



# Fathers in the Criminal Justice System

## Final Report

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## Executive Summary

Fathers in the Criminal Justice System was a project conducted by the Massachusetts Department of Revenue, Child Support Enforcement Division (DOR/CSE) to develop ways of communicating with and serving incarcerated noncustodial parents. Elements of the demonstration project included:

- Extensive collaboration with the Department of Correction (DOC), the Suffolk County House of Correction (Suffolk), and the Parole Board;
- Automated and manual data matches between the agencies to identify their overlapping populations;
- Training corrections and parole staff on the goals of the project and child support procedures;
- Placing project staff in criminal justice facilities and parole offices to work directly with incarcerated and paroled fathers regarding their child support cases; and
- Developing responsive child support procedures including simplified paternity establishment and genetic testing procedures, and methods of assisting incarcerated noncustodial father to request modification of their child support orders to levels between \$50 to \$80 per month to prevent the accumulation of uncollectible arrears.

The evaluation, conducted by the Center for Policy Research (CPR), used a number of different data collection and analysis techniques. A key feature of

the analysis was an electronic matching of data from the DOR/CSE computer system, COMETS, with the data systems of the Department of Correction, the Suffolk County House of Correction, and the Parole Board.

Two data extractions were done, the first on September 30, 2001, and the second on September 30, 2003. A comparison of the child support status of inmates and parolees with open cases in 2001 and 2003, which roughly coincided with the start and end of the Fathers in the Criminal Justice System project, yielded the following changes in levels of child support activity.

- Significant increases in the percentage of inmates and parolees establishing paternity, which rose from 17.4 to 24.3 percent (DOC), 28.1 to 33.1 percent (Suffolk), and 21.1 to 28.8 percent (parole).
- Significant increases in the number of child support orders established for inmates, which rose from zero to 8.4 percent (DOC) and zero to 10.8 percent (Suffolk).
- Significant increases in the percentage of inmate orders in the \$1 to \$50 range, which rose from 20.4 to 32.7 percent (DOC) and 13.8 to 22.8 percent (Suffolk).
- Significant increases in the rate of child support order modification among inmates, which rose from 4.3 to 12.5 percent (DOC) and 5.3 percent to 10.5 percent (Suffolk).
- Significant increases in downward adjustments among DOC inmates and parolees whose child support orders were modified.

Other child support outcomes, however, did not change in the course of the two-year evaluation:

- Approximately one-third to one-half of inmates and parolees with pre-obligation cases continued to need paternity establishment.
- Average monthly support obligations continued to be approximately \$230 per month for DOC inmates and \$300 for Suffolk inmates and parolees.
- As expected, most inmates continued to pay no child support at all, with inmates paying only 5 percent (DOC) to 8 percent (Suffolk) of what they owed.

- Most parolees continued to pay a fraction of what they owed in child support, with the average percentage paid dropping from 33.6 to 18.5 percent, and even those who experienced downward modifications paying only about a third of what they owed at both pre- and post-program time points. This coincided with a decline in the Massachusetts economy and the imposition of parole supervision fees.

Project staff attribute increases in paternity and order establishments to their ability to locate many noncustodial parents with pre-obligation cases during prison orientation sessions and convey the information to child support offices for action. The rise in modification activity reflects the development and implementation of a project-inspired policy to modify support orders for noncustodial parents in long-term incarceration. An analysis of records maintained by project personnel show that:

- 731 requests for modification were filed by inmates with 12 months or more to serve;
- By the end of the evaluation, 25 percent had been approved, 49 percent were still pending, and 23 percent were determined to be inappropriate and not acted upon.
- On average, the modification process took 7.2 months to complete.

Routine modification of inmate orders to the \$50 level has the potential to greatly reduce the generation of uncollectible arrears. By the same token, the absence of modification activity among inmates will result in dramatically higher arrears balances. Simulations show that if inmates retain their 2001 child support order levels and serve their full sentences, their arrears balances will rise during their incarceration by an average of 23.5 percent (Suffolk) and 194 percent (DOC).

In addition to developing procedures to modify inmate child support orders, the Fathers in the Criminal Justice System project led DOR/CSE to initiate a number of policy changes that will affect future interactions with incarcerated parents as well as other low-income groups.

- The project led to the adoption of a regulation, effective January 1, 2004, for hard-to-serve populations dealing with child support arrears that gives the agency discretionary authority to adjust or settle uncollectible arrearages owed to the state and permits the agency to impose terms or conditions of a settlement that might be required.

- The project led to the development and more routine use of simplified methods of establishing paternity, including the 2003 Putative Father’s Affidavit by which fathers may waive the requirement to obtain a court order for genetic testing, and the administrative authority for genetic marker tests that grants the child support agency authority to order the mother, the child, and the putative father to submit to genetic marker tests.
- The project led to full implementation of a case closure regulation that permits DOR/CSE to close the child support cases of noncustodial parents sentenced to life without the possibility of parole as well as those who have no chance of release during their dependants’ minority. To date 137 cases meeting this criteria have been closed, resulting in the elimination of \$2.3 million in the agency’s total arrears balance.

Fathers in the Criminal Justice System succeeded in educating DOR/CSE about how to interact with hard-to-serve segments of its caseload and in building strong relationships between DOR/CSE and many criminal justice agencies in the state. The following are some of the lessons that can be learned from this project and applied to other states interested in understanding and dealing with incarcerated parents.

- **Child support agencies find there are many benefits to targeting incarcerated, released, and paroled noncustodial parents for child support outreach and intervention.** In addition to increasing the rate of paternity and new order establishment, generating minimum orders, and stimulating modifications among inmates, the project had the effect of cleaning up complicated cases, pinpointing cases that qualify for closure, identifying cases where downward modifications were appropriate, and updating addresses and other information about obligors and their cases. A final benefit was educating DOR/CSE staff about inmate cases and changing their attitude toward them.
- **Collaborative projects with criminal justice agencies lead to a broader understanding of child support throughout the community.** Although the project was piloted in three specific sites, it has been, and will continue to be, expanded to other settings and other criminal justice agencies throughout the state, including local community corrections programs under the supervision of the Probation Department and in re-entry programs.

- **Criminal justice agency staff and administrators find that there are numerous benefits to incorporating child support information into their orientation programs and life skills classes.** Giving inmates specific information about their child support situation is believed to help them focus on their relationships and their future. Knowing the child support status of an individual reminds facility staff and parole officers that in addition to being offenders, inmates have other dimensions that need to be addressed.
- **Outreach to criminal justice agencies throughout the state requires a significant staffing commitment; videos are helpful but are not a substitute for in-person presentations and individual case reviews.** In addition to placing three full-time staff in criminal justice settings, DOR/CSE assigned two full-time staff members to visit facilities and two part-time Customer Service staff to handle modification applications and correspondence from inmates. Although some states use videos, criminal justice agency administrators in Massachusetts believe that in-person outreach by staff who are consistent and timely in their follow-through is critical. They are eager to have their staff trained on child support matters but do not want them to answer inmate questions or help them fill out forms.
- **Child support staff who work in criminal justice agency settings need training but also should have certain characteristics in order to fit in.** According to criminal justice agency administrators, these included Spanish-language skills, confidence and “having street savvy,” an understanding of inmate behavior, the ability to say “no,” and “being responsible enough to always follow through on what you tell the inmate you are going to do.”
- **Successful collaborative projects between child support and criminal justice agencies require the involvement of top-level administrators over a long period of time and access to agency databases.** It takes years for a child support agency to build the relationships and infrastructure needed to interact with noncustodial parents in prison and parole settings. Upper-level support minimizes problems accessing prisons, meeting with targeted inmates, and gaining access to agency databases. Automated database matches to identify overlapping caseloads are extremely helpful but do not fully replace manual methods of case identification.
- **Processing inmate requests for information and modification is extremely time consuming and labor intensive.** The facility coordinators, DOR/CSE project manager and outreach specialist spent between 30 and 40 percent of their time researching roughly 1,200 child support

cases and preparing forms before meeting with noncustodial parents who requested information about modification. More to the point, 357 of 731 requests for modification filed by inmates with long-term incarceration (49%) were still being processed at the end of the evaluation, having been filed an average of 11 months previously. Requests for modification filed by inmates in a Colorado demonstration project fared similarly, with 45 percent being in a pending status at the conclusion of the project. Child support agencies should be realistic about the workload and develop simplified approaches.

- **Working with incarcerated and released noncustodial parents forces a child support agency to consider its arrears management policies.** By tackling inmate child support cases, DOR/CSE gained valuable insights into their complexity, the amount of individual attention they require, and the need for flexibility in crafting appropriate responses. The result was a formal regulation for all hard-to-serve cases that accords the child support agency authority to adjust or settle uncollectible arrears owed to the state and to require responsible management of child support obligations.
- **It appears that incarcerated noncustodial parents do not communicate with the child support agency upon their release.** Even though inmates who began the modification process while they were incarcerated and were soon released were given forms to send to DOR/CSE about their release and were offered the possibility of receiving downward adjustments back to the date they applied, few appear to have followed through. The unwillingness of inmates to engage in strategic, future-minded behavior that tries to manage negative consequences is challenging for a child support program that attempts to promote responsible management of child support obligations.
- **Stronger child support outcomes will require more time and the use of more systematic and streamlined modification procedures.** Although the project led to significant increases in modification requests, minimum orders, and downward adjustments, these changes failed to be reflected in average obligation levels held by incarcerated noncustodial parents, at least within a two-year time period. Although a few states have passed laws and/or administrative rules to achieve modification and reinstatement of inmate orders on a more systematic basis, none has been empirically assessed to determine whether they succeed in stemming the growth of uncollectible arrears and promoting payment upon release.

- **Stronger payment behavior will require more basic changes in the employment and earning opportunities that paroled and released offenders face.** Following their release, more than half of paroled noncustodial parents paid no child support. Among those who paid something, nearly three-quarter paid less than 20 percent of what they owe. Although we lacked financial information for parolees, they undoubtedly face low earnings coupled with high expenses, including the recent imposition of parole supervision fees of \$50 per month. As other studies with low-income parents show, better payment behavior depends upon improving the employment and earnings of obligors and obtaining wage assignments.
- **It is extremely difficult to increase responsible behavior among incarcerated noncustodial parents but important for child support agencies to try.** Inmate child support cases are complex, irresponsible behavior is the norm, unpaid child support balances are high, and prospects for future earnings are dim. Compounding these problems are the cumbersome mechanics of communicating with fathers in prison settings and the labor-intensive nature of the child support intervention that they require. The reasons to communicate with incarcerated noncustodial parents are their numerical importance in the caseload, the vulnerable status of their children, their accessibility in prison settings, and their responsiveness to child support personnel. It remains for future research to determine whether this translates into behavior change over time.