, and the use of pink or blue boots to disable the cars of delinquent NCPs.</p>
Washington	<p>Intended to be an informal opportunity to deal with child support grievances or actions taken, the Conference Board can be requested by any parent or the agency. The Conference Board has authority to write off a percentage of child support debt, accept lump-sum payments, and resolve disputes. In a contempt diversion program, the county prosecutor offers obligors with arrears who meet the criteria the opportunity to enter an employment and training or job search program in lieu of facing contempt charges for not paying arrears.</p>
West Virginia	<p>An incentive program for all obligors with arrears, in both public assistance and non-public assistance cases, was recently enacted. If an obligor can pay total arrears within 24 months, the interest that ordinarily would accrue will be forgiven. However, if the obligor can't meet the requirements, then he or she must pay the interest.</p>

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Table 5: Selected Programs and Policies for Obligor to Promote the Payment of Current Support and/or Reduce Arrears

<p>Colorado</p>	<p>Parent Project conducted by Larimer County pursuant to a federal demonstration/evaluation grant refers unemployed, underemployed NCPs for parenting classes and employment help and avoids the generation of arrears by paying their child support obligation during successful project participation. The Parent Opportunity Program of El Paso County, an OCSE-funded Responsible Fatherhood Program, uses temporary suspensions of monthly support during project participation to help NCPs find employment and obtain training, but unpaid support amounts are credited toward arrears. Mesa County refers NCPs owing \$10,000 to \$30,000 to a WtW program, where they receive individualized job services. The child support agency waives interest charges during project participation for those who agree to pay current support. Pursuant to a new OCSE demonstration grant, selected Colorado counties will forgive state arrears in current or former TANF cases on a pilot bases.</p>
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Treatment of Arrears by Other Entities

Child support agencies are similar to the Internal Revenue Service and public utilities companies with regard to their customer population. Unlike private financial institutions, child support agencies are not permitted to select customers based on their previous payment history. Therefore, it is instructive for child support agencies to see how similarly situated tax agencies and utility companies handle the problems of nonpayment and arrearages. Table 6 provides summaries of relevant studies conducted for utility companies, the IRS and two other child support agencies.

Table 6: Results of Studies Conducted for Other State Child Support Agencies, Utilities, and IRS

<p>Colorado Arrearage Management Project, 1995 (for Public Service Company of Colorado)</p>	<p>The project compared impacts of three treatments for customers with debt: (a) arrears forgiveness if customer paid current bill, (b) “weatherization” and arrears forgiveness, and (c) consumer credit counseling and arrears forgiveness. Results included: C forgiveness in any combination had little effect on arrearage reduction; but C fewer shut-offs were made and fewer shut-off notices were issued, indicating an increase in the number of times customers were current in payments.</p>
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Table 6: Results of Studies Conducted for Other State Child Support Agencies, Utilities, and IRS

<p>Affordable Rate Pilot Project, 1996 (for Public Service Company of Colorado)</p>	<p>Project tested reducing monthly bill of low-income customers, and reducing the past due amount by 1/24 each time the bill was paid in full and on time. Results showed:</p> <ul style="list-style-type: none"> C 60% of households, mostly composed of younger and larger families, failed to pay regularly and were dropped from the program; C the remaining 40%, primarily smaller households of seniors, had fewer delinquency notices and paid more regularly than the control group; C participants owed lower average arrears at the end of the project.
<p>Win-Win Alternatives for Credit & Collections, 1995 (for Public Service Corporation, Wisconsin)</p>	<p>A Wisconsin utility company conducted a survey of customers with arrears, altered its policies and analyzed the results. Findings included:</p> <ul style="list-style-type: none"> C 12% could pay and would respond to threats of disconnection; C 88% wanted to pay, but lacked resources and/or skills to do so; C disconnection did not produce payments if customer lacked resources; C reducing disconnections did not increase arrears. <p>The company expanded its credit and collections department to include social workers to work with low-income or low-skilled customers. Similar to case managers, these workers provided budget and decision-making counseling, crisis intervention, and links to community resources.</p>
<p>Measuring LIHEAP's Results: Responding to Home Energy Unaffordability, 1999 (for the Low-Income Home Energy Assistance Program)</p>	<p>People involved with the delivery of low-income energy assistance were surveyed regarding the response of their clients to the inability to pay their home energy bills. Reports of counterproductive actions (using rent money to pay utilities bill) and quality-of-life degradation actions (doing without heat altogether) prompted analysts to conclude:</p> <ul style="list-style-type: none"> C meeting short-term payment needs may push a person into a series of harmful decisions; C an exclusive focus on bill payment does not help the customer engage in constructive responses to the financial situation; C how a bill gets paid is as important as whether a bill gets paid.
<p>Overview of Impact Evaluation of the AffordAbility Plan, 1997 (for Niagara Mohawk Power Corp of New York 1997)</p>	<p>Niagara Mohawk Power Corp. offered low-income customers with arrears a program that included "weatherization," energy-use management workshops, and an arrears forgiveness program tied to regular payment of a negotiated "maximum partial payment affordable." Evaluation after a year found that:</p> <ul style="list-style-type: none"> C 70% of enrolled customers stayed with the program for a full year; C total number of payments for all participants increased from an average of 6.3 payments (for the prior year) to 10.5 for the year; C the total dollars from negotiated affordable payments was greater than the total from sporadic larger payments made during the prior year.

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Table 6: Results of Studies Conducted for Other State Child Support Agencies, Utilities, and IRS

<p>Composition and Collectibility of Unpaid Assessments, IRS 1998</p>	<p>The 1997 unpaid assessments of the IRS totaled \$214 billion, of which only 13% was deemed "collectible" by the GAO, based on:</p> <ul style="list-style-type: none"> C evidence of regular payment, C the ability or willingness of the taxpayer to pay, and C the newness of the debt (the likelihood of collection decreased from 81% during the first year to 28% if the debt was three to five years old). <p>The GAO report found payment behavior was linked to whether the taxpayer agreed to the amount owed. Responding to this analysis, the IRS adopted the Restructuring and Reform Act of 1998, which reduces penalties by half for taxpayers making regular payments on their debt. No evaluation of this forgiveness program is available at this writing.</p>
<p>Research on Child Support Arrears in Maryland, 1998</p>	<p>This OCSE-funded study divided the arrears into ten obligor profile groups, and examined the "net collectibility" (is the cost of collection higher than the collectible amounts?) of some categories of arrears. Highlights of findings were:</p> <ul style="list-style-type: none"> C arrears more than four years old are "virtually uncollectible"; C perceptions of poor customer service lead to lower payments; and C there is a strong link between visitation and payment of arrears. <p>Recommendations include:</p> <ul style="list-style-type: none"> C the development of a "formal accounting methodology" for understanding the nature and age of arrears; C reassignment of staff to activities with a likelihood of increasing collections; and C contracting with private collection agencies that would bid "for the right to collect various categories of debt."
<p>Overcoming the Barriers to Collection, Washington State, 1999</p>	<p>This study was funded by OCSE to identify ways to improve collections on hard-to-collect cases. From a sample of 3,937 open IV-D cases with more than \$500 in arrears and no payment within the preceding six months, the project found three major barriers to collection:</p> <ul style="list-style-type: none"> C prevalence of NCPs with multiple cases; C a high number of NCPs recurrently on public assistance or SSI; and C an "extraordinary" number of NCPs (30.6%) with corrections records. <p>A Special Collections Unit was formed; the stepped-up collection activities of this unit produced 9.2% higher payments from the treatment groups than from the control groups. Payments by treatment groups for assigned arrears only cases and non-assistance cases was significantly higher than by control groups. However, there was no difference in the collection results of treatment and control groups of current assistance cases. Recommendations emerging from the project include:</p> <ul style="list-style-type: none"> C use internal special units for collection efforts from discrete subgroups (arrears only cases, for example) and forego private collection agencies; C expand the criteria for case closures and shorten the statute of limitations on child support debt; and C adopt the Best Practices for improving collections that came out of the project (for example, accepting all payments regardless of amount, being reasonable and empathetic, and developing win-win situations).

The studies by utility companies centered on low-income customers with sizeable arrears, and sought to promote current energy payments through a variety of techniques: arrears forgiveness, rate reductions, educational components, and case management (Browne, 1995; Browne, *et al.*, 1996; Grosse, 1995; Response Analysis Corporation, 1997; Colton, 1999). The following critical points emerged from the evaluations:

- 3 A certain percent of customers (approximately 12%) with arrears will pay when threatened with disconnection.
- 3 There is a population of low-income customers who cannot respond to threats to shut off the power because they simply do not have the money to pay their past due bills. For this population, disconnection or threats of shut-offs do not produce payment.
- 3 A case management program using social workers provides benefits to the customer, individual departments within the utility, and the utility as a whole by providing relevant counseling and referrals for the customer, resulting in a reduction in the number of disconnections and cases of fraud.
- 3 Programs judged to be successful are those that reduce the number of shut-off notices and disconnections (*i.e.*, expenses to the utility), and increase the number of on-time payments (partial or full) made by customers.

The IRS study (GAO, 1998) and the studies conducted for child support agencies in Washington (Peters, 1999) and Maryland (Conte, 1998) examined the collectibility of past due debts. One of the most important findings of the Maryland and IRS studies is that collectibility is related to the age of the debt. According to the analysis of child support arrears in Maryland, payments on arrears decrease by 24 percent each year, suggesting that arrears older than four years are "virtually uncollectible" (Conte, 1998: 13). The IRS study found the likelihood of full or partial collection decreases from 81 percent to 28 percent after three or more years (GAO, 1998: 20).

Another critical issue for child support agencies is the phenomenon of multiple cases. According to the Maryland study, the presence of multiple cases is associated with a decline of 13.6 percent in the payment of current support orders (Conte, 1998: 11). The Washington study found that close to half of the NCPs in its sample of hard-to-collect cases had multiple open cases (some individuals had as many as seven open cases). But according to the Washington analysts, current support amounts set for individual cases did not seem "to show adequate sensitivity to the number of other cases" of these NCPs

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(Peters, 1999: 74). Not surprisingly, as totals for monthly child support orders increased (for NCPs with multiple orders), so did arrears totals.

These findings suggest that agencies may need to design new approaches for certain populations that differ radically from the usual enforcement remedies. During the Washington project on hard-to-collect cases, for example, the Special Collections Unit workers found that building rapport with NCPs — by recognizing their income limitations, by showing a willingness to negotiate, and by accepting partial payments — could bring about regular (albeit small) payments (Peters, 1999). Similarly, the Wisconsin Public Service Corporation hired people with a background in social work to work with the "more difficult credit cases" (Grosse, 1995). The new staff were expected to link these customers with community resources, provide budget counseling and crisis intervention, and teach customers problem-solving skills. These measures are consistent with the growing sentiment in the child support community that there are many different types of non-paying obligors and that agencies need to better match their response to the cause of the non-payment problem.

Strategies to Contain the Growth of Arrears

From 1993 to 1997, while the caseload for Colorado CSE grew by 13 percent, accounts receivable increased by 51 percent. While some increase in arrears is a simple result of growth in the number of child support cases being worked, this is clearly not the whole story. Many of the respondents feel that they need to supplement their enforcement policies with some treatments that recognize the particular difficulty that child support poses for low-income parents. As one individual commented, "Like most other states, I believe we suffer from a small percentage of our caseload having a huge percentage of the arrears."

When asked to reflect on policies and practices that appear to generate accounts receivable in their state, several individuals listed state laws or procedures that were developed when caseloads were small and manageable. The lengthy statute of limitations on collecting past due support and the exceedingly slow process to close cases with arrears were two examples given. Other respondents noted that there are conflicting factors contributing to the phenomenon. For example, one state has deliberately set high guidelines and fairly high order amounts that result in more collections for families, but also generate more arrears. An interviewee from another state talked about arrears that are "not real," created by the combination of restrictive federal rules for case closures and the state's lack of a legal age of emancipation. Another argued that the major culprit in creating

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arrears is — despite the vast child support system in place — the lack of stigma for not paying child support.

Finally, respondents cited the many factors that have been identified in the recent OIG study on state policies to establish child support orders for low-income noncustodial parents: routinely charging noncustodial parents for retroactive support; charging parents for support back to the child’s date of birth regardless of the amount of time passed; imposing other front-end charges for birth costs and paternity tests; imputing income at unrealistic levels when the noncustodial parent is unemployed or income is unknown; refusing to reduce debt owed to the state no matter what the circumstances are; and failing to link noncustodial parents with job programs and other services aimed at improving their capacity to work and earn (OIG, 1999).

While our interviews tended to focus on ways of addressing arrears once they have developed, preventive strategies are also relevant, especially those dealing with adjusting state child support guidelines for low-income parents. Although 35 states have minimum support orders (typically \$50 per month) and 40 states have a self-support reserve (typically \$600 to \$700 net per month) that they subtract from NCP income before the order amount is calculated, many states have not modified these provisions to keep up with changes in the poverty level. Another limitation of low-income adjustments is their interaction with other factors like imputed income, the child’s medical expense, childcare and shared parenting adjustments (Venohr, 2001).

Timely review and adjustment of child support orders is another preventive strategy that bears noting. With the elimination of the requirement to review all public assistance orders at least every three years, 35 states have discontinued the triennial review and modification depends entirely on parent request. According to a recent study of state approaches to review and adjustment, unless states develop other systematic methods to initiate case reviews and inform parents of these rights, most noncustodial parents will fail to pursue modifications when their circumstances change leading to the possible accumulation of unnecessary arrears (OIG, 1999).

Table 7 presents the factors interviewees listed as contributing to the accumulation of child support arrears. The table also identifies the steps some agencies have taken to address the problem.

Table 7: Strategies States Use to Minimize Accumulation of Arrears

Factors Listed as Contributing to Arrears	State Practices Developed to Address Factors
<p>Unreasonable imputation of income, or establishing a default order that is higher than the NCP can pay.</p>	<p>Iowa changed the basis for imputing income on default orders from the Iowa Household Median Income to the IV-D average net income amount. Child support administrators predicted that a lower median income base would encourage low-income NCPs to pay their obligations on time.</p> <p>Milwaukee County, Wisconsin, uses "held-open orders" when information on the earning capacity of the obligor is missing, which means the agency establishes a support order without an amount until workers can verify the employment of the obligor.</p> <p>Washington implemented the "Revisiting Default Orders that Set Support Obligations" policy, which provides a range of acceptable reasons for a person claiming "good cause" for not responding to a notice or appearing at a hearing, and for requesting another hearing. It also allows the obligor to petition to vacate the default order.</p>
<p>Guidelines do not recognize the financial barriers faced by the low-income population of obligors.</p>	<p>Connecticut's recent guidelines review and adjustment process established that every obligor gets an order, but the amount can be as low as \$10. Iowa's guidelines committee has recommended increasing the base net income from \$500 or below to \$800 or below for the \$50 minimum order.</p>
<p>It takes a long time from the date of filing to establish an order.</p>	<p>Several states explained they have developed a rapid process for establishing an order. Iowa has tightened the time-frames for getting documents sent to and returned from CPs and NCPs, so "obligors don't start out already behind in their payments" when an order is established.</p>
<p>Defining retroactive support as arrears.</p>	<p>In New Jersey and Wisconsin, past support is set as a judgment, but it is not considered child support arrears (and does not bear interest in Wisconsin) unless the monthly back support order is past due.</p>
<p>The time-frame for retroactive support is not limited.</p>	<p>Most states limit the length of time for retroactive support; the range is from the date of filing to five years prior to the date of filing.</p>
<p>Some obligors do not seek modification of their orders when circumstances change.</p>	<p>Oregon has programmed flags into the automation system that alert the worker when an obligor's payment patterns have changed, and workers are encouraged to be proactive in contacting NCPs who begin to fall behind. Fatherhood programs in several states abate or reduce MSOs during project participation on a temporary basis (e.g., California, Colorado, Indiana, Missouri).</p>
<p>Child support orders do not change when obligors are incarcerated, even though their income usually stops.</p>	<p>While no state automatically modifies child support upon incarceration, Massachusetts is developing a procedure for eliciting modification requests that will be acted upon at release, along with possible adjustment of arrears upon payment of current support. Colorado is experimenting with the efficacy of inviting inmates to request a review and adjustment during incarceration.</p>

Table 7: Strategies States Use to Minimize Accumulation of Arrears

Factors Listed as Contributing to Arrears	State Practices Developed to Address Factors
The state does not have a specific age of emancipation.	New Jersey has a project to send notices to cases where the child is more than 18, telling parties that the case will be closed.
Families that reunite are burdened with child support debt.	Iowa, Minnesota, Vermont, and Washington suspend collection of state-assigned arrears when parents marry or remarry.
There is not a good process for closing cases that are unworkable, or that have old and "uncollectible" arrears.	Washington runs an automated program every few years to clear out cases that need to be closed. Also, workers have the discretion to close cases. The agency audits closures to make sure these cases meet federal standards. The state has a process by which a disaffected parent can file a grievance when a case is closed. Debt compromise is used by several states as a way of handling cases with old arrears, often in settlements involving lump-sum payments.
Child support agencies do not help with child access problems and as a result some NCPs are not motivated to pay arrears or cooperate with the agency.	Several states now offer access and visitation services for clients, maintaining that these encourage some NCPs to meet their obligations. For example, an OCSE-funded demonstration program through the San Mateo County District Attorney's Office offers free mediation services to NCPs who have problems with custody or visitation.
Charging interest on arrears and fees for genetic tests and birthing costs contribute to arrears.	Six of the 20 states interviewed do not charge interest; several of these suggested that not charging interest helps keep accounts receivable lower. Massachusetts has linked interest to an incentive program to keep obligors paying current support, theoretically reducing arrears over time. Minnesota has a statute that allows the NCP to petition the court after 36 months of payments without lapse to ask that interest be forgiven.
There are not enough resources to help unemployed or underemployed NCPs find work.	Although many states have responsible fatherhood and WtW programs for NCPs who are delinquent in making child support payments, the number of programs remains small and rates of referral to such programs are "negligible."
States do not offer incentives to keep NCPs current with obligations and reduce arrears that have little chance of ever being paid.	For Welfare-to-Work and Fatherhood Program participants, Iowa forgives 15% of state-owed arrears for 6 consecutive months of payment, 35% for 12 months and 84% for 24 months. Minnesota forgives 25% for those who pay 75% of their arrears and make regular payments of current support. WtW participants may be eligible for 100% forgiveness of state arrears after 12 months. Maryland offers fatherhood participants credit of 25% on their state arrears for successful program completion. Those who pay MSO for 12 consecutive months receive an additional 35%. After 24 months, the credit goes to 80%.

Conclusions and Recommendations

The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [P.L.104-193], the revisions of the federal incentive system for state IV-D programs, and the national interest in programs fostering responsible fatherhood have changed the landscape for child support agencies. Along with getting more powerful enforcement and locate tools, such as Driver's License Suspension and the National Directory of New Hires, agencies are being encouraged to develop partnerships with service providers and test programs designed for low-income NCPs who lack job skills and work experience. With the new incentive regulations, they will be measured on how well they do collecting current support and stimulating at least some partial payment of past-due support.

Child support workers are now more open to the idea that there are different categories of obligors with arrears and that treatments can be shaped to fit the characteristics of each group. According to one of the respondents, "With much of our caseload (*i.e.*, those families on TANF), it is unrealistic to expect large pay backs, and it is unfair to ask us to be cost-effective." This shift in attitude is reflected in the current public discussion on what should be the overriding goal or mission of child support programs: cost recovery, which has been the focus in the past; or developing self-sufficiency for families (Turetsky, 2000).

The management of arrears is necessarily complex. While it is important for states to explore pragmatic approaches to the issue of mounting child support arrears balances, it is equally important that states not create perverse incentives that have the effect of discouraging responsible behavior. As one child support policy-maker writes:

We now hear talk of arrearage forgiveness — a seductive discussion both as an inducement to get future payment and as a way to rid our computers of worthless debts that will only count against us in the new world of performance-based incentives. However, what message does arrearage forgiveness send to the thousands of fathers who pay on time and in full, often at considerable personal sacrifice while they work second jobs and forego vacations and other luxuries — or even second families — often without complaint but because they recognize their paramount duty to their children? (Smith, 2000).

While there is clearly no magic formula to curb the growth of child support arrears in Colorado, there are steps Colorado can take to address the problem and bring it in line with policies adopted in other states.

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3 Encourage alternatives to income imputation.

Eleven percent of Colorado cases with arrears have default orders. Colorado counties should be discouraged from using imputed income to establish awards for noncustodial parents who do not appear at administrative hearings or court. While it is appropriate not to reward noncustodial parents who are irresponsible and fail to appear or provide information, research shows that imputing income and generating high orders to “get the attention of NCPs so they come in and talk” generally fails to work. Counties should be encouraged to devote time and attention to obtaining income information, including using the information available in the National Directory of New Hires. If it proves to be impossible to identify actual income in order to establish a child support award and it is necessary to impute, Colorado should consider using a more realistic standard than the minimum wage, such as average net income for the IV-D population.

3 Limit the amount of time for which noncustodial parents are subject to debt/retroactive support charges.

Unlike most states that limit the number of years for which they can assess past support, county child support units in Colorado have the discretion to seek it and to go back to the date of the child’s birth, no matter how much time has passed. Two other states in our survey can also assess past support back to the date of birth of the child. However, Ohio limits its past support to public assistance cases, and Massachusetts reported it rarely seeks back support. Most states limit retroactivity to two to five years from the date of application for services. Most (37%) Colorado cases with a balance of \$1,500 or more owe debt or retroactive support. Colorado would be wise to consider capping retroactivity.

3 Develop a systematic way of eliciting requests for review and adjustment among incarcerated obligors.

A Washington state study suggests that up to 30 percent of obligors with debt have a DOC history. Although Colorado is testing the efficacy of inviting incarcerated noncustodial parents to file a written request for review through direct mailing techniques and developing a Handbook for Incarcerated Parents that includes an explanation of the review and adjustment process and sample forms, preliminary results suggest that manual modification

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procedures are fraught with practical obstacles. Colorado needs to continue to explore ways to reach this population. To more efficiently initiate modification activity, Colorado should explore the feasibility of distributing review and adjustment materials to inmates when they first enter prison at the DRDC reception facility. Colorado should also explore the feasibility of implementing an automated review and adjustment process. Since there is substantial variation among Colorado counties regarding modifications for incarcerated parents, Colorado should also develop a uniform, statewide policy to standardize treatment.

- 3 Expand employment programs for low-income NCPs and refer parents who are delinquent in child support payments to them.

OCSE has urged IV-D agencies to collaborate with community agencies and public sector programs providing employment assistance to low-income, unemployed and underemployed noncustodial parents. Although several IV-D agencies in Colorado have developed or worked with WtW and “responsible fatherhood” programs to promote self-sufficiency and child support payment, these programs tend to be rare and to serve small numbers. More needs to be done to increase the participation of noncustodial parents in WtW and responsible fatherhood programs. Identification and referral of unemployed noncustodial parents to job training are allowable costs for the IV-D agency, as are coordination with the courts regarding compliance, tracking participation and data collection. Even counseling activities that are primarily directed toward accomplishing child support services such as peer support may be eligible for FFP. Colorado should inform county IV-D agencies of policies regarding the availability of FFP and maximize the opportunities available for IV-D agency participation in outreach and referral for work programs. Colorado should also work with the architects of WtW and responsible fatherhood programs to develop child support policies for participants that encourage them to participate and motivate regular payment. This might include deferred collections of support during training, suspensions of automated enforcement activity, and accepting less than the full amount of the state debt for those who participate fully and pay their monthly obligations regularly.

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3 Target some cases for special case management attention.

Colorado should consider replicating Washington State’s Special Collections Unit for hard-to-collect cases. This approach acknowledges the limitations of traditional enforcement remedies with a segment of the low-income population. Workers attempt to generate at least partial payment from these obligors by providing high levels of monitoring, intervention, rapport-building and flexibility. They also refer these individuals to community resources. This is similar to a social work intervention used by the Wisconsin Public Service Company with its more difficult credit cases and reflects a growing sentiment that agencies need to better match their response to different types of nonpayers.

3 Explore limited amnesty, forgiveness and debt compromise programs for low-income NCPs.

Like the IRS, which implemented a debt compromise policy to realize the benefits of receiving payment on a portion of an arrears in order to avoid the cost of enforcement activity over an extended period of time, Colorado may want to reduce or eliminate state arrears balances for some types of cases. For example, several states forgive state arrears for reuniting families. This policy is consistent with newer IV-D goals of enhancing the self-sufficiency of low-income families.

Debt compromise is another area ripe for exploration. To date, Colorado has conducted a small-scale experiment involving the elimination of debt and retroactive support orders in two counties. Two other counties are initiating experiments involving the elimination of state debt in exchange for regular payment over a ten-month period of time, and the Denver Work and Family Center is beginning to experiment with debt forgiveness for paroled and released noncustodial parents. In order to determine whether these policies lead to regular payments of monthly obligations, these efforts need to be thoroughly assessed. New experiments with larger numbers of cases over longer periods of time need to be conducted and evaluated. Colorado should take full advantage of any federally supported grants to test the efficacy of debt compromise and forgiveness, and use the results of these experiments to design policies that reward responsible behavior while acknowledging the realities of low-income families.

3 Implement appropriate case closure procedures.

In the past year, Colorado has addressed the problem of case closure noted in the Auditor's report (1999) by implementing the new federal case closure regulations and providing training on the topic to all county units. Additionally, the child support automated system has been enhanced so that cases meeting certain criteria are closed automatically, and workers have the discretion to begin the process of closure in other cases. Colorado should review these procedures to ensure that they have been properly implemented and, indeed, that counties have not gone too far in closing cases, particularly those dealing with incarcerated parents. Respondents also expressed concerns about federal requirements to open cases that, in their experience, are unworkable and will not produce collections, such as many foster care and Medicaid-only cases. More federal clarity is needed on the rules concerning case opening and closing and their contribution to child support arrears. Colorado should be involved with that dialogue at the national level.

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Appendix A

Interview Guide

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**New Approaches to Child Support Arrearages
Interview Guide, States**

State: _____ Contact: _____
Phone: _____ Position: _____
Date: _____

CSE program is 1 _____ state supervised, county administered 2 _____ state administered

INTRODUCTION: Colorado CSE has a federal grant to study the problem of child support arrearages and to test new approaches to the establishment and collection of arrears. As part of this study, the Center for Policy Research is interviewing a number of states regarding their arrears policies and practices. Your state has been selected as one of those we would like to talk with. The questions presented here are designed to help us learn more about how your state handles arrears.

In your experience, are any of these practices a source of generating arrears?

- ___ a. unreasonable imputation of income when establishing an order?
 - ___ b. establishing default orders
 - ___ c. defining retroactive support or past support (whether owed to the state or the CP) as arrears?
 - ___ d. no limit for the time frame for retroactive support
 - ___ e. charging interest on arrears
 - ___ f. obligors are not informed of arrears
 - ___ g. child support guidelines need review for the low income population
 - ___ h. agency not closing cases with arrears that are old and "uncollectible"
 - ___ i. workers do not respond to requests for review of order amount
 - ___ j. setting an arrears amount when a current order is established
 - ___ k. other _____
-

(1) What is the state policy regarding Income assignment and arrears? Do you require that a certain % of arrears be paid along with income assignment? Explain:

(2) For states that are county administered: do county interpretations of state policies regarding arrears vary, producing different outcomes? If yes, can you give an example?

IMPUTED INCOME

(3) When does your state impute income to NCPs? _____

What is the imputed income based on:

- _____ the parent's earning capacity, defined as _____
- _____ previous work experience
- _____ other (explain)

(4) Does your state limit imputation of income in some circumstances? ___ yes ___ no
What are the circumstances? _____

- _____ NCP is disabled
- _____ NCP is incarcerated
- _____ income of NCP is below a specified level
- _____ other (explain)

DEFAULT ORDERS

(5) When does your state set default orders? What is the standard default order basis? (minimum wage, for example) _____

(6) Do you track payment patterns of obligors with orders set by default vs. set by negotiation? ___ yes ___ no

(7) If yes, what have you learned about payment patterns of obligors with default orders?

ESTABLISHING RETROACTIVE SUPPORT AND ARREARAGES AT TIME OF SETTING THE ORDER

(8) Do your state laws **require** _____ **or allow** _____ that retroactive (back) support and arrears be set?

___ yes ___ no

If no, what is the rationale or philosophy behind not setting back support?

(9) When you set an arrears amount at the time a child support order is established:

Describe the criteria used for setting arrears: (public assistance case? CP requests?)

(a) What is included in back support (fees, for example)?

(b) Do you have exclusions from this policy, such as low-income fathers in public assistance cases? ___ yes ___ no

If yes, what are the exclusions? _____

(c) Does your state allow the retroactive award to be set outside the guidelines, in cases of low-income fathers? ___yes ___ no

If the award would be "unjust or inappropriate?" ___yes ___ no

Other instances? _____

(d) Does your state recognize informal support paid by an NCP before an award was set if the parent can show proof, that could be used to offset arrearages allegedly accrued? ___yes ___ no

(10) Does your state have child support guidelines which exclude certain assistance payments, such as TANF, SSI, GA, or other needs-based assistance, from the definition of "income"?

(11) Does your state:

(a) limit retroactive support liability to a certain number of years?

___yes ___ no If yes, what is the policy? _____

(b) limit support liability for unwed fathers to prospective liability?

___yes ___ no If yes, explain:

(c) prohibit support liability if paternity has not been established within a certain number of years of the child's birth?

___yes ___ no If yes, explain:

(12) Are there state laws to prohibit your state from pursuing support liability when the state has not acted on the case although the father has been available (laches and estoppel)? ___yes ___ no If yes, describe: _____

STATE DEBT

(13) Does your state collect state debt (or repayment of public assistance)?
___yes ___ no. If yes, how is the amount of arrearage determined that is owed for public assistance by the obligor?

(14) Does state policy eliminate state debt if the NCP is a recipient of any means-tested assistance (such as public assistance or SSI)?
___yes ___ no

POLICY VARIATIONS AND THE BRADLEY AMENDMENT

(15) Does state law allow the agency to write off ___ assigned arrears? ___
Non-assigned arrears? (Debt compromise) Explain:

(16) Does your state offer an amnesty or forgiveness program for NCPs with arrears whose support has been assigned to the state? Describe _____
Has amnesty been part of a demonstration project or pilot project? If so, what were the results?

(17) Does your state limit (cap) the amount of arrears which can accumulate?
Describe _____

(18) Does your state have a policy to suspend obligations for incarcerated NCPs?
Describe _____

OTHER POLICIES

(19) Does your state have a policy to write off the arrears owed to the state by low income families that **reunite**? ___yes ___ no. If yes, describe _____

_____ Has this been included in a demonstration project or pilot project? ___yes ___ no.
If yes, what were the results?

(20) Has your state developed **incentive schemes** or programs involving arrears to stimulate payment? (for example, to reduce penalties or forgive arrears for obligors who make regular payments)? ___yes ___ no. If yes, describe: _____

_____ Do you have reports or results on the impact of these incentives?

(21) Describe how and when obligors are notified of their arrears assessments. Could I have a copy of your printed notices? If the NCP has different types of arrears, is he or she notified of this?

(22) How does your state inform an NCP that he or she can request a downward modification of an order? Do you keep records of how many people request modifications, and how many are granted? ___yes ____ no

(23) Has your state made recent changes to your arrears policies, or are you contemplating changes? Discuss these changes. What was the impact?

(24) Has your agency identified the primary practices or policies that generate arrears within your state (interest, for example)? What is the agency's response to arrears?

(26) Describe any other tools or practices you have found to be effective in minimizing your arrears:

(27) In your experience, what would make a difference to NCPs, in terms of making them regular payers?