

Running head: CHILD SUPPORT AND OUT-OF-HOME PLACEMENT

CHILD SUPPORT COLLECTIONS TO OFFSET OUT-OF-HOME PLACEMENT COSTS:  
A STUDY OF COST EFFECTIVENESS

by

Trish Skophammer

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Chair: Carol Becker

Committee members: Kris Norman Major, Roger Skophammer

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### **Abstract**

Families experiencing out-of-home placement (OHP) are in crisis. The fact that a child has been removed from the home means the family has become involved with the child welfare or juvenile justice system. Families that experience OHP are disproportionately poor, and the reasons for OHP often stem from poverty. Because OHP is expensive, and society values parental responsibility, federal and state laws require that parents be referred to the child support system to help offset the cost of OHP through child support collections. This study explores practices around OHP cases in the child support system and adds to the small amount of existing research in this area. Specifically, the study looks at case data from the Minnesota child support program that compares the cost of collections to actual collections to determine the cost effectiveness of current practice. This study also reviews a random sample of cases, gathering data on the income of parents involved and the productivity of the work completed by the child support agency. The final focus of this study is to highlight inconsistent practices employed by child support agencies as well as the complexities of the cases in the random sample. The findings will help educate and inform policy makers about the challenges of current policy and help to establish uniformity and procedures that consider the best interests of the children involved.

**Dedication**

To Maggie

### **Acknowledgements**

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## Chapter 1: Introduction

Susan (*a fictitious name*) called her local child support office with a complaint. She thought there must have been some kind of mistake. She had been receiving \$450 a month in child support payments. The payments supplemented her earnings of \$1,100 per month working as a cashier. She only gets 32 hours per week at most and doesn't have any benefits. But with careful budgeting, she and her daughter, Ashley (*fictitious name*), get by. Susan pays \$900 per month in rent and receives \$176 per month in food stamps. After paying rent, Susan has \$650 to cover utilities and phone, toiletries, clothing, food (the \$176 in food stamps doesn't cover their monthly grocery bill), car insurance, gas, and car repairs. Susan's car is 12 years old and starting to need repairs more often. Susan and Ashley receive medical assistance, which covers all their healthcare expenses. Last winter, Susan had to use emergency assistance to cover her winter heating bills. There is seldom any money left for recreational activities or gifts.

Although Ashley's father pays child support, he does not have regular parenting time with her. He has not seen Ashley for the better part of a year; this is partly because he is busy with his second family and partly because Ashley's social life is disrupted when she goes to her dad's house on weekends. Ashley runs with a group of girls that engage in risky behaviors. Ashley has started to drink and use drugs and has run away from home on several occasions. Her behavior has escalated to the point that she has become involved in the juvenile justice system and has been placed in a behavioral treatment program for six months. Susan agreed this placement is the best option for Ashley, but she wasn't told about the financial implications, or at least she doesn't recall being told. That day in court was very stressful. Susan had grown weary of Ashley's behavior; she had missed a lot of work because of it and had been worried about getting fired. She was looking for relief and didn't fully comprehend everything that happened.



Susan hadn't received her child support payment for the month, and when she called her child support worker she was told that she wasn't going to get a payment because the child support was being redirected while her daughter was in placement. Susan said, "You aren't really going to take my child support are you? I never agreed to that. If you take my child support, I will get evicted, and Ashley won't have a home to come back to. What are my options?"

The tough answer was that Susan didn't have any options. The court order placing her daughter in the group home included a paragraph that said that any existing child support would be redirected to offset the cost of placement. If Susan had known that, she said she would not have agreed to the group home and would have pushed for a different option for her daughter. After the redirection of child support, Susan will have \$200 per month after she pays her rent for the duration Ashley is in placement. Her food stamps will be reduced. If Susan pays only her rent and buys only the bare necessities, she will be able to maintain her home. She may need to use emergency assistance again for the winter heating bill. Ashley's group home is a four-hour drive from Susan's home, thus it will be difficult for Susan to come up with the extra gas money to visit Ashley and participate in the family portion of Ashley's program.

The total cost of Ashley's placement will be \$22,500 if she stays the full six months. The redirected child support will be \$2,634. This is about 12% of the total cost, a drop in the bucket in terms of reimbursing the government's expenses. But out-of-home placement (OHP) is expensive; someone has to pay for it, right? *(The scenario presented here does not represent a specific case. Rather the scenario is typical of many cases and is based on multiple complaints and facts the researcher experienced in her role as manager in a county child support agency).*

## **The Problem**

Federal and Minnesota laws require that when a child is put in OHP, the parents of the child have an obligation to provide financial support to help offset the costs. However, the parents of children in OHP are often financially unable to provide support. In fact, the socioeconomic status of the family can be a primary factor leading to OHP in the first place. Adding support obligations owed to the government creates additional financial hardship. Furthermore, the cost of administering the process to establish and collect these obligations calls into question the cost effectiveness of the existing requirements.

This paper analyzes the current policy of collecting money from parents to offset the cost of their child's OHP, and specifically, using the child support system to do so. The analysis presents a cost-effectiveness perspective. It also highlights inconsistent practices in Minnesota and includes information on the income levels of families. "The product of policy analysis is advice" (Weimer & Vining, 2005, p.3). After a review of literature, a review of current policy and discussions with child support professionals in Minnesota, the advice of the researcher is a call for additional research on the impact to families, the development of best practices, and more concrete guidance regarding referrals to the child support system. Recognizing that OHP is expensive, exploring the role child support may have in cost avoidance and prevention is also recommended. In other words, if using the child support system to collect from parents for OHP is not a good use of taxpayer dollars, can these same taxpayer dollars be used to help at-risk families avoid OHP through increasing paternity establishment and improving collections?

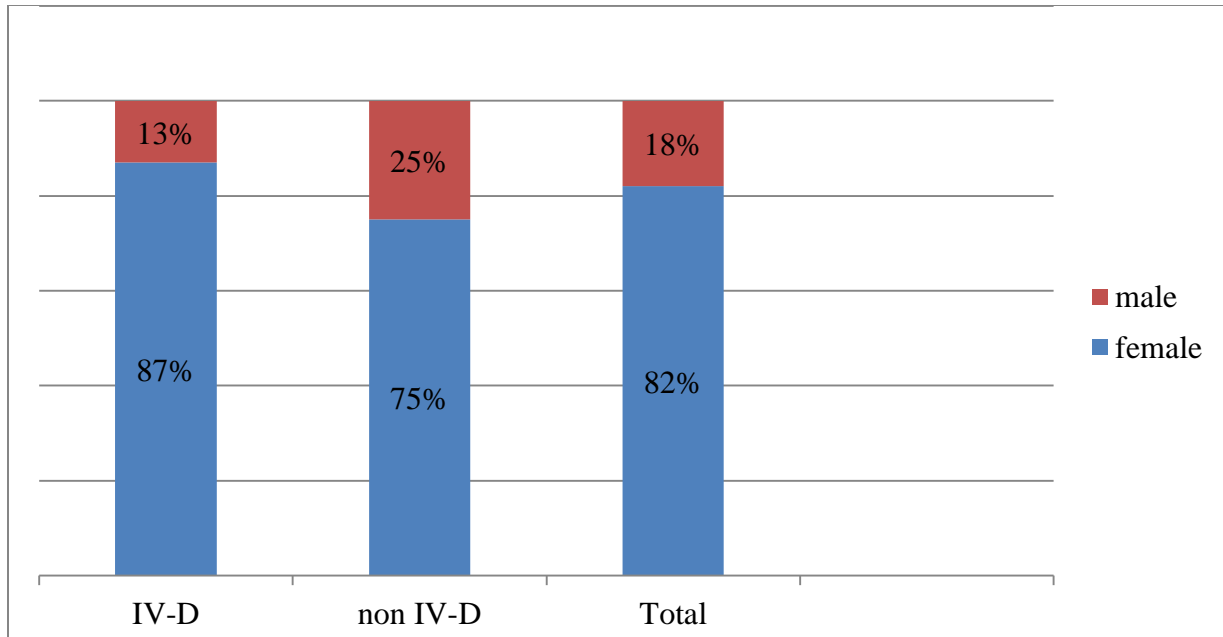
The Social Security Act requires states to provide child support services for children in federally funded foster care. It also requires assignment of the rights to child support to the state, meaning that child support collections are kept by the state and used to offset the cost of OHP

(U.S. Department of Health and Human Services [U.S. Dept. of HHS], 1998; U.S. Dept. of HHS, 2012b; Social Security Administration, 2016). Additionally, Minnesota Statutes 260B.331 and 260C.331 require resources attributable to the child to be used to offset the cost of care for both federally and non-federally funded OHP. Resources attributable to a child include income or assets, such as savings or trust accounts, social security benefits, and existing child support obligations (Minnesota Statute 260, 2016). In addition to the use of the child's resources, parents may be required to contribute and are often referred to the child support program to establish or redirect existing child support obligations to offset the cost of OHP. Minnesota law also provides for collection of the parents' contribution through the laws that govern income withholding for child support and allows for contempt of court action to be used against a parent who does not pay (Minnesota Statute 260, 2016). Before the child support system gets involved, the agency responsible for placing the child in OHP submits a referral to child support. When a case is referred to the child support program, the family enters a confusing and complex process that may not be adequately explained or in the best interest of the children involved.

The primary focus of this research is on the cost effectiveness of using the child support program to collect the costs of OHP from parents. Using data from the Minnesota child support computer system, called Providing Resources to Improve Support in Minnesota (PRISM), this research compares the cost of collections to actual collections to assess the effectiveness of current practices. In addition to the primary focus, this research details the income level of affected parents and provides information about collections. It also highlights differences in processes used by Minnesota counties, which lead to inconsistent treatment and outcomes of families in similar situations, depending on which county is involved.

In addition to the research on cost effectiveness, process, and the circumstances of families involved, the literature review sets this research within the context of the goals of the programs involved and provides a historical overview of child welfare, the juvenile justice system, and the child support program. The literature review also examines the racial disparities and economic status of the families involved.

Several terms are used to identify parents involved in the child support system. The common terminology used by child support professionals is “custodial parent” for the parent with whom the child resides. This parent is sometimes called the “resident parent” and is often the child’s mother. The parent with whom the child does not reside is commonly referred to as the “non-custodial parent” or “absent parent” and is sometimes referred to as the “non-resident parent.” This parent is often the child’s father. For ease of explanation and to avoid potential confusion, this paper will sometimes refer to resident parents as mothers and non-resident parents as fathers. Of course, mothers are not always the custodial parent. As Figure 1 below shows, in 13% of child support cases, the father is considered the custodial parent. For families that may be eligible but are not receiving child services, 25% of fathers are considered the custodial parent. In total, for families with parents residing separately, 18% of fathers are custodial parents (Lippold & Sorenson, 2013). Gender of the custodial parent from the perspective of the number of children rather than the parent shows a slight difference, with 84% of children living with their biological mother, 5% living with their biological father, and 11% living with a third party (U.S. Dept. of HHS, 2015a).



**Figure 1:** Gender of custodial parents, 2010

*Source: Lippold & Sorenson, 2013; U.S. Dept. of HHS, 2015a.*

Roles defined by gender, as well as the common child support terminology of custodial and non-custodial parent, can be offensive and problematic when parents share joint custody. It is also important to recognize that limiting parental roles to one mother and one father does not address the growing number of same-sex parents and the increase in the number of grandparent custody arrangements. Terminology is especially problematic in OHP child support cases because the child welfare agency is often called the custodial parent in child support computer systems, and one or both parents may take on the designation of non-custodial parent when they are required to contribute to the cost of OHP, regardless of their role prior to the OHP. Adding confusion to the problem of terminology is that OHP is often referred to as foster care, although OHP can also be a juvenile detention facility, a treatment center, or a group home.

There are four scenarios in which child support funds are collected to offset OHP costs. First, because existing child support obligations are considered a resource of the child, these

obligations may be redirected to offset the cost of OHP. Many children in OHP are from single-parent families, and therefore a child support order may already exist (Cancian, Cook, Seki & Wimer, 2012; Sedlak & Broadhurst, 1996). Typically, a mother is awarded physical custody of the child, and the father is court ordered to pay child support. When a child enters OHP, child support payments are redirected away from the mother and to the agency that carries the financial burden of the OHP. This is sometimes done automatically, based on standard template language in the court order placing the child, providing no opportunity for a parent to contest the action or even to be sufficiently notified or understand what has occurred. As the vignette at the start of this paper illustrates, redirection of existing child support creates a burden on single parents who may rely on child support payments to provide a home, which the child in OHP will return to once the placement has ended (Cancian et al., 2012).

Second, in situations in which existing child support orders are redirected, the mother may also be assessed based on her earnings to determine an appropriate child support obligation. The mother, now a designated non-custodial parent, may be required to pay a child support obligation to the placement agency in addition to losing existing child support payments from the father. This adds to the economic hardship single parents have trying to maintain a home (Cancian et al., 2012). The first and second scenarios go hand in hand; the father who is already ordered to pay the child support that will be redirected is not usually required to pay an amount in addition to the existing child support obligation.

Third, in intact families, or families in which both mother and father reside in the household and no child support obligation exists, both parents may be assessed for a child support obligation. Two separate obligations are established, one against the mother and one against the father (U.S. Dept. of HHS, 2012b). These place a financial burden on families that

are trying to maintain a household for the returning child and meet the needs of other children in the household. Because a majority of families experiencing OHP for a child are low income, the burden of contributing to the cost of care threatens families' financial stability. The fourth scenario is when the parents are not residing together and there is no existing child support order. This scenario is handled the same as in the third scenario. Both parents may be assessed for a child support obligation and two separate obligations are established.

In federal fiscal year 2015 (October 1, 2014, to September 30, 2015), \$70,769,158 was collected nationwide to offset the costs of OHP (U.S. Dept. of HHS, 2015a). This is a significant amount of money until it is compared to the total number of children in OHP. On September 30, 2015, there were 427,910 children in OHP (U.S. Dept. of HHS, 2016a). This amounts to just over \$165 per child, a small fraction of the total per-child expenditures. This formula is simplistic; it doesn't take all factors into consideration. For example, not all OHP cases are referred to child support, collections are not received for every child, and for higher-income parents, the amount collected per child may be significantly more. But it does suggest that per-child collections may be less than the cost of administering child support services to offset the cost of OHP. A multi-step process involving staff from child welfare, child support, and the courts is needed to obtain child support collections from OHP referrals.

The research presented in this paper provides data about the effectiveness of current practices in Minnesota. The total amount collected in Minnesota is compared to an estimated cost of collections. Cost of collections is defined as the amount expended to obtain the child support collections. The formula used to arrive at cost effectiveness considers the total statewide expenditures compared to the total caseload size to arrive at a cost per case. The cost per case is then applied to the number of OHP child support cases. For example, if the cost to administer the

child support program is \$1 million per year and there are 2,000 cases, the cost per case is \$500 ( $\$1,000,000 \div 2,000 = \$500$ ). If there are 300 foster care cases, the cost of collections is \$150,000 ( $\$500 \times 300 = \$150,000$ ). This formula has its limitations, which will be discussed in detail later. However, given the variations of how counties process foster care cases and the difficulty in measuring the cost to administer a specific process, this formula provides an adequate measure.

By focusing on cost effectiveness, this research provides facts that policy makers can use when assessing current law and practice and reduces the emphasis on value-based debates regarding the financial hardship families in crisis experience and parental responsibility. Policy analysis requires the inclusion of social values (Weimer & Vining, 2005), but reasonable people can disagree widely on value-based issues. Emphasizing facts and dollars leaves less room for disagreement. Furthermore, policy analysis requires defining goals and checking outcomes to determine whether goals are being met (Anderson, 2006). The practice of requiring parents to pay through the child support system to offset the cost of OHP does not fit with the goals of the child welfare system, the juvenile justice system, or the child support system.



## Chapter 2: Literature Review

Children are placed in out-of-home settings through their involvement in the juvenile justice system and through child welfare. Most placements are court ordered but placements may also be through voluntary agreement of the parents. The average length of time spent in OHP varies depending on the type of placement. Shelters, correctional facilities, and chemical dependency treatment centers have shorter stays than group homes and residential treatment centers. Foster care stays are the longest (Minnesota Office of the Legislative Auditor, 1999).

Most placements occur for reasons related to the parent's behavior, including child abuse and neglect, child abandonment, substance abuse, and incarceration. These issues accounted for over 65% of placements in 2013 (Minnesota Department of Human Services, 2015b). Neglect is the most commonly cited issue, accounting for more than 50% of maltreatment investigations. Neglect includes failure to provide adequate food, clothing, or shelter. A smaller number of placements, 20%, occur due to the child's delinquency, substance abuse, or behavioral problems. The remaining placements occur due to the disability of the parent or child or because of family interaction issues (Minnesota Office of the Legislative Auditor, 1999; Minnesota Department of Human Services, 2015b). Most children are placed in non-relative foster care, followed by residential treatment centers, and then relative foster care. Correctional facilities, where children are placed for reasons related to their own behavior, account for about 10% of all placements (Minnesota Office of the Legislative Auditor, 1999).

Collectively, federal, state, and local expenditures for child welfare activities exceeded \$29 billion in 2014 (Rosinsky & Connelly, 2016). This amount has remained largely unchanged since 2004. Federal funding accounted for \$12.8 billion of the total expenditures. Of the federal

portion, \$3.2 billion was used for Title IV-E OHP for low-income children. Expenses included maintenance payments to foster parents for food, shelter, and clothing and administrative costs and training for staff and foster parents. Child welfare is funded by a combination of programs, each with specific requirements and program goals. Title IV-B funds are used primarily for child abuse prevention, family preservation services, adoption services, training, research, and evaluation. Title IV-B expenditures totaled \$555.5 million in 2014 (Rosinky & Connelly, 2016). Other programs that help to fund OHP and other child welfare services include Medicaid, Social Services Block Grants, and Temporary Assistance for Needy Families (TANF).

In Minnesota, average costs per day range from \$170 for foster care to more than \$453 for correctional facilities and group residential facilities (Minnesota Department of Human Services, 2017b). Counties contribute more than 50% of the total costs (Minnesota Office of the Legislative Auditor, 1999). Because of the significant expense of OHP, parental fees and the use of a child's resources have been identified as a revenue source to help offset the costs.

The number of children in OHP has dramatically decreased in recent years. In 2000, 18,451 Minnesota children spent some time in OHP (Annie E. Casey Foundation, 2016b). By 2013, the number decreased by nearly 40% to 11,510. The number of children who spent time in OHP has more recently risen, but gradually, with a 2% increase from 2010 to 2013 (Minnesota Department of Human Services, 2014). Juvenile Detention Alternatives Initiative (2011) data shows that in 2005, prior to recent alternative initiatives, more than 4,000 detention placements for delinquent juveniles were made in Minnesota. In 2010, the number dropped to 979. The length of time spent in placement also has been decreasing substantially, down 24% from 2006 to 2010 (Minnesota Department of Human Services, 2014). The number of children who experience OHP varies over time as legislation and programming changes.

### **Origins of Child Welfare**

It is important to place the juvenile justice and child welfare systems in historical context to understand the current state of the systems and the children who are involved. Today, the child welfare system and the juvenile justice system are two distinct and separate systems, but it is difficult to separate the two systems at their origin. And despite these separate and distinct systems, families cross over into child welfare, family services, juvenile justice, and mental health services depending on their circumstances. Breckinridge and Abbott (1912) discusses the three categories of children involved in the early juvenile justice system: 1) dependent, neglected, destitute, and homeless; 2) truant; and 3) delinquent, violating the law, and incorrigible. The authors acknowledge the absence of clear lines between categories of children in 1912, and still today those lines are not clear. One system or the other does not guarantee a solution for these children. Unfortunately, the systems are neither integrated nor comprehensive in terms of meeting the needs of families (McGowan, 2005).

The origins of the child welfare system and the juvenile justice system both stem from the early efforts of the child savers, who sought to remove children from environments that were believed to contribute to delinquent behavior and from homes in which parents were cruel or too poor to provide adequate care (Mandell, 2006; McGowan, 2005; Platt, 1969). Although differences in dependent children and delinquent children were recognized, both groups of children were handled in the same way (Breckinridge & Abbott, 1912; McGowan, 2005; Saksena, 2006). Despite the good intentions of pioneering social scientists, philanthropists, social workers, probation officers, and friendly visitors, critics cite contempt for immigrants and value judgments on the activities of poor children and their families as reasons for removing children from their homes in the early days of juvenile justice and child welfare programs (Mandell,

2006; Platt, 1969; Roberts, 2002). Both child welfare and juvenile delinquency are deeply rooted in serving the needs of poor and immigrant children (Mandell, 2006; McGowan, 2005; Platt, 1969; Roberts, 2002; Saksena, 2006).

In colonial America, children were considered chattel and were valued for their economic contribution to the family. Childhood as it is now known did not exist. Two-thirds of the children born died before they reached age four. Surviving children had to contribute to their family's economic well-being. They did household chores, farm work, and cared for younger siblings. There was no concept of children's rights, and parental rights were considered revoked when a parent could not care for his or her child (McGowan, 2005; Saksena, 2006). Children required the attention of authorities only when they were orphans or children of paupers. Orphans were common due to high maternal mortality rates and the high number of adult men who died from the difficulties of colonial life (McGowan, 2005).

Colonial society was especially concerned about the children of paupers because work was so highly valued. There was fear that without intervention, children would take on the habits of their parents (McGowan, 2005). Some poor families received outdoor relief, a welfare dole paid by the local community so that families could stay intact and in their own homes (McGowan, 2005). But often, because poverty was considered a sin of the parent, children were protected from their sinful parents by being farmed out, placed in almshouses, workhouses, and into indentured servitude (McGowan, 2005; Saksena, 2006). Parents who were unable financially to care for their children often had their children removed from their homes by local leaders, in part to ease the burden on the community to provide outdoor relief and in part to ensure a moral upbringing and a useful future for the child (McGowan, 2005).

Orphanages, which first began to appear in the early 1700s, replaced almshouses and workhouses, and by the early 1900s, privately funded and religious orphanages took in orphans and well as children whose parents were too poor to care for them (McGowan, 2005). Changes in the post-Civil War era affected society's perspective on providing care for dependent and delinquent children. For some families, economic growth eliminated the need for wives and children to work, and the developmental and educational needs of children began to receive more attention. At the same time, following the abolition of slavery, it became distasteful for white children to be placed into indentured servitude (McGowan, 2005). With an increased tax base, orphanages eventually became state-run institutions, taking in children who would later be placed out to foster homes or adopted, but seldom returned to their parents (McGowan, 2005; Platt, 1969; Saksena, 2006).

In the early to mid-1800s, "with urbanization, industrialization, and immigration on the rise...bands of urban children" lacking parental care and supervision roamed the streets begging and causing mischief (Saksena, 2006, p. 1009). Charles Loring Brace, a Protestant minister, founded the Children's Aid Society in 1853, and put into motion the Emigration Plan, more commonly known as the Orphan Trains, that moved masses of children out of New York to be "placed out" (Mandell, 2006; Platt, 1969). Brace's critics cite his belief that immigrants were genetically inferior and that immigrant children should be removed from their parents' influence. Children of the "dangerous classes" were removed from their homes and sent to farmers in the West and Midwest to work on the farms or as domestic help for farmers' wives (Mandell, 2006; Platt, 1969). Estimates vary, but somewhere between 40,000 (McGowan, 2005) and 100,000 (Mandell, 2006) children were moved out of New York City between 1854 and 1929. Many of the children were not orphans, but rather had parents too poor to care for them. Brace operated

under the belief that the poorest of rural homes was better than an institutional setting. Some children were treated well, but many children were separated from their siblings, became indentured servants, and were physically and sexually abused (Mandell, 2006; Platt, 1969).

Orphan Trains marked the beginning of the foster care movement, with the offer of free foster care (McGowan, 2005). At the same time Brace was moving children across the country, the Children's Home Society was developing. The first Children's Home Society was established by Martin Van Buren Van Ardsale in 1883 (McGowan, 2005). By 1916, there were 36 Children's Home Societies providing free foster care, which critics said, in practice, if not in theory, was not much different than indentured servitude. Families were not carefully investigated and were ill-equipped to handle the needs of the children. Many children were treated poorly. There were concerns about children's religious upbringing, an issue very important in that era, as both the Children's Aid Society and the Children's Home Society found their roots in the Protestant tradition, and many of the children being placed were Catholic (McGowan, 2005; Platt, 1969).

It was not until the late nineteenth century that efforts to protect children from maltreatment began to evolve as a separate and distinct problem than delinquency or poverty. The New York Society for the Prevention of Cruelty to Children, founded in 1874, was the first of its kind to address child abuse following the case of "little Mary Ellen" (McGowan, 2005). A concerned Etta Wheeler, who had witnessed abuse of Mary Ellen, tried to obtain assistance from child welfare institutions to have Mary Ellen removed from her caretakers. When that did not work, she sought help from the Society for Prevention of Cruelty to Animals. This led to a court case, followed by the removal of Mary Ellen from her abusers and the subsequent prosecution and conviction of the abusers. With a primary focus on prosecuting parents rather than protecting

children or providing services, child welfare agencies began to emerge, and by 1900, more than 250 of them could be found across the country. These efforts grew to encompass a broader view of services for children and families, the beginnings of the friendly visitor or social worker, and eventually the protection and welfare of children through federally funded services. The U. S. Children's Bureau, created in 1912, was the first federal program to acknowledge public responsibility for the well-being of all children (McGowan, 2005).

An interesting debate began in the early 1920s with the expansion of in-home services, which provided public relief to worthy and deserving mothers (McGowan, 2005). Child welfare experts supported the principle that the home is the best place for a child and that children should not be deprived of their home except for compelling reasons. Public aid provided financial assistance to mothers so they could maintain a home for their children. Those opposing public aid raised concerns that it did not address prevention and that funds would be available, not just to widows, but to families in which a breadwinner had deserted. Child welfare experts prevailed, and over time, the number of poor children maintained in their own home exceeded the number of children in foster care or institutions (McGowan, 2005).

In 1935, as a part of the Social Security Act, federal funding became available for state child welfare agencies to protect and care for homeless, dependent, and neglected children (U. S. Dept. of HHS, 2012a; Davidson, 2008; Social Security Administration, 2016). Today, one of the stated goals of the federal Child Welfare program is to keep families together. Federal funds, combined with state and local funds are used to:

- Protect and promote the welfare of all children
- Prevent the neglect, abuse, or exploitation of children

- Support at-risk families through services that allow children, when appropriate, to remain with their families or return to their families in a timely manner
- Promote the safety, permanence, and well-being of children in foster care and adoptive families
- Provide training, professional development, and support to ensure a well-qualified workforce (U. S. Dept. of HHS, 2012a)

The focus is on prevention so children do not need to be removed from their homes, and when children are removed from their home, reunification services are available. Federal funding for preventive services is a small portion of the overall funding, with a total of \$555.5 million divided among states and tribes according to their population. The remaining amount comes from state and county funding (U. S. Dept. of HHS, 2012a; Rosinky & Connelly, 2016).

According to McGowan (2005, p. 10), the issues that “plague the child welfare field today reflect the unresolved tensions and debates of the past.” These issues include:

- Parents’ rights vs. children’s needs
- Saving children vs. supporting families
- Federal vs. state vs. local responsibility
- Public vs. voluntary financing and service provision
- Developmental vs. protective services
- In-home vs. foster family vs. institutional care
- Appropriate boundaries between child welfare, family services, juvenile justice, mental health, and mental retardation services vs. comprehensive, integrated services



- Individualized, pluralistic modes of intervention vs. uniform standards and treatment
- Specialized professional services vs. informal, natural helping networks
- Social costs vs. benefits of providing varying levels of care

The problems of child welfare in terms of what works, what is best for the child and the family, and who pays continue to be an ongoing debate. No easy solution covers the wide range of underlying problems that these families in crisis face. The pendulum swings, based on shifts in politics and public perception, from permanency to family preservation. Current thought and policy, based on the best interest of the child, emphasizes the safety of the child, which often leads to permanency plans for adoption, guardianships, and placement with relatives (U.S. Dept. of HHS, 2014b).

### **Juvenile Justice System**

Child-saving efforts continued into the Progressive Era of the late 1800s to the early 1920s, when concern about how to address juvenile crime and delinquency started to take a different path (Abrams, 2013). More than a century has passed since Julia Lathrop and Jane Addams, the “matriarchs of professional social work” (Abrams, 2013, p. 725) worked to create the first juvenile justice system in Illinois (Abrams, 2013; McGowan, 2005). The Illinois system was established in 1899 and was a model for other states. New York and Wisconsin established juvenile court systems in 1901, followed by Ohio and Maryland in 1902, and Colorado in 1903. By 1928, all states had a juvenile court system that followed the model of the Illinois system, with an underlying premise that children are different from adults and can be rehabilitated (Abrams, 2013; Platt, 1969). Shifts have occurred throughout history in how juveniles are handled, and more recently, brain science, which shows that an adolescent’s brain is not fully

developed, supports the position that juveniles should be rehabilitated rather than punished (Abrams, 2013). Abrams points out that the “balance between rehabilitation and punishment has vacillated widely according to prevailing theory, science, and political climate” (2013, p. 731).

The definition of delinquency stems from ideas held by social reformers dedicated to saving less-fortunate children (Breckinridge & Abbott, 1912; Platt, 1969). Delinquent behaviors that brought children to juvenile court included acts that would have been handled in adult criminal court if they had been committed by adults. In addition to criminal acts, children were brought to juvenile court for delinquent behavior, which Platt (1969) refers to as invented categories of misbehavior. Delinquent behavior included vaguely defined violations such as immoral behavior, incorrigibility, idleness, profane language, truancy, and living with a disreputable person (Breckinridge & Abbott, 1912; Platt, 1969).

Juvenile courts are *parens patriae*; that is, they are authorized to intervene and act as a parent on behalf of a child whose parent is abusive, negligent, or unable to provide adequate care (McGowan, 2005). Children were brought under the court’s jurisdiction based on a variety of behaviors that had been previously dealt with informally, or not dealt with at all. Children were frequently brought under the court’s jurisdiction due to behaviors of the parents or circumstances of the families. Breckinridge and Abbott (1912) cites hundreds of examples of children in the juvenile court system due to parental drunkenness, disability, death, desertion, poverty, indecency, cruelty, sickness, insanity, physical violence toward the affected children, crowded homes, filthy homes, and fighting between the parents. These behaviors were primarily displayed by very poor families and immigrant families. Examples of children’s behavior include drinking, begging, vagrancy, roaming the streets, fighting, sexual behavior, presence at dance halls and movies, staying out late at night, and immorality (Breckinridge & Abbott, 1912; Platt, 1969).

Although the juvenile justice system was meant to treat children in a kinder, more gentle manner (McGowan, 2005), Platt, in *Child Savers Reconsidered*, summarizes early juvenile justice as a “class-based system of harsh punishment” that “deprived urban youth of due process, and increased the role of the state in the daily lives of the middle class” (1977, p. 193). At the beginning of Platt’s controversial 1969 book, *The Child Savers*, is the following 1880 quote from Enoch Wines, preacher, writer, and former secretary of the New National Association:

It is a maxim, trite but true, that the prevention of evil is easier and better than its cure; and in nothing is this maxim more true than in relation to crime. To destroy the seeds of crime, to dry up its sources, to kill it in the egg, is better than repression, better even than reformation of the criminal. But after all the best organized and best administered system of public instruction can accomplish, there will remain a considerable residuum of children (it cannot be, to-day, in the United States, less than half a million) whom these systems will not reach. Their destitution, their vagrant life, their depraved habits, their ragged and filthy condition forbid their reception into the ordinary schools of the people. It is from this class that the ranks of crime are continually recruited, and will be so long as it is permitted to exist. They are born to crime, brought up for it. They must be saved. (Platt, 1969, preface)

The underlying premises of the early juvenile justice system were twofold; first, create a legal system that provides a basis for intervention, and second, recognize that children are different from adults and more amenable to rehabilitation. Poor kids, criminals, and potential criminals were placed in schools designed to teach them morals and basic reading, writing, and arithmetic (Mandell, 2006). There was a push to get delinquent children out into the country and

to experience the benefits of physical labor and education. Ideally, the children lived in cottages of no more than 40 children, managed by married couples, to resemble a normal home life.

Delinquent children were not to be punished, but educated through moral training, religion, and labor. Cottages were considered superior to parental homes if the parental home was inadequate or hateful, or if the parents had orphaned the child through neglect and cruelty (Platt, 1969).

Interventions ranged from removing children from homes and placing them into cottage-style facilities to placing them in community service to sending them to wilderness or boot camps (Abrams, 2013; Platt, 1969).

Pioneers of the juvenile justice system argued that because a child's case was not truly a legal case, there was no need for legal representation for the child (McGowan, 2005; Platt, 1969). Several court decisions from 1966 to 1970 provided juveniles with basic constitutional rights in court proceedings and established their right to rehabilitation (Bush, 2009). Also in the 1960s and early 1970s, there was an increase in the use of diversionary programs to move children out of the juvenile justice system and into youth services programs. It was believed that juvenile courts and detention centers caused more harm than good due to labeling and association with criminals. The Juvenile Justice and Prevention Act of 1974 marked the shift toward keeping juveniles out of institutions and offering alternatives, or diversions, from involvement in the juvenile justice system. The act included funding for a growing number of programs aimed at prevention and diversion. The act also established that children have a right to due process, including a right to receive notice of charges, a right to counsel, a right to confront and cross examine, and a right to avoid self-incrimination (Abrams, 2013). But controversy surrounded diversionary programs due to lack of evaluation, lack of clear goals for intended

outcomes, and uncertainty about the definition of diversion. Studies later showed that diversion had minimal effectiveness and recidivism was not reduced (Abrams, 2013).

The war on drugs, beginning in the 1980s, brought stricter sentencing guidelines and an increase in both juvenile and adult crime. Juvenile violent crime increased as the culture of drugs and gangs became more widespread (Abrams, 2013). The prison population tripled between 1987 and 2007 as the public's fear of young urban men and youth gang culture increased. Concerns about public safety overcame concerns about protecting children. Reforms made it easier to certify juveniles as adults, leading to an increase in the number of children in juvenile justice detention centers (Abrams, 2013). Through the 1980s and 1990s, all states changed their laws to make it easier to try a juvenile in adult court.

Fiscal concerns, in addition to concerns raised by children's advocates and professional organizations, have led to a call for a return to a juvenile justice system that is different than that for adults, for "changes that emphasize children's rights, ethics, racial justice, and empirically valid treatment strategies" (Abrams, 2013, p. 726). There continues to be debate and research into best practices for handling juvenile delinquents. The cost of incarcerating a juvenile is three times that of incarcerating an adult. Critics cite juvenile detention as ineffective and correctional facilities as substandard institutions that allow children to become victims of abuse. It is estimated that between 9.5% and 12% of detained juveniles are victims of sexual assault either by facility staff or other juveniles (Bureau of Justice Statistics, 2008; Campaign for Youth Justice, 2012). There are disproportionate numbers of minority children and poor children in these facilities and institutions, as well as high rates of recidivism and high costs to maintain the detention centers (Abrams, 2013). While debate continues regarding what works best to rehabilitate youth offenders, evidence suggests that the most effective programs are family

focused and based on education, healthy relationships with adults, and positive leisure activities. The key elements in current discussions, as in discussions in the late 1800s, continue to be strengthening families, schools, and neighborhoods (Breckinridge & Abbott, 1912; McGowan 2005; Abrams, 2013).

### **Foster Care and Poverty**

Since its beginning, foster care has been a program for children of the poor. Poverty leads to inadequate nutrition, homelessness, lack of supervision, dirty homes, lack of education, lack of medical care, and parental stress. The White House Conference on Children of 1909 stated children should never be removed from their home based on poverty alone, but poverty doesn't show up alone. It manifests itself in drug addiction, depression, poor nutrition, inadequate housing or housekeeping, lack of medical care, and lack of parental supervision (Mandell, 2006). There is a great volume of research that shows children from poor families are most likely to experience OHP (Miron & Cho, 2003; Moraes, Durrant, Brownridge & Reid, 2009; Sedlak & Broadhurst, 1996; Roberts, 2002; Thieman & Dail, 1997). In a study of Wisconsin mothers, researchers found that 59% of mothers in the study had no recorded earnings in the year prior to their child's OHP, 26% of the mothers had earnings below \$10,000, and only 15% had earnings above \$10,000 (Cancian et al., 2012).

Indeed, poverty has a negative impact on early childhood development, which can lead to later delinquent behaviors. As early as 1912, a study of 14,000 cases that reviewed the first 10 years of the Cook County juvenile justice system indicated the root causes of delinquency were inadequate parental supervision, troubled family members, crowded homes, lack of playgrounds, and poor schools (Abrams, 2013; Breckinridge & Abbott, 1912).

The primary purpose of child welfare systems is to protect children from physical abuse and neglect, as well as from being poor. Neglect is most often attached to issues of poverty, mental health, and parental incompetence. Homelessness, welfare reform, and the war on drugs are related to child protection involvement. Poverty is related to higher numbers of child abuse reporting and substantiation. Possible explanations include higher levels of stress for low-income parents, limited parenting knowledge and skills, a tendency to more authoritarian parenting styles, and fewer community resources. These factors contribute to breakdowns and more explosive anger (Moraes et al., 2009).

Miron and Cho (2003) also shows a strong relationship between poverty and child neglect. Poverty and unemployment of parents is strongly associated with maltreatment and neglect. Child neglect may be caused by a parent's lack of means to provide for a child's basic needs (Thieman & Dail, 1997). Roberts (2002) blames inadequate welfare. A mother who relies solely on welfare will fail to provide adequate food and clothing. A mother who lacks affordable child care but who is required to work, may leave her children unattended.

Counties with high poverty rates tend to also have higher rates of OHP (U. S. Dept. of HHS, 2013b; Minnesota Office of the Legislative Auditor, 1999). Children in certain neighborhoods are more likely to suffer abuse and neglect. These neighborhoods have high unemployment, deteriorating housing, inadequate healthcare facilities, and high crime levels. A study in New York by the Child Welfare League of America found that in 52% of cases studied, child care was the most needed service, but the service most often provided was foster care. Children were often removed from their parents because the parent lacked adequate housing (Minnesota Office of the Legislative Auditor, 1999; Roberts, 2002). In 2015, approximately 27,000 children, just over 10% of the 265,000 children who entered foster care in the United

States, had inadequate housing listed as an associated reason for OHP (U. S. Dept. of HHS, 2017). Parents' incarceration can also be related to OHP. A Wisconsin study showed that 11% of children, and an alarming 34% of Milwaukee children, in OHP had an incarcerated parent within 12 months after the child became involved with child welfare (Berger, Cancian, Cuesta, & Noyes, 2016).

Many children do not fare well in foster care. Most children experience multiple placements and too may suffer maltreatment in the foster-care setting. The rate of child maltreatment in foster care is 75% higher than in the general population, and the rate of fatalities due to maltreatment in foster care is 350% higher than in the general population. Adults who experienced OHP as children have low high school graduation rates, low earnings, and are more likely to experience mental illness, homelessness, and poverty, and have higher rates of incarceration as adults (Doyle, 2007; Courtney et al., 2011; Mandell, 2006; Pecora et al., 2003).

In recent welfare reform discourse, as in the debates of the early 1920s, some politicians imply that parents who are unable to raise their children without the assistance of welfare are unfit. For example, Newt Gingrich, former Republican Speaker of the House, supported moving funds from welfare programs that put money into poor households into funding for adoption programs and orphanages. Former California Governor Pete Wilson stated that when a family has used up its welfare benefit period, the county should take custody of the child and find foster care or an adoptive parent. In 1999, New York Mayor Rudolph Giuliani set policy that required homeless parents to work or be kicked out of shelters and their children placed in foster care (Roberts, 2002).

Involvement in the juvenile justice system, particularly among males involved in serious criminal activity, is strongly correlated with poverty (Bjerk, 2007). Parents of families



experiencing economic hardship “are more irritable, authoritarian, rejecting, and hostile toward their children, and those characteristics contribute to adverse behavioral and health outcomes in children and adolescents” (Wickrama, Noh, & Bryant, 2005). Poor children are more likely to live in crime-ridden neighborhoods. Neighborhood poverty is associated with delinquency and violent crime. Youth from single-parent, female-headed households also demonstrate higher incidence of being involved in the juvenile justice system.

### **Federal Role in Child Welfare**

Federal involvement in child welfare has evolved since the first White House Conference on Children in 1909 (Davidson, 2008; McGowan, 2005; Social Security Administration, 2016). Today, the federal government provides guidance and oversight on child welfare through funding schemes that create incentives for certain activities and requires states to develop plans for receiving federally funded services. States are also required to track and provide data on performance outcomes related to child welfare activities (U.S. Dept. of HHS, 2013b).

The primary programs related to child welfare are found in Title IV-B and Title IV-E of the Social Security Act of 1935. Title IV-B provides funding and oversight for prevention and family preservation. Title IV-E provides funding and oversight for OHP. The federal child welfare program, administered by the Children’s Bureau, operates as part of the Department of Health and Human Services, Administration of Children and Families. Its website provides insight into the mission and goals of child welfare:

The Children’s Bureau (CB) partners with federal, state, tribal and local agencies to improve the overall health and well-being of our nation’s children and families.

With an annual budget of almost \$8 billion, the Children’s Bureau provides support and guidance to programs that focus on:

- Strengthening families and preventing child abuse and neglect
- Protecting children when abuse or neglect has occurred
- Ensuring that every child and youth has a permanent family or family connection

The Children's Bureau seeks to improve outcomes in the following key areas:

- Safety—Preventing and responding to maltreatment of children
- Permanency—Stabilizing children's living situations and preserving family relationships and connections
- Well-Being—Enhancing families' capacity to meet their children's physical, mental health and educational needs (U.S. Dept. of HHS, 2016b)

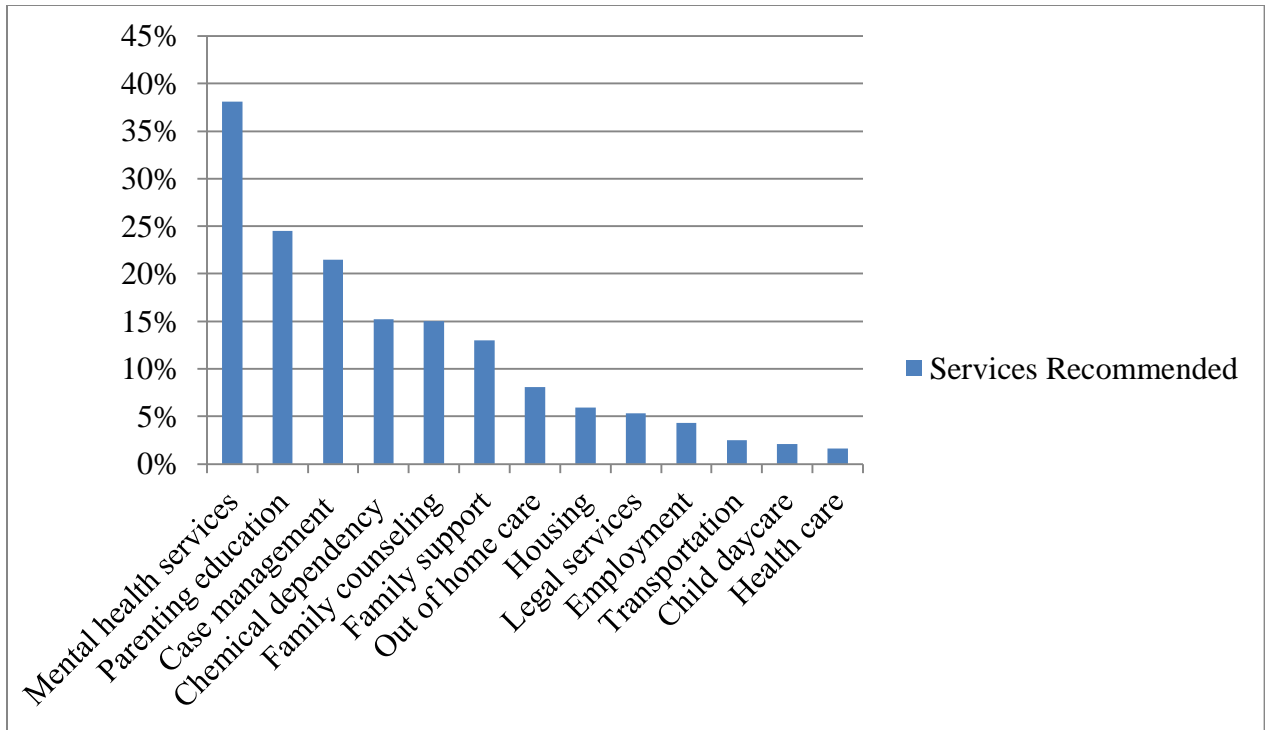
The Social Security Act was amended in 1961 to provide federal matching funds through an open-ended formula, meaning no limits, to supplement state expenses for child welfare services, and thus Aid to Families with Dependent Children-Foster Care was created. The amended program provided partial funding for OHP for children from families either receiving or eligible to receive Aid to Families with Dependent Children (AFDC). This reinforces the concept that foster care is for poor children because the federal funding stream is not available for families at higher income levels. This eligibility formula remains in place today, even though the AFDC program no longer exists (Davidson, 2008).

The Social Security Act was amended again in 1962 to require a judicial determination to that placing a child in foster care and that leaving a child in the parental home was contrary to the welfare of the child. Also in 1962, a requirement was included for child welfare agencies to work on improving the conditions of the home from which the child was removed, or to work on placing the child with a relative. Federal guidance continues to require attention to housing

needs. A recent Information Memorandum states, “Being proactive in addressing housing needs can prevent the unnecessary removal of children from their families and substantially improve the short- and long-term well-being of children, young adults and their families” (U.S. Dept. of HHS, 2017).

The Adoption Assistance and Child Welfare Act of 1980 created Title IV-E of the Social Security Act, which is now the basis for foster care and adoption assistance funding. Funding remains open ended, and family eligibility is still based on AFDC eligibility. A child’s placement can only be funded if the court finds reasonable efforts have been made to prevent the need for placement, and additional steps to reunite the family are required when appropriate. Title IV-E funding is limited to certain types of institutions. Most detention facilities are excluded, although children under the jurisdiction of the juvenile justice system can be placed in IV-E eligible foster care or group homes, rather than detention facilities (Davidson, 2008).

Child welfare covers a variety of activities. Figure 2 below shows the types of available services and the frequency with which these services are recommended (Minnesota Department of Human Services, 2013). Services are provided through a network of federally funded programs, non-profits, or contract services providers, with the intention to improve the conditions of the home and prevent OHP (Minnesota Department of Human Services, 2013).



**Figure 2:** Services recommended

*Source: Minnesota Department of Human Services, 2013*

Government programs overall seem to be making a difference, according to the Annie E.

Casey Foundation:

The past few years have brought some positive developments for families and children. Economic growth has been steady, with nearly 13 million new jobs created since the end of the recession. More children have health insurance. The high school graduation rate is rising, and fewer teens are abusing drugs and alcohol. Births to teenage mothers continue to decline and are at a record low.

These improvements in the well-being of young people are due in part to federal, state and local policies that are helping prepare the next generation for the future (2016a, p. 5).

Although there are many indicators of improvement, significant challenges to improve the well-being of children remain. Child poverty rates are high (Annie E. Casey Foundation, 2016a; U.S. Census Bureau, 2010), unemployment rates remain high for African American and Latino workers, and working families struggle to make ends meet.

### **Statistics and Disparities**

Several measures exist for the number of children in OHP, and keeping count is not only a moving target, but the numbers also vary depending on which time frame is used, which data source is used, and the types of OHP included in the count. One measure is to take a snapshot in time, often the last day of the fiscal year, which ends September 30. Nationwide, there were 427,910 children in OHP as of September 30, 2015 (U. S. Dept. of HHS, 2016a). The snapshot provides an estimate for how many children are in OHP at any given time. But it only tells part of the story. In federal fiscal year 2015, 269,509 children entered OHP and 243,060 children exited OHP. In total 512,569 children spent some time in OHP. The Annie E. Casey Foundation Kids Count Data Center (2016b) provides a breakdown of placement type. In calendar year 2014, 463,211 children were in the following settings:

- 190,454 in a foster home
- 120,334 in a relative caretaker's home
- 56,188 in a group home or institution
- 15,554 in pre-adoptive homes
- 4,544 were runaways
- 21,989 on a trial home visit
- 54,148 in a juvenile detention or correctional facility

In Minnesota in 2014, 12,172 children spent some time in OHP (Minnesota Department of Human Services, 2015b). This figure includes 6,621 children who remained in placement at the end of the prior year; 5,538 children who entered OHP in 2014; and 5,756 who left placement (Minnesota Department of Human Services, 2015b). Annie E. Casey Foundation (2016b) reports 11,368 Minnesota children in OHP in 2011, including 828 in juvenile detention or correctional facilities and 4,995 in foster care.

Neglect is the most cited reason for OHP, at 61%. Drug abuse by the parent accounted for 32% of children in OHP, physical abuse accounted for 13%, and inadequate housing accounted for 10% (U. S. Dept. of HHS, 2016a). For a majority of children, 55%, the goal of the case plan was reunification with family. Minnesota data shows the most common exit reason, at 66%, was in fact a return home. The second most common exit reason, at 26%, was placement with a relative (Minnesota Department of Human Services, 2015b). A breakdown by age shows that children experience OHP relatively equally across all ages, with one-year-olds making up the largest share, 8%, of children in OHP, followed by children less than one year of age and two-year-olds, with each making up 7% of the total (U. S. Dept. of HHS, 2016a).

In the 20 years from 1982 to 2001, the OHP population in the United States grew from 262,000 to 550,000. In the decade between 2002 and 2012, the number of children in OHP in the United States decreased from 523,616 to 399,546 as federal policies focused on permanency, family preservation, and diversionary programs (Annie E. Casey Foundation, 2016b; U.S. Dept. of HHS, 2013a). Overall, the number of children in OHP has decreased 23.7% from 2002 to 2012. OHP for African American children has declined by 47% from 192,859 to 101,938. A small number of geographic areas with large populations have driven the national trends.

California, New York, and Florida show the most significant declines, especially for African American children.

The length of time children stay in foster care is also declining. On average, the length of foster care stays decreased from 31.3 months in 2002 to 22.4 months in 2013. African American children experience the longest stays, but even for these children the average stay has decreased from 40.6 months in 2002 to 29 months in 2012. Native American children average 21.2 months; Hispanic children, 23.2 months; Asian children, 22.4 months; and white children, 18.3 months (U.S. Dept. of HHS, 2013a). Although nationally the average number of months in placement exceeds one year for all children and two years for African American children, 48% of Minnesota children are reunited with their families within 12 months (Minnesota Department of Human Services, 2013).

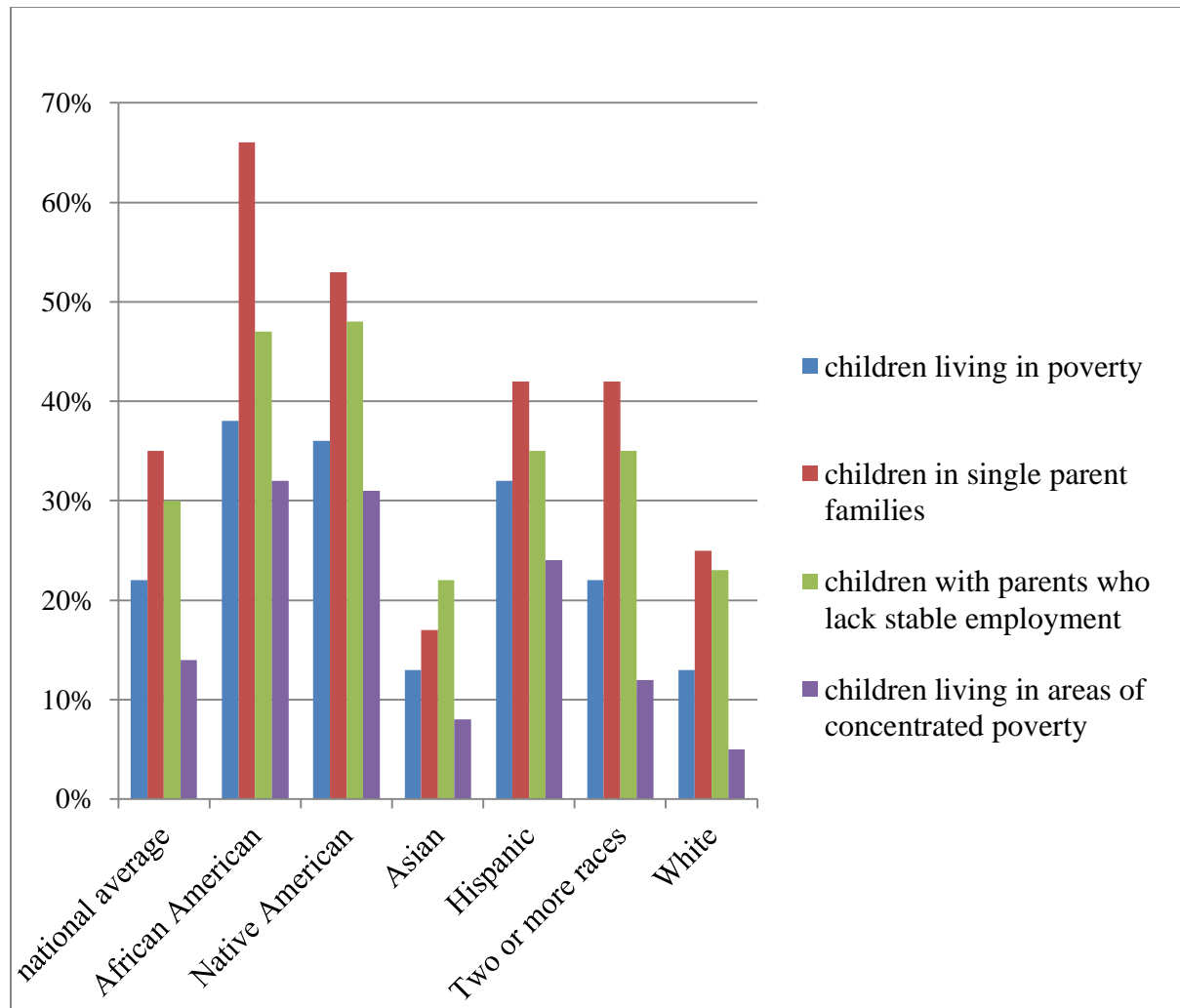
There are substantial disparities in the racial status of children in OHP, and many studies and compilations of data illustrate the disparities (Annie E. Casey Foundation, 2016b; Children's Defense Fund, 2014; Mandell, 2006; Minnesota Department of Human Services 2015b; Roberts, 2002; Sedlak et al., 2010; Summers, Wood, & Russell, 2012; U.S. Dept. of HHS, 2013a; U.S. Dept. of HHS, 2013b). Although disparities are improving, African American and Native American children particularly are overrepresented in OHP and struggle more than other children with a variety of factors related to poverty.

The experience of a child from a low-income, non-college-educated family is vastly different than that of a child from a middle- to high-income, college-educated family. Families in which the parents have a bachelor's degree are more likely to be two-parent households, spend more time with their children, and have more money to enrich the lives of their children through

“books, tutors, music and dance lessons, sports, museums and other educational activities” (Annie E. Casey Foundation, 2016a, p. 11).

The differences start to show up early. By kindergarten, children of educated parents have a more fully developed vocabulary. They also attend better schools and play in safer neighborhoods. Because there is a connection between economic disparities and racial disparities, children of color more often experience the challenges and outcomes of growing up poor. Data from 2014, shown in Figure 3 below, show a striking difference in several key indicators (Annie E. Casey Foundation, 2016a).





**Figure 3:** Children's economic and racial disparities

*Source: Annie E. Casey Foundation, 2016a*

Initially ignored by child welfare, African American children are now overrepresented in OHP (Roberts, 2002; Summers, Woods & Russell, 2012). African American children make up 14% of the nation's children but represent 24% of children in foster care. In contrast, white children make up 42% of the nation's children and represent only 7% of the children in OHP. In 2010, African American children were three times more likely to be placed and mixed-race children were four times more likely to be placed than white children. African American children

are twice as likely to be arrested as white children and are four times more likely to be detained in juvenile correctional facilities. According to the Children's Defense Fund (2014), African American children are "grossly overrepresented in the juvenile justice system" (p. 8).

For the second year in a row, Minnesota ranks first among states for overall child well-being, as measured by four domains: 1) economic well-being; 2) education; 3) health; and 4) family and community (Annie E. Casey Foundation, 2016a). Despite that high rank, racial differences are even more pronounced in Minnesota's OHP population (Annie E. Casey, 2016b; Minnesota Department of Human Services, 2015b; Minnesota Office of the Legislative Auditor, 1999; U.S. Census, 2010). African American children make up 8% of the child population in Minnesota but represent 15% of the children in OHP. Overrepresentation in OHP for Native American children in Minnesota is even more concerning. Native American children make up just 1% of the child population in Minnesota but represent 24% of the children in OHP. Minnesota's Child Welfare Report 2014 recognizes the disparities and states in the Executive Summary that the Minnesota Department of Human Services "is engaged in multiple strategies to better understand the reasons for such high disparities and make efforts toward reducing them" (Minnesota Department of Human Services, 2015b). Table 1 shows a breakdown by race of children in the population compared to children in placement.

**Table 1:** OHP disparities by race

Race	Percent of children in U.S.	Percent of children in OHP in U.S.	Percent of children in Minnesota	Percent of children in OHP in Minnesota
African American	14%	24%	8%	15%
Native American	1%	2%	1%	24%
Hispanic	25%	22%	9%	8%
Asian	5%	1%	6%	1%
Two or more	4%	7%	5%	12%
White	52%	42%	71%	38%

*Source: Minnesota Department of Human Services, 2015b*

Another indicator of disparities is the number of children in OHP placement per 1,000 children in that category. As Table 2 shows, there has been a significant decline in the rate of African American children experiencing OHP, leaving Native American children as the most overrepresented category (U.S. Dept. of HHS, 2013a).

**Table 2:** Rates per 1,000 children in Minnesota

Race	2005	2017
African American	35.8	20
Native American	77.7	96.4
Hispanic	15.3	10
Asian	4.9	3.2
Two or more	22.1	25
White	7.8	5.5

*Source: U.S. Dept. of HHS, 2013a*

OHP, whether in foster care or juvenile detention, began as a response to the problem of children living in poverty. Today, the programs continue to primarily serve children in poverty when their parents are abusive or unable to adequately provide care based on their own behavior or the behavior of their child. Roberts (2002) argues that parents who are not poor can purchase services, such as mental health counseling, appropriate housing, or housekeepers to prevent their

children from becoming part of the system. Children of middle- and upper-class families generally benefit from better neighborhoods and schools and are less likely to engage in delinquent behaviors.

### **Child Support**

The concept of parental responsibility is foundational to the child support program. The website of the federal Office of Child Support Enforcement (OCSE) defines the role of the agency as partnering “with federal, state, tribal and local governments and others to promote parental responsibility so that children receive support from both parents even when they live in separate households” (U.S. Dept. of HHS, 2017). The Minnesota Department of Human Services child support website states that, “Every child needs financial and emotional support and every child has the right to support from both parents. Minnesota’s child support program benefits children by enforcing parental responsibility for their support” (Minnesota Department of Human Services, 2016).

One in four children in the United States is served by a child support program that is increasingly using family centered strategies to ensure consistent and reliable child support payments (U.S. Dept. of HHS 2013c; U.S. Dept. of HHS 2015b). Operating under the U.S. Department of Health and Human Services, Administration for Children and Families (ACF), the FY 2010-2014 OCSE Strategic Plan states, “Across ACF, our ultimate vision is that children, youth, families, individuals and communities are resilient, safe, healthy, and economically secure” (U. S. Dept. of HHS 2013c).

Much of early U.S. law was modeled after English law. The English Poor Laws established in 1597 (Hatcher, 2007; Krueger, 2001; Crowley, 2003) clearly define the concept of

parental responsibility. Sir William Blackstone, in *Commentaries on the Laws of England* interprets a parent's financial responsibility as follows:

The duty of parents to provide for the maintenance of their children is a principle of natural law; and obligation...It is a principle of law, that there is an obligation on every man to provide for those descended from his loins: and the manner, in which this obligation shall be performed, is thus pointed out. The father, and mother, grandfather and grandmother of poor impotent person shall maintain them at their own charges, if of sufficient ability...and if a parent runs away, and leaves his children, the church warden and overseers of the parish shall seize his rents, goods, and chattels, and dispose of them towards their relief.

One of the first court cases to lay the foundation for child support in the United States came out of Connecticut in 1808, when Eunice Stanton sued the estate of her deceased ex-husband, John Bird, to recover expenses incurred to raise her children. The court established a duty of the ex-husband to provide for his children:

Parents are bound by law to maintain, protect, and educate their legitimate children, during their infancy or nonage. This duty rests on the father; and it is reasonable that it should be so, as the personal estate of the wife, and in her possession at the time of the marriage, becomes the property of the husband, and instantly vests in him...By the divorce, the relation of husband and wife was destroyed: but not the relation between Bird and his children (*Stanton v. Stanton*, 3 Day 37, [Conn. 1808], as cited in Crowley, 2003, p. 57).

This decision was based on the fact Mrs. Stanton, by virtue of being a woman and having been married to Mr. Bird, had no assets or resources of her own by which to raise her children.

Indeed, mothers who filed civil claims for child support had to prove they were destitute and that they were not at fault for the dissolution of the marriage (Crowley, 2003).

One of the first cases to address the concept of a third party suing for child support came out of New York in 1816, laying the foundation for welfare and foster care cost recovery. In *Van Valkinburgh v. Watson and Watson* (as cited in Crowley, 2003), a child had purchased a coat from a merchant on his father's credit. The merchant later sued to collect the debt. This case established the right of a third party to sue when a parent was not meeting the needs of the child. This case also created a requirement that the complainant prove that the expenses were a necessity and that the parent had failed to provide the necessity. In *Van Valkinburgh v. Watson and Watson*, the merchant did not win the case because the court found that the father was indeed supporting his child, but the legal groundwork was laid:

A parent is under a natural obligation to furnish necessaries for his infant children; and if the parent neglects that duty, any other person who supplied such necessaries is deemed to have conferred a benefit on the delinquent parent, for which the law raises an implied promise to pay on the part of the parent (*Van Valkinburgh v. Watson and Watson*, 13 Johns 480 [N.Y. 1816] as cited in Crowley, 2003, p. 55.)

The need for a child support program grew over time. In colonial America, divorce was uncommon. There were strict traditional and religious norms that helped to keep families intact. Sexual intercourse outside of marriage was frowned upon and illegitimate children were kept secret. There has always been the problem of the poor, single mother, whether due to the death or desertion of the father, or out-of-wedlock birth. But the poor, single mother became a bigger problem as changes in the rural economy gave way to industrialization and a move away from

the strong family connections of a rural economy. As job opportunities created more mobility, it became easier for fathers to desert their families. As states created statutes to allow divorce, the divorce rate increased. The problem of single mothers began to grow and local charity workers began to look for solutions. The solutions included efforts to help the mother as well as efforts to hold the father accountable. Just as it is difficult to untangle the child welfare and juvenile justice systems in their early stages, child support and public assistance programs are also intertwined at their beginnings and remain connected today.

Prior to the existence of a federal program, the problem of poor mothers was handled by charity organizations. Friendly visitors and social workers conducted home visits to ensure that mothers receiving aid were worthy, “the lazy, the slovenly, and the cheats would have to pull themselves up by their own bootstraps” (Crowley, 2003, p. 62). The Charity Organization Society, established in Boston in 1878, was one of the first organizations to assist poor mothers. It operated under a belief that poverty was a moral failing, and that only minimal help should be provided because it encouraged more immoral behavior. The job of the friendly visitor was to be a role model and to figure out the cause of the poverty and help to eliminate it. The father was looked to as a source of income and someone who needed to be encouraged to uphold his responsibility to his family (Crowley, 2003). But more often, the assistance provided to mothers included job training and child care.

Other solutions included obtaining child support orders and filing criminal charges against fathers who failed to pay (Hatcher, 2007; Crowley, 2003). As an example of early child support collection efforts, in 1894, the Humane Society of Cincinnati arrested 654 fathers who had deserted their families, resulting in collections of nearly \$14,000. The Massachusetts Society for the Prevention of Cruelty to Children (MSPCC) established an early model of the current

child program by assisting in obtaining child support orders, collecting payments, and distributing the funds to the mothers. The MSPCC took it a step further by ensuring that recipient mothers used the funds appropriately (Crowley, 2003).

Children born out-of-wedlock often were not entitled to child support. Laws varied from state to state. In some states, child support could only be required if the father acknowledged the child. Support awards were often minimal and sometimes only short-term. For example, in Massachusetts, the father of an illegitimate child was only required to pay child support up to age six (Crowley, 2003). As early as 1911, it was clear there was a need for uniformity and an ability to enforce child support orders across state lines.

African American children were also failed by the early child support system. Following a legacy of slavery, indentured labor, and prejudice, African American children, according to Crowley, “were simply not seen as worth the bother and expense of a legal pursuit” (2003, p. 67).

The first federal program to help poor mothers was Aid to Children (ADC), established in 1935 to provide financial help to caregivers, primarily mothers, on behalf of their minor children. The cash assistance was intended for children of deceased or disabled fathers (Crowley 2003; Herrick & Stuart, 2005; Krueger, 2001). Mothers were expected to stay home and raise their children, and the ADC program provided them with that opportunity (Herrick & Stuart, 2005). Congress later recognized the need for poor, two-parent families and other caregivers to receive assistance, and the ADC program was expanded to the Aid to Families with Dependent Children (AFDC) program in 1950.

Reliance on AFDC increased as the divorce rate increased and the number of children born out of wedlock increased (Crowley 2003; Herrick & Stuart, 2005; Krueger, 2001).



- In 1962, there were 413,000 divorces in the United States involving 532,000 children; by 1972, there were 845,000 divorces involving 1,021,000 children (Crowley, 2003).
- In 1961, there were 240,200 births in the United States to unmarried women; by 1971, that number had grown to 401,400 (Crowley, 2003).
- In 1961, there were 3.1 million AFDC recipients in the United States; by 1971, that number had grown to 10.2 million (Herrick & Stuart, 2005).

The federal child support program emerged due to the growing costs of the AFDC program. Child support was seen as a program that could reduce the toll of welfare on the taxpayer by requiring absent fathers to reimburse the government for the cost of their families' AFDC benefits (Hatcher, 2007). Federal laws were passed in 1950 and 1965 that focused on tracking down fathers who deserted their children. In 1967, a federal law was passed that required states to establish legal paternity of children receiving AFDC (Crowley, 2003). But the child support program as it is today did not exist until 1975.

Part D of Title IV of the Social Security Act, which created the child support program, was signed into law on January 4, 1975. The law required federal supervision of state child support programs, provided federal funding to states, and required mothers receiving AFDC to cooperate with child support efforts. The main reasons policy makers created a federal child support program, in order of importance, according to Krueger (2001) were to decrease AFDC expenditures, discourage marital desertion and child abandonment, and improve the well-being of children. Recipients of AFDC were required to participate in the child support program through an assignment of their rights to child support, meaning that child support funds were retained by the state to offset the costs of public assistance. Assignment also means that child

support not paid on time became arrears owed to the state to pay back the costs of public assistance already expended. Early child support obligations, created out of a largely administrative rather than judicial program, were often equal to the AFDC monthly benefit and not related to the absent father's income or ability to pay.

Since 1975, there have been many additional laws put into place to strengthen the child support program, providing for more enforcement tools and the ability to reach across state lines to establish child support orders and collect child support payments. Most notable are the Child Support Enforcement Amendments of 1984, which opened up the child support program to non-AFDC families and required income withholding against delinquent obligors, and the 1996 Personal Responsibility and Work Opportunity Reconciliation Act, which updated the 1950 law regarding child support enforcement across state lines and replaced the AFDC program with the current Temporary Assistance for Needy Families (TANF) program that includes time limits and work requirements (Crowley, 2003; Herrick & Stuart, 2005; Krueger, 2001; Social Security Administration, 2016).

The child support program today is a tightly regulated partnership between federal, state, and local governments. States are required to have a child support program as a qualification to receive TANF block grants. In some states, the state administers the child support program, and in some states, the child support program is administered by counties under state supervision. All 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and more than 60 tribes have child support programs that operate under federal guidance and funding (U.S. Dept. of HHS, 2015a). The mission of the child support program can be broken into four core duties (Crowley, 2003; Herrick & Stuart, 2005; Krueger, 2001; Schroeder, 2016; U.S. Dept. of HHS 2015b):

- 1) To locate parents: Often, the custodial parent has limited information as to the whereabouts or income of the other parent. With very few facts, sometimes as little as a name and guess at date of birth, child support workers can track down social security numbers, addresses, and places of employment. This is done through a Federal Parent Locator system that includes information from multiple government databases. Locate services also include the use of mandatory new hire reporting by employers, access to public assistance program data, driver's license records, and the use of other online search tools and investigators. Locate services are important in helping to ensure that accurate wage and asset information is used in setting an order, and because personal service of legal documents is often required for establishing child support orders.
- 2) To establish paternity: Paternity must be established for children born out of wedlock before child support can be ordered. With more than 40% of children born to parents who are not married (U.S. Census Bureau, 2010), clearly a need exists for the establishment of legal paternity. Some parents sign a voluntary acknowledgement of parentage, often at the hospital after the child's birth. But many parents do not, and sometimes the mother is not certain who the father is. Genetic testing is often done to ensure that the right man is adjudicated. In 15-20% of genetic testing cases, the tested alleged father is determined not to be the biological father of the child.
- 3) To establish and modify child support orders. Child support workers gather information about the income and assets of the parents, the availability and cost of healthcare coverage, the existence of other children in either parent's household,

and the amount of parenting time awarded to the non-custodial parent. This information is entered in a formula to determine how much child support should be paid. Child support may include separate obligations for basic child support, child care support, medical support, a requirement to obtain and maintain healthcare coverage, and a division of uninsured medical expenses. When circumstances change, such as an increase or decrease in income, the court order can be modified to reflect the new circumstances of the parents.

- 4) To enforce child support orders, including the collection and disbursement of child support payments and the enforcement of medical support provisions: Over 70% of collections come through income withholding, a process in which payments are automatically deducted from the non-custodial parent's paycheck or unemployment benefits. Other enforcement tools include federal and state tax refund intercepts, credit bureau reporting, driver's license suspension, recreational license suspension, occupational license suspension, and bank levies. When these enforcement tools don't work, more punitive actions such as civil contempt of court or criminal non-support can be used. Employers may also be required to enroll children in employer provided health insurance.

The federal government provides requirements and guidance through regulations, policy interpretation, action transmittals, information memorandum, and dear colleague letters. State child support agencies receive federal reimbursement for expenditures at a rate of 66%, conditioned on passing a data reliability audit. Additional funding is awarded based on the performance of the following five key measures (Minnesota Department of Human Services, 2015a; U.S. Government Publishing Office, 2016):

- 1) The amount of current support collected as a percentage of the current monthly support that is due; states maximize federal incentive funding at a current support collection rate of 80%.
- 2) The number of cases that receive a payment toward arrears as a percentage of the total number of cases that have arrears; states maximize federal incentive funding at an arrears collection rate of 80%.
- 3) The number of cases that have an order established as a percentage of the total number of cases; states maximize federal incentive funding at an establishment rate of 80%.
- 4) The number of children with paternity established as a percentage of the number of children born outside of wedlock in the previous year; states avoid penalties at a paternity establishment rate of 90%.
- 5) The cost-effectiveness ratio is calculated by dividing the total amount of dollars collected by the total amount of dollars expended to run the program; states maximize incentive funding when the cost effectiveness ratio is at least \$5.00.

Over time, the focus of child support has changed from a welfare reimbursement program to a program that supports families. Today, more than 16 million families are served, \$28 billion is collected, and 95% of all collections are paid out to custodial families (U.S. Dept. of HHS, 2014a).

### **Child Support and Child Welfare**

A significant benchmark in child welfare practices occurred October 1, 1984, when the Adoption Assistance and Child Welfare Act of 1980 was amended to clarify the connection between foster care placement and child support (Social Security Administration, 2016; U.S.

Dept. of HHS, 1998; U. S. Dept. of HHS, 2012b). Found in Title IV-E of the Social Security Act, 42 U.S.C.4719 (a) (17) states, "...where appropriate, all steps will be taken, including cooperative efforts with State agencies administering the program funded under part A and plan approved under part D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part" (Social Security Administration, 2016). Prior to the 1984 amendment, the movement of foster care from Title IV-A to Title IV-E of the Social Security Act, meant that child support did not have an automatic role in collecting from parents for OHP. "Because the foster care program was no longer funded or administered under title IV-A, the provision for assignment of support rights by recipients of AFDC required by section 402(a)(26) of the Act was no longer applicable for foster care cases" (U.S. Dept. of HHS, 1985). The 1984 amendment required states to assign child support under Title IV-E and re-created the need for a referral on appropriate cases.

Despite the amendment that required referrals to child support, few cases were being referred. The U.S. Department of Health and Human Services Office of the Inspector General published a report in 1992 to determine the extent to which states were recovering the cost of OHP from parents under the assignment requirement (U.S. Dept. of HHS, 1992). The report found that only 5.9% of foster care cases were receiving child support payments and estimated \$74 million could have been collected on 173,152 foster care placements in 1990. Cost recovery was a growing concern because of the growing number of children in OHP, up 56% from 1986 when 110,749 children were in IV-E funded OHP. Recommendations from the 1992 report included the development and implementation of criteria and procedures to ensure that all appropriate cases were referred to child support, and a memorandum of understanding was created between foster care and child support agencies in determining appropriate cases to refer.

A similar report discussing non-IV-E foster care was published by the Office of the Inspector General in 1994 (U.S. Dept. of HHS, 1994). The report stated that “children are being denied important services” (U.S. Dept. of HHS, 1994, p. ii). The federal government did not require that non-IV-E placements, funded primarily by state and county dollars, be referred to child support. The report estimated \$193.8 million in lost collections for 260,000 children in 1994. Recommendations included encouraging states to provide child support services to all children in OHP if a referral to child support were in the child’s best interest (U.S. Dept. of HHS, 1994). The 1994 report found no federal direction in determining appropriate referrals. At the time of the report, only one state had a policy that defined appropriate referrals, and that state’s definition was so broad that it resulted in no cases being referred (U.S. Dept. of HHS, 1992).

Current federal guidance for implementing the referral and assignment requirements of the Social Security Act was provided to both child support and child welfare agencies in 2012. Information Memoranda ACYF-CB-IM-12-06 and OCSE-IM-12-02 provided that state welfare agencies have a role in deciding which placements should be referred to child support. Local welfare agencies were encouraged to work with local child support agencies to develop criteria for making appropriate referrals. The list of appropriate referral circumstances included: a child was in foster care for a long enough time to justify establishing child support; child support would assist in permanency planning; and child support could be used as a resource for relatives caring for a child. A list of inappropriate referral circumstances included a parent’s inability to comply with a permanency plan for reunification due to the financial hardship caused by paying child support (U.S. Dept. of HHS, 2012b).

Two recent studies conducted by the University of Wisconsin-Madison and the Institute for Research on Poverty provide insight into the connection between child welfare and child

support, a connection that has received little attention in research (Cancian et al., 2012; Chellew, Noyes & Selekman, 2012). Chellew et al. (2012, p.3) note “the tension between needing to recover costs while also taking into account the best interests of the child, given that the assignment of child support to the State is seen as a potentially important source of revenue in a time of limited resources.” This tension was noted 18 years prior in the 1992 report issued by the Office of the Inspector General. Staff in the IV-E foster care programs who were interviewed had a social work perspective that considered the needs of the child and interpersonal relationships. They expressed concerns that parents did not have sufficient income to pay. The report summarized the feelings of foster care workers:

Some foster care workers philosophically oppose pursuing child support. Some dread an unpleasant confrontation with parent(s). Others may believe that enforcing child support will be detrimental to the parent/child relationship. They do not believe that child support serves to stabilize the family unit and helps to insure its future integrity (U.S. Dept. of HHS, 1992, p. 7).

Child support staff viewed themselves as adversaries of non-custodial parents and showed primary concern for their role in cost recovery. Few agencies undertook efforts to collaborate; cross training and joint meetings did not occur (U.S. Dept. of HHS, 1992).

States continue to be inconsistent in their implementation of referrals to child support. Many states use a method for automatic referrals to the child support agency, rather than reviewing the circumstances of the case to determine the appropriateness of the referral or the child’s best interest. Chellew et al. (2012) found inconsistent application of referral policy across states as well as within Wisconsin from one county to another. They also found that child



welfare agencies provided little guidance to staff for making determinations on appropriateness of referrals to child support.

In a review of state policy manuals, 19 manuals did not have a reference to making referrals. In the remaining 31 state policy manuals, most only had one or two sentences, usually stating referrals are automated and providing no definition of best interest, undue hardship, or length of time in OHP that would justify establishing child support. California, Florida, Montana, and Wisconsin provided the most guidance. For example, Florida made an exception for a child conceived due to rape or incest, when parental rights are terminated, when a parent is incarcerated or deceased, or when a parent receives Supplemental Security Income. Montana covered the same exceptions with the addition of when legal proceedings for adoption were pending or when the child was expected to return home within 90 days of removal. California's manual provided the most detail, requiring evaluation of each case on an individual basis and including factors such as the parent's employment and housing status, and the impact on other children in the household (Chellew et al., 2012).

Once a child support agency receives a referral, most child support staff interviewed said they are expected to treat the case as they would treat any other case. This could mean obtaining an order and enforcing it to the fullest extent possible, or in some cases, that low-income parents receive a downward deviation on the child support obligation (Chellew et al., 2012).

Children experience longer spells of OHP when a child support order is enforced, suggesting that requiring parents to pay child support may not be in the child's best interest and may have unintended financial consequences for families that prevent them from achieving the conditions needed for reunification (Cancian et al., 2012). The study used an instrumental variable approach to identify a causal effect between child support order amounts and

reunification. This method controls for the fact that orders are more likely to be put in place the longer the placement lasts. The results show that an increase of \$100 in the monthly child support amount reduces the probability of reunification by 17%. “Thus, the negative relationship between orders to offset costs and reunification is confirmed” (Cancian et al., p. 26). Chellew et al. (2012) reviewed policy and practice around child support referrals for OHP and noted a negative relationship between child support ordered to offset the cost of OHP and the time to reunification. The study called for additional analysis regarding the effects of current practices and policies on outcomes for families.

There have been studies linking a parent’s income level with the likelihood he or she will pay child support, as well as studies that show past due child support becomes less likely to be paid as the debt ages (Smock & Manning, 1997; Sorenson, 2004; U.S. Dept. of HHS, 2008) and that most child support debt is owed by parents who have little or no income (Sorenson, 2004; Lippold & Sorenson, 2013). Requiring poor parents to make child support payments to the government adds financial hardship to families in crisis and adds to the growing child support debt that is not collectible.

### **Summary of the Problem**

The information provided in Chapter 2 lays the foundation for child welfare, juvenile justice, and child support. The review of literature shows that historically families involved in OHP are often single-parent households, the poor, immigrants, people struggling with drug addiction and alcoholism, and parents whose children are out of their control. And although the principles of parental responsibility matter, many of these families simply do not have the resources to contribute to the cost of OHP, much in the same way that they didn’t have the wherewithal to avoid OHP for their child in the first place. The child welfare and child support

systems should come together to provide the best possible outcomes for children and families, but the current practice of requiring parents to contribute to the cost of OHP is working against families.

With Chapters 1 and 2 having put the problem in context, the next chapters will discuss the results of analyzing data from the Minnesota child support system. The research is meant to help policy makers consider the ineffectiveness of current practices and encourage researchers to continue exploring the connection between child support and child welfare.

### Chapter 3: Methodology

The primary question asked in this research is: Is it cost effective to use the child support system to recover OHP costs from parents? There are two subsequent and related questions: What is the income level of the parents involved in OHP child support cases? How do Minnesota child support agencies handle referrals to child support for OHP? The research provides other data that can be used to determine best practices and develop uniformity about how to handle these cases in Minnesota.

The methodology used in this research is a quantitative study in three parts, with some qualitative data gathered through interviews in part three. Part one sets out to answer the primary question of cost effectiveness. Using data from the PRISM child support computer system and from reports published by the U.S. Department of Health and Human Services and the Minnesota Department of Human Services for 2015, the research looks at the overall Minnesota caseload including:

- The number of OHP child support cases
- The amount expended by counties to administer the child support program
- The amount collected on OHP child support cases
- The amount of child support due on the OHP child support cases
- The percentage of child support collected compared to the amount owed on OHP child support cases

Part two of the research reviews specific data elements on a random sample of 1,000 OHP child support cases open between January 1, 2010, and December 31, 2015, in which the custodial parent is listed as the foster care agency. The specifications of the report are listed in

Appendix A. These data elements provide a picture of the status of the child support cases and the families involved, and include:

- Case open date
- Case close date
- Court order exists
- Date of court order
- Monthly amount due
- Total amount collected
- Past due support amount
- Non-custodial parent wages from January 1 to December 31, 2015

A review of part two provides information about collections and productivity of work, such as the number of cases that close without obtaining an order. Part two of the research also provides the earnings of the non-custodial parent, keeping in mind that a non-custodial parent on an OHP child support case may be the parent from whose household the child was removed and who may be working on a reunification plan. The data provide insight into the financial challenges of families involved in OHP.

Part three consists of information gathered by interviewing by phone and email county child support staff regarding the procedures. The interviews highlight inconsistencies between counties and offer insight into the issues counties experience in handling the OHP child support cases. The interviews include the following open-ended question: Do you have any thoughts you want to share about how foster care cases are handled in child support? The open-ended question allows respondents flexibility in sharing their concerns and provides an opportunity for detailed

responses to a complex issue (Neuman, 2011). The full list of questions is attached in Appendix B. The redacted county response spreadsheet is attached in Appendix C.

There are limitations of this study. The cost-per-case assumes that all cases require an equal amount of time to be worked, while in reality, some cases are very time intensive and others require very little from a caseworker or attorney. This research does not include time studies for working child support cases. Processes and expenses vary from one child support agency to another, making it difficult to determine the true cost of working a case. Using overall expenditures to arrive at a cost per case does not take into consideration that some overhead costs are fixed regardless of the caseload size. Alternative estimates are offered to overcome these limitations. Recommendations are made for additional research to determine a more accurate cost-per-case analysis.

A limitation also exists in how different child support agencies handle OHP referrals to child support. Child support agencies use different processes for referring cases, establishing child support orders and redirecting and collecting child support. Some child support agencies may be more efficient than others in their procedures. Some child support agencies may use more discretion before making a referral, reducing the number of cases that are referred. Other child support agencies may not exercise this discretion, referring all cases, so that higher numbers of OHP are referred to child support caseloads. There is also a significant difference in poverty levels and OHP rates in different areas of the state. This research does not compare each individual agency's expenditures to the total amount collected. It is recommended, however, that this research be done for internal use for Minnesota child support agencies to assist in developing best practices.

## **Chapter 4: Minnesota's Caseload**

The research presented here is in three parts, all based on Minnesota OHP child support cases and processes. Part one of the research answers the primary question about the cost of collections for OHP child support cases. To determine estimated cost of collections, expenditures are divided by the total caseload to arrive at a cost per case. The cost per case is then multiplied by the number of OHP child support cases to arrive at the cost of collections. Cost of collections is then compared to actual collections to determine cost effectiveness. The data for this analysis comes from a report provided by the Minnesota Department of Human Services. Other data used for this analysis comes from the 2015 Minnesota Child Support Performance Report and the 2015 Reinvestment Summary and Net County Administrative Costs Report. Both reports are published by the Minnesota Department of Human Services and are available online. The year 2015 refers to the federal fiscal year, which runs from October 1, 2014, to September 31, 2015, except for expenditures that are reported for the calendar year, which runs from January 1 to December 31, 2015.

### **Cost of Collections**

The combined expenditures for Minnesota county child support agencies in 2015 amounted to \$138,301,873 (Minnesota Department of Human Services, 2015c). The overall caseload was 218,868 cases (Minnesota Department of Human Services, 2015a). The cost per case is therefore \$632 ( $\$138,301,873 \div 218,868 = \$632$ ). There were 10,807 OHP child support cases in the Minnesota caseload in 2015. Using the cost-per-case analysis and total expenditures, the estimated cost of collections for OHP child support cases was \$6,830,024 ( $\$632 \times 10,807 = \$6,830,024$ ). The amount of child support paid on OHP child support cases in 2015, for

combined current support, arrears, and interest was \$2,508,219. In this estimate, expenditures are more than double collections; the child support program is spending \$2.70 to collect \$1.00.

A limitation of studying estimated cost of collections is the difficulty in knowing how much time and money is spent to process a case. Different cases present different levels of difficulty; work on a given case occurs at different points in time; staff is paid differently from county to county; counties use different processes for OHP child support cases; and some overhead costs are fixed regardless of number of staff. The estimate of cost as presented above could be high, so two alternative estimates are offered.

To present a lower estimate on cost per case, overhead and indirect costs are removed from the equation. In federal fiscal year 2015, using only salary and fringe benefits and the cost of county attorney expenses through cooperative agreements, statewide expenditures amounted to \$91,298,249 (Minnesota Department of Human Services, 2015c). To arrive at a cost per case, \$91,298,249 is divided by 218,868, the total number of cases. The cost per case using this calculation is \$417.00 ( $\$91,298,249 \div 218,868 = \$417$ ). With 10,807 OHP child support cases, the estimated cost of collections is \$4,506,519 ( $\$417 \times 10,807$ ), which is almost twice the amount collected. Using this calculation, the child support program is spending \$1.80 to collect \$1.00.

This estimate could still be high because not all cases require the same amount of work by caseworkers and not all cases require the involvement of county attorneys. The equation can be further reduced to remove all county attorney expenses and only half of the caseworker salary and fringe benefits. Salary and fringe benefits amounted to \$77,714,589, half of which is \$38,857,294 (Minnesota Department of Human Services, 2015c). Using this calculation, the cost per case is \$177 ( $\$38,857,294 \div 218,868 = \$177$ ), multiplied by 10,807 OHP child support cases



equals \$1,912,839 ( $\$177 \times 10,807 = \$1,912,839$ ). At this low estimate, collections exceed expenditures by \$595,380. The child support program is spending 76 cents to collect \$1.00. This estimate may be unrealistically low because some level of county attorney involvement is required in all cases that need a court order established. None of the estimates presented factor in the cost of child welfare staff in making appropriateness determinations and referring cases. The estimates also do not factor in the cost of court staff and hearing officers. Table 3 shows a comparison of these methods for estimating cost of collections.

**Table 3:** Cost of collections estimates ( $N = 10,807$  cases, \$2,508,219 collected)

Estimated expenditures	Expenditures	Cost per case	Cost of collections	Expenditure per dollar collected	Cost effectiveness ratio
Total expenditures	\$138,301,873	\$632	\$6,830,024	\$2.70	\$0.36
Salary and fringe, county attorney costs only	\$91,298,249	\$417	\$4,506,519	\$1.80	\$0.55
One-half salary and fringe, no county attorney costs	\$38,857,294	\$177	\$1,912,839	\$0.76	\$1.31

*Source: Minnesota Department of Human Services*

The cost-effectiveness ratio, different from the cost of collections estimates, is one of five federal performance measures that impact the federal funding states receive. The child support program is highly cost effective and collects more money for families than it spends. States and counties maximize federal incentive funding in this category when the cost-effectiveness ratio is \$1.00 spent for every \$5.00 collected. The cost-effectiveness ratio is calculated as the amount of child support collected divided by expenditures. The cost-effectiveness measure for Minnesota in 2015 was \$3.54, falling below the benchmark of \$5.00 to maximize funding (Minnesota

Department of Human Services, 2015a). In the first cost of collections estimate above, using \$2,508,219 in collections divided by \$6,830,024 in expenditures, the cost-effectiveness ratio is 36 cents. In the second cost of collections estimate, using \$2,508,219 in collections divided by \$4,506,519 in expenditures, the cost effectiveness ratio is 55 cents. In the third cost of collections estimate, using \$2,508,219 in collections divided by \$1,912,839 in expenditures, the cost effectiveness ratio is \$1.31. In each of the estimates, the cost effectiveness ratio on OHP child support cases falls well below the federal benchmark of \$5.00 and is hindering the state in maximizing federal incentive funding. The cost effectiveness ratio is included in Table 3 alongside each of the cost of collection estimates.

Current child support collections are defined as the monthly child support obligation collected within the month that it is due. Collections that do not count as current support include payments on arrears, interest, and fees. The amount of current child support owed on the 10,807 OHP child cases in federal fiscal year 2015 was \$2,856,916. The amount of current support collected was \$1,345,882. This is a collection rate of 47.11%.

Current support collections are another one of five federal performance measures that impact the amount of federal funding states receive. For the current support measure, states maximize federal incentive funding at a current support collection rate of 80%. The federal funding received by states is passed through to counties and is a significant part of budget revenue. The statewide collection rate for all cases in federal fiscal year 2015 was 73.43% (Minnesota Department of Human Services, 2015a). The difference in the collection rate between the OHP child support cases and the overall caseload is striking, at 26.32% percentage points. This difference highlights the difficulty in obtaining collections on OHP child support cases and hinders the state from maximizing funding. In fact, removing OHP child support cases

from the current collections measure would increase the rate to 73.55%. This is just over a tenth of a percentage point, but as states compete for funding and strive for the 80% benchmark, even tenths of percentage points make a difference.

### **Random Sample of 1,000 Cases**

Part two of the research examines specific data elements on 1,000 randomly selected OHP child support cases on the Minnesota PRISM system that were open between January 1, 2010, and December 31, 2015. PRISM holds a large amount of data on child support cases, including child support obligations, collections and parent income information. The total amount collected on the random sample was \$317,117, for an average collection of \$317 per case over a five-year period. The arrears balance on the random sample was \$343,508. A review of the data shows unproductive work occurs on a majority of cases. Unproductive work includes opening and closing a case without obtaining an order; obtaining a zero-dollar order, or not obtaining collections when a court-ordered obligation exists. Nearly 45% of the cases did not have a court order entered. Most cases opened and closed within the five years, and of those that closed, 51% closed without a court order being entered. Of the 1,000 cases:

- 262 had a court-ordered child support obligation
  - 220 had some amount of child support collected
  - 116 had collections of more than \$500 for the entire five-year period
  - 78 had collections of more than \$1,000 for the entire five-year period
  - 16 had collections of more than \$5,000 for the entire five-year period
  - 4 had collections of more than \$10,000 for the entire five-year period
  - 1 had collections of more than \$20,000 for the entire five-year period
- 293 had an order entered on the case that did not include a child support obligation

- 445 did not have a court order
- 779 were opened and closed within the five-year period
  - 404 of the 779 were closed without entering a court order

In addition to the problems of cost effectiveness and unproductive work, the data support other research that shows families experiencing OHP are disproportionately poor. PRISM collects wage information when a case is in open status and interfacing with other data sources. Wage information collected for the year 2015 (a subset of 280 cases in open status throughout the entire year in 2015) is used to measure income. In this subset, 80% of parents had annual income of less than \$10,000; 6% of parents had annual income between \$10,000 and \$19,999; and 10% had annual income between \$20,000 and \$39,999. Only 4% of parents reported annual income of \$40,000 or more. Table 4 shows the number of cases based on parents' annual income for 2015.

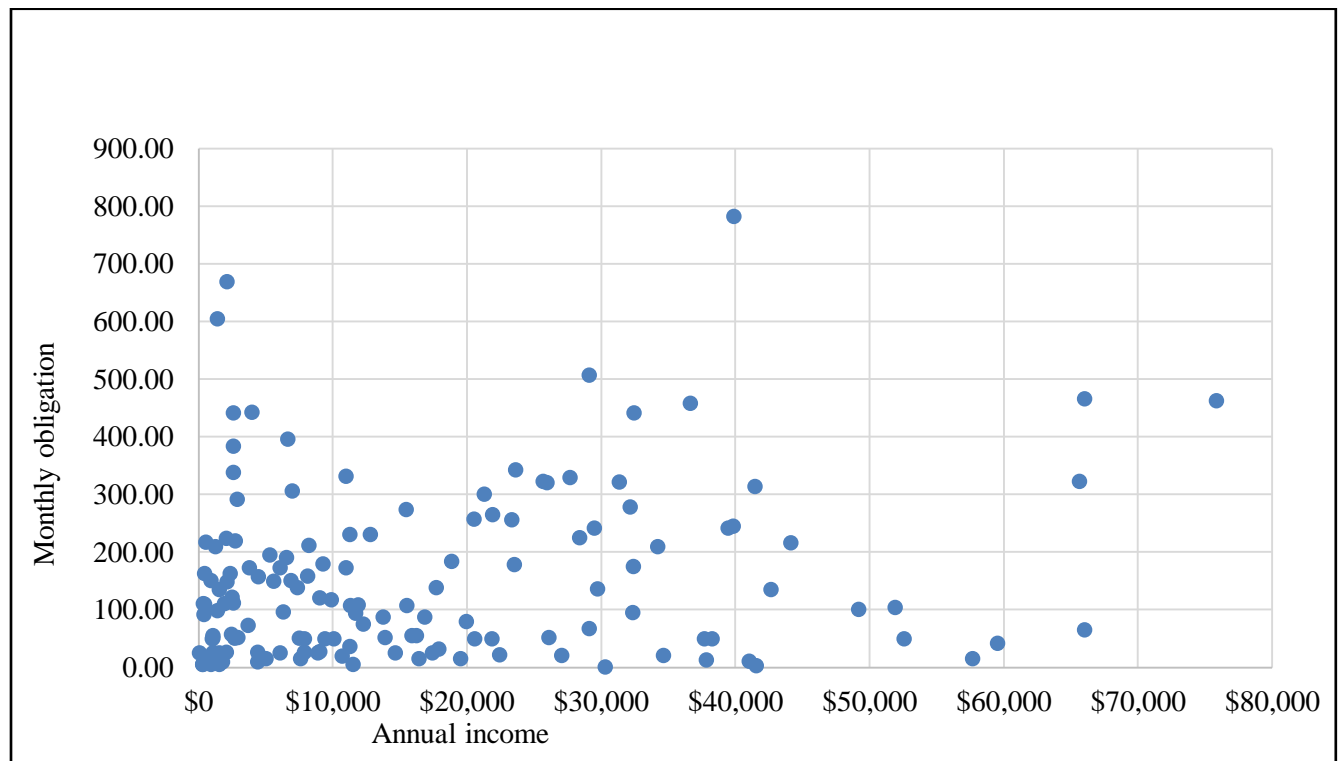
**Table 4:** Parents' 2015 annual income ( $N = 280$ )

Annual income in 2015	Number of cases at income level
No wages recorded	133
Less than \$10,000	91
\$10,000 to \$19,999	17
\$20,000 to \$29,999	16
\$30,000 to \$39,999	11
\$40,000 to \$49,999	7
\$50,000 to \$59,999	2
\$60,000 to \$69,999	1
Over \$70,000	2

*Source: Minnesota Department of Human Services*

Child support obligations are based on calculations that take into consideration a parent's income. Generally, at higher levels of income, child support obligations are higher (Minnesota

Statute 518A, 2016). As Figure 4 shows, no clear pattern emerges when comparing income to monthly obligations on the selected OHP child support cases. Most obligations fall below \$200 and most income levels are under \$20,000 annually. But cases exist in which a parent has low annual income and a monthly obligation that is higher than the obligations of parents with higher income. There are also cases in which higher-income parents have very low orders. Two outliers are striking: a parent with a monthly obligation of nearly \$800 has a \$40,000 annual income; and a parent with a monthly obligation under \$100 has an annual income of \$65,000. This highlights inconsistent application of guidelines, and families not being treated equitably.



**Figure 4:** Monthly obligations and annual income

*Source: Minnesota Department of Human Services*

### **Child Support Agency Interviews**

Part three of the research comes from interviews with child support agencies about their procedures and invites respondents to answer an open-ended question. There were 82 potential respondents to the interview. This number includes all counties, county collaboratives, and tribal child support agencies in Minnesota. Respondents were identified as a supervisor or manager responsible for OHP child support cases. Each county, collaborative, or tribe received a phone call or email. If the initial phone call or email did not generate a response, an additional email was sent. There were 28 actual respondents. This is a response rate of only 34%. While this is a low response rate, the number of respondents still provides a reasonable and representative sample (Neuman, 2011). A couple of factors can be attributed to the low response rate. First, the survey was not anonymous, and even though potential participants were informed that only summary data would be used and individual child support agencies would not be named, potential respondents may have had concerns about their information being shared, especially if they were worried about being out of compliance with state or federal policy. This was a concern expressed by some respondents, and it is unknown how many non-respondents shared this concern. And second, supervisors and managers are busy, and this survey may not have been a high priority for them.

The first question, 'Is there a decision-making process to determine if a referral to child support is appropriate?' is designed to find out if agencies use the discretion allowed under federal guidance to determine appropriate referrals, or if cases are automatically referred. The question is asked separately for IV-E OHP cases and non-IV-E OHP cases. For IV-E OHP placements, which are primarily federally funded, 17 respondents report that no decision-making process is used, and 11 respondents report that there is a decision-making process. This implies

that 60% of respondents automatically refer IV-E OHP for child support services without considering the circumstances of the family to determine whether a referral is appropriate. There is more discretion used in non-IV-E placements, which are primarily county and state funded, with eight respondents, or 29%, reporting automatic referrals. A possible explanation for the difference may be that child support agencies believe they have more discretion when local funds pay for OHP. Another possible explanation is that child support agencies are aware of the mandate to refer IV-E cases, but are not aware of the discretion that is allowed regarding when to refer.

Respondents were asked if referrals were made for both parents, or for only the custodial or non-custodial parent. In IV-E cases, 53% of respondents reported that both parents were referred, 28% of respondents reported that only the non-custodial parent was referred, and 18% of respondents reported “it depends.” In non-IV-E cases, 25% of respondents reported that both parents were referred, 29% of respondents reported that only the non-custodial parent was referred, and 35% of respondents reported “it depends.” When respondents reported “it depends,” they also reported using a decision-making process to determine whether a referral was appropriate. In responding child support agencies where the custodial parent was not referred to child support, three respondents reported that the custodial parent was referred for a parental fee outside of the child support system. This part of the interview highlights the different processes used by child support agencies, which results in different treatment and financial responsibilities depending on where a family resides. The results of the referral processes part of the interview are listed in Table 5.

**Table 5:** Referral Processes (*N* = 28 respondents)

Question	Respondents reporting YES IV-E OHP	Respondents reporting NO IV-E OHP	Respondents reporting YES non-IV-E OHP	Respondents reporting NO non-IV-E OHP
Decision-making process on when to refer?	40%	60%	71%	29%
Both parents referred	53%	47%	29%	71%
Custodial parent only	0%	0%	0%	0%
Non-custodial parent only	29%	71%	36%	64%
It depends	18%	78%	36%	64%

*Source: Child support agency interviews*

Referrals to child support are required by federal law for IV-E OHP cases when appropriate, and specific guidance is provided by the federal government in determining when it is appropriate to make referrals. When a child support agency receives a referral, it is required to open a case, locate the parents, establish paternity, and establish and enforce a child support order. The child welfare agency is responsible to determine when a referral is appropriate, but child welfare and child support are encouraged to work together to develop criteria that considers the best interest of the child (U.S. Dept. of HHS, 2012b). Non-IV-E OHP cases are not included in the guidance on appropriate referrals because referrals to child support on non-IV-E OHP are not required by federal law. Non-IV-E referrals are made in compliance with state law.

Of the respondents who used discretion in making referrals, three reported using a collaborative process with child welfare in which a team meeting is held to discuss each individual case. These counties have a small number of OHP cases. Larger counties with more children in OHP are more likely to use automated referrals.

Respondents were asked about their awareness of the information provided to families at the time of OHP. Knowing what information families receive would help child support agencies



know what information is still needed and could be used to improve services and correspondence. A majority of respondents said they were aware of whether information was provided to families at the time of OHP. However, 12 child support agencies, 42% of respondents, reported not knowing whether information was provided. Nearly half of respondents did not know what information was still needed to help a family better understand its financial obligations. This response suggests that county child support agencies and county child welfare agencies are not working collaboratively in many counties.

Respondents were asked whether they use the child support guidelines when calculating child support obligations for children in OHP. In Minnesota, child support obligations are calculated based on guidelines laid out in statute (Minnesota Statutes 518A, 2016). The guidelines consist of multi-step calculations that determine the non-custodial parent's obligation based on the combined income of the parents. When a child is living separately from his or her parents, the calculation is done for each parent individually, even if the parents reside together, Minnesota Statute 518A.35, Subdivision 9(c) states in part:

If a child is not in the custody of either parent and a support order is sought against one or both parents, the basic child support obligation shall be determined by referencing the guideline for the appropriate number of joint children, and the parent's individual parental income for determining child support, not the combined parental incomes for determining child support of the parents (Minnesota Statutes 518A, 2016).

By calculating child support using the guidelines and the requirement to use individual income and not combined income, calculations are higher for parents with a child in OHP. Using the online web calculator (Minnesota Department of Human Services, 2017a), an example is

provided to illustrate how much a parent may be required to pay each month if their child is in OHP and also to illustrate that the obligations are higher when the parents' income is not combined.

John and Mary both work full time, earning \$15.00 per hour. They are married and reside together. Assessed individually, John and Mary would each have a child support obligation of \$570 per month, for a total of \$1,140. If John and Mary were divorced and John was ordered to pay child support to Mary, his monthly child support obligation would be \$422. The \$422 would be redirected away from Mary and to the child welfare agency for the duration of the OHP period. Mary could also be ordered to pay \$570, for a total of \$992 coming out of her household. This is a simple example that does not give credit for factors like medical expenses, parenting time, or other children in the household, all which could impact the monthly obligation. Pursuant to Minnesota Statute 518A.43 Subdivision 4, the court could deviate downward from the guidelines if the obligation would cause an "extreme hardship on the obligor" (Minnesota Statutes 518A, 2017).

On the question of whether the agency uses the child support guidelines to set obligations, 82% responded, "yes." While this is a strong majority, it means 18% of respondents used another method. Of the four respondents that reported using a different method, two did not state which method was used and the remaining two each used a different method, highlighting again the fact that families receive different treatment and different financial responsibilities depending on where they reside.

Respondents were asked how they handle a case in which a parent lacks enough income to set a child support obligation. Child support agencies are subject to strict federal regulations regarding the closure of a child support case (U.S. 45 Code of Federal Regulations 303.11).

Usually, a case cannot be closed without the agency obtaining a child support order, and therefore, time and effort is often spent obtaining a child support order for zero dollars. Once the zero-dollar order is established, the child support agency may monitor the case for a change in circumstances, or the agency may opt to close the case. Obtaining a zero-dollar order often requires the same amount of work as obtaining any other order. Seventy-one percent of respondents report that they obtain a zero-dollar order when a parent does not have enough income to set a child support obligation. This requires time and resources to be allocated to cases that do not result in collections.

The issue of obtaining zero-dollar orders is not unique to OHP child support cases, but because parents of children in OHP are often low-income, the issue may be more common in this segment of the overall caseload. New regulations issued in January 2017 provide more flexibility in case closure and should reduce the number of zero-dollar orders that must be obtained before closing a case (U. S. 45 Code of Federal Regulations, 2017).

Respondents were asked what process is used to redirect existing child support orders. When an OHP case is referred to child support and there is already an existing child support order, it is often redirected to help pay for the cost of OHP. Redirection means that the custodial parent no longer receives child support payments, the payments are instead sent to the child welfare agency to offset costs. Children from single-parent households are overrepresented in OHP, and many families involved in child welfare are also being served by the child support system and have existing child support orders (Cancian et al., 2012; Sedlak & Broadhurst, 1996; Sedlak, et al., 2010).

The law governing redirection in Minnesota, 518A.46, Subdivision 5 and Subdivision 7, provides for an administrative process to redirect child support without requiring a court order.

The redirect statute applies when children are in court ordered OHP; when they are placed under voluntary placement agreements; when they are residing with another caretaker such as a grandparent or other relative; or when they are receiving public assistance in a household other than that of the custodial parent. Under the administrative process for redirecting, parents are provided notice of intent to redirect and have an opportunity to contest the action by requesting a court hearing. The grounds for contesting a redirection include: 1) the child does not live with the caretaker, 2) there is a reunification plan and all or part of the support is needed to maintain a home, and 3) the redirection is not in the best interest of the child (Minnesota Statutes 518A, 2016).

Prior to this law going into effect in 2010, child support agencies had to file a motion with the court to obtain a redirection of child support. As a shortcut to improve efficiency for child support agencies, many OHP orders from the juvenile court include terms to automatically redirect child support. This automatic redirection of child support is efficient, but it bypasses the parents' right to contest the redirection and takes away due process protections.

Administrative redirection is used by 53% of respondents, automatic redirection is used by 25% of respondents, and both processes are used by 21% of respondents. Some respondents using the administrative process report they were moving to an automatic redirection process to improve efficiency.

Respondents were asked if they use arrears management procedures to forgive arrears. Minnesota Statute 518A.62 states:

In order to reduce and otherwise manage support debts and arrearages, the parties, including the public authority where arrearages have been assigned to the public authority, may compromise unpaid support debts or arrearages owed by one party

to another, whether or not docketed as a judgment. A party may agree or disagree to compromise only those debts or arrearages owed to that party (Minnesota 518A, 2016).

Arrears management is a tool used by child support agencies to forgive arrears when a non-custodial parent does not have the ability to pay; or did not have the ability to pay at the time the order was established; or to encourage and reward payment of current support. Most child support debt accrues due to an inability to pay, and most child support debt is owed by non-custodial parents with little or no income (Sorenson, 2004; Puktas, Albrecht, Auten, Drew & Dabruzzi, 2004). The child support agency has the authority to forgive arrears owed to the federal government on IV-E OHP child support cases. For non-IV-E OHP child support cases, the child support agency asks the child welfare agency to agree to forgive the arrears on appropriate cases. At 82%, most respondents report using arrears management as a tool to manage uncollectible arrears.

The interview responses highlight some of the differences and similarities in processes used by child support agencies. This means families receive different treatment and experience different outcomes depending on where they live. The interview responses also highlight processes that are not productive, such as obtaining zero orders, or establishing child support obligations only to later forgive the debt that accrued because it can't be collected. Table 6 summarizes the results of the interviews related to process.

**Table 6:** Process questions (*N* = 28 respondents)

Question	Percent of Respondents
Report awareness of information provided to parent at time of OHP	58%
Use guidelines to determine how much a parent should pay	82%
Obtain zero-dollar orders	71%
Use administrative redirect	53%
Use automatic redirect	25%
Use both types of redirect/it depends	21%
Uses arrears management policy	82%

*Source: Child support agency interviews*

Respondents were also asked the open-ended question, ‘Do you have any thoughts you want to share about how foster care cases are handled in child support?’ Responses were divided into three categories: 1) Negative impact on families, 2) Frustration with process or lack of policy, and 3) Positive regarding process or cost recovery. Of the 28 responses received, 22 expressed a negative impact on families or expressed a negative perspective on the process. Only six responses were positive about the process or outcome in terms of offsetting costs.

1) Negative impact on families

- Foster care (OHP child support) is time consuming; there are no good outcomes for anyone involved.
- It is horrible for everyone.
- The family is going through hell; child support is the last thing it is worrying about.
- We’re picking the scab.
- We’re making it worse.
- We may actually harm the parents’ ability to regain custody.

- Even a \$50 order isn't enforceable; many of our parents have nothing.
- These are some of the poorest parents.
- The social workers do not want to talk money with the parents when they are taking their children from them.

## 2) Frustration with process or policy

- I would suggest that child support not be involved in collections for foster care cases.
- I know we do things differently than other counties; a statewide policy would help get things cleared up.
- It seems no one tells the parents they have to pay for placement.
- There are major inconsistencies between counties.
- It is way too complicated and a HOT MESS!
- No one knows the entire process from start to finish.
- It is extremely hard to monitor the placements in and out.
- We would appreciate more direction from DHS to increase consistency across counties.
- Would appreciate a more streamlined process for making the IV-E vs. non-IV-E determination.
- These cases are among the most error prone and complex.
- We would love to hear ideas on how to improve the process and the collections.
- There are so many hands in the pot not knowing what the others are doing.
- Handling foster care cases in child support is awkward at best.

- Are there best practices for collecting arrears when the current charging is back on the primary case?
- It seems like a great deal of work to get child support redirected for a short period of time; not sure if it is cost effective in the long run.
- In many instances the noncustodial parent is not paying, which leaves us with the dilemma of what to do with the arrears case after the child returns to the custodial parent.

### 3) Positive regarding process or cost recovery

- We meet regularly with finance and social workers about each child; it helps us keep track and know the plan.
- We use a team approach and talk about each case.
- We work with child welfare to decide which cases should be referred.
- I've never had a custodial parent request a hearing on redirect; it's easier to get it in the order at the time of placement; the custodial parent can ask questions at that time.
- We are very much in favor of recovering placement costs through child support and would be against a policy that restricted our ability to do so.

The responses highlight the concerns about the impact on low-income families and the difficulty in talking with families about financial matters during the stressful court proceedings related to OHP. The responses also highlight frustration about the process and are a clear call for assistance through policy or best practices.

### **Summary of Research on Minnesota's Caseload**

Part one of the research on Minnesota's caseload answers the primary question about cost effectiveness. Through the efforts of the child support program, the child welfare program gains



some revenue to help pay for OHP, and with rates ranging from \$170 to \$453 per day (Minnesota Department of Human Services, 2017b) for 463,211 children (Annie E. Casey 2016b), OHP is very expensive. In the first two estimates, expenditures exceed collections. In the third estimate, collections begin to exceed expenditures, but the margin is small, and the estimate is unrealistically low in terms of resource allocation to the OHP child support caseload. The government is spending more money to administer a process than it is collecting to offset costs. The current practice in Minnesota of using the child support system to collect from parents to reimburse OHP is not cost effective.

Part two of the research answers the question about the income level of the parents with children using a random sample of 1,000 OHP child support cases. Most parents on the caseload have an annual income of less than \$10,000. The federal poverty guideline for a family of two is \$16,020. Most of the families involved in this random sample have income well below the federal poverty guideline. Part two of the research demonstrates that some of the work put into the OHP child support cases is unproductive, meaning that the case will not result in collections. The child support program is investing resources into trying to collect support on uncollectible cases, those cases in which the parents do not have the resources to pay and on which even the most aggressive collection remedies will not be effective.

Part three of the research answers the question about the practices of child support agencies. The interviews highlight several inconsistencies that mean parents receive different treatment and different outcomes depending on where they live. The interviews also show a strong call for guidance and best practices.

## Chapter 5: Conclusions and Recommendations

Families with children in OHP are families in crisis. The fact that a child has been removed from the home indicates abuse, maltreatment, neglect, delinquent or criminal activities, or behavioral issues have occurred. Families with children in OHP are disproportionately poor with few resources to contribute to the cost of OHP (Miron & Cho, 2003; Moraes et al., 2009; Sedlak & Broadhurst, 1996; Roberts, 2002; Thieman & Dail, 1997). But OHP is expensive, and parental responsibility is important, so lawmakers have put in place federal and state laws that require parents to contribute to the cost of OHP. The child support system, with its expertise in locating parents, establishing obligations, and collecting payments, is perhaps seen as a convenient method to obtain collections.

Little research has been done on the interface between OHP in child welfare or juvenile delinquency situations and child support. The research that has been done indicates practices are inconsistent and families involved are low income (Chellew et al., 2012). Research also shows that children experience longer spells of OHP when parents pay (Cancian et al., 2012). Collections from parents make up only a small fractional portion of OHP expenses (Chellew et al., 2012). But no research was found that compared OHP child support collections to expenditures to determine the cost effectiveness of current practices.

The research described in this paper shows that current practices in Minnesota are not cost effective. With expenditure estimates ranging from \$1,912,839 to \$6,830,024 and collections at \$2,508,218 in 2015, the child support program is likely spending more than it collects. Even at the lowest estimate, the overall gain is only \$595,379 and does not include the expenses of court staff, hearing officers, or child welfare agencies in making referrals.

This is a definitive example of the right hand not knowing what the left hand is doing in government programs. The child support agencies are struggling with a complex and error-prone set of cases to collect money from mostly low-income parents. The placement funding sources are receiving the funds as a *de minimis* offset to the cost of OHP. But the net gain or loss has not been adequately studied. This research calls for additional studies to examine cost effectiveness, including time studies and salaries of child support staff to provide a better picture of costs.

If child support agencies were not spending resources to work OHP child support cases, more child support resources could be used to establish paternity, which could lead to reduced OHP and improved outcomes for children in general. Studies show, for example, that paternity establishment is associated with safety, more stable home environments, and better developmental outcomes for children (Greene & Moore, 2000; Wattenberg, 1993). Child support resources could also be used to focus on improved collections to bring more resources into the households of at-risk families when possible.

In addition to the cost effectiveness question, the research presented here looks at the income levels of the parents involved in OHP, confirming what other studies show: The majority of parents with children in OHP are low income (Miron & Cho, 2003; Moraes et al., 2009; Sedlak & Broadhurst, 1996; Roberts, 2002; Thieman & Dail, 1997). At 80%, an overwhelming majority of parents in the Minnesota OHP child support caseload had wages below \$10,000 for the entire year of 2015. This data should be interpreted with caution as some earnings, such as self-employed earnings or unemployment insurance payments, would not appear in this data. Additional research into the sample cases from PRISM would provide more information.

The research presented here also establishes that Minnesota child support agencies use inconsistent practices, especially in terms of determining which OHP cases to refer to child

support. There are significant differences in referring IV-E and non-IV-E referrals. In IV-E OHP cases, 53% of respondents reported referring both parents, 29% reported referring only the non-custodial parent, and 18% said, “it depends.” If the discretion that is allowed under federal guidance is used (U.S. Dept. of HHS, 2012b), there could be a 100% “it depends” response. Referral decisions should include reviewing for adoption proceedings, reunification plans, duration of placement, and whether the non-custodial parent is a potential placement source (U.S. Dept. of HHS, 2012b). Only three responding agencies reported using a team approach that considers these factors when making referral decisions. In non-IV-E OHP cases, 29% of respondents reported referring both parents, 36% reported referring only the non-custodial parent, and 36% said, “it depends.” It appears that more discretion is used in non-IV-E OHP, when the law actually provides for less discretion in non-IV-E OHP than in IV-E OHP (Minnesota Statutes 260, 2016; U.S. Dept. of HHS, 2012b).

Further research should be undertaken to provide evidence to develop best practices in determining when it is appropriate to refer OHP cases to child support. The appropriate referral circumstances as laid out in federal guidance include when “it is likely that the child will remain in foster care for a sufficient period that justifies establishing a child support case” (U.S. Dept. of HHS, 2012b). But Cancian et al. (2012) find that when parents are required to pay, the duration of the child’s OHP lasts longer. The authors call for additional research to confirm their results. Another appropriate referral reason is that child support will aid in permanency planning because child support sends a message of parental responsibility and “may motivate the parents(s) to take the steps necessary to regain or assume custody of the child” (U.S. Dept. of HHS, 2012b). There is no indication of evidence that supports the theory that parents are motivated to regain custody by the threat of a child support obligation. In fact, 66% of children return home following OHP,

and 50% of placement episodes last less than six months (Minnesota Department of Human Services, 2015b), making this referral guidance inconsistent with the referral guidance related to length of placement.

This research recommends that the child support program not be used to help offset the cost of OHP by collecting obligations from resident parents. The child support program can assist child welfare by locating parents and family members who may be potential placement sources for a child and by establishing paternity so that the child experiences the benefits of having a legal father. If resident parents must contribute to the cost of OHP, a sliding-fee scale should be used, similar to that found in Minnesota Statute 252.27 for children in OHP because of developmental disabilities, physical disabilities, or emotional disturbances (Minnesota Statute 252). In the sliding scale found in 252.27, a parent earning \$15.00 per hour and working full time would be obligated to pay approximately \$60 per month. Parents could be billed monthly, and state tax returns could be intercepted for delinquent parental fee accounts. Although collections would likely still be minimal, there would be far fewer resources used to establish the obligation and collect on it. This recommendation would require changes to Minnesota statute. Existing federal law allows sufficient flexibility, and with updated guidance from the Administration for Children and Families, changes in practice could be implemented without changes to the law.

With an understanding that changing state law and publishing updated federal guidance takes time and agreement from many policy makers and lawmakers, this research recommends an alternative that could be implemented under existing law:

1. The Department of Human Services should convene a workgroup consisting of child support, child protection, and juvenile justice system professionals. These professionals should use their expertise and knowledge to make recommendations

for best practices. These recommendations should consider the best interest of the children, timelines for permanency planning, and the impact that juvenile delinquent behaviors have on families.

2. Resident parents whose children are eligible for IV-E OHP services are low-income by definition and should not be referred to child support services as an obligor.
3. Resident parents should not be obligated to contribute to the cost of OHP for the first six months of a child's placement, provided there is a plan for the child to return home.
4. If a child is to remain in placement for more than six months, or there is no plan for reunification, parents may be assessed based on their ability to pay.
  - a. Downward deviations from the Minnesota child support guidelines should be considered in all cases in which the plan is for a child to return home and in households where there are other children being supported by the parent(s). The downward deviation should consider the reasonable expenses of the household.
  - b. If it is not appropriate to set even a minimum \$50 order, the case may be closed without obtaining a zero or reserved order.
5. In the interest of procedural justice, notices to parents regarding redirection of existing child support orders should more clearly state the option to request a hearing and the reasons the court might consider in not requiring a redirection of child support.

6. Child support managers, caseworkers, attorneys, and magistrates should receive training to gain an understanding of the underlying racial disparities and poverty issues that impact families with children in OHP. The training should also include an overview of the goals and procedures involved in child welfare and juvenile justice. Likewise, child welfare and juvenile justice system professionals should receive training on the goals and processes of the child support system. Better understanding of the systems involved will lead to better decision making and improve outcomes for families.

Research and collaboration are necessary to safeguard the best interests of the children who overlap in the child support, child welfare, and juvenile justice systems. One of the goals of the child support program is to “encourage responsible parenting, family self-sufficiency and child well-being” (U.S. Dept. of HHS, 2015b). One of the goals of the child welfare system is to “support at-risk families through services which allow children, where appropriate, to remain with their families or return to their families in a timely manner” (U.S. Dept. of HHS, 2012a). One of the goals of the juvenile justice system is to “ensure positive youth development and fairness and equity” (Juvenile Detention Alternatives, 2011). The goals of each program are similar in that they put the needs of children first. More research and collaboration on policy development must be done to ensure that practices are aligned with these goals.

### Definition of Terms

**AFDC** — Aid to Families with Dependent Children; the welfare program in place prior to the current TANF program.

**Assignment** — The transfer of rights by one party to another party. In child support, assignment automatically transfers the rights to child support to the state when a child is a recipient of public assistance.

**IV-D** — Title IV-D of the Social Security Act. The federal child support program, supervised at the state level, and operated at the local county or regional level.

**IV-E** — Title IV-E of the Social Security Act, which provides federal funding and guidance for child welfare and out-of-home placement.

**Child support** — The court-ordered financial obligation of one parent to another parent or caretaker on behalf of a child to ensure the child's financial well-being. A caretaker may include an agency responsible for the cost of out-of-home placement.

**Child support agency** — A local county or tribal agency responsible for providing child support services under the federal IV-D program with state supervision.

**Cost of care** — The cost of out-of-home placement, treatment, and medical care for a child in out-of-home placement.

**Cost-effectiveness ratio** — A federal performance measure in the child support program, calculated by dividing the total amount of collections by the total amount of expenditures. States maximize funding in this category when the cost effectiveness ratio is \$5.00.

**Cost of collections** — The cost per case multiplied by the number of OHP child support cases.



**Cost per case** — The estimated cost of servicing a case, calculated as expenditures divided by the number of cases.

**Custodial parent** — The parent with who a child regularly resides. Usually the recipient of child support payments.

**Enforcement** — The process of collecting child support payments and the use of appropriate tools to collect, such as income withholding and driver's license suspension.

**Establishment** — The process of establishing a court-ordered child support obligation. Requires review of a parent's income and other financial circumstances and uses a formula, or guideline, defined in state law.

**Guidelines** — Calculation methods found in Minnesota law to establish child support obligations.

**Intact Family** — A family in which both parents reside in the household with the children.

**Non-IV-E** — Refers to out of home placement that is not eligible for IV-E funding. The cost is a burden to local governments rather than the federal government. Non-IV-E placements require an application for services and payment of an application fee.

**Non-custodial parent** — The parent with who the child does not regularly reside. Usually the payor of child support.

**OHP** — Out-of-home placement in foster care, juvenile detention center, or treatment center, usually by court order but could be a voluntary placement agreement.

**OHP child support cases** — Cases that exist in the child support system in which the custodial parent is the placement agency, and the non-custodial parent is either parent and a possible obligor.

**Permanency planning** — A practice intended to provide a permanent living situation within a specified timeframe for children in foster care. Permanency may mean reunification with the family, placement with relatives, or adoption.

**PRISM** — Providing Resources to Improve Support in Minnesota, the Minnesota statewide child support computer system.

**Redirection** — The process of changing the payee of child support payments from a custodial parent to another person or entity. For the purposes of this study, the new payee is the government agency that incurs costs for out-of-home placement.

**TANF** — Temporary Assistance to Needy Families, a federal block grant funding source for individual state welfare programs. In Minnesota, the welfare program is Minnesota Family Investment Program (MFIP), which replaced AFDC.

**Appendix A:**  
**Questions for the Counties**

1. Is there a decision-making process to determine if a child support referral is appropriate for IV-E placements? Who makes that decision for IV-E? Are both parents referred?
2. Is there a decision-making process to determine if a child support referral is appropriate for non-IV-E placements? Who makes that decision for non-IV-E? Are both parents referred?
3. Is information regarding child support provided to the family at the time of the placement?
4. Do you use the child support guidelines to determine how much the parent should pay?
5. When a parent has no ability to pay, such as when they are on MFIP or SSI, do you obtain a zero/reserved order, or close without an order?
6. How is redirect done? (automatic per court order language, using administrative redirect)
7. Do you use AMPP (arrear forgiveness) on IV-E cases when appropriate?
8. Do you use AMPP (arrear forgiveness) on non-IV-E cases when appropriate?
9. Do you have any thoughts you want to share about how foster care cases are handled in child support?

**Appendix B:**  
**County Process Data**

County	Is there a decision making process to determine if a child support referral is appropriate for IV-E?	Is there a decision making process to determine if a child support referral is appropriate for non IV-E?	Who determines a for IV-E?	Who determines for non IV-E?	Do you know if information provided to the family re child support at the time of placement	IV-E referrals include both parents?	Non IV-E referrals include both parents?	Do you use the child support guidelines to determine how much a parent should pay?	When a parent has no ability to pay, zero/reserved, close without an order?	How is redirect done?	Do you use AMPP on appropriate IV-E cases?	Do you use AMPP on appropriate non IV-E cases?
a	no	no	not applicable	not applicable	no	yes both	NCP only	yes	zero/reserved	administrative	yes	yes
b	no	yes	not applicable	other	no	NCP only	NCP only	yes	close w/out an o	automatic	no	no
c	no	yes	not applicable	social worker	no	NCP only	NCP only	yes	zero/reserved	administrative	yes	no
d	no	yes	revenue	revenue	no	yes both	yes both	yes	zero/reserved	administrative	yes	yes
e	no	yes	financial worker	financial worker	no	yes both	it depends	yes	zero/reserved	administrative	yes	yes
f	no	no	not applicable	not applicable	yes	it depends	it depends	yes	other	administrative	yes	yes
g	no	no	not applicable	not applicable	yes	NCP only	NCP only	yes	zero/reserved	both depending	yes	yes
h	no	no	not applicable	not applicable	yes	yes both	yes both	no	other	automatic	yes	yes
i	no	no	not applicable	not applicable	yes	yes both		yes	zero/reserved	administrative	yes	yes
j	no	no	not applicable	not applicable	yes	yes both	yes both	yes	zero/reserved	automatic	yes	yes
k	no	no	not applicable	not applicable	yes	yes both	yes both	yes	zero/reserved	both depending	yes	no
l	no	yes	not applicable	revenue	yes	NCP only	NCP only	no	zero/reserved	both depending	yes	yes
m	no	yes	not applicable	child support wo	yes	yes both	it depends	yes	zero/reserved	automatic	yes	yes
n	no	yes	not applicable	child support wo	yes	yes both	it depends	yes	close w/out an o	administrative	yes	yes
o	no	yes	child support wo	not applicable	yes	yes both	it depends	yes	close w/out an o	both depending	yes	yes
p	no	yes	child support wo	child support wo	yes	it depends	it depends	yes	zero/reserved	administrative	yes	yes
q	yes	yes	child support wo	child support wo	no	it depends	it depends	yes	zero/reserved	administrative	no	no
r	yes	yes	financial worker	child support wo	no	NCP only	NCP only	yes	zero/reserved	automatic	yes	yes
s	yes	yes	financial worker	financial worker	no	NCP only	NCP only	yes	zero/reserved	automatic	no	no
t	yes	yes	financial worker	financial worker	no	NCP only	NCP only	yes	close w/out an o	administrative	yes	yes
u	yes	yes	revenue	revenue	no	yes both	yes both	yes	zero/reserved	administrative	yes	yes
v	yes	yes	not applicable	social worker	yes	it depends	it depends	yes	zero/reserved	administrative	yes	yes
w	yes	yes	revenue	revenue	yes	it depends	it depends	yes	zero/reserved	administrative	yes	yes
x	yes	yes	not applicable	not applicable	yes	yes both	yes both	no	other	administrative	yes	yes
y	yes	yes	financial worker	financial worker	yes	yes both	NCP only	no	zero/reserved	administrative	yes	yes
z	yes	yes	I don't know	I don't know	yes	yes both	yes both	no			yes	yes
aa	yes	yes	other	revenue	yes	yes both	it depends	yes	zero/reserved	both depending	yes	yes
bb	no	no	I don't know	I don't know	no	NCP only	NCP only	yes	zero/reserved	automatic	no	no

**Appendix C:****Random Sample Report Specifications (N = 1,000)**

1. CP to Child Relationship = AGE (agency)
  2. Case Open Date from 01/01/2010-12/31/2015
  3. First Open Date during the period 10/01/2010-12/31/2015
  4. Last Closed Date, 12/31/2099 notes Open
  5. Random Sample 1000
  6. All Orders Effective Dates
  7. Last Accrual and Non-Accrual Total before Inactive or zeroed down
  8. NCP TRLI Trans (dpr, din, rpr, rin)
  9. NCQW Quarterly Wage for NCP 01/01/2015-12/31/2015 (N = 280)
  10. Last Arrears Total before Inactive or zeroed down
- Data Extract through 07/23/2016

**IVE Non-IVE per Current Collections FFY2015**

1. CP to Child Relationship = AGE (agency)
  2. Date Begin = 10/01/2014
  3. Date End = 09/30/2015
- Current Due
4. Transaction Type = ADB
  5. Transaction Amount Type = CPA
  6. Transaction Date is between Date Beg and Date End (inclusive)
- Current Collections
7. Transaction Type = DPR, DIN, RPR, or RIN
  8. Transaction Amount Type = CPA
  9. Transaction Date is between Date Beg and Date End (inclusive)

**IVE Non-IVE per County as of 09/30/2015**

1. CP to Child Relationship = AGE (agency)
2. Case Status = Open as of 09/30/2015
3. County Code as of 09/30/2015

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