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Digest of
A Performance Audit Of
Utah's Office of Recovery Services

This audit was initiated in response to a Legislative Process Committee request for an in-depth budget review of the Office of Recovery Services (ORS). In addition to the in-depth review, we were asked to determine if appropriate collection methods were used by the Bureau of Child Support Services (BCSS). Also, we reviewed the Bureau of Investigations and Collection's (BIC) effectiveness at detecting and deterring welfare fraud. This audit identifies four areas of concern. First, there seem to be few consequences for those people who commit welfare fraud. Second, stronger judicial action is justified in some child support cases but is not taken by BCSS. Third, BCSS child support collections could increase by as much as $2.9 million if more determined collection approaches were made. Fourth, AFDC collections need to be improved. Because of a greater focus by caseworkers on non-AFDC cases, as much as $1.7 million in FY 1993 AFDC collections were lost.

The ORS was established in 1975 and is located within the Department of Human Services (DHS). ORS is charged with collecting assigned child support for welfare recipients, collecting child support for other custodial parents upon their request, providing payment transfers from the non-custodial parent to the custodial parent for all child support orders established or modified after January 1994 as required by federal mandate, and recovering other debts such as benefit overpayments for DHS. To accomplish their mission, ORS has established two bureaus: The Bureau of Child Support Services and the Bureau of Investigations and Collections.

Since its establishment, BCSS's collections have increased dramatically and staffing has increased moderately. In FY 1977, the BCSS had 73 line employees and collected approximately $3.2 million. In FY 1993, the BCSS had 256 line employees and collected $58.8 million. Thus, over a seventeen year period, the number of BCSS employees tripled while collections multiplied 18 times over. BIC's collections have also grown dramatically over time while staffing has grown moderately. In FY 1977, the BIC had 25 line employees and collected $1.4 million. In FY 1993, the BIC had 101 line employees and collected $14 million. Thus, over a seventeen year period, the number of BIC employees quadrupled while collections grew 10 times.

The following summaries identify the most significant findings and conclusions of the audit:

Little Consequence Exists For Those Committing Welfare Fraud. The occurence of welfare fraud along Utah's Wasatch Front is often detected by the BIC but goes largely unpunished in any substantive measure. The result is that DHS lacks an aggressive effort in deterring fraud. We have concerns in four areas. First, welfare disqualifications are not properly enforced. The disqualification is the primary tool used by the state to control welfare violations. Serious violators (those defrauding the system) are denied benefits. Our test sample shows that the majority of program violators who were to be disqualified were not denied any benefits or most likely will not be denied any benefits upon returning to the welfare system. Second, fraud referrals to rural Utah are often not investigated. In fact, our test sample found only 12 percent which were investigated. As a result, fraud in the rural areas goes largely undetected and unpunished. Both the problems with disqualifications and rural fraud investigations stem from poor communication and role confusion between BIC and the Office of Family Support (OFS) which is supposed to act on disqualifications and perform rural fraud investigations. Third, we noted that little effective action is taken to deter the incidence of public assistance check fraud. Penalties of criminal prosecution and disqualifications are for the most part not enforced. Furthermore, past actions to recover overpayments from recipients have taken excessive amounts of time which could contribute to the problem of repeat check fraud. Fourth, BIC should place greater emphasis on fraud deterrence through a more aggressive criminal prosecution effort. Currently, BIC prosecutes less than 1 percent of investigated cases, far less than what is done in other states. BIC could refer more cases for criminal prosecution if their prosecution criteria were changed.

Stronger Judicial Action Is Justified. BCSS needs to more aggressively pursue judicial enforcement when non-custodial parents do not pay child support. Our analysis indicates that 17 percent meet the criteria for judicial enforcement action; however, no judicial action has occurred. This is regrettable since judicial enforcement remedies can be effective in collecting child support from resistive non-custodial parents. It appears that many BCSS caseworkers do not use judicial enforcement because of perceptions of judicial remedies.

Child Support Collections Can Increase. BCSS collects 38 cents for every child support dollar owed. This overall rate could possibly be increased to 43 cents by improving regional collection rates. In FY 1993, an increase of 5 cents per dollar owed would have resulted in an additional $2.9 million in collections. There are significant collection rate differences among the regions. Specifically, the Salt Lake region, which has 50 percent of the caseload, has the lowest regional collection rate. These collection rates have the potential to improve based on an analysis of regional income data. We believe collection rate improvement can result from a more determined approach to case management. Specifically, caseworkers need to actively monitor non-paying cases

frequently for circumstantial changes. In addition, caseworkers need to show more initiative and less passive and reactive behavior.

AFDC Collections Need Improvement. Collection percentages for Aid-To-Families-With-Dependant-Children (AFDC) cases have fallen while collection percentages for non-AFDC cases have risen. AFDC collections are an important revenue source to the state because the state keeps 25 percent of all AFDC money collected. The federal government gets the remaining 75 percent. Because AFDC collection percentages have fallen, we estimate the state lost as much as $1.7 million in AFDC collections in FY 1993. Caseworkers maintain that this shift from AFDC to non-AFDC collections has occurred because non-AFDC custodial parents demand their time whereas AFDC custodial parents do not. Other child support collection agencies are trying to manage the impact of non-AFDC clients.

Chapter I
Introduction

This audit of the Office of Recover Services (ORS) is the result of a Legislative Process Committee request that ORS receive an in-depth budget review in 1994. We reviewed two ORS responsibilities: collecting and enforcing child support orders and detecting and deterring welfare fraud. Our analysis identified that there are few consequences for those who commit welfare fraud. We also found that stronger legal action is justified in the enforcement of child support orders. Also, we determined that child support collections could be improved with a more determined collection effort. Finally, we determined that public assistance child support collections need to be improved.

The Office of Recovery Services was established in 1975 and is located within the Department of Human Services (DHS). ORS is charged with collecting assigned child support for welfare recipients, collecting child support for other custodial parents upon their request, and recovering other debts such as benefit overpayments for DHS. Towards this end, ORS has established the following mission:

> It is the purpose of the Office of Recovery Services to promote quality, integrity, and responsible actions regarding child support obligations, paternity establishment, third-party accountability for medical obligations and the reduction of fraud and abuse in public assistance programs.

To accomplish their mission, ORS has established two bureaus: The Bureau of Child Support Services (BCSS) and the Bureau of Investigations and Collections (BIC).

BCSS Is Charged With Child Support Collections

BCSS was created in response to the enactment of Title IV-D of the U.S. Social Security Act. Title IV-D's purpose was to strengthen state child support enforcement efforts by obtaining support for two groups: (1) children receiving public assistance, primarily Aid-To-Families-With-Dependant-Children (AFDC cases), and (2) children not receiving public assistance (non-AFDC cases) but for whom child support is owed. The enactment of Title IV-D required that all states create a child support enforcement program to carry out the requirements outlined; BCSS is charged with that responsibility.

Specifically, BCSS must perform the following functions on all cases within federally

mandated time frames:

Locate the absent non-custodial parent;
Establish paternity when necessary;
Establish support orders when absent;
Enforce, review and adjust support orders;
Collect and monitor support payments; and
Establish and enforce health insurance obligations

To accomplish these tasks, BCSS has divided its workers among four types of teams: two basic teams and two specialty teams. The two basic types of teams are the Intake, Locate, and Order Establishment (ILO) teams and the Collection, Enforcement, and Relocate (CER) teams. The ILO teams open the case, locate the non-custodial parent if necessary and establish a support order if necessary. Once the order has been established, the ILO team transfers the case to a CER team. The CER team collects and monitors support payments. If payments cease, the team will try and relocate the non-custodial parent, if necessary, locate any new employer and assets, and then take necessary steps to enforce the support order.

In addition to these two basic types of teams, there are also two types of specialty teams. The first is a paternity team. A paternity team is basically an ILO team with the added function of having to legally establish paternity of the child. The second specialty team is an interstate team. Interstate teams act as conduits for cases which cross state lines. For example, if the custodial parent lives in Utah and the non-custodial parent lives in California, the interstate team will prepare and process the legal paperwork necessary to request California's enforcement of Utah's support order. The interstate team also registers and forwards to a Utah CER team, other state's requests for Utah's enforcement of their support orders.

Since its establishment, BCSS's collections have increased dramatically and staffing has increased moderately. In FY 1977, the BCSS had 73 line employees and collected approximately $3.2 million. In FY 1993, the BCSS had 256 line employees and collected $58.8 million. Thus, over a seventeen-year period, the number of BCSS employees tripled while collections multiplied 18 times over.

The State of Utah has been a leader in child support collections for many years. In fact, Utah was one of the first states to take the collection of child support seriously. Utah's prominence in child support collections was recently recognized in a national report published by the Children's Defense Fund. Using federal data, the Children's Defense Fund recognized Utah as one of the top ten states in child support collections. That BCSS has achieved national recognition is admirable given their operating climate.

Outside Factors Affect BCSS's Service

BCSS operations are strongly affected by federal mandates. Also, the various customer interests with whom BCSS deals, often make conflicting demands on the system. Customers include the custodial parent, the non-custodial parent, the child(ren), and the taxpayers. Thus, BCSS needs to identify the most important customer and act accordingly. It is possible that the Legislature could help BCSS with this latter issue.

Federal mandates strongly impact BCSS's working climate. First, there are federal timeframes that must be met for many BCSS functions. It is important to meet these timeframes because federal auditors are compliance oriented rather than effectiveness oriented. When a federal audit identifies an area in which BCSS is out of compliance, federal monetary sanctions are possible. Second, there are federal program mandates which must also be met or, again, federal sanctions are risked. The new computerized accounting and data search system (called ORSIS), which must be operational by October 1995, is a very good example of a federal program mandate. Another good example is the required enforcement of medical insurance coverage on all support orders in BCSS's caseload. BCSS was given two years to complete this project or face federal sanctions. BCSS has just completed this project. A final example is the federal mandate requiring universal income witholding on all child support orders after January 1994. Unless the child support order specifically requests that BCSS not be involved in transferring child support payments from the non-custodial parent to the custodial parent, BCSS is required to perform the function through income withholding. Because of this federal requirement, BCSS's caseload will probably increase significantly.

Not only do federal mandates make strong demands on BCSS, but the environment that BCSS operates within is often hostile with different clients making conflicting demands. On the one hand, the custodial parent wants BCSS to collect all that is owed. If BCSS does not do this, the custodial parent is unhappy. On the other hand, the non-custodial parent is often resistive to paying child support. If BCSS collects any child support money, the non-custodial parent is unhappy. In addition, there are the taxpayers for whom child support programs were originally started. The taxpayers as a whole might also be unhappy if collections are not maximized since this means the taxpayer burden for family support will be larger than necessary. As can be seen, the demands made on child support collections can conflict. This problem is further compounded by the caseworker's belief that DHS wants the worker to please all parties involved which is not possible. In our opinion, the most important BCSS client is the taxpayer. As a result, we believe BCSS should focus itself on providing services which would maximize the benefit to the taxpayer. Towards this end, our report focuses on changes BCSS should make to better serve the taxpayer by increasing child support collections.

In addition to BCSS, ORS also has a second bureau, BIC.

BIC Is Charged With Collecting Other Debts Owed the State

BICs' goal is to collect money from responsible parties to reimburse various state expenditures. In addition, BIC is also responsible for investigating and deterring fraud within Human Service's programs. Specifically, BIC performs the following functions:

On behalf of the AFDC, General Assistance, Food Stamp, Medicaid, Day Care, UMAP, and HEAT programs, BIC identifies, establishes, and collects overpayments;

On behalf of Foster Care and Youth Corrections, BIC recovers a portion of the state's cost of care.

On behalf of the Office of Family Support, BIC investigates allegations of fraud, including check fraud, on open and closed public assistance cases;

On behalf of the Division of Health Care Financing, BIC identifies and maintains insurance coverage information on public assistance recipients, collects provider overpayments and collects from the primary insurance carrier when recipients have other health insurance coverage;

On behalf of the Utah State Hospital, BIC establishes and enforces medical support orders;

Finally, BIC recovers General Assistance reimbursements from individuals who subsequently become eligible for Supplemental Security Income (SSI) and receive retroactive benefits from SSI.

To accomplish these tasks, BIC has divided into three functional areas: the first area focuses on overpayments and fraud, the second area focuses on medical cost recovery and the third area focuses on general cost recovery.

As with BCSS, BIC's collections have grown dramatically over time while staffing has grown moderately. In FY 1977, the BIC had 25 line employees and collected $1.4 million. In FY 1993, the BIC had 101 line employees and collected $14 million. Thus, over a seventeen year period, the number of BIC employees quadrupled while collections grew 10 times.

While BIC has three functional areas, our audit focused on the public assistance and check fraud investigative unit.

The BIC Investigative Unit Detects and Deters Welfare Fraud

The investigative unit within BIC was established in August 1991 as a way of assisting DHS in detecting welfare fraud and recovering associated monies. Welfare fraud occurs when a welfare recipient intentionally misrepresents or conceals certain information regarding eligibility in order to receive benefits. Instances of welfare fraud are also referred to as "intentional program violations." Most occurrences of welfare fraud relate to a recipient's failure to report income, earnings, or assets that would affect eligibility, or the failure to accurately report the number of, or changes in the number of, people living in the recipient household.

The BIC investigative unit is staffed with an investigative manager, 13 investigators, and an investigative technician. Most of the fraud referrals BIC receives come either from the Office of Family Support (OFS), where recipients apply for and receive welfare benefits, or from a toll-free fraud hotline. In FY 1994, the investigative unit within BIC investigated more than 4,000 allegations of welfare fraud along the Wasatch Front. Investigators work these cases by examining a variety of computer screens containing recipient information, through contacting OFS caseworkers, and through field visits to the recipient's neighbors, landlords, employers, and the recipients themselves to gather information.

Investigations where fraud is found are sent to another unit within BIC that calculates the overpayment, which represents the dollar amount of welfare fraudulently obtained. In addition, this unit establishes a schedule for recipients to pay back the debt to BIC. The total dollar amount of benefits fraudulently obtained in FY 1994 as detected by BIC was about $888,000. In addition to requiring payback of the money fraudulently obtained, BIC has a disqualification program for program violators, and occasionally pursues criminal prosecution in some cases. The disqualification program and criminal prosecution effort serve as the chief methods of penalizing defrauding recipients and deterring future fraud. However, as discussed in the next chapter, we have serious concerns with the effectiveness of the disqualification and prosecution efforts and the extent to which they are actually deterring fraud.

The relationship between BIC and OFS is important relative to welfare fraud investigations. OFS is where individuals and families apply for public assistance. OFS also issues the welfare benefits, which are most commonly in the form of financial aid (Aid to Families with Dependent Children) and food stamps. They also determine eligibility for medical assistance, but these benefits are administered through the Department of Health. Much of the pertinent case information that will assist BIC in their investigations can be obtained from OFS caseworkers. Also, the caseworkers rely on BIC to provide them with case information about the investigation so they can remove the client from public assistance if applicable. In addition, OFS also has investigators in its offices throughout the state who conduct welfare fraud investigations, as well as verify the eligibility information of welfare applicants before they receive benefits. As will be discussed in Chapter II, the communication and

understanding of responsibilities between BIC and OFS is not effective, and we are concerned that this has lead to a lack of detection and deterrence of welfare fraud.

Audit Objectives

This audit was initiated by the Legislative Process Committee which determined that ORS would undergo the 1994 in-depth budget review. In addition to the in-depth review, this audit was to determine if appropriate collection methods were used by BCSS. We also reviewed BIC's effectiveness in detecting and deterring welfare fraud. In addition, this audit also addresses other issues identified during the audit. Specifically, the audit addresses the following objectives:

1. Determine whether the investigative unit within BIC is effective at detecting and deterring fraud.

2. Determine whether BCSS uses appropriate enforcement methods to collect child support money owed.

3. Determine if child support collections could increase using different collection methods.

4. Determine if appropriate emphasis is given to AFDC child support collections.

Audit Scope

This audit was limited to an examination of the programs and procedures within the Bureau of Child Support Services and the public assistance and check fraud investigative unit within the Bureau of Investigations and Collections. We did not review the medical cost-recovery unit or the general cost recovery unit with the Bureau of Investigations and Collections in depth.

The audit was further limited within BCSS. Specifically, we only reviewed child support cases on CER teams. These are cases which have an enforceable child support order in place and collection efforts are occurring. In addition, we only reviewed cases in which the non-custodial parent resided in Utah. We did not review interstate cases, paternity cases, or cases on the ILO teams. As a result, we make no statements about these areas.

Initially, we randomly sampled 233 child support cases. Of these cases, 151 were in the

CER function. After eliminating those cases in which the non-custodial parent resided outside Utah, 111 cases remained. We reviewed these cases in detail. All the available case narratives were reviewed and all payment information was checked for accuracy with the balances brought current to July 1994. In addition, our review involved numerous discussions with agency personnel, custodial parents, and individuals outside the agency.

In reviewing BIC, we randomly sampled cases in four areas: disqualified cases, rural fraud cases, check fraud cases, and criminal prosecution cases. In addition, our review involved numerous discussions with agency personnel, observational work of functions performed, and attendance at a national conference on welfare fraud.

This report discusses ways that ORS management can improve its organization, possibly through prioritizing its work. Prioritization is important for ORS because of their large caseloads. While doing audit work, it was our observation that ORS employees are overwhelmed with their caseloads. In fact, caseload issues appear to be a concern nationally. We are hopeful that this report will help ORS better prioritize its work.

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Chapter II
Little Consequence Exists For Those Committing Welfare Fraud

The occurrence of welfare fraud along Utah's Wasatch Front is often times detected by the Office of Recovery Services (ORS), but is typically not penalized in any substantive measure. The result is that the Department of Human Services (DHS) lacks an aggressive effort to deter fraud from occurring. This is significant because ORS detected about $888,000 in welfare benefits fraudulently obtained in FY 1994. Though ORS does a good job of detecting fraudulent behavior, and recipients are required to pay restitution to ORS equal to the amount of money fraudulently obtained, a significant penalty to serve as a deterrent is lacking in the majority of instances. It is our opinion that without an effective penalty to discourage recipients from engaging in welfare fraud, the occurrence of fraud will continue and even increase.

This chapter discusses the need for ORS to make greater efforts to deter welfare fraud through the implementation of more severe penalties. In the first section, we will discuss the lack of actual enforcement of disqualifying recipients from receiving welfare benefits for intentional program violations. The second section will address an absence of investigation of fraud cases in the rural areas of the state. The concerns in both of these sections relate directly to poor communication and role confusion between ORS and the Office of Family Support (OFS), which we will also discuss. The third section of this chapter will address an historical lack of consequence for recipients who fraudulently obtain replacement welfare checks. The final section will discuss the need for ORS to become more aggressive in deterring fraud by prosecuting more cases criminally. Throughout this chapter, we are emphasizing the need for ORS to become more aggressive in pursuing and deterring welfare fraud. Doing so will help ORS follow what is specifically expressed in its own mission statement, and prevent the loss of future welfare dollars.

The disqualification program, created by the federal government, imposes penalties against recipients who commit fraud by intentionally withholding or misrepresenting information that would affect their eligibility for welfare. Disqualification is to be carried out when it can be shown that a recipient has intentionally violated the rules of either the Aid to Families with Dependent Children (AFDC) or Food Stamp program. The penalty for an intentional program violation in either program is that the individual committing the fraud is disqualified from receiving welfare benefits in the associated program for either 6 months, 12 months, or permanently, depending on whether it is a first-, second-, or third-time violation. *In any case,*

only the individual committing fraud is disqualified from the program, with other eligible household members continuing to receive assistance. The disqualification determination is made by ORS, and then sent to OFS offices for actual implementation. The disqualification is in addition to the requirement that recipients pay back to ORS the amount of assistance fraudulently obtained, and is thus designed to deter recipients from committing future program violations. Administratively, it is the chief means by which DHS penalizes recipients who violate the rules of welfare programs.

Welfare Disqualifications Are Not Properly Enforced

Based on a random sample of 54 welfare fraud cases reviewed, we found the process of disqualifying recipients from welfare for intentional program violations is not effective. Our tests show the majority of program violators were not properly disqualified, or very likely will not be disqualified if they reapply for welfare. Because of this, tax dollars are being wasted through the distribution of undeserved benefits as well as through unnecessary administrative costs. More importantly, however, is the ironic fact that the disqualification program lacks the penalty and deterrent effect which it was specifically designed to provide, and thus does little to control and prevent the loss of welfare dollars. This problem is due to poor communication between ORS and the OFS, inadequate OFS training policies, and also an ineffective computer tracking system. The problem is further aggravated by unclear federal policies relative to the disqualification program. We believe a process must be designed to make certain that disqualifications are implemented in their entirety. In addition, we believe this should be accomplished by a computer system which will minimize the need for information transfer between offices as well as the possibility of human error.

Problems Exist in the Disqualification Program

In a sample of FY 1993 recipients who were to be disqualified, we found problems with implementation of the penalty in a total of 57 percent of the cases reviewed. ORS provided the audit team with a computer-generated list of 550 participants where a determination to disqualify was made during FY 1993 due to intentional program violations. Our random sample consisted of 54 cases from this universe of 550 participants. In conducting this survey, we accessed several ORS and OFS computer screens which contain recipient information. Relevant coding allowed us to see each participant's eligibility history, and whether or not a participant was actually disqualified for a specified time period. For further verification of the computer information, we visited several OFS offices and contacted others by phone to see if they were aware of the disqualification notice.

In 19 percent of the cases sampled, the recipients did not actually serve any of their

disqualification penalty. In another 7 percent of the cases, the recipients only served part of the disqualification penalty. Further, we found that in another 31 percent of the sample, the recipients are currently not receiving welfare, but will likely not serve the disqualification if they return to public assistance in the future because of a poor computer notification and tracking system. Only 43 percent of the cases in our sample were processed correctly so the recipient was disqualified for the appropriate amount of time. Figure I summarizes the results of the cases in our sample.

Figure I
Results of Disqualifications Reviewed
(Sample = 54)

Number of Cases	Percent of Sample	Case Status
10	19%	Participants did not serve any of their disqualification and either remained on welfare or were recertified at a later date.
4	7	Participants served part of their disqualification, but for no apparent reason were prematurely recertified for benefits.
17	31	Participants are currently not on welfare, but upon recertification will likely not be disqualified due to a poor notification and tracking system.
31	57	Subtotal
23	43	Participants who were actually disqualified from welfare for the appropriate amount of time.
54	100%	Totals

As Figure I shows, problems or concerns exist with 31 of the sample of 54 recipient cases reviewed (57 percent). We believe there is no reason that all disqualifications should not be effectively implemented. In addition to the sample of 54 cases we reviewed, we observed several other cases while visiting OFS offices which also involved the same problems as those found in our sample.

In the sample of 54 recipients, ten (19 percent) did not serve any of their disqualification

penalty, but rather they remained on welfare *after* the disqualification was to have been implemented. For example, in May 1993 a recipient was determined to be disqualified for six months from both AFDC and food stamps because she had failed to report to OFS unemployment compensation received while on welfare. The computer screens show the recipient is currently receiving assistance *and was never disqualified from either food stamps or AFDC*. The tax dollars lost in this case due to this recipient not being disqualified and not having her benefits reduced amounts to $1,218. In another example, ORS determined in April 1993 that a recipient should be disqualified from food stamps and AFDC because she had misrepresented to OFS her household size. The computer screens show the recipient returned to food stamps in September 1993 and AFDC in October 1993, *but was never disqualified from either program*. When we visited the OFS field office, we found no evidence of the disqualification notice in the recipient's case file, nor did the supervisor over this case know anything about the pending disqualification. However, the supervisor agreed that the recipient should have been disqualified upon returning to assistance. In this case, $1,392 in tax dollars were lost because the recipient did not serve the disqualification.

Four recipients in the sample (7 percent) did serve part of their disqualification penalty, but, for no apparent reason, were recertified for public assistance before the entire disqualification was fulfilled. For example, a recipient who was to have been disqualified from food stamps for 6 months only served four months of that disqualification, from June 1993 through September 1993. For no apparent reason, the recipient was allowed back on welfare for October and November when she should have been serving the final two months of the disqualification. The total dollar amount lost in these fourteen cases (19 percent + 7 percent) because the disqualification was not imposed, or only partially imposed, is estimated at about $6,400. If we project this sample, assuming it is representative, to the entire population of 550 recipients who were to be disqualified, the estimated loss is about $64,000.

Another 17 of the recipients in the sample of 54 (31 percent) are currently not receiving assistance, and have served none of their disqualification penalty. The concern in these cases is that no "alert" has been set on the computer system which will indicate to the OFS caseworker that the penalty should begin when the individual reapplies and becomes eligible for benefits. The absence of an alert code in the computer in these seventeen cases suggests that the penalty will very likely not be implemented if the recipient returns to public assistance. To confirm what was indicated on the computer screens, we visited with several OFS caseworkers assigned these individuals cases. Among the caseworkers we talked to, none were aware or sure that the recipient was to be disqualified, which means it is very unlikely to happen since it is the caseworker's responsibility to actually implement. As an example, ORS determined in July 1993 that a particular recipient should be disqualified from food stamps when she reapplied and became eligible for welfare. When we contacted the recipient's caseworker, however, she verified that there is currently no alert in the system to serve as a reminder to disqualify the participant upon re-entry to the system, and she had no knowledge that the particular recipient faces disqualification when she reapplies for benefits. The $64,000 loss mentioned in the previous paragraph increases substantially if the recipients who face

disqualification upon reentry to welfare are not actually disqualified because of the poor tracking system.

Poor Communication Exists Between ORS and OFS

The ineffectiveness of the disqualification program is due to inadequate communication between ORS and OFS. OFS caseworkers are supposed to implement recipient disqualifications after being notified by ORS that a disqualification determination has been made. In addition, things such as caseworker turnover at OFS and a poor computer tracking system add to the problem. Our main concern with this area, as expressed earlier, is that the disqualification program, which is designed to deter welfare fraud, completely loses its effectiveness if recipients do not actually experience a penalty for their program violation. Even in cases where part of the penalty is served, it is for less of a time period than was originally indicated to the recipients, and they are sent conflicting messages.

As mentioned above, we verified the lack of proper disqualification by pulling the case files of recipients in OFS offices along the Wasatch Front. If ORS fails to send the disqualification notice to the appropriate OFS field office, or if OFS misplaces the notice, the caseworker does not know to disqualify the participant. In fact, in all cases of disqualification, some written form of communication should be evident in the OFS case file. Further, the caseworker is to maintain a written narrative of all activity relevant to a recipient in the case file, and this certainly should include disqualification information.

In some of the cases, we found neither a disqualification notice in the OFS file, nor any written narrative relating to a disqualification. In at least one other case, there was no disqualification form in the file, but the caseworker did provide a written narrative of the disqualification. Nevertheless, the participant was still allowed back on assistance prematurely. In these cases, it is hard to determine with any certainty whether disqualification notices were sent by ORS, or, if they were, whether OFS lost them or improperly processed them.

Poor communication is not the only cause of recipients not being disqualified, as is evident in case files which contained both forms and written narratives, but where the participants were still not disqualified. On these field visits, OFS caseworkers provided other possible reasons why the disqualifications did not occur properly: high caseworker turnover and insufficient training, which leads to poor case management, and the lack of a computerized system for effectively tracking disqualifications.

Caseworker Training and Turnover Create Problems. In the written narratives of many of the files we reviewed, there was evidence of high employee turnover as shown by the entries of many different OFS caseworkers throughout the history of the case. One OFS supervisor told us that even though there is a running narrative kept from caseworker to caseworker, a new worker seldom wades through the case to review the history. So, if a participant had a disqualification to fulfill which was mentioned in the narrative, it is still quite possible the information would be overlooked after a caseworker change. Also, we obtained

evidence that some caseworkers do not understand disqualification policy and need proper training. Four caseworkers suggested that they had not received adequate training on using system alerts, or adequate training on the disqualification policies. One caseworker said she recalls some training on system alerts, but does not recall specific training which reviewed the disqualification portion of the policy handbooks. Even one of the caseworker supervisors we talked with seemed unfamiliar with the implementation of the disqualification policy as evidenced in the case of a recipient who was recertified for welfare before the penalty was ever served.

Tracking System is Inadequate. The computer system used by OFS has numerous screens on which a caseworker can set an "alert" showing that a participant should be disqualified. However, the disqualification is not automatically implemented by computer but instead relies on caseworker intervention, and the alert can be deleted from the system. The end result is that caseworkers have no reliable way to help them track client disqualifications. For example, a disqualified food stamp participant in the Provo region was allowed to come back on welfare 1½ months early even though a caseworker had set an alert in the system. After the alert was set, there was a caseworker change, and the supervisor over the case believes that the alert was probably deleted or inadvertently overlooked by the new caseworker. Because of this oversight, the new caseworker probably did not verify the number of months left in the disqualification, and allowed the participant to re-enter the system early.

Many OFS caseworkers commented that the current methods of tracking recipients or setting alerts for disqualifications are not uniform and are inadequate. Caseworkers can set various messages for themselves and others who use the system, but these messages can be deleted by anybody with access to system in a particular region. Additionally, there is more than one place to enter and read messages, alerts, or status codes in the system, and not every worker uses the same codes. In fact, some workers do not use the system, but rather "flag" disqualifications by putting a written notification in the case file. One OFS caseworker said that she was taught to place a "half-sheet pink slip" on the top of the file. However, there is nothing to assure that this pink slip will stay on top of the file or that it will be understood and implemented by a new caseworker. It is risky to use a manual system for implementing and tracking the disqualification program. Rather, this system should be more thoroughly automated and tightly controlled to eliminate the confusion that currently exists.

Confusion Exists at the Federal Level

Based on current interpretations from federal officials, the application of the disqualification policy differs between the AFDC and food stamp programs. According to both AFDC and food stamp officials, a recipient must first *actually be eligible* for welfare for the disqualification to begin. Once the disqualification begins in the food stamp program, it runs continuously—for either 6 or 12 months—regardless of whether the client remains eligible for welfare during the whole time. In the AFDC program, however, a disqualified recipient

must first be eligible *and remain eligible* for benefits for the disqualification to be in effect. In other words, an individual who serves 3 months of a 6-month disqualification and then goes off AFDC, will have the additional 3 months of the disqualification to fulfill whenever he/she returns to welfare. Under the food stamp policy, the time a person is off of welfare "counts" as fulfillment of the penalty, so long as the person began the disqualification when he/she was eligible.

This difference in policies constitutes a major inconsistency between the ways the two programs apply the disqualification. It is confusing because ORS uses the food stamp policy for AFDC as well, meaning that for either program a recipient must only be eligible to begin the disqualification, but does not have to remain eligible for the disqualification to run its course. In our judgement, the AFDC interpretation makes much more sense. It seems that requiring a person to be eligible throughout the disqualification is the only logical way that the disqualification can truly be considered a penalty and have some deterrent effect, which is its intended purpose. Recipients who maintain eligibility are very likely to understand and feel the consequences of having their benefit level reduced. Conversely, a recipient who leaves the system because he/she is ineligible for benefits is not experiencing any loss as a result of the disqualification if they are not even eligible for benefits.

Evidently, our phone contact with federal officials in two regional offices has stirred up some concern over this matter. Policy analysts will be trying to resolve the issue in Washington and hopefully obtain uniformity between the AFDC and food stamp policies. However, regardless of these differences in policy, it is still evident that the current disqualification program is ineffective because, as our sample demonstrates, disqualifications are not being imposed and thus not deterring fraud.

Disqualifications Must Be Properly Enforced

The disqualification program needs to be properly enforced so it can achieve its intended purpose of deterring fraud. It seems logical that the process of disqualifying recipients should be automated as much as possible through a tracking system, and there should be some protection programmed into the computer which would prohibit the erasure of the disqualification alert codes until the penalty is served. Furthermore, the program would be more effective if a recipient's ability to receive welfare benefits were directly contingent upon the complete fulfillment of the disqualification penalty. The computer system should be able to differentiate between eligible and non-eligible participant months, track them accordingly, and verify that the disqualification is actually being served. We believe the disqualification program can be a deterrent to fraud, but it must be enforced uniformly and completely in order for deterrence to be realized.

The next section of this chapter will address concerns over a lack of fraud investigation in

rural areas of the state.

Fraud Referrals to Rural Utah Are Often not Investigated

Allegations of fraud that are referred by ORS to OFS offices outside the Wasatch Front are typically not investigated. The results of a sample of cases we reviewed indicate that only a small percentage of these referrals are actually investigated. This problem pertains to a contract between ORS and OFS which defines investigative responsibilities and jurisdiction, and it appears there is serious misunderstanding and miscommunication between the two offices. These sampled cases should have been investigated, and statistically it is likely that several do involve fraud and overpayments. The result of this lack of investigation is that some welfare recipients will continue to defraud the system with little chance of being discovered. This, in turn, means tax dollars have been lost and are continuing to be lost through the distribution of welfare benefits to ineligible recipients. This pattern must be reversed so that all suspicions of welfare fraud are investigated, and a penalty, if appropriate, is imposed in an effort to deter future fraud.

Through agreement with OFS, ORS policy limits the jurisdiction of cases investigated to Salt Lake, Utah, Davis, and Weber counties, basically the Wasatch Front. According to ORS, fraud allegations they receive occurring in areas outside these four counties are sent to the appropriate OFS office for investigation. As previously mentioned, OFS has investigators throughout the state who also conduct welfare fraud investigations as well verify the eligibility information of welfare applicants before they receive benefits. After ORS sends these referrals to OFS, they told us they have no further involvement or responsibility in investigating these cases.

Most of the Referrals Sampled Were Not Investigated

In a sample of 25 cases we reviewed which were referred by ORS to OFS offices for investigation, a referral was received and actually investigated or acted upon in only 3 of the cases. In the other 22 cases, however, we found no record of any referral in the recipient's OFS case file, and no investigation was conducted as a result of contact from ORS.

We selected a sample of 25 cases throughout the state and called the appropriate OFS office to discuss the case with the investigator and/or the recipient's caseworker. Our intent was to determine how OFS conducts its investigations and to see how effectively this transfer of information and responsibility was occurring. These cases were selected randomly, and geographically represent many areas of the state including Randolph, Roosevelt, Moab, Hurricane, Nephi, and Wellington. We found that in almost all cases an investigation was never conducted, nor were the caseworkers and/or investigators aware of any ORS referral or

allegation involving the particular recipient. In fact, we found that in all but one case, the actual ORS referral form was not found in the recipient's OFS file. In two other cases, we found evidence that ORS did contact OFS by telephone about the case. In total, we found evidence in only 3 of the 25 cases (12 percent) of successful communication between the offices regarding the fraud allegations. In all other cases, the OFS caseworkers and/or investigators we contacted said they never received an ORS referral on the recipient in question, and no investigation was conducted as a result of an ORS referral.

As we contacted the OFS caseworkers and investigators about these cases, we tried to determine if there was any substance to the allegations of fraud. For example, the most common allegation is that a welfare recipient is working and not reporting the income. However, it is possible that the person making the allegation is mistaken or misinformed about the facts. Even if the allegation is true, the income may be so insignificant that it does not alter the recipient's benefit level, or the income information may already be known to the recipient's caseworker and does not alter the recipient's eligibility. However, from reviewing these cases in more depth with OFS workers, it appears many of them did warrant an investigation. In addition, it is likely that many of these cases would involve fraud and overpayment, based on the frequency of fraud found in cases ORS investigates. Further, we discussed each of these cases with the investigative manager at ORS for a confirmation of our conclusions. Figure II shows the likely situation in the 25 cases.

Figure II
Results Of Rural Referrals

Number of Cases	Percent of Sample	Conclusion
		Referral not found in OFS case file, but:
14	56%	case warrants investigation and may involve fraud and overpayment.
5	20	allegation appears unfounded.
2	8	overpayment appears unlikely.
1	4	case was already under investigation.
22	88	Subtotal
3	12	Communication between ORS and OFS occurred and case was investigated or was already under investigation.
25	100%	Totals

Figure II shows that 14 of the 25 cases sampled (56 percent) appear to have warranted an investigation and may have an associated overpayment. If all 14 are indeed fraudulent cases, the projected overpayment amounts to an estimated total of nearly $14,000. This projection is based on the average amount of overpayment found in cases investigated and closed by ORS in FY 1994, approximately $991. Furthermore, if this sample is representative of the entire population of approximately 200 referrals sent to rural Utah in 1994, an estimated $111,000 in overpayments have gone undetected, and that figure will continue to grow if not detected. The 56 percent is probably reasonable because ORS statistics indicate that about 63 percent of the cases they investigate turn out to involve fraud. Without actually investigating each case, it is difficult to know with certainty how serious the allegations are and how widespread the problem may be. However, since this sample was randomly selected, we must assume it represents a pattern that fraud allegations in rural areas are very frequently not being investigated.

As an example of the seriousness of these cases, one of the OFS investigators we talked with about a particular case knew nothing about the allegation that a recipient owned property in a neighboring state which might affect her eligibility, but said he would investigate the case. He later indicated he had looked into the allegation, confirmed it was true, closed the recipient from public assistance as a result, and calculated an overpayment. Evidently, the recipient's ownership of the property made her ineligible for benefits the entire 15 months she was on welfare. The amount of benefits fraudulently obtained was $5,205 in AFDC, $3,855 in food stamps, and $305.15 in Medicaid, or a total of $9,365.15. It is impossible to know how long this situation might have lasted, but both the OFS investigator and his supervisor said they had no knowledge or indication of the client owning property. This case was investigated, benefits were stopped, and an overpayment calculated only as a result of our contacting the OFS office. Had this case not been included in our sample, the fraud likely would have continued on undiscovered.

Poor Communication and Role Confusion Exist

It is evident from the lack of investigation in these cases and from talking with staff in the OFS offices that the communication between ORS and OFS is not effective. It is clearly not acceptable to have successful communication and investigation about a fraud allegation in only 12 percent of the cases being referred, and to allow this pattern to continue is simply to allow fraud to occur. As with the disqualification issue, we believe there is no reason there should be a communication problem in any of these cases, and we believe those cases warranting an investigation should be investigated. In talking to the OFS staff, it became clear that some are unaware that ORS even sends referrals to OFS, or that there is any expectation of investigation on their part. For example, one of the OFS investigators we spoke with said he does occasionally receive referrals from ORS, but actually returns them because he does not know it is his responsibility to investigate the cases.

There is no concrete explanation by either ORS or OFS as to what is happening to these referrals and why they are not being investigated. However, the speculation by the manager of the investigative unit at ORS, who maintains that ORS is actually sending these referrals to the appropriate OFS office, is that the referrals might be inadvertently sent to the wrong caseworker due to a change in OFS workers. He also said it might be that the recipient's caseworker does receive the referral, but is unfamiliar with the form and simply doesn't respond to the referral. In any case, the lack of proper communication and understanding between the two agencies is clearly a cause for concern which has resulted in fraud allegations not being investigated. More importantly, it creates a system without consequence or punishment. The problem is now further aggravated because ORS has recently decided to not open these cases in their computer system, which means there will be no efficient way to follow up on any of these cases, if that were considered necessary, or to know how frequently cases are referred.

During the course of our audit, there was concern expressed to us by ORS staff that OFS personnel have an attitude and philosophy that is not necessarily consistent with the investigation of fraud. They said OFS staff is trained to offer support to people, not take it away. They feel this focus makes it difficult for OFS to aggressively pursue fraud cases, and that when cases are pursued, they are done so primarily with current eligibility in mind, and with less attention given to detecting the extent of past fraud and overpayment. In addition, the Attorney General's Office is concerned that these cases are not reviewed to identify the possibility of recipient disqualification and/or criminal prosecution. Early in our audit, the Attorney General's Office had expressed concern that only recipients who commit fraud in the metropolitan areas face the possibility of criminal prosecution, since this is officially ORS's jurisdiction. Their concern is that this creates a type of discriminatory practice because fraud is not treated with the same consequence everywhere, and those along the Wasatch Front face the possibility of harsher punishment than those in the rural areas.

We asked the OFS investigators we contacted if they ever pursue cases for criminal prosecution. A couple of them said they have either referred or pursued a few cases criminally over the years, but it appears to be a small number and is not done on any kind of regular or consistent basis. In fact, one OFS investigator and another OFS caseworker we contacted said their understanding is that they are not authorized to conduct criminal investigations, and said they thought this was the responsibility of ORS. This further illustrates the lack of communication between these two agencies, and the confusion that exists as to who is responsible for which activities.

The System Must Change to Detect and Deter Fraud in Rural Utah

Aside from whatever investigations OFS may be doing on its own, it is obvious that very little detection and deterrence of welfare fraud is occurring in rural Utah as a result of cases

referred by ORS. The fact that these referrals of fraud in the rural areas of the state are not being investigated is clearly a matter of concern, and needs to be addressed. Not only does this represent lost welfare dollars as a result of past fraud and undetected overpayments, but the recipients who are frauding the system continue to do so with little concern or consequence of being caught, and that realization may spread to other welfare recipients. The message which is sent, however unintentional it may be, is that there is relatively little consequence for those committing fraud in the rural areas of the state. This is precisely the concern expressed by the Attorney General's Office mentioned earlier, because it sets a precedent and essentially creates a discriminatory practice that fraud in the metropolitan areas is investigated more thoroughly and consistently—including the possibility of facing criminal prosecution—than is fraud in the rural areas.

As we contacted other states, we found the responsibility for fraud investigation is typically handled by one agency and occurs throughout the entire state. We believe that referrals of welfare fraud in the rural areas of Utah must be consistently investigated to promote integrity and fairness in public assistance programs. We base this conclusion on our finding in the sample of cases reviewed, and on the idea that fraud will continue, and even increase, unless a consistent effort to detect and deter it is not implemented. We also believe all fraud cases, regardless of where they occur and by whom they are investigated, should be judged against uniform criteria. This should include being investigated for the existence of an overpayment as well as current eligibility, and being considered for disqualification and/or criminal prosecution if the appropriate criteria are met. This is the only way to consistently send the message that welfare fraud will not be tolerated, and that those caught committing fraud will face the appropriate penalties and consequences.

The next section of this chapter will address the need for greater penalties to be assessed against those who fraudulently obtain replacement welfare checks. These cases do not involve issues of eligibility for welfare as this chapter has been discussing, but rather involve recipients who lie about losing a welfare check so they can obtain a second check.

Check Fraud Lacks Significant Deterrence

Our review indicates that ORS takes little effective action to deter the incidence of public assistance check fraud. Penalties of criminal prosecution and disqualification are for the most part not enforced. Furthermore, past actions to recover overpayments from recipients have taken excessive amounts of time. It is our opinion that excessive delays in investigating suspected fraud cases contribute to the problem of repeat check fraud, and that deterrence is almost non-existent. Finally, we found a trend of decreasing effectiveness in recovering overpayments associated with these cases for the past four years. However, during this audit ORS made personnel changes in the processing of check fraud cases which have thus far

improved significantly the promptness and effectiveness of overpayment recovery. Although we are encouraged by the improvement of processing time, ORS must build a more significant deterrent into the check fraud process.

ORS is notified when a recipient has requested a duplicate welfare check due to the original check being lost or stolen. An investigation for fraud takes place when both the original and replacement checks have been cashed. The investigation determines whether the original check was stolen and forged, or whether the recipient committed an intentional program violation by cashing both checks. Since FY 1990, ORS has a monthly average of 426 open cases where check fraud is being investigated. The number of these cases is increasing yearly, and as of the end of the first quarter of FY 1995 the average number of open cases in any month is about 500.

Check Fraud Deterrence Is Needed

A greater emphasis on deterring check fraud through the imposition of appropriate penalties is needed at ORS. The ORS mission statement includes a provision to reduce fraud and abuse in public assistance programs. Certainly, one method of reducing fraud and abuse is through an effective deterrence program. To determine the effectiveness of deterring fraud and abuse, we reviewed 43 cases of possible check fraud that have been investigated by ORS. We wanted to determine the outcome of the investigations and see what actions were taken to deter subsequent fraud in those cases where the recipient had committed a program violation. What we found indicates that past efforts and practices were ineffective in deterring intentional program violations wherein public assistance checks were fraudulently obtained by recipients.

For example, of the 43 cases reviewed, only one documented instance of program disqualification occurred even though 27 judgements were obtained and on 16 occasions the recipient admitted to program violations. (A judgement is a legal ruling imposed by a court or by an appropriate administrative body requiring an individual to pay a financial obligation.) One recipient with 10 cases of suspected duplicate check fraud admitted to fraud in five of the cases and judgements were taken in another four cases, yet there are no documented program disqualifications. In another example, the recipient has six occurrences of suspected duplicate check fraud. In two of the occurrences, the recipient admits to having fraudulently obtained a duplicate check, and a judgement was obtained for three of the remaining cases. In fact, the worker was so convinced that the recipient was a chronic abuser of the system that a hand-written note in the file states that the recipient would be placed on "office issuance." This means checks are not mailed to the recipient, but rather, are issued in person at the recipient's local OFS office. That note was made 7 months before the last incident occurred. In a final example, a recipient also with six cases of suspected fraud admitted to fraud in each instance and was subsequently disqualified after the sixth occurrence. However, it took three years and five additional occurrences before that action was finally taken. We understand that ORS only began the disqualification program for AFDC in April 1993, so this may partially explain why

so few disqualifications have been done in these cases. However, we see no penalty of any form in the vast majority of these cases through any means, and we believe this has created an environment conducive to fraud.

In our opinion, the lack of immediate and sufficient enforcement by ORS may have encouraged chronic abusers to continue repeated instances of check fraud. In fact, a former check fraud investigator said that program disqualifications as a penalty for intentional violations were not something that she "was even told to be concerned with." Primarily, the

action taken is to simply recoup overpayments. From a recipient's perspective, the worst penalty they face is that fraudulently received replacement checks must be repaid.

ORS's passive approach to dealing with program violators also conflicts with the consequences alluded to in the "Check Loss Affidavit And Agreement" form, or Form 510. This form must be completed and signed by any recipient claiming that a check was lost or stolen, and constitutes "a binding contract" between the recipient and the State. By signing Form 510, the recipient agrees to and acknowledges, among other things, the following stipulations:

- "I understand that if any part of this statement is false or if I cash or have anyone else cash the check, I WILL HAVE LEGAL ACTION INITIATED AGAINST ME AND I MAY BE CHARGED WITH A FELONY CRIME. Conviction of a felony may include a sentence of jail and full restitution and will result in a criminal record.

- If I cash or assist in cashing the check/warrant, I understand that the Department of Human Services WILL RECOVER THE FULL CHECK AMOUNT PLUS ASSOCIATED COSTS, INTEREST, AND POSSIBLE PENALTIES, BY TAKING MY ENTIRE ASSISTANCE GRANT/FOOD STAMP CHECK UNTIL THE CHECK AND ALL COSTS AND INTEREST ARE REPAID IN FULL if I am on public assistance. If I am not on public assistance, I will pay the full amount including penalties, costs, and interest directly to the Office of Recovery Services. I also understand that I will have to pay to the Department of Human Services the cost of the hand writing analysis should one be necessary and it concludes that I have indeed cashed the check or that I was a party to cashing the check."

One purpose then of Form 510 is obviously to promote the deterrence of fraud by making the penalty severe enough that recipients will hesitate to violate the program. We are concerned because we see no action taken against any of the recipients guilty of check fraud that resembles a form of punishment as alluded to in Form 510. In the past few months, ORS has taken a more aggressive posture regarding disqualifications. However, as discussed previously in the chapter, the disqualification program is ineffective in deterring fraud because it is not being properly administered. Perhaps it is time to follow the consequences alluded to in the Form 510 and prosecute offenders with criminal proceedings in those cases where fraud and abuse are blatant and have occurred on a repeated basis.

Overpayment Recovery Takes Too Long

We found that in the past, the process of recovering money owed due to fraudulently obtaining a replacement check took an unreasonably long time. However, ORS has recently made staffing changes which have improved the more recent processing times.

We found that the average elapsed time for a check fraud investigation, from when a recipient cashed both the orginal and the duplicate checks to the issuance of a judgement, took 479 days, or approximately 16 months. ORS opens an investigation on every instance of potientail check fraud. First a letter is sent to the recipient requesting a meeting with ORS to determine the circumstances. Sometimes the recipient admits cashing both checks and signs a form acknowledging responsibility. Generally, the recipient states the check was lost or stolen. This requires ORS to determine if there is proof of check fraud. ORS will contact the business cashing the check for details or evidence concerning who cashed the check. If ORS feels the recipient may have cashed the check, they can send for a handwriting anaylsis. Also, ORS may contact other witnesses to provide information relative to the case. If ORS beleives there is sufficient evidence of check fraud, they send a notice to the individual and request a hearing. A judgement can be issued as a result of a hearing or the recipient's default to the notice.

This entire check fraud investigation process should take no more than 4-5 months according to ORS staff. In our opinion, the entire process to investigate check fraud has taken an unacceptably long time. In April 1994, ORS assigned a new staff person to process cases of check fraud. We sampled a number of his cases which we observed were quickly processed, within one to three months. However, he also had many cases begun by his predecessor, some of which were more than 12 months old when he was assigned and begun processing them. We also found cases begun by his predecessor that were never processed and went unnoticed by current staff until our review. Our conclusion is that past cases of check fraud have been poorly processed, but the more current investigations are much improved.

Overpayment Recovery Has Been Declining In Check Fraud Cases

Since FY 1991, the effectiveness of ORS in recovering overpayments associated with check fraud has been declining. To complete our review, we analyzed ORS data on recoveries from FY 1990 through FY 1994. The data indicate a minor unfavorable trend in collection amounts, as well as percentages collected, starting in FY 1992 and continuing through FY 1994 when the trend became significant. As expected with such a trend, we also saw the number of payments received from recipients decreasing steadily.

The following figure depicts our findings in this area. In the table, annualized figures are presented in some cases since one or two months of data was missing from each year during FY 1991 through FY 1993.

Figure III
Decreasing Effectiveness in Collections

Fiscal Year	Liability	Collections (annualized)	Percent Collected	Number of Payments (annualized)
1991	$142,121	$71,770	50.5%	670
1992	126,414	54,563	43.2	573
1993	124,248	48,535	39.1	479
1994	137,985	31,888	23.1	350

The above figure clearly shows the trend of decreasing effectiveness in recovering overpayments.

Discussions with agency personnel provided information which partially explains the above figures. During FY 1994, for example, the internal structure as well as personnel assignments within the check fraud investigation and recovery team were changed. Coincidentally, two collection teams located in Provo and Ogden were disbanded, and all of the cases handled by those teams were sent to a centralized team in Salt Lake. This change increased the workload of the remaining investigator and support personnel. These events would help to explain the dramatic decrease in collections in 1994. However, a trend of decreasing effectiveness had already been established at that point.

On a positive note, since the reorganization and personnel shifts of the past months, performance indicators show a reversal in the negative trend of decreasing effectiveness. Annualized figures for FY 1995 show a significant increase in collections. The number of payments received is also on the rise.

The final section of this chapter will address the need for more cases of fraud to be prosecuted criminally as a means of deterring further fraud.

More Welfare Fraud Should Be Prosecuted

ORS should place greater emphasis on fraud deterrence through a more aggressive criminal prosecution effort. Currently, ORS prosecutes less than 1 percent of investigated cases annually, far less than what is done in other states, and has only prosecuted a total of 38 cases

in the three years since the inception of the investigative unit. We believe ORS needs to address the criteria for prosecuting fraud cases criminally so it is based upon the current public assistance theft statute. Also, appropriate staffing levels necessary to accommodate a greater emphasis on criminal prosecution need to be evaluated. We believe that implementing a more aggressive prosecution effort will help to deter fraud from occurring, and will create a more clear message that fraud will not be tolerated.

ORS Prosecutes Few Cases Criminally

In FY 1994, ORS criminally prosecuted 20 cases of fraud, less than 1 percent of all cases investigated during the year. This is quite a low percentage, based on our contact with other states, and creates concern because, while more expensive, prosecution is presumably the highest level of penalty and deterrent that can be imposed on a welfare recipient committing fraud. Traditionally, ORS has focused on investigating cases to detect fraud and identify associated overpayments due for repayment. There has been a great emphasis placed on the volume of cases completed by each investigator and the efficient use of time to complete these investigations. In fact, the standard which each investigator must meet to achieve an acceptable performance rating is 25 completed investigations per month, and 35 for a superior rating. The quota has had the effect of de-emphasizing investigations for criminal fraud simply because these cases require more time.

As we have spoken with the investigative staff, many of them have expressed some concern with the quota. They understand the need for a quota simply to keep up with the number of cases received, but are also concerned that the heavy emphasis placed on quantity makes it nearly impossible to conduct the thorough and in-depth investigations required in criminal fraud cases. From a survey we distributed among the investigators early in the audit, many are dissatisfied by what they see as a lack of aggressiveness by ORS in dealing with fraud. One concern that was expressed very clearly by everyone completing a survey is that ORS does very little to actually deter fraud. Many feel the way to deter fraud is through a more aggressive prosecution effort and a publicity campaign to illustrate the consequences of welfare fraud. However, they also feel that ORS has essentially been created only to assist in the identification of overpayments, with little emphasis on the punishment of fraud.

Actually, an explicit part of the ORS mission statement specifically addresses the issues raised by the investigators. The mission statement, among other things, affirms that ORS's intent is to:

"Detect, prosecute, and prevent fraud in public assistance programs by:

- Increasing the number of cases referred to the Attorney General's Office for prosecution, and

- Implementing a public information effort regarding the results of prosecutions in an effort to deter further fraud and abuse"

During the audit we noticed a few press releases covering welfare fraud prosecutions and convictions, and we believe these are evidence of positive efforts ORS is making. However, it seems more could be done in this area to convey the message that fraud is not acceptable and will not be tolerated, particularly to the welfare community.

We contacted several other states to understand their criteria for prosecuting fraud cases and to see how many are actually prosecuted. We had a difficult time making like comparisons because each state investigates and classifies cases somewhat differently. However, it still appears that other states are prosecuting a higher percentage of fraud cases than is Utah. For instance, we looked at only a certain category of fraud cases, those where the client has willfully withheld information on income or earnings that would have directly affected his/her eligibility for welfare. These are classified as cases of "unreported income," and are the easiest to pursue because the income evidence is often available through employer records or other statements. The states of Texas and Washington are prosecuting criminally about 35 percent and 22 percent respectively of all fraud allegations involving unreported income. These percentages were derived from estimates given to us by officials from those states, and are clearly higher than the approximate 1.3 percent unreported income cases prosecuted by ORS in FY 1994.

Although the information given to us by these states is estimated as opposed to actual figures, it shows a pattern that Utah is less aggressive at prosecuting cases criminally. In addition to phone contacts with several states, we recently attended a national conference on welfare fraud investigations to gather more information from ORS counterparts in other states. From our discussion with state representatives attending the conference, it is clear that many of them are serious about deterring fraud, and feel one of the best ways to do so is through criminal prosecution.

Criteria for Criminal Prosecution Should Be Changed

One factor that limits the number of cases ORS pursues criminally is the selection criteria used. ORS policy BIC 1001 sets forth the criteria for a prosecutable case that "all cases must have evidence which clearly shows intent to fraud," and additionally stipulates that one of the following criteria must be met:

1) The overpayment time period is at least one year in length.

2) Other than just the APA (application for public assistance) and review forms, the defendant must have knowingly provided false or forged documents, worked or received government benefits using a false ID or social security number, or overtly

taken an action for the purpose of perpetrating the fraud.

3) It is a second occurrence of a fraud situation for that defendant.

4) Special request is made by the director or his designee.

(The policy also states that exceptions to these guidelines must be approved by the bureau director or designee on an individual case basis.)

Our concern with the criteria above is the one-year condition listed in 1. None of the six states we contacted has a minimum length of time fraud must have occurred to be considered for prosecution; rather, other states base this decision primarily on the dollar amount involved in fraud cases, or, like 2) and 3) above, flagrancy and recidivism. ORS investigators are concerned about this one-year policy because they believe it sends a message that the commission of fraud for less than one year is not serious enough to be considered a crime. The director of the fraud investigation unit in another state, with whom we had extensive contact, seemed to echo this concern. He stated that by using a time limit as criteria rather than the theft statute constitutes a policy which "tolerates" fraud up to a certain point.

The manager of the ORS investigative unit also expressed concern to us that ORS is not using the pubic assistance theft statute as a standard for prosecuting cases criminally. His concern is that ORS may be in conflict with the law by not pursuing cases which meet the theft statute simply because the period of fraud does not last 12 months. The Utah Public Assistance Theft Statute, 76-8-1206, outlines the penalty for individuals obtaining welfare benefits to which they are not entitled, or in an amount greater than which they are entitled. The punishment for any individual illegally obtaining benefits is based on total dollar amounts rather than time, and is set forth below:

- A second degree felony if the value of fraud exceeds $1,000
- A third degree felony if the value of fraud exceeds $250 or is up to $1,000
- A class A misdemeanor if the value of fraud exceeds $100 or is up to $250
- A class B misdemeanor if the value of fraud is $100 or less

We believe ORS should use the theft statute at least as a guideline for prosecuting cases criminally rather than the current 1-year guideline. Doing so will allow ORS to prosecute more cases criminally and will have a greater impact on deterrence, and ORS will be completely justified in their selection standard since it is based on statutory criteria. Other states we contacted said they have had to adjust the dollar amount for what constitutes criminal fraud based on case volume and available staff resources. We believe ORS should consider prosecuting cases where the fraud amount exceeds $1,000, but give primary attention to the most egregious cases. We do not believe it is reasonable to suggest ORS should begin prosecuting every case of fraud greater than $1,000, simply because they do not have enough resources currently. As a way of estimating the potential pool of criminal cases, ORS

investigated approximately 263 cases in FY 1994 where the overpayment exceeded $1,000. Even if the intent to fraud could be demonstrated in all cases, prosecuting

every one would represent a significant increase for ORS, and could not be done with current staffing levels.

Staffing Levels and Investigative Direction Need to Be Reevaluated

In order to prosecute more cases criminally, staffing levels within both the ORS investigative unit and the Attorney General's Office will likely have to be increased. The amount of fraud in the 263 cases mentioned above is about $739,000, so the problem is very significant. Clearly, deterrence should be a primary focus in these cases rather than just trying to recover overpayment. ORS has told us they would like to prosecute more cases criminally, but cannot, as a practical matter, do so with current staffing levels and workload. We discussed the lack of deterrent effort in welfare fraud with the Attorney General's Office, and they fully support the concept that welfare fraud should be handled more aggressively. However, they face the same problem as ORS in having limited resources and attorney time assigned to the task.

In our opinion, the number of cases criminally prosecuted could increase by 5 to 10 times the present level. This would result in the need for additional staff within ORS, specifically, trained and qualified criminal investigators. In addition, an increase in attorney general staff would need to be seriously considered to handle more cases for prosecution. Any increase in staff should be done gradually and should be based on some measure of effectiveness or benefit of criminal prosecution.

During our audit, we searched for ways to measure the relationship between criminal prosecution and the deterrence of fraud as a way of determining what level of staffing would be appropriate and cost-justified. Inherently, it is very difficult to measure a behavior that is not occurring due to the existence of a penalty. We searched extensively for studies done by other states or any research or literature on the relationship between prosecution and deterrence, but we found none. However, our many discussions with officials in other states and our own work in this area lead us to assume that the entire process of crimianl prosecution and sentencing is potentially the most effective deterrent to committing future fraud, at least for the guilty recipient. Also, it is very likely that this news spreads to others on welfare through word of mouth, and the deterrent effect becomes established as they begin to fear the consequences of committing fraud.

We believe ORS should become more focused on fraud deterrence through the prosecution of cases that meet the public assistance theft statute. Any effort to deter fraud through the appropriate penalties should be considered to increase the effectiveness of the investigative function, and send the message more clearly that fraud will not be tolerated. Doing so will directly support and be consistent with the ORS mission statement, which contains an explicitly stated goal of promoting the integrity of public assistance programs by detecting, prosecuting, and deterring fraud.

For a recipient to simply have to pay back money that has been fraudulently obtained cannot be considered a disincentive to committing fraud in the future. We have heard the term used by several people, within and without ORS, that simply requiring a recipient to pay back money fraudulently obtained amounts to nothing more than an "interest-free loan." This is especially true given that payback of these debts is done slowly and sporadically over several months and years, and is sometimes only done through reducing the amount of future welfare benefits to which the person is entitled.

While we believe that there should be more consequences in the system for people who commit welfare fraud, we also believe that there should be more consequences in the system for those non-custodial parents who do not pay child support.

Recommendations:

1. We recommend that the Department of Human Services (DHS) implement within the ORS and OFS computer systems an automated process which will assure that all recipient disqualifications are effectively tracked and enforced.

2. In the interim, we recommend that DHS provide a tracking system to assure that disqualifications are effectively processed.

3. We recommend that OFS provide regular training to caseworkers regarding the management of disqualified recipients to assure disqualifications are properly implemented.

4. We recommend that DHS establish a system that assures all ORS referrals of welfare fraud to rural OFS offices are investigated.

5. We recommend that DHS establish uniform criteria and methodology for investigations of welfare fraud to assure consistency between investigations in both rural and metropolitan areas of the state.

6. We recommend that ORS develop and impose more stringent penalties for check fraud offenders consistent with those specified in the Check Loss Affidavit and Agreement Form.

7. We recommend that ORS develop a criteria to identify the willful intent of the most flagrant check fraud violators and pursue these cases with criminal prosecution.

8. We recommend that ORS replace the 1-year criterion for criminal prosecution currently used with the Public Assistance Theft Statute in **Utah Code** (76-8-1206). Specifically, we recommend that investigations exceeding $1,000 in monies fraudulently obtained be

considered for criminal prosecution.

9. We recommend that ORS increase the emphasis on criminal welfare fraud investigation by sending more cases to prosecution.

10. We recommend that ORS provide the criminal investigative unit with training, enforcement tools, and policies consistent with that function.

11. We recommend that the Legislature consider increasing the appropriation to ORS to include one new full-time criminal fraud investigator for FY 1996, and request documentation of the cost-benefit of this enforcement action. Also, in future years, increased criminal investigators could be considered based on the cost-benefit established.

Chapter III
Stronger Judicial Action Is Justified

The Bureau of Child Support Services (BCSS) has the difficult task of collecting child support payments from non-custodial parents, many of whom go to great lengths to avoid payment. Our audit found that BCSS needs to more aggressively pursue judicial enforcement when non-custodial parents do not pay child support. Our analysis of 111 case files indicates that 17 percent of the sample meets the criteria for judicial enforcement action; however, no judicial enforcement action has occurred. This is regrettable since judicial enforcement remedies can be effective in collecting child support from resistive non-custodial parents. It appears that many BCSS workers do not use judicial enforcement remedies because of their perceptions about judicial remedies. If BCSS chooses to use more judicial enforcement remedies, then techniques used to locate non-custodial parents and their assets may need improvement. In addition, other more moderate enforcement techniques are also possible.

Federal regulations (45 CFR 303.6) require that states take appropriate enforcement action in those cases where there is a failure to comply with the support obligation. BCSS uses a variety of methods to enforce child support orders, for example, monthly income withholding, one-time wage garnishments, and tax intercepts. Our review indicates that these moderate enforcement techniques frequently do not work with non-custodial parents who jump from job to job or who are self-employed. In our opinion, the BCSS system lacks sufficient consequences for the non-payment of child support. As a result, taxpayers often bear the burden of support.

To allow non-payment of child support to continue without consequences, may also negatively affect voluntary compliance with child support orders. According to a study entitled "Reinventing Child Support Enforcement", voluntary compliance with child support orders is critical to the success of any child support program. Without voluntary compliance, the cost of enforcing child support orders becomes heavy. The authors maintain that in order for voluntary compliance to significantly increase, states must demonstrate an attitude of intolerance about non-payment of child support. The primary way this is accomplished is to insure that enforcement for non-payment of child support is swift, sure, and rarely forgiven. One of the best ways to do this is through judicial enforcement.

A child support order is a legally binding document. When moderate approaches fail to result in child support payments, BCSS should pursue judicial enforcement. Judicial enforcement offers the strongest consequence for non-compliance (jail). Judicial enforcement can take three routes: (1) civil contempt proceedings, (2) criminal contempt proceedings, and

(3) criminal non-support proceedings. All three routes offer the possibility of jail, however each route has a different purpose and different procedural requirements.

The purpose of civil contempt is to coerce the non-custodial parent to pay child support by threatening a punishment (fines, jail) if the non-custodial parent does not comply. In a civil proceeding, the non-custodial parent must be given a chance to avoid the punishment by complying with stated, attainable requirements. Because the non-custodial parent can influence the imposition of punishment through compliance, due process procedures are not as strict as they are in a criminal contempt proceeding.

The purpose of criminal contempt is to punish behavior which has angered the court. In criminal contempt, the court is seeking to send a message that the behavior in question will not be tolerated. As a result, non-custodial parents do not get the opportunity to avoid punishment by complying with stated requirements. Instead, punishment is administered immediately. Since punishment can be immediate, the defendant is provided essential procedural protections required by due process. These can include the right to a jury trial and the right to appointed counsel after an indigence hearing. Because of these procedural protections, criminal contempt is a considerably more complicated process than civil contempt.

A charge of criminal non-support is the most serious enforcement remedy available to the state and may be filed when other remedies have failed. In the state of Utah, failure to support one's children is a criminal offense. The first charge of non-support is a misdemeanor, the second charge is a felony. As with criminal contempt, the more serious charge of criminal non-support is a criminal procedure, and so the defendant will be provided with essential procedural protections. If convicted, the court will fashion a punishment that is severe enough to make the defendant change his or her future behavior, yet does not make it impossible for the defendant to earn a living. This type of charge can be very effective where the non-custodial has somehow avoided all civil remedies, and where it would be useful to change the non-custodial parent's attitude about the importance of voluntary compliance.

Since a child support order is a legally enforceable document, it makes sense that BCSS would use judicial enforcement options when warranted. However, we see cases which qualify for judicial action but for which no judicial action has been taken.

Judicial Enforcement Could Be Stronger

Overall, 17 percent of our Collection, Enforcement, and Relocate case sample qualifies for judicial action which, based on the case narratives, has not been taken. Regional differences in case management leading to judicial enforcement were also noted.

To identify cases qualifying for possible judicial action, we used the following criteria: (1) the non-custodial parent had to be residing in Utah, (2) the case had to have arrears over $5,000, and (3) the case had to have received no payment for the past six months. This criteria is based on BCSS's own policies. In addition, we discussed the above criteria with a representative of the Attorney General's Office who handles child support enforcement. He indicated that the criteria was reasonable. He stated that, at a minimum, he would want to initiate an Order to Show Cause (OSC) on cases meeting this criteria. An OSC begins the judicial process which can lead to a charge of civil contempt. He further indicated that if the arrears were over $20,000 he would probably pursue a charge of civil contempt immediately.

Figure IV shows the percent of cases qualifying overall and in each region for judicial action for which no judicial action has taken place.

Figure IV

Percent Of Cases Qualifying For Judicial Action Overall And By Region

Overall	Salt Lake	Farmington	Provo	St. George	Ogden
17%	21%	0%	9.5%	10%	20%

In our opinion, case management leading to judicial enforcement should be stronger. In addition, there appear to be regional differences in case management leading to judicial enforcement. Specifically, the Salt Lake region has the highest percentage of cases which qualify for judicial action and for which judicial action has not been taken. This is a concern because Salt Lake has 50 percent of the child support caseload. When Salt Lake does not use strong enforcement techniques, the system as a whole is negatively affected. We were pleased to see one region, Farmington, which had no cases qualifying for judicial action in which judicial action had not been taken. Thus, while we believe that most regions could strengthen case management leading to the use of judicial enforcement, Salt Lake in particular should do so.

The cases that have been identified as qualifying for judicial action owe significant amounts of money. For example, 27 percent of the cases qualifying for judicial action owe amounts in excess of $20,000. The majority of these cases (71 percent) are in the Salt Lake region. According to a representative from the Attorney General's Office, these cases might be taken directly to civil contempt without an OSC.

Two examples of cases within our sample with significant arrearages come from the Salt Lake region. One case has child support arrearages exceeding $50,000 while the other has

arrearages exceeding $90,000. Both of these cases meet the requirements for judicial action, yet judicial action has not been pursued. The following is a summary of each case (referred to as cases A and B).

Case A was opened in 1988. The non-custodial parent has never made a payment and currently owes $50,100 in child support. At the time of the divorce, the non-custodial parent was employed as a computer systems specialist. His income was $40,000 a year. Upon separation, the non-custodial parent left his job, moved in with a woman who had a significant income and declared himself unable to find employment.

In talking with former associates, we learned that the non-custodial parent may well work as a self-employed computer systems consultant and as a photographer. BCSS has no narrative records on the case. Thus, it appears BCSS has taken little action to pursue the non-custodial parent.

A representative of the Attorney General's office indicated he might take this case directly to a civil contempt proceeding. His statement was that there are few judges who will believe that this non-custodial parent has been unable to make one single payment since 1988! This case, however, has never been referred to the attorney general's staff.

In Case B, the non-custodial parent is self-employed as a general contractor and lives in a wealthy section of Salt Lake City. Over the life of his child support case he has made slightly over $10,000 in child support payments for four children. However, he owes over $90,000 in child support arrears.

In November 1992, BCSS told the non-custodial parent he needed to start making child support payments. He did not and BCSS appears to have done little to enforce the child support order since that discussion. In November 1993, the case was assigned to a relocation caseworker and that is the last narrative entry in the case file.

Again, the representative of the Attorney General's Office stated that this case would certainly qualify for an order to show cause and perhaps even a charge of civil contempt, in spite of the fact that payments have been made, given the size of the arrearage. However, Salt Lake has not referred this case to the Attorney General's Office.

Judicial Enforcement Can Be Effective

Judicial enforcement can effectively collect child support money owed. Data supplied by the Attorney General's Criminal Non-Support Unit indicate that non-custodial parents pay their child support after prosecution. This financial evidence is further supported by the practice of a

private collection agency in Utah and attorneys that represent the state of Texas.

To determine if judicial remedies can result in non-custodial parents paying their child support, we reviewed cases currently being handled by Utah's criminal non-support unit. We understand that this criminal non-support data may not be representative of what other judicial enforcement remedies can accomplish since criminal non-support is the most extreme charge that can be made against a non-paying non-custodial parent. We used this payment data exclusively because it was the only judicial enforcement payment data available. We are not recommending that all non-compliant non-custodial parents be prosecuted under criminal non-support laws. We do think, however, that this data provides an excellent example of what can happen when judges impose sanctions and compliance with those sanctions is closely monitored.

Our case review of criminal non-support cases indicates that non-custodial parents make their current child support payments after being prosecuted for criminal non-support. To determine collection effectiveness, we reviewed 74 cases which had been prosecuted under Utah's criminal non-support laws. Our review supports the fact that payment behavior significantly increases after prosecution. Before prosecution, these 74 cases had collectively paid $1,100 in child support over the life of their respective cases. After prosecution, this group which collectively owes $20,600 per month in child support ($15,670 in current child support and $4,930 in back child support) now makes payments of $15,925 a month. In one month, this group paid almost 15 times more than what they had paid in the years before each was prosecuted.

As can be seen, this group, as a whole, is making its current child support payments. However, not much is being collected on the back child support. This is probably because the amount which can legally be taken from the non-custodial parent's paycheck is only large enough to cover the current amount owed. Since the first priority in child support collections is to pay current support, arrearage balances will be carried until the non-custodial parent is in a financial position to begin paying on arrearages too. Since it can take a very long time to pay off child support arrearages, this is a good reason for BCSS to not allow arrearages to get too large before taking enforcement action. The creation of large arrearage balances preclude the child from getting support at a time when i is most useful.

In our opinion, the collections achieved by the criminal non-support team are impressive. We further believe that part of their success is due to the thorough payment monitoring that each case receives. When a payment is late, the individual in charge of monitoring follows-up on their late payment. If the follow-up does not result in a payment, then they are taken back to court. If collections are going to be as effective at the civil level, we believe that payment monitoring will have to be as thorough as in the criminal non-support area. However, the caseloads of BCSS caseworkers are much higher than the caseload of the individual who monitors criminal non-support cases. If payment monitoring is going to be as thorough in BCSS, caseloads may have to be reduced.

Practice of Others Supports Judicial Enforcement Effectiveness

In addition to collection information, the practice of a collection agency in Utah and a state agency in Texas also supports the idea that judicial enforcement techniques can work.

One private child support collection agency in Utah relies heavily on civil action or the threat of civil action to bring about child support payments. This company has been in Utah only one year and collects child support arrearages only. However, in the year that they have been in Utah, they have taken 23 non-custodial parents to court for non-payment. In 22 of these cases, the non-custodial parent paid all or part of the arrears owed. In the opinion of this private collector, judicial enforcement works.

This sentiment is reinforced by communications we received from county attorneys in Texas. The comment below is representative of the communications that we received.

> *There is no doubt in my mind that the threat of jail … scares non-custodial parents into paying child support. Our office has a policy of not negotiating … to enforce. All non-custodial parents must appear in court and go before the bench. All agreed orders are read into the record. The master/judge reprimands the non-custodial parent and orders them to appear for a compliance hearing on a date certain (usually 90 days later). If the non-custodial parent is still out of compliance, we ask the court to commit him to city jail. Most non-custodial parents are in compliance however.*

While judicial enforcement can work, caseworker perceptions have limited the number of cases being referred for judicial action.

Caseworker Perceptions Affect Judicial Enforcement

There are a variety of reasons why caseworkers have not referred cases to the Attorney General's office for enforcement. These reasons are based on caseworker perceptions of the judicial system. These perceptions may have been correct in the past but do not appear to be currently correct.

First, some caseworkers believe that a case can only be given to an enforcement attorney if the caseworker can find a source of income or an asset. While this may have been true in the past, it is not true now. At BCSS's initiation, 1993 Utah statute now places the burden of proof on the non-custodial parent to provide justification why child support payments have not and cannot be made. Although BCSS initiated the statutory change, many caseworkers do not

appear aware of the change. Thus, some training may be necessary. While income and asset information are valuable pieces of information, they are not necessary for judicial action to proceed. Judicial processes are available to gather employment and asset information.

Second, some caseworkers believe that judicial enforcement remedies do not work, that judges simply do not consider this issue important and therefore do little when non-custodial parents do not pay. It appears that this belief may have been promoted by past enforcement attorneys within the Attorney General's Office. That judges do little can be an important point. Unless judges are willing to impose a stated sanction, then the non-custodial parents will learn that judicial enforcement means little and that the court's bark is worse than its bite. While a lenient attitude among judges may have been prevalent in the past, payment information reported from the criminal non-support unit leads us to believe that many judge's attitudes have changed. Judicial enforcement remedies can, in fact, be very effective in changing non-custodial parent's payment behavior and obtaining child support money.

If judicial enforcement is going to be used more, investigators need to be more aggressive in developing and pursuing leads on non-custodial parents whereabouts. This information is important to judicial enforcement's effectiveness. For example, if the non-custodial parent's address cannot be found, papers initiating judicial proceedings cannot be served. If these papers cannot be served, judicial action cannot begin. Also, the identification of assets is helpful to judicial enforcement since it can speed up child support collection. All this work is done by a relocation caseworker.

Relocation Investigators Should Be More Aggressive

The relocation investigators need to be more aggressive in developing and pursuing leads on non-custodial parents and their assets. Credit bureau reports should be obtained and the information pursued.

That relocation investigators may not be aggressive in generating and pursuing leads was revealed to us by the following case. This case involves a non-custodial parent who owes approximately $20,000 and is a horse trainer and a horseshoer. He travels from ranch to ranch training and shoeing horses. In addition, the custodial parent reports that the non-custodial parent also trains and sells registered quarter horses. When we reviewed the case narratives, we noticed that asset locate work had been done and the caseworker had declared she could find no vehicles registered in the name of the non-custodial parent. This appeared unlikely to us since this person travels from ranch to ranch with a portable forge and anvil.

We searched the motor vehicle records and found three vehicles registered to the non-custodial parent. When we asked the caseworker why she had not identified the vehicles, she

stated that if the address on the vehicle registration form isn't exactly the one she is looking for, she will not identify the vehicle as an asset. Two of these vehicles had lien holders, so it was possible for the caseworker to follow-up and identify that the owner of the vehicles was, in fact, the non-custodial parent in question. She did not pursue the lead. It is alarming to us that a caseworker would not make the effort to determine if the person named on the vehicle registration is, in fact, the non-custodial parent.

According to three private locators we contacted, locate work can be time-consuming and tedious. It is their collective opinions that the best source of leads are credit bureau reports and custodial parent information. These two sources are also encouraged by BCSS relocate policies. Based on our case reviews, credit bureau reports are rarely generated and, if they are generated, credit leads pertaining to location or employment are not pursued. Custodial parent information is relied upon; however, BCSS has lost contact with some custodial parents.

In making this analysis, we reviewed only relocation cases from our Salt Lake sample. However, we believe that better techniques could be utilized in all regions.

Credit Bureau Reports Should Be Used More

Credit bureau reports are used infrequently by Salt Lake caseworkers. We reviewed 36 cases in Salt Lake's relocate function. In only 4 cases (11 percent) were credit bureau reports printed. In addition, for these four cases, there was no narrative evidence to indicate that the credit bureau information had been pursued. Since these reports often put an investigator in touch with someone who has verified current location and employment information, these reports are important.

We obtained and reviewed credit reports for the 35 cases in our relocation sample. We did not call individual creditors to verify location and employment information. These reports provide a number of potential leads which could be helpful in locating the non-custodial parent. In fact, there were only 3 individuals for whom no credit information was available.

Some of these credit reports offered interesting information which did not require creditor contact. For example, one non-custodial parent who owes $4,500 in child support has qualified for a $30,000 mobile home loan and a $2,900 automobile loan. While he is current on both loans these loans, he has failed to make his child support payments. The fact that he is current on two loans probably means that he has steady employment. Where that employment is should be obtainable by BCSS from either of these creditors.

While the above discussion emphasizes judicial enforcement, other, more moderate enforcement techniques are also available.

Moderate Enforcement Techniques Are Available

This chapter has focused almost exclusively on the most extreme enforcement technique available, judicial enforcement. Given the characteristics of the sample of non-custodial parents that we have been discussing, judicial enforcement is an appropriate tool to be focusing upon. There are, however, more moderate enforcement techniques that other states are using which may serve to bring non-custodial parents into compliance before judicial action becomes necessary. We have done no analysis on their effectiveness, but present them as possibilities for consideration.

In some states, Maine most recently, driver's licenses of non-custodial parents who are behind in their child support payments are being revoked. Maine takes this enforcement action when a non-custodial parent is 90 days behind in child support payments. Maine reports that the threat of this action yielded the state $11.5 million in back support payments. If this report is accurate, revoking driver's licenses would appear to be an inexpensive, moderate enforcement technique that can yield a large child support return.

Another enforcement technique in some states, again Maine most recently, is the revocation of professional licenses. Those people who work in a field which requires a professional license (i.e. doctors, lawyers, architects, contractors) can lose their right to work unless they pay their child support. While some states believe this technique is useful, other states believe this method is counter-productive. For example, Wisconsin, a strong enforcement state, believes that by taking away the non-custodial parent's ability to work in their field of expertise, the state's ability to collect child support is compromised. Thus, Wisconsin does not use this technique.

Wisconsin uses a different type of enforcement technique. Federal regulations allow states to charge interest on child support arrears. Wisconsin takes advantage of this regulation and charges 1.5 percent simple interest per month on any arrearage balance. By doing this, Wisconsin maintains that it is putting a consequence in its system that encourages non-custodial parents to pay child support now rather than later. Utah does not charge interest. Utah's rationale is that it makes little sense to charge interest when the principle is difficult or impossible to collect. Wisconsin maintains that nonpayment is no reason to not charge interest. Further, in the cases where Wisconsin negotiates a lump-sum settlement with a non-custodial parent, interest allows Wisconsin room to negotiate. While Wisconsin might negotiate the interest owed, they will not negotiate the principle owed. Utah has no choice but to negotiate principle.

While these more moderate techniques may be useful in preventing some cases from reaching judicial enforcement status, we believe that when the criteria is met, judicial enforcement should be used. If this were done, the attorneys for BCSS might receive an additional 5,000 enforcement cases. Thus, it is possible that additional attorney general

support could be needed to handle the increased caseload. If this happens, some of the increased judicial costs may be paid by federal dollars.

While we believe that more child support collections can be made if judicial enforcement were used more, we also believe that child support collections can be increased by using a more determined collection approach.

Recommendations:

1. We recommend that BCSS and the Attorney General's Office reach an understanding as to what information BCSS must provide in a child support case in order for judicial enforcement to be initiated.

2. We recommend that BCSS develop a system which insures that cases which meet agreed upon criteria are given to the Attorney General's Office for judicial enforcement.

3. We recommend that BCSS implement more aggressive relocation procedures and provide training to relocation workers where necessary. These procedures should specifically include the use and follow-up of credit bureau reports.

4. We recommend that the Legislature study the effects of implementing more moderate enforcement techniques.

Chapter IV
Child Support Collections Can Increase

Utah's Bureau of Child Support Services (BCSS) collects 38 cents for every child support dollar owed. This overall rate could possibly be increased to 43 cents by improving regional collection rates. In FY 1993, an increase of 5 cents per dollar owed would have resulted in an additional $2.9 million in collections. There are significant collection rate differences among the regions. Specifically, the Salt Lake region, which has 50 percent of the caseload, has the lowest regional collection rate. These collection rates have the potential to improve based on an analysis of regional income data. We believe collection rate improvement can result from a more determined approach to case management. Specifically, caseworkers need to actively monitor non-paying cases frequently for circumstantial changes. In addition, caseworkers need to show more initiative and less passive and reactive behavior.

In making our analysis, we sampled and analyzed 111 collection, enforcement and relocation (CER) cases. We focused on these cases because once a case gets to a collection, enforcement, and relocation team (a CER team), an enforceable child support order is in place. Prior to placement on a CER team, a case may be on an ILO team waiting for a support order to be established. That an enforceable child support order is in place means a determination has been made as to whether child support is owed and for what amount. It becomes the job of the CER team to collect the specified child support amount from the non-custodial parent.

When a case is assigned to a CER team, it can be in one of three functional categories. First, the case can be in collections. This means payments are being received on the case. Second, the case can be in enforcement. This means work is taking place to hopefully move the case to collections. For example, a caseworker may be in the process of issuing a Notice To Withhold (NTW) to the non-custodial parents employer. This notice tells the employer to deduct a certain amount each month from the non-custodial parents paycheck to cover child support payments and to send that money to BCSS. Once the employer has received the notice, the case would be transferred to collections. Third, the case can be in relocation which means that no payments are being received on this case other than intercepted tax returns. Basically, when a case is in relocation, the caseworker is searching for the non-custodial parent, the non-custodial parent's employer, or the non-custodial parent's assets. Thus, it seems reasonable that one of the basic goals of a CER team would be to maximize the number of cases in collections and minimize the number of cases in relocation.

Regional Collection Rates Differ Significantly

There are significant differences in collection rates among the Utah BCSS regions. Of particular concern is the fact that the Salt Lake region, which has 50 percent of the CER caseload, has the lowest regional collection rate. Upon further analysis, we noted two basic reasons for Salt Lake's relative standing. First, Salt Lake has the highest percentage of cases in relocation and the second lowest percentage of cases in collections. Second, Salt Lake has relatively low collection rates in both the collections and relocation categories.

In analyzing the overall historical collection rate, we asked ORS workers to perform a financial review on our sample of 111 CER cases. They were asked to go back to the date the case opened and calculate the total obligation of the non-custodial parent, the total payments made and the total arrearage owed as of July 1994. Using this data, we calculated the percentage of the total obligation actually collected as of July 1994. In making our analysis, we excluded cases from review in which the collection is being made by another state for a Utah custodial parent. In addition, one Utah region, Richfield, was excluded from review because our sample size for the region was too small. Figure V shows the results of our analysis.

Figure V
Historical Collection Rates By Region

	Salt Lake	Farmington	Provo	St. George	Ogden
Collections per dollar owed	.33	.58	.42	.35	.42

As can be seen, the Salt Lake region has the lowest overall historical collection rate. This is particularly significant given the fact that the Salt Lake region has approximately 50 percent of the entire CER caseload. Thus, any improvement in Salt Lake's collection rate can have a significant improvement on the performance of the whole system. So, to gain a better understanding of each regional collection rate, we analyzed the collection rate by function.

An analysis by function reveals that Salt Lake has the highest percentage of cases in relocation compared to the other regions. This means that Salt Lake has more cases for which little child support money is being received. In addition, Salt Lake has the second lowest percentage of cases in collections. This means that Salt Lake has fewer cases for which child

support is consistently received. These percentages, coupled with the fact that Salt Lake has the second lowest collection rate in both the relocation and the collection function, give Salt Lake the lowest overall collection rate. Figure VI shows the percentage of cases and the collection rate in each functional category by region.

Figure VI
Percentage Of Cases And Collection Rate
By Functional Category

	Salt Lake	Farmington	Provo	St. George	Ogden
Collections:					
Percentage	34%	55%	43%	43%	26%
Collection Rate	.56	.89	.52	.81	.87
Relocation:					
Percentage	62%	27%	50%	57%	57%
Collection Rate	.20	.54	.25	.16	.24
Enforcement:					
Percentage	4%	18%	7%	0	17%
Collection Rate	.13	.21	.96*	0	.27

* This functional category only had one case

Based on this data, it appears that Farmington does the best job of managing its case load and collecting child support. It has the smallest percentage of cases in relocation (27 percent) and the largest percentage of cases in collections. In addition, it has the highest collection rate in collections (89 cents collected for every dollar owed) and the highest collection rate in relocation (54 cents for every dollar owed). In fact, Farmington's collection rate in relocation is almost as high as Salt Lake's collection rate in collections.

Salt Lake, on the other hand, has the highest percentage of cases in relocation (62 percent) and the second smallest percentage of cases in collections (34 percent). Also, Salt Lake has the second lowest collection rate in both collections (56 cents for every dollar owed) and relocation (20 cents for every dollar owed).

While it is tempting to hold Farmington out as a collection standard for the other regions to match, there may be reasons why that might be unfair. There may be factors which positively influence Farmington's likelihood of making a collection over which they have little or no control. We examined two such possible factors: regional income levels and case loads.

Regional Collection Rate Improvements Are Possible

A comparison of average non-custodial parent income offers the possibility that collection rates can be improved among the regions. Caseload comparison data does not appear to offer much explanation for regional collection differences.

A basic conclusion of a number of sociological studies indicates that the receipt of child support is mostly dependant on the circumstances of the non-custodial parent. The circumstances of the custodial parent and the children have no direct impact on whether support is received nor on the amount received. One important circumstance of the non-custodial parent is income. The studies noted that non-custodial parents with higher incomes are more likely to pay child support. Based on this conclusion, we reasoned that regional collection rates may be different because average regional incomes are significantly different.

In reviewing the results of the average income comparison, it is important to remember that these average incomes are not necessarily representative of people's incomes who actually live in the region. These incomes are representative of the non-custodial parents whose case is managed by the region. A region manages a case based on where the custodial parent lives. Thus, if the custodial parent lives in Farmington, the case will be managed by Farmington regardless of where the non-custodial parent lives.

In making this income assessment, we used primarily 1992 tax records of the non-custodial parents. However, in some cases employment security records were used. When we were unable to find tax records or employment security records for a non-custodial parent, we excluded that person from our analysis. To insure that this exclusion did not affect the comparative data, we also analyzed the data assuming that persons for whom tax or employment security records could not be found had zero income. While average incomes within functions changed, the relative positions among regions did not. In other words, if Salt Lake's average income in relocation was higher than Provo's before the reanalysis, it remained so afterwards.

Regional Incomes Support Collection Improvements

Figure VII shows, by region, the average non-custodial parent's income both overall and by function. If a non-custodial parent's income is a good predictor of payment of child support, then this chart raises the possibility that improvements in collections can be made.

Figure VII
Average Income By Region
Overall And By Function

	Salt Lake	Farmington	Provo	St. George	Ogden
Overall	$18,477	$18,128	$22,915	$14,240	$17,937
Collections	25,540	21,886	31,592	15,406	30,552
Relocation	11,061	17,948	10,430	12,493	9,527
Enforcement	37,555	7,123	15,920	-	13,831

First, the overall average incomes of Salt Lake, Farmington, and Ogden are similar, yet both Farmington and Ogden have a higher overall collection rate than Salt Lake. Second, from a functional perspective, Salt Lake collection cases have a higher average income than either Farmington or St. George collection cases, yet both those regions have higher collection rates than Salt Lake. Third, Salt Lake relocation cases have a higher average income than either Provo or Ogden relocation cases, yet both regions have a higher collection rate than Salt Lake.

Farmington's average income in relocation is significantly higher than any other regions. As a result, it may not be reasonable to expect other regions to match Farmington's collection rate in relocation. It is interesting to note, however, that Farmington's relocation collection rate with an average income of $18,000 is almost as much as Salt Lakes collection rate in collections with average income of $25,500. Based on these income to collection rate comparisons, we believe that overall collection rates can be improved.

Caseloads May Not Influence Collections Much

Regional caseloads do not appear to offer much explanation for the differences in collection rates. We examined caseloads because workers had often brought up the issue as a source of concern. The statement was often made that caseloads were so large that cases

could not be worked effectively and, as a result, collections were being missed. Since this explanation seemed reasonable, we examined it.

Figure VIII shows the average regional caseload per worker. This caseload figure represents the number of collection, enforcement, and relocation cases per team line worker. Line workers included Level III Investigators, Investigators, and Technicians.

Figure VIII
Caseload Per Caseworker
By Region

	Salt Lake	Farmington	Provo	St. George	Ogden
Caseload	475	416	419	403	423

In our opinion, caseload offers little explanation for collections differences. It is true that Farmington has the lowest caseload among the Wasatch Front regions. However, Provo and Ogden's caseload appears insignificantly different than Farmington's, yet their collection rates are lower. SLC, on the other hand, does have the highest caseload, yet it is difficult for us to believe that 60 more cases per worker could make such a significant difference in collections.

Since Salt Lake's overall collection rate is relatively low and since Salt Lake accounts for 50 percent of the CER caseload, we decided to examine Salt Lake's case management in more depth. In addition, since Farmington had a relatively high overall collection rate, we decided to examine Farmington's case management in more depth. We thought that a comparison of case management within these two regions could lead to recommended case management changes which could lead to improved regional collections. If Salt Lake's functional collection rates could increase to match those of the next highest region, Salt Lake's regional collection rate could improve from 33 cents to 43 cents. An improvement in Salt Lake's regional performance would increase the overall collection rate from 38 cents to 43 cents. An overall collection increase of 5 cents per dollar owed would have yielded an additional $2.9 million in collections in FY 1993.

Based on our comparison, we concluded that Farmington manages cases in a more determined fashion than Salt Lake does.

A More Determined Approach Could Increase Collections

A more determined approach to case management could lead to increased collections. In comparing Salt Lake's and Farmington's case management, we identified some significant differences. Farmington is quick to actively monitor cases in its relocation function when compared to Salt Lake. The relocation function houses cases for which no payments are being received. As a result, cases may move into Farmington's collection function faster. In addition to faster monitoring, Farmington's caseworkers also showed more initiative in case management. Because Salt Lake's case management tended to be more minimal (eg. case management which is reactive or passive), collection opportunities were missed.

Minimal case management appears to be a common problem nationwide. It is not unusual to hear stories in the national press which imply or state that a more determined approach on the state agency's part could have resulted in higher collections. In our opinion, minimal case management can send a poor message. Reactive or passive management, for example, management which has poor or no follow through on information obtained, can often mean there were no consequences or untimely consequences for non-compliant behavior. Non-compliant behavior which has no consequence does little to promote voluntary compliance with child support orders. Also, it is curious that a minimal approach appears relatively common since it seems to go against the logic of collecting. Rather, it seems to make logical sense that when collections are being attempted from a group who may be highly resistant to paying, a minimal approach, one which is reactive or passive, is unlikely to work.

In addition, a summary of information from a case file we sampled reinforces our view that a minimal effort is less effective and a determined effort is more effective in collecting.

> The case had been open since March 1985 with child support paid only in 1988 and 1989. As a result, $6,000 in arrears were owed to the custodial parent. For 2.5 years, BCSS's activity was minimal. First, BCSS appeared reactive since workers took action only when the custodial parent called with information. Second, BCSS appeared passive since they did not follow through on proposed actions or information received. For example, BCSS established a three-month review date during this time period but never performed the review. During that period, the non-custodial parent was working and BCSS might have found him had the review been performed. As another example, BCSS received information from the custodial parent indicating that the non-custodial parent was working and that his parents knew where. There is no evidence that BCSS ever pursued the lead.
>
> On January 19,1993 BCSS became motivated to pursue the case in a determined fashion.

The custodial parent's father confronted the ORS manager who was his next-door neighbor. He asked why nothing was happening on his daughter's case. The ORS manager promised to look into the matter. That same day, ORS found an employer and issued a 50 percent NTW. The statement was made that if the non-custodial parent quit this job, ORS would consider filing criminal non-support charges. We suspect this information was passed to the non-custodial parent. In February, the first payment was made and the non-custodial parent has been current ever since.

In our opinion, this case demonstrates what can be accomplished when a case is pursued in a determined way. A determined approach involves active, frequent case monitoring and taking the initiative in case management. A determined approach is not a minimal approach in which behavior is passive or reactive.

Relocation Cases Should Be Monitored More Frequently

Farmington caseworkers monitor relocation cases more frequently than Salt Lake caseworkers. As a result, cases stay in Salt Lake's relocation function significantly longer than cases stay in Farmington's relocation function. As reported earlier, 62 percent of the Salt Lake case sample is in relocation as opposed to 27 percent of the Farmington case sample. Since a case in relocation is not receiving child support money, it is important to move the case to collections as quickly as possible. Not only should the case be moved quickly so that the child can benefit from the support, it should also be moved quickly because, according to people in the collections industry, the older the debt becomes, the harder it becomes to collect.

We reviewed 39 Farmington and Salt Lake relocation cases. In Farmington, an average of 48 days had passed since the last evidence of caseworker monitoring. For this review, evidence of monitoring was defined as any caseworker narrative entry. In Salt Lake, an average of 375 days had passed since the last evidence of caseworker monitoring. While we understand that computer monitoring of relocation cases does take place, this monitoring is relatively limited. Further, the caseworker must take action on information which the computer identifies. Thus, it is important that caseworkers frequently monitor relocation cases. To monitor infrequently may result in cases staying in relocation for long periods of time, which is what happens in Salt Lake.

Cases stay in relocation longer in Salt Lake than they do in Farmington. On average, cases stay in Salt Lake's relocation function 739 days. On the other hand, a case stays in Farmington's relocation function an average of 104 days. Since child support payments are not being received while a case is in relocation, it is important to move cases out as quickly as possible. Infrequent monitoring may negatively affect this goal.

When cases are infrequently monitored, opportunities may be lost to move cases from relocation into collections. In 25 percent of our sample of Salt Lake relocation cases, the non-

custodial parent has worked two consecutive quarters in 1993 for the same employer. Because Salt Lake monitors so infrequently, caseworkers appear unaware that these non-custodial parents are working. As a result, there appears to be no collection action occurring. Since Salt Lake is initiating no action towards these working, non-paying non-custodial parents, Salt Lake may be sending the message that it is acceptable to work and not pay child support.

Case Management Should Show Initiative

We noted in our case review that Farmington workers often showed initiative when working their cases. We defined initiative as any action which appears to "go the extra mile". Salt Lake workers, on the other hand, primarily demonstrated reactive and passive behavior. This latter behavior often had a negative impact on collections.

We reviewed 96 Farmington and Salt Lake CER cases. In 57 percent of the Farmington cases reviewed, we noted at least one example of caseworker initiative. Only 4 percent of the Salt Lake cases reviewed showed evidence of initiative. The following are examples of initiative demonstrated by the Farmington workers.

- A caseworker receives a tip that a non-custodial parent the office is seeking is working at a radio station in Utah. In an effort to find him, the caseworker calls over twenty radio stations looking for him. He was eventually located.

- A non-custodial parent indicates that he is going to have an allotment taken from his military check for child support payments. The caseworker allows a couple of months to pass to see if the payments will begin. They do not. The caseworker initiates a call to the custodial parent to see if she is receiving the payments directly. She is not, so the caseworker begins further action to obtain child support payments.

- The custodial parent promises to bring in a copy of the divorce decree by the end of the week. The custodial parent does not follow through. Two weeks later, the caseworker initiates a call to the custodial parent reminding her that casework cannot proceed without the divorce decree. The custodial parent brings in the necessary paperwork.

These examples of case management initiative are extraordinary when compared with the reactive-passive case management style of Salt Lake.

Case Management Should Not Be Minimal

Salt Lake's monitoring approach for collections and relocation cases appears relatively

minimal when compared to Farmington's approach. In our review of the 96 CER cases, 57 percent of Salt Lake cases had at least one example of passive or reactive behavior while 42 percent of Farmington cases had such examples. Reactive or passive behavior was defined as any of the following: (1) waiting for someone else to provide information that could be easily discovered by the caseworker, (2) obtaining information but showing little or no follow-through, (3) setting a case review date and showing little or no follow-through on the plan, and (4) noticing late or missed payments in an untimely fashion. The following are examples of minimal monitoring that we discovered in Salt Lake's collections cases:

- In June 1989, a caseworker noted that no payments had been received from the non-custodial parent since December 1988. This notation was six months after the fact and there were no narrative entries to indicate that the late payments had been noticed until the June notation. In this same June narrative, the caseworker noted a possible new employer. In February 1990, 8 months later, a caseworker moved to verify employment. In April 1990, a notice-to-withhold wages (NTW) was sent to the employer, 10 months after the possible new employer was noted. As a result, 10 months of collections were missed.

- In October 1989, a caseworker identified a non-custodial parent's employment and was attempting to serve an NTW to the employer. The caseworker could not determine where to send the NTW since the company was national, so she put the case into the relocation function. This caseworker never called the local employer. In May 1990, another caseworker called the local employer and got the address of the headquarter's payroll department. Seven months from the time that the employer was known, the NTW was served. As a result, 7 months of collections were missed.

- In June 1992, an employer called a caseworker. He apologized for having forgotten to submit 3 months worth of child support payments he had withheld from a non-custodial parents paycheck. He promised to send the money right away. There was no narrative evidence that BCSS had noticed that these payments had not been received.

It seems to us that one of the primary goals for a collections case should be to get and keep the non-custodial parent paying. Thus, actions which unnecessarily delay payments make no sense to us. Also, actions which indicate that late payments have not been noticed make little sense to us either. It is alarming that an employer would alert BCSS to the fact that he has not submitted payments, with no indication that BCSS ever called him to inquire about the missed payments. With this kind of passive behavior, it is not surprising that Salt Lake's collection rate in the collections function is low. We also found evidence of reactive/passive behavior in the relocation function.

- In April 1993, a custodial parent called and wanted to help find the non-

custodial parent. The non-custodial parent owed $15,000 in back child support. The caseworker replied that what was needed was the non-custodial parent's employer. The custodial parent replied that she would try and get that information. Later that day, the custodial parent called to see if the caseworker had found anything. The second call prompted the caseworker to search the wage screen available to BCSS caseworkers. The caseworker found that the non-custodial parent was employed full-time and has been since July 1992. This information was actually available to the caseworker in January 1993 but the caseworker had apparently not looked for the information. It was the custodial parents call that prompted action.

- In February 1991, a caseworker set a June 1992 review date for this case. We saw no narrative evidence that a review ever took place. Further, the non-custodial parent was working during this time period. Because no case review occurred, an opportunity to move this case to collections was missed.

- In October 1992, a non-custodial parent called inquiring about a tax intercept letter he had received. The caseworker asked if he would like to start paying on his case. The non-custodial parent claimed he was unemployed. This appears to be the last documented example of caseworker involvement. According to Employment Security records, this non-custodial parent worked during the quarter in question and in three subsequent quarters with the same employer. In fact, tax intercept money was received in 1993. Because the caseworker took no further action on this case, an opportunity to move the case to collections was lost.

The primary goal for relocation cases should be to move them into collections as quickly as possible. As long as the case remains in relocation, little child support is being provided. Further, the longer the case stays in relocation, the older the debt becomes, which can result in a more difficult collection. ORS should actively seek information which will move relocation cases to collections. Unnecessary delays and missed opportunities should be avoided. Further, because these non-custodial parents have been allowed to work with no attempt made to collect child support, ORS may have sent these non-custodial parents the message that it is acceptable to work and not pay child support. This is contrary to BCSS's mission of promoting parental responsibility.

In our opinion, case management which is determined and which shows initiative is central to increasing collection rates. BCSS needs to take appropriate actions to ensure that case management is determined. These actions should include a standard which requires more timely worker monitoring of cases in relocation. Other actions to consider are policies and procedures which promote and reward determined collection actions. Training in determined collection actions and activities might also be beneficial.

While total collections can be improved by a more determined approach, state collections can also increase by focusing more effort on AFDC cases.

Recommendations:

1. We recommend that BCSS take appropriate action which encourages initiative in case management and discourages minimal (reactive/passive) case management.

2. We recommend that BCSS develop policies and procedures which insure that relocation cases are actively monitored on a more frequent basis.

Chapter V
AFDC Collections Need Improvement

Collection percentages for Aid-To-Families-With-Dependant-Children (AFDC) cases have fallen while collection percentages for non-AFDC cases have risen. AFDC collections are an important revenue source to the state because the state keeps 25 percent of all AFDC money collected. The federal government gets the remaining 75 percent. Because AFDC collection percentages have fallen, we estimate the state lost as much as $1.7 million in AFDC collections in FY 1993. Caseworkers maintain that this shift from AFDC to non-AFDC collections has occurred because non-AFDC custodial parents demand their time whereas AFDC custodial parents do not. Other child support collection agencies are trying to manage the impact of non-AFDC clients.

BCSS has two basic types of cases: AFDC and non-AFDC. An AFDC case automatically comes to BCSS when a custodial parent applies for AFDC assistance. It is BCSS's responsibility to find and collect child support money from the non-custodial parent in an effort to reimburse the state for supporting the children of the non-custodial parent through AFDC grants. A non-AFDC case comes to BCSS in one of two ways: (1) an AFDC case is closed and BCSS automatically continues collection services as a non-AFDC case or (2) a custodial parent with no public assistance history chooses to use BCSS's services. For a non-AFDC case, it is BCSS's responsibility to find and collect money from the non-custodial parent and to transfer the money collected to the custodial parent. Thus, in one case, the state is collecting money to reimburse a government program and, in the other case, the state is collecting money to benefit a specific individual. However, it should be noted that an increase in non-AFDC cases may also mean a benefit to taxpayers. ORS reports that 55 percent of all non-AFDC cases used to be AFDC cases. Thus, taxpayer money is no longer being used to provide child support to those custodial parents who have moved off AFDC.

AFDC Collection Percentages Are Falling; Non-AFDC Collection Percentages Are Rising

AFDC collection to caseload percentages are declining while non-AFDC collection to caseload percentages are rising. In addition, the percentage of AFDC cases for which there has been a collection has declined while the percentage of non-AFDC cases for which there has been a collection has risen.

Since 1987, our baseline year, AFDC collection to caseload percentages have been declining while non-AFDC collection to caseload percentages have been rising. These historical trends can be seen in Figures IX and X.

Figure IX
AFDC Collection Percentage Compared To Caseload Percentage

Percentage	1987	1988	1989	1990	1991	1992	1993
Caseload	72%	68%	69%	66%	67%	67%	67%
Collections	47%	44%	42%	39%	37%	36%	35%

Figure X
NON-AFDC Collection Percentage Compared To Caseload Percentage

Percentage	1987	1988	1989	1990	1991	1992	1993
Caseload	28%	32%	31%	34%	33%	33%	33%
Collections	53%	56%	58%	61%	63%	64%	65%

In 1987, AFDC cases made up 72 percent of the total BCSS caseload while AFDC collections accounted for 47 percent of the total BCSS collections. On the other hand, non-AFDC cases made up 28 percent of the total caseload and accounted for 53 percent of the total collections. In 1993, AFDC cases made up 67 percent of the total BCSS caseload and accounted for 35 percent of the total BCSS collections. Non-AFDC cases, on the other hand, accounted for 33 percent of the total caseload and 65 percent of the total collections. In 1987, there was a 25 percent difference between AFDC caseload and collections percentages. In 1993, there was a 32 percent difference between caseload percent and collections percent. Thus it appears that ground is being lost on AFDC collections.

In addition, the percent of AFDC cases on which there has been a collection has been declining while the percent of collections on non-AFDC cases has been rising. Figure XI shows the historical trends of each.

Figure XI Percent Of Cases On Which There Was A Collection							
Percentage	**1987**	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**
AFDC	18%	16%	18%	14%	15%	14%	13%
Non-AFDC	33%	35%	32%	34%	42%	40%	39%

In 1987, 18 percent of all AFDC cases had a collection. A collection simply means that an amount of money (as little as a dollar) was collected on the case. In 1993, 13 percent of all AFDC cases had a collection. On the other hand, non-AFDC cases have experienced an increase in this area. In 1987, 33 percent of the non-AFDC cases had a collection. In 1993, 39 percent of the non-AFDC cases had a collection.

Based on shifting caseload and collection percentages and, more importantly, based on the changing percentage of cases receiving a collection, it appears AFDC collections have suffered at the expense of non-AFDC collections.

AFDC Collections Generate State Money

The state benefits directly from AFDC money collected. Specifically, the state may keep 25 percent of the AFDC money that it collects from the non-custodial parent. This money is used to reimburse available AFDC money. The remaining 75 percent is returned to the federal government. Thus, the state has a significant interest in keeping AFDC collections as high as possible.

Because collection percentages dropped for AFDC collections, the state has lost money. To estimate the amount of money Utah lost in 1993, we calculated potential income assuming the 1987 collection rate of 18 percent had been maintained in 1993. Figure XII shows the additional income Utah could have received under this assumption.

Figure XII
Possible AFDC Collections Lost

	No. Cases Collected Upon	Collections Per Case	Collections	Difference From Actual Collections	25% of Difference
Actual 1993	6,968	$2,780	$19,368,290		
Potential 1993	9,475	2,780	26,340,500	$6,972,210	$1,743,053

As can be seen, Utah lost approximately $1.7 million in additional AFDC funds.

Caseworker Focus Is On Non-AFDC Cases

Because of how caseworkers manage their caseloads, non-AFDC cases receive more worker attention than AFDC cases. Caseworkers reported that they manage cases according to the phone calls they receive. Because caseworkers believe that their caseloads are unmanageably high, caseworkers have abandoned the idea that they can investigate all their cases. As a result, investigators investigate cases on a complaint basis. Since AFDC custodial parents receive their AFDC grant regardless of whether the non-custodial parent has paid BCSS, AFDC clients are less likely to complain to BCSS. Non-AFDC clients are more likely to complain to BCSS since non-payment of child support directly affects them.

That non-AFDC clients demand and receive more attention than AFDC clients was supported by interviews with caseworkers and administrators. In response to a worker survey administered to 94 caseworkers, 71 percent stated that non-AFDC clients demand more of their time than AFDC clients. Below are some of their comments.

> *The majority of my time is spent dealing with non-AFDC clients. They are far more demanding and very quick to complain…*
>
> *Non-AFDC clients take up 90 percent of my time.*
>
> *Non-AFDC clients are more involved in case actions and require more time and service at the expense of the AFDC client.*

We believe that non-AFDC collections have risen because caseworkers have focused on these cases. AFDC collections have fallen because those cases receive little attention. The demands placed on child support systems by non-AFDC clients is a common problem among other states.

Other states have taken some steps to address the issue of resource allocation to non-AFDC clients which Utah may want to consider.

Non-AFDC Impact Can Be Managed

The impact that non-AFDC cases have on resources can be managed. Some child support collection agencies control impact through call management. Other agencies control impact through user fees.

Many child support collection agencies use call management systems to limit caseworker/client contact. Often when a client calls a caseworker, the client will identify the relevant problem quickly and then spend a great deal of time talking about issues that the caseworker can do nothing about. This is viewed by some as an unproductive use of the caseworkers time.

Sacramento County, California has developed what appears to be a very effective system in this regard. Their system has two main elements: an automated voice referral system which handles most call-in inquiries, and a Public Service Center (PSC) which handles call-in clients who need to talk with someone. The automated voice system uses a menu system which allows the caller to select a desired option. One option is referred to as the "leave a message-get a reply" option. Here the client records a specific question and then calls back after a short time period to get a recorded reply answering the question. This option forces the client to focus on the issue she is calling about and allows the worker to respond to a specific question.

The PSC is a small group of workers who are highly trained in telephone management skills as well as in some collections skills since these PSC workers may have to research a case to answer a question. PSC workers only talk with those clients who could not get answers using the automated system. Any questions that cannot be answered by a PSC worker are referred to an administrator, not a collections caseworker. Collections caseworkers do not take phone calls.

Sacramento County maintains that after implementing this system, the efforts in collections and enforcement increased significantly. This is in large part due to the fact that collections caseworkers never have to respond to phone calls. While Utah has an automated phone system, one of the options is direct contact with a collections caseworker which may be defeating the primary benefit of an automated phone system.

If BCSS is unwilling to eliminate client contact with the collections caseworker, there are more moderate approaches that can be taken. The state of Washington uses two moderate approaches which could be considered. One approach utilizes an automated phone service. In this case, the client records the question that needs an answer. The caseworker is then required to make contact with the client within 48 hours with the answer to the question. The second approach does

not involve automation. Rather, caseworkers rotate phone-free days among themselves. In this way, caseworkers are guaranteed a certain amount of time that they can devote to cases without having to respond to phone inquires.

While call management systems seek to manage the time spent on non-AFDC clients, other states have opted to manage non-AFDC clients by charging for their time.

Some States Charge Fees For Non-AFDC clients

While this method does not appear to be common, some states charge non-AFDC clients for services rendered. We identified two states, Idaho and Arkansas, which charge non-AFDC clients for specific actions taken. For example, Idaho charges $175 for an initial enforcement order and $100 for each additional enforcement order. Arkansas charges $40 for any action which initiates court proceedings. Any action which goes to trial and is resolved by the court is assessed $125. Interestingly, Arkansas also charges $5 for uninitiated phone calls. Custodial parents are allowed one free phone call a month. Any calls over that amount which do not add new information to the case are charged a fee. Arkansas makes approximately $1 million from fees, while Idaho makes approximately $250,000 from fees.

The reasons behind the fees are twofold. First, fees may reduce the number of non-AFDC clients who request state enforcement services (Orders to Show Cause, lien executions). Fees encourage the client to evaluate the various enforcement services available (private attorneys, private child support collection agencies, state services) and choose the one which can provide the desired service at an acceptable price. A state service that is essentially free encourages a custodial parent to use the service with no evaluation of the other options available. This places an unmanageably large demand on state services. Also, an essentially free service might be considered unfair competition with the private sector. Second, while state's are federally required to provide these services to non-AFDC clients, they are not required to provide the services free of charge. Since non-AFDC clients often demand many services from the child support system, it makes sense that non-AFDC clients should help pay for these services. The taxpayers alone should not have to bear the burden for all these costs.

Recommendation:

1. We recommend that BCSS consider implementing techniques which will allow them to better manage non-AFDC client demands.

Agency Response