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Digest of a Performance Audit of the Support of Children in State Care

Our review found that parents being assessed child support for their children in the state's custody or care are paying about 48 percent of the total amount due on a monthly basis. Thirty percent of the open cases for the four divisions charging child support are in the collection function at the Office of Recovery Services (ORS). Steps can be taken to improve the overall collection process within the Department of Human Services (DHS) to get more cases into collection. More cooperation is needed between the various divisions for which ORS collects child support payments and the ORS regarding the flow of court orders for children in care. To increase cooperation between these agencies and the ORS, the Department of Human Services should make clear its commitment to the principle of collecting financial support from parents and promote a more collaborative effort between division staff and the ORS. Increased cooperation and communication should result in increased collections. We estimated a \$187,000 annual increase in collections for custody cases is possible if more court orders are provided to ORS. Finally, the ORS can make some improvements in its internal processes for obtaining court orders.

For the most part, children in custody or care are served by the DHS, with some children in long-term nursing home care served through the Department of Health. The ORS's Bureau of Investigations and Collections (BIC) provides collection services to the several divisions that have children in custody or care, including the Division of Family Services (DFS), Division of Youth Corrections (DYC), Division of Services for People with Disabilities (DSPD), and Division of Mental Health (DMH) for the State Hospital. State law provides that parents have the responsibility to support their children, and also provides that child support shall be charged to responsible parties to contribute to the cost of children in care. The child support payments are based on ability to pay; they are not calculated on the cost of care. Federal law also requires that child support collections be made and certain program requirements be met on cases for children served by the foster care and youth corrections programs.

The following briefly describe the findings of our audit:

Parents are not Meeting Their Full Obligation. The use of child support guidelines as the basis for parental contributions to the support of children in the state's custody or care is reasonable because it is based on ability to pay, and equitable because it is applied regardless of cost of care in the different divisions. However, as a group, parents are not contributing at the level expected based on these guidelines. Parents paid an average of 48 percent of the child support due for the four divisions for which the ORS collected in March 1995. Further, about 30 percent of parents' cases open at the ORS are in the

collection function. Most of the incoming funds are collected from cases in the collection function; therefore the fewer cases in collection function, the less the total collections that are being received. Additionally, there are valid reasons for nonpayment on cases, although some parents simply avoid paying.

Department Level Direction is Needed to Increase Cooperation. Although the ORS serves various divisions in the Department of Human Services through its collection efforts, these efforts are not fully supported by those divisions. There is a lack of coordination and cooperation between the divisions and ORS that is exemplified in problems with the way court orders are provided to the ORS. If the ORS's collection efforts are to succeed, the DHS must clearly express its commitment to the policy that parents have an obligation to support their children in custody or care. The department must then promote the development of a more collaborative relationship between the various divisions and the ORS; the outcome should be a positive effect on collections for those agencies. Changes to the way waivers of collections are used can also have some effect on collections, particularly for DSPD cases. Also, the ORS can make improvements in its internal processes aimed at obtaining court orders. Finally, there are problems with referrals from Services for People with Disabilities to the ORS and past problems with referrals from the State Hospital to the ORS.

Further information and recommendations for improving the above areas can be found in the body of the report.

Chapter I

Introduction

Parents being assessed child support for their children in the state's custody or care are paying about 48 percent of the total amount due on a monthly basis. Thirty percent of the open cases for the four divisions charging child support are in the collection function at the Office of Recovery Services (ORS). Steps can be taken to improve the overall collection process within the Department of Human Services (DHS) to get more cases into collection. More cooperation is needed between the various divisions for which ORS collects child support payments and the ORS regarding the flow of court orders for children in care. To increase cooperation between these agencies and the ORS, the Department of Human Services should make clear its commitment to the principle of collecting financial support from parents and promote a more collaborative effort between division staff and the ORS. Increased cooperation and communication should result in increased collections. We estimated a \$187,000 annual increase in collections for custody cases is possible if more court orders are provided to ORS. Finally, the ORS can make some improvements in its internal processes for obtaining court orders.

For the most part, children in custody or care are served by the Department of Human Services (DHS), with some children in long-term nursing home care served through the Department of Health. The ORS's Bureau of Investigations and Collections (BIC) provides collection services to the several divisions that have children in custody or care, including the Division of Family Services (DFS), Division of Youth Corrections (DYC), Division of Services for People with Disabilities (DSPD), and Division of Mental Health (DMH) for the State Hospital. State law provides that parents have the responsibility to support their children, and also provides that responsible parties shall contribute to the cost of children in care based on child support guidelines. The child support payments are based on ability to pay; they are not calculated on the cost of care. Federal law also requires that child support collections be made and certain program requirements be met on cases for children served by the foster care and youth corrections programs.

There are four teams of ORS investigators and technicians who handle cases for children in care. Since January 1995, parents of children in all of the named divisions' programs are assessed according to established child support guidelines used in divorce cases. The guidelines have been in use for some time for DFS and DYC cases but have recently been adopted by the other divisions. The guidelines are based on ability to pay, taking monthly income and number of children in the family into consideration.

The BIC teams dealing with collections for children in care have 16 full-time equivalent employees. Fiscal year 1994 expenditures for these teams in the BIC were an estimated \$750,140, according to an internal cost allocation report. Fiscal year 1994 gross collections were \$2,002,620 (including some insurance collections), parental support collections were \$1,635,126, and the net collections returned to state programs were \$1,501,855. Net

collections are lower than gross because of reimbursement to the federal government of federal program dollars collected by the ORS.

Additional data provide more background on BIC's operation. From fiscal year 1991 to fiscal year 1994, parental support collections for Family Services and Youth Corrections cases increased from \$780,210 to \$1,156,440, a 48 percent increase. Expenditures to collect for these two programs went from \$259,513 to \$598,902, a 131 percent increase. ORS's cost-benefit ratios for both these programs decreased from 1991 to 1994. Parental support collections for the State Hospital, DSPD, and the Developmental Center went from \$306,925 to \$478,686, a 56 percent increase. Gross expenditures to collect decreased during the same time from \$346,344 to \$151,239, a 56 percent decrease. The cost-benefit ratios for the State Hospital and Developmental Center increased, while DSPD's cost-benefit ratio showed a minor decrease. In addition, the parents' total liability showed an overall increase, but varied widely from agency to agency. For example, the liability for Youth Corrections cases decreased by 22 percent, while liability for Family Services cases increased by 48 percent. Finally, we documented significant case load increases last year for Family Services and Youth Corrections, with 21 percent and 39 percent increases respectively.

All four divisions provide services other than full-time out-of-home care or custody, but this audit's scope was restricted to a review of the placements for which child support is collected. The number of ORS cases by division is listed in the following figure. Number of cases will differ from the number of children in care because there may be more than one open case on a given child.

Figure I		
Open ORS Cases for Parents of Children in Care		
Division	Number of Open Cases	Percent of Total Cases
Family Services	2,368	54.3%
Youth Corrections	1,371	31.4%
DSPD/Devel. Center	352	8.1%
State Hospital	<u>271</u>	<u>6.2%</u>
TOTAL	4,362	100.0%
<i>NOTE: DSPD figure includes children in nursing homes through the Department of Health.</i>		

As Figure I shows, about 85 percent of the cases for which the ORS collects child support are for the divisions of Family Services and Youth Corrections. These are also the divisions that are awarded legal custody of the children in full-time out-of-home placements, while the DSPD and the State Hospital provide care but are not the legal custodians of the children.

Audit Scope and Objectives

This audit was conducted in response to a legislative request to review the issue of parental support of children who are in the state's custody or care. The audit assessed whether parents are fulfilling their obligation to support their children who are in custody or care; this involved a review of various divisions' collection policies as well as the effectiveness of the ORS regarding collecting parental support. Collections for these programs are handled by the ORS's Bureau of Investigations and Collections (BIC). Although the audit work primarily involved review of the Office of Recovery Services' collection data for parental support, it also involved some review of the four divisions in the Department of Human Services for which the ORS collects the child support. These divisions all offer programs other than the full-time out-of-home placement programs, but child support payments are not assessed for those other programs.

We first analyzed whether it was feasible to increase collections from the parents of children in care, especially since the families in some of these programs are often low income families. We also reviewed statutory and policy issues related to the state's philosophy and intent on collecting some amount of support from parents of children in care, and looked at the interrelationships among the various agencies involved in the programs providing 24-hour care. Finally, we reviewed BIC practices to see whether any improvements in procedure could increase efficiency and also collections.

Specifically, we were asked to determine if the Department of Human Services adequately ensures that parents of children in the custody of the state provide as much financial support as their income will allow.

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Chapter II

Parents are not Meeting Their Full Obligation

The use of child support guidelines as the basis for parental contributions to the support of children in the state's custody or care is reasonable because it is based on ability to pay, and equitable because it is applied regardless of cost of care in the different divisions. However, as a group, parents are not contributing at the level expected based on these guidelines. Parents paid an average of 48 percent of the child support due for the four divisions for which the ORS collected in March 1995. Further, about 30 percent of parents' cases open at the ORS are in the collection function. Most of the incoming funds are collected from cases in the collection function; therefore the fewer cases in collection function, the less the total collections that are being received. Finally, there are valid reasons for nonpayment on cases, although some parents simply avoid paying.

Parents' Expected Contribution is Reasonable

Considering the cost to the divisions of providing care and custody for children, it is reasonable for parents to contribute to the cost according to their ability to pay. Further, the use of the child support guidelines has been approved by the Legislature and adopted by the Department of Human Services as the basis for parental contribution for all children in care programs. Using a fee structure other than the guidelines may not be practical in many cases because of the earning history of much of the served population or the extremely high cost of care for some of the programs.

In fiscal year 1994, state and federal expenditures totaled approximately \$29 million for the children in the care or custody of the divisions of Family Services, Youth Corrections, and Services for People with Disabilities, and at the State Hospital. As previously mentioned in Chapter I, gross collections from parents for that year were \$2 million, or 7 percent of the state's expenditures. Not only are parents not paying a high percentage of the cost, but according to the guidelines, they are not being asked to pay a large percentage of cost. An illustration of the usual payment rate occurred in a case we reviewed during our survey work of DSPD cases. The parents were unhappy about their assessment and asked the ORS to provide proof that their payment was being applied to their daughter's care. The ORS investigator responded by indicating that the actual cost for the child's care was \$5,013 per month, while the amount of child support being assessed was \$109. This case illustrates that parents are asked to contribute at a lesser level than is being paid by the state for the care or custody of their children. It therefore appears reasonable to us that parents should contribute to the total cost according to their ability to pay, as is the intent of the guidelines currently in use.

Collection of support is mandated and also philosophically important to the missions of the agencies in maintaining a link between children and their families. From this perspective as well, it is reasonable that parents should contribute to the support of their children in care. The Uniform Civil Liability for Support Act (Title 78, Chapter 45) in the **Utah Code** states that “Every father shall support his child...” (78-45-3) and “Every woman shall support her child...” (78-45-4). The specifics of support, especially for children in the state’s care, are spelled out in numerous places in the law. These include the Uniform Civil Liability for Support Act (78-45), the ORS chapter (62A-11), and the chapters relevant to each of the divisions. The Legislature has outlined its intent that parents of children in the state’s care are financially responsible for supporting those children, and has recently clarified its intent that the basis for determining the amount of support will be child support guidelines. It is the department’s responsibility to implement that intent. Philosophically and at the policy level, financial support is important because payment of support keeps parents involved with the child and thus should assist in eventual reunification, especially in the cases of Family Services and Youth Corrections.

The child support guidelines are a fair and reasonable way to assess parents’ ability to contribute to the cost of care or custody for their children placed with the state, because they are based on ability to pay and take income, expenses, and number of other children in the family into consideration. We reviewed the literature on developing child support guidelines and found that Utah’s guidelines are based on a model recommended by a national report commissioned by the U.S. Department of Health and Human Services, although Utah’s guidelines assess a lower percentage of gross income for child support than does the model. In addition, ORS policy allows for several deviations from the guidelines when computing a family’s obligation for cases not involving a custody order. These include a deduction for each year a family kept a disabled child at home when he or she qualified for care, a deduction for medical expenses equal to that allowed by the IRS, the inclusion of a child over 18 years of age if the child is still being claimed for tax purposes, and an exemption from assessment if a parent is responsible for the family’s sustenance but is living at or below the federal poverty level.

We believe that the use of child support guidelines is logical because it is based on ability to pay. The cost of care for some of the more expensive and intensive placements in the DSPD and the State Hospital, for example, can be higher than a family’s annual income. Requiring parents in this situation to pay the entire cost of care is unrealistic. In addition, the cost of care for some DFS and DYC families is also more than they can pay because the average income for these families is low. Also, the use of the guidelines in all cases makes it easier for the ORS to administer cases; payments remain the same regardless of the division from which the child receives services.

Thirty Percent of Cases are in Collection

A minority of cases (30 percent) are in the functional activity that produces most of the collections for the children in care programs. As we will discuss later, we think this percentage can be increased. Since the majority of collections occur for cases actually in collection, finding ways to get more cases into collection from the other functional areas would increase overall collections and thus the financial return to the programs. We have concerns that cases in some functional activities are not being reviewed frequently enough to provide for opportunities to move them into collections.

We obtained data on all open cases at the ORS for full-time care and custody for children under 18 as of mid-April 1995. These data showed that 30 percent of the cases are in the collect function. When parents have been contacted and an assessment has been established, the ORS either sends out a monthly bill or institutes income withholding from the employer and the case is put into collect or “C” function. State law now provides for automatic income withholding from employers for child support payments. The majority of incoming payments are for cases in the collect function. The following figure shows the functional activity numbers for the divisions with children in care.

Figure II		
Number of Cases by Functional Activity		
Functional Activity	Number of Cases	Percent
C-Collect	1,301	29.8%
S-Suspend	1,028	23.6%
I-No Court Order	669	15.3%
R-Relocate	447	10.3%
A-Establish	415	9.5%
E-Enforce	392	9.0%
L-Locate	<u>110</u>	<u>2.5%</u>
TOTAL	4,362	100.0%

When a case is first opened, it is opened in “A” function for establishment of an assessment. At present, 9.5 percent of open cases are in this function. Information is gathered to complete the case file at this stage, so that the child support obligation can be established. A

referral from the agency serving the child is also needed to acquire information needed to proceed; receipt of a court order for DFS and DYC cases is necessary to ascertain that the state has custody. The ORS worker sends out a request for information to the parents, asking that a financial statement be completed and returned. When the assessment has been computed, a document is sent to the parents that specifies the amount of the child support obligation and gives payment instructions. Parents are referred to as obligors.

We reviewed a sample of Family Services cases and Youth Corrections cases that had been in the establish function for approximately a year or more. State and federal policies call for specific worker activity on custody cases within set time limits. For example, cases being established should have a case opened and a request for missing information sent out within 20 days of the ORS receiving a referral. Within 90 days, cases in the establish function should be processed to the point of sending forms out for parents to sign (stipulations), issuing a participation or default judgment, or requesting a hearing. When reviewing the cases in the establish function, we found that three of seven (42.9 percent) of the Family Services cases had worker notes justifying the reasons the case was still in the function beyond 90 days; four of the seven (57.1 percent) either had no notes to justify why they were still in the establish function or contained notes indicating an action, such as case closure, that had not been implemented. Of four Youth Corrections cases sampled in the establish function, two had been in the function longer than 90 days but there was sufficient activity recorded in the file to justify this; one had no activity from September 1994 until it went into the collection function in May 1995, so it was in the establish function longer than 90 days. The fourth case was supposed to have been closed in March 1994 because the parents were out of state, but it has not been closed, so it has also been in the establish function longer than the 90 days allowed.

The cases in “I” function are those waiting for a court order before an assessment can proceed. This area is similar to the establish function in that parents have not yet been assessed and the case is waiting for needed information, specifically a court order. Of all open cases, 15.3 percent are in this function. These are all Family Services (DFS) and Youth Corrections (DYC) cases. Court orders are not required for cases for the State Hospital or DSPD children. The lack of an order is more of a problem with DFS, with 22.9 percent of its open cases lacking court orders, than with DYC, which has 9.3 percent of open cases lacking orders. Detailed discussion of the concerns with the “I” cases will be included in Chapter III, but here it should be noted that 64 percent of Family Services cases and 46 percent of Youth Corrections cases in the “I” function have been waiting for a court order for more than three months, which builds significant delays into the assessment process for these cases.

Some cases have insufficient information on the parent’s address or employment status. These cases will be put into a location function (“L”); 2.5 percent of cases are in locate. Investigators search various information sources for last known address or employer so that contact with the parents can occur and an assessment proceed. A similar function, resource locate or relocate (“R”), is used if the workers cannot verify a current employer or other assets; sources are periodically searched in an effort to locate information that will allow the

assessment to proceed. At present, 10.3 percent of cases are in relocate. Relocate or resource locate function cases are to be reviewed annually, according to ORS requirements.

We sampled relocate cases for Family Services and Youth Corrections that had been in the relocate function for several years to see whether annual reviews were occurring. We reviewed 11 Family Services cases and found that one case had sufficient ORS worker activity during the time it had been in this function; this case has recently moved to collect function. Three of the remaining 10 cases had no narrative entries after October 1993; seven had narratives within the last year to 14 months, but there were gaps in each case's narrative entries prior to the recent updates that ranged from over one year up to 4.5 years. Until the recent activity on these cases, reviews were not being done according to the requirement. Of six Youth Corrections relocate cases sampled, all had 1995 activity on them, and all also had previous review gaps ranging from two years to over five years. One of these cases had parental income during the review gap but the parent is no longer employed, so without the timely review, an opportunity to establish collections was lost.

Some cases may be put into suspend or "S" function. Cases in this category are generally felt to be uncollectible at the time they are suspended. Reasons for this include that the parents are incarcerated or disabled. Parents on Aid for Families with Dependent Children (AFDC) are put into this function to suspend collections for the time that public assistance is being received. Parents' cases are also suspended if the ORS has not been able to establish paternity. There are 23.6 percent of cases suspended.

Our review of Family Services and Youth Corrections cases that have been in the suspend function for periods longer than one year raised concerns as well. Of 17 Family Services cases in this sample, none have been reviewed within the last year, according to case narratives. One case had a mid-1996 review date entered, although there has not been any discernible recent activity in the file. Of eight Youth Corrections cases sampled, a timely review had occurred on one, with another two having recent activity but significant gaps prior to the 1995 activity. The rest of the cases have not been reviewed since 1993. Again, reviews of suspended cases are supposed to occur annually. The team manager indicated that the suspended cases have been low priority and have not been given as much attention as other, hopefully more productive, areas.

Finally, cases in the enforcement function ("E") are usually cases with an obligor who has failed to meet his or her financial obligation. Cases in this function are not being actively pursued for collections, since other agencies such as the Administrative Hearing Office or the Attorney General's Office may be involved for a hearing or legal proceeding. Other cases in "E" function are those temporarily put there until a notice to withhold is sent to an employer to initiate income withholding.

Parents pay Less Than They owe

In addition to the low percentage of cases in the collection function, parents who are being billed for child support do not meet their full financial obligation to support their children. For all open cases, parents paid an average of 48 percent of the total amount billed. Further, for the cases specifically in the collection function, about 68 percent of the amount billed is collected. Having established that child support is mandated, philosophically important, and reasonable in amount, we still found that many parents are not paying what has been asked of them. Because a higher percentage of payment occurs in the collection function, it becomes important to get as many cases into collections as possible.

We compared the amount of payments to the amounts billed by the ORS for the month of March 1995. This month's payment data were used because they were the most current information available from the ORS at the time we requested data on all open cases. We compared these data to management reports on payments for most of 1994 and 1995 for two of the agencies reviewed and found that March's data were close to the average payment data found in those reports. The figure below shows the comparison between what was billed to the parents, or the total amount due, and the amount received from parents.

Figure III			
March 1995 Payments Compared to Total Monthly Due			
Division	Amount Paid March 1995*	Total Due March 1995**	Percent of Paid to Due
Family Services	\$57,862	\$162,295	35.7%
Youth Corrections	\$58,907	\$97,675	60.3%
DSPD	\$24,760	\$37,343	66.3%
State Hospital	<u>\$12,779</u>	<u>\$25,317</u>	50.5%
TOTAL	\$154,308	\$322,630	47.8%
<p>* <i>Amount paid includes payments on current obligation and arrears, if applicable.</i></p> <p>** <i>Total due includes the current month's amount due and any agreed upon payment due toward arrears.</i></p>			

As Figure III shows, parents overall paid less than half the amount of their obligation in March. The total due includes the ongoing assessment plus any agreed upon payment toward arrears on a given case. These figures include amounts paid on cases in any of the functional

activities to reflect incoming funds that may be received on cases that are not in the collect function.

Another way to look at whether parents are paying their child support obligation is to review the amount of outstanding liability. This figure reflects the amount that was billed to parents but not paid. This amount accumulates either because parents were contacted at a point after care or custody started and informed they owed for the months between the start of care and the point of notification, or because once notified of the expected monthly payment (the assessment) parents did not pay the full amount due, causing an unpaid balance to accrue. We found that for all open cases for the parents of children in care or custody, 49 percent of the cases carried an unpaid balance or liability in ORS's files.

The majority of incoming funds from parents are received on cases in the collect function; there were collections received on some cases in other functions even though collections are not actively pursued on these cases. Therefore, we reviewed the cases in collect function to see how well these parents in particular are fulfilling their child support obligation. Thirty percent of the open cases for the four divisions are in the collection function. While more parents in collections are paying their assessment, the amount is no more than 68 percent of what is billed. The following figure shows the amount billed and collected in March 1995 for the cases in collect function.

Figure IV			
Percent Collected on Cases in Collect Function			
Division	March Payments	Total Due	Percent Paid
Family Services	\$46,525	\$78,980	58.9%
Youth Corrections	51,781	66,495	77.9%
DSPD/Devel.Center	24,589	33,840	72.7%
State Hospital	<u>12,779</u>	<u>21,465</u>	59.5%
TOTAL	\$135,674	\$200,780	67.6%

Even with an amount going unpaid, the rate of collection is higher in this function. Thus, it becomes important to move as many cases as possible into the collection function to increase collections. Recommendations to accomplish this will be dealt with in Chapter III. At this point, however, more information on the cases that are not in collection will show that some cases may be collectible, while others are essentially uncollectible.

Various Reasons Explain Cases Without Payments

With 70 percent of open cases not in the collection function, the question arises why so many cases are not paying support. First, there is a fair percentage of cases with parents on public assistance; these cases are suspended until such time as the parents become employed, which lowers the probability of collections. Second, some parents are legitimately not paying, while others are avoiding their responsibility. For example, cases which are suspended are usually appropriately not required to pay support. However, some parents in locate or relocate functions as well as some in enforcement function are actively refusing to fulfill their financial responsibility. Although it was not possible to quantify the number of parents avoiding payment versus the number unable to pay, we identified examples of each in our case samples. Understanding the nature of the clientele with which the ORS works helps to put the collection statistics into perspective.

To recap the statistics on cases that are not in the collection function, the figure on page 7 shows that 9.5 percent are in the establish function and 15.3 percent are waiting for court orders; these two areas are at the beginning of the assessment and collection process. Relocate cases are 10.3 percent of open cases and locate cases are 2.5 percent of cases. These are areas where the location of the parents or their income or assets are unknown. Nine percent of cases are in the enforcement function, which typically includes parents who have ceased paying on their cases. Finally, suspended cases comprise 23.6 percent of all open cases.

Close to a third of two agencies' cases will not achieve much in the way of collections because families are receiving or are eligible to receive AFDC (Aid to Families with Dependent Children). We found that over 36 percent of open DFS and DYC cases at the ORS were classified as AFDC. In addition, staff at Family Services provided data showing that 32 percent of their cases are AFDC cases. At the point of entry to the ORS's collection system, cases are classified as AFDC or non-AFDC, depending on whether they were eligible for or receiving this assistance when they entered the custody system. For the ORS's purposes, AFDC cases are suspended until such time as the parent comes off assistance and becomes employed. Cases categorized as AFDC can be found in any functional activity because parents may go off assistance but the AFDC designation is not updatable in the current ORS system. However, many of these cases are suspended.

A final point on AFDC concerns is that over the last year (April 1994 to April 1995) we found that the growth in AFDC foster care cases open at the ORS was greater than in non-AFDC foster care cases. AFDC foster care cases increased by 28 percent while non-AFDC foster care cases increased by 15 percent. Overall growth in Family Services cases was 21 percent. So while all Family Services cases are increasing, the cases with less likelihood of providing collections are increasing at an even greater rate.

The largest group of cases outside of the collection function are the suspended cases (23.6 percent). As previously discussed, suspended cases are those for which there is a low

likelihood of achieving collections. Cases in the suspend category are not being billed or actively managed; ORS indicated that these cases are not legally enforceable. Parents may be on AFDC, incarcerated, or disabled. We reviewed a sample of suspended cases for Family Services and Youth Corrections cases and found that 90 percent of the cases were appropriately suspended according to established criteria. This group of over 1,000 cases has little likelihood of paying support. Individually, members of the suspended case group may change their circumstances; a parent may come out of prison and become employed, or a parent may leave public assistance and get a job. However, in general, almost a fourth of the case population has low probability of its support being collected.

The next largest group of cases (15.3 percent) are those waiting for a court order before further processing occurs. Because we deal with this group in detail in the next chapter, we will not discuss it here, except to indicate that this group is not being billed because, like the 9.5 percent of cases in the establish function, an assessment has not yet been computed because of incomplete file information.

The group of cases in the relocate function (10.3 percent) are cases for which the ORS cannot presently find income or asset information. We could not determine how many parents in this group are actively avoiding collections, but some examples of cases we reviewed illustrate the difficulties of managing these cases. One parent worked in Nevada as a waitress; because the child was out of custody and had turned 18, the ORS did not have access to the interstate parent locator service called URESA, so the caseworker had little recourse after multiple futile attempts to contact the parent and get voluntary compliance with a payment schedule. Another case was a parent who had made one payment in 1989, then became unemployed, exhausted unemployment compensation, searched for work, received emergency financial assistance, then was lost in terms of the normal information channels, was located in California, eventually came back to Utah and got a job. At this time, the case has recently been moved from relocate status into collections. A third case involved a parent whose case has been in the relocate function since 1990 when the assessment notification was returned because the parent had moved and left no address. Since then, the investigator reviewed the case and found no income information listed, sent letters to possible employers out of state, and was waiting to hear whether the parent was employed in Illinois. These illustrations provide some insight into the difficulties in achieving collections when a parent chooses not to cooperate with collection efforts.

The cases in the enforcement function (9 percent) include a variety of situations. All cases for which income withholding is being instituted are temporarily put in enforcement until the notice to withhold is mailed to the employer; they are then moved into the collection function. Many cases that spend any time in the enforcement function, however, are there because of problems with collection. In the past when income withholding was not automatic, this function was used to institute income withholding on those obligors who did not voluntarily send in their monthly assessments. It is still used in case of nonpayment for those parents, such as the self-employed, for whom income withholding is not available. Some are in

enforcement while waiting for a hearing to be held to determine whether the amount of an assessment or arrears should be modified. Cases may also be referred to the Attorney General for legal proceedings if this is deemed necessary, and these cases would be classified as enforcement cases. Cases in enforcement are not being collected on, according to the ORS, and the agency has no direct case management responsibility for these cases.

When we discussed our concerns about case management with various investigators and technicians on the ORS teams dealing with these cases, most mentioned that the upcoming installation of the ORSIS computer system is supposed to change the way cases are handled. For example, the system will monitor cases for activity and provide investigators with work lists of cases needing attention. With the volume of cases to deal with, automation of many case management tasks should help to increase workers' efficiency by identifying quickly those cases that are due for review or that need action taken. Lists will be generated based on set time limits to get certain activities initiated or completed. It will still be necessary for the investigator to take the appropriate actions. ORSIS will also automatically perform much of the research work currently done manually by investigators when seeking information on parents' addresses, income, assets, and other information. However, ORSIS had not been implemented as of the end of fieldwork on this audit, so we cannot comment on its effectiveness. Since the actual workings of the system remain to be seen, we have discussed some of our concerns with the existing system of case management so that ORS management is aware of areas where improvement is possible. Then, if ORSIS does not take care of these concerns, management will be able to address them in other ways.

Although many cases, such as those on AFDC and those suspended, will most likely not result in collections, there are other cases that have some potential for collections and should be moved into the collection function in an efficient manner. One such area is the group of cases waiting for court orders. Changes in the approach to and management of cases needing court orders can have a positive effect on increasing collections and hence the return to state programs. This issue will be dealt with in the next chapter.

Recommendation:

We recommend that the ORS teams managing cases for children in care or custody conduct case reviews according to established review schedules.

Chapter III

Department-Level Direction is Needed to Increase Cooperation

Although the ORS serves various divisions in the Department of Human Services through its collection efforts, these efforts are not fully supported by those divisions. There is a lack of coordination and cooperation between the divisions and ORS that is exemplified in problems with the way court orders are provided to the ORS. If the ORS's collection efforts are to succeed, the DHS must clearly express its commitment to the policy that parents have an obligation to support their children in custody or care. The department must then promote the development of a more collaborative relationship between the various divisions and the ORS; the outcome should be a positive effect on collections for those agencies. Changes to the way waivers of collections are used can also have some effect on collections, particularly for DSPD cases. Also, the ORS can make improvements in its internal processes aimed at obtaining court orders. Finally, there are problems with referrals from Services for People with Disabilities to the ORS and past problems with referrals from the State Hospital to the ORS.

Changes in Court Order Processes can Increase Collections

Collections of child support for Family Services and Youth Corrections cases can increase if changes occur in court order processing within the Department of Human Services. If court orders could be provided faster to the ORS and just 22 to 30 percent of these cases moved into collections, an estimated annual increase in collections of \$187,000 could result. However, many cases are not going into collection because the ORS does not have a court order verifying the state's custody. Improvements in cooperation between the service agencies and the ORS can result in increased collections from parents.

The existence of a court order is needed to verify that the court has issued an order giving custody to either Family Services or Youth Corrections. This allows the custodial division to proceed with obtaining necessary services such as medical examinations, applying for Medicaid coverage for the child, and completing other steps in the custody process. Then, if collections are to occur, the order must also specify that the parents are ordered to pay support according to child support guidelines for their child or children in custody and it should order the parents to meet with the ORS to determine the amount of that support. Having the ability to verify this wording and to ascertain that both parents were so ordered is essential to the assessment process at the ORS.

One of the reasons that the ORS is hesitant to proceed without having the court order in hand is that the agency was involved in a lawsuit in 1993 that sought to prevent it from seeking collections from parents not specifically named in an order for child support. The Drake case judgment ordered the ORS not to collect from parents if they were not named in a support order because the court interpreted the silence of the order to mean that the parent was not required to pay anything. Thus, in a divorce decree for example, one (non-custodial) parent is usually ordered to pay support to the custodial parent, but the custodial parent is not ordered to pay anything. If the child subsequently is placed into foster care or a Youth Corrections facility, the ORS cannot order the custodial parent to pay support until it makes sure that the new custody order addresses both parents and orders them both to pay. In these types of cases, the ORS wants to see the order before proceeding.

More cases can be moved into collections faster with changes in the way court orders are handled. At present, 669 or 17.9 percent of the cases for the DFS and DYC are waiting for a court order before they can be processed and efforts made to start collections from parents. As the next figure shows, the lack of an order is more of a problem with the DFS than with the DYC.

Figure V			
Cases Waiting for Court Orders			
Division	Number	Total Cases	Percent of Total
Family Services	541	2,368	22.9%
Youth Corrections	<u>128</u>	<u>1,371</u>	9.3%
TOTAL	669	3,739	17.9%

Since the “C” or collect function is the functional activity in which the majority of collections are accomplished, the ORS needs to maximize the cases in collections to improve child support collections for the divisions. In particular, we believe that more cases can be moved from the “I” function into collections, as we will discuss below.

Collections can Increase for DFS and DYC

If more cases can be moved from the “I” function (waiting for a court order) into the collect function, both Family Services and Youth Corrections collections can increase. We estimated that a \$187,000 annual increase in collections would result if just 22 percent of DFS cases and 30 percent of DYC cases waiting for court orders could be moved into collections. This represents a 16 percent increase in collections for these two divisions over the fiscal year

1994 gross collections. Ways to accomplish this increase in collections will be discussed in the next section.

Collections could increase by approximately \$130,270 for the DFS and \$57,170 for the DYC annually. This estimate reflects collections for the same percentage of cases that paid in March 1995 but applied to those cases now waiting for court orders. In other words, if the ORS could move just 22 percent of its DFS cases and 30 percent of its DYC cases currently waiting for a court order into collections, this amount of increase should result, based on monthly collections already achieved. If the ORS were successful in getting any more of these cases into collect function, collections could be even higher.

Divisions Must Forward Court Orders to ORS

Improvements are needed in the processes by which court orders are provided to the ORS. Although collections are not occurring on 18 percent of DFS and DYC cases at the ORS because they are waiting for court orders, costs are being incurred by the state for the custody of the child involved. Further, fully 33 percent of the cases waiting for orders have been sitting at the ORS for more than a year; this increases the likelihood of reduced collections for these agencies, both because fewer cases are in collection function and because large arrearages are difficult to collect from parents. This situation can be greatly improved if the divisions make efforts to ensure that the documents are sent to the ORS in a timely fashion. Also, there is room for improvement in the Juvenile Court procedures for sending court orders to the ORS.

The following figure provides a breakdown of the length of time cases have been waiting for court orders without further processing at ORS.

Figure VI				
Length of Time Cases Have Waited for Court Orders				
Months	Family Services		Youth Corrections	
	Number	Percent	Number	Percent
0-3	197	36.4%	69	53.9%
4-6	91	16.8%	2	16.0%
7-9	67	12.4%	20	1.6%
10-12	78	14.4%	16	12.5%
12+	<u>108</u>	<u>20.0%</u>	<u>21</u>	<u>16.4%</u>
TOTAL	541	100.0%	128	100.0%

Figure VI shows that more DFS cases are waiting for court orders than are DYC cases. Also, over half of DYC cases are in the 0-3 month wait category, which is an indication that more of DYC's court orders are forwarded to the ORS sooner than DFS orders are. In general, we are more concerned with the volume and lack of timeliness of the DFS court orders.

Although cooperation between a custody division and the ORS is needed to ensure that court orders are provided, we found that the level of cooperation and coordination needs to improve. For example, we found that needed court orders are usually in the files at the DFS and DYC. We sampled files randomly for a number of caseworkers at a Central Region DFS office and found court orders in 14 of 16 files. Of these, 8 or 50 percent were in "I" function at the ORS, waiting for court orders. At the DYC Region II office, we sampled case files specifically to look for court orders that had not yet been received at the ORS. We found court orders in 8 of 10 files. These DYC cases are cases for which a court order had been requested by the ORS from the Juvenile Court in mid-1994. Because the court order had not been sent by the divisions to the ORS, the families of these children will probably have accumulated large arrearages they will be asked to pay when finally contacted by the ORS. This makes no sense to us and does not serve the parents, the division, or the ORS well.

We also found that orders were present when we reviewed case files at the Third District Juvenile Court. We reviewed files of cases for which the ORS had requested court orders in mid-1994 but had not yet received an order approximately one year later. We reviewed over 100 court orders for 90 children. We found that the court clerks made a notation to send a copy to the ORS in only 4 percent of the orders reviewed. In addition, we found that the necessary ORS language was included in less than 72 percent of the court orders. However, the majority of the orders we have seen in the course of our work indicated that a copy was sent to either the DFS or DYC depending on which agency was given custody. After our visit to the court, ORS staff reported that more orders were being provided to them on recent cases, so some improvement had occurred at that level.

Poor cooperation is evident to us in the attitude of some DFS workers who do not believe it is their responsibility to send court orders to the ORS. For example, we visited one of the DFS offices in the Central Region and talked with the eligibility technicians who work with the case files. One technician commented that she sent court orders if she had one at the time that she sent a referral to the ORS, which was seldom. Other than that, she did not send orders. Another technician said she never sent orders because she had not been told to do so. A third felt that the ORS can call the courts as easily as they can, and it's not their responsibility to get orders to the ORS. We feel this is an unfortunate attitude, since the end result of cooperation would be more timely service to parents and ultimately a benefit to the division via the financial return from collections. Further, a 1991 DFS/ORS committee meeting on court order issues recommended that if a copy of a court order had not been sent to the ORS by the Juvenile Court, ORS workers would need to request a copy from the DFS. This would appear to call for cooperation on the part of DFS workers with the ORS.

Since the majority of orders are getting to the Department of Human Services, interagency cooperation can reduce the backlog of cases waiting for court orders at the ORS. However, it seems important to us that copies of all custody, temporary, or shelter orders prepared by the Attorney General or the court clerks should be sent to the ORS as soon as an order is prepared and signed. Next, at the point of entry to either agency, copies of the orders should be made and immediately forwarded to the ORS. Both the DFS and DYC receive court orders from the courts in batches on a regular basis. These are sorted and put into the case files at the DFS, while at the DYC a copy is kept at the region office and another copy put into the traveling file that follows the child from facility to facility. Finally, internal procedures at the ORS also can improve and these will be dealt with in the next section.

A last concern is that we found problems with court orders have existed for years. The lack of timeliness in forwarding orders both from the courts and within the Department of Human Services has continued for far too long. In our opinion, although everyone we spoke with wants the situation to improve, they all believe that someone else needs to change to make the situation better. Staff at the ORS, DFS, and DYC all expressed to us their frustration with various components of the process and the length of time it takes to get court orders to the parties who need them; some of these people indicated that meetings about court order issues have occurred over at least the last ten years. Staff at the Third District Juvenile Court also expressed a certain amount of frustration that problems have existed for years between the courts and the DHS. Even the Attorney General representative for the DFS indicated having some frustration that the problems have been discussed and reviewed numerous times without any solutions emerging. We believe these concerns can be resolved, but that all concerned parties must make efforts to cooperate and coordinate their efforts.

DHS Needs to Stress Importance of Collection Effort

To address the concerns just discussed and to successfully implement the **Utah Code's** directives on parental support, the Department of Human Services must provide leadership and direction to the divisions on what it expects. DHS has taken a step by implementing a child support policy to be used by divisions with children in care. The department should also make clear that division staff need to view the collection effort as integral to the mission of the department. With this approach, we believe that a more collaborative effort can be established and that improvements in the collection effort by the ORS are possible. Finally, the department should review the child support policy to determine whether changes are needed to the basis and methods for granting waivers.

In providing direction, the DHS should clarify to the divisions that certain process issues must be dealt with. First, workers in contact with parents must inform them of their legal responsibility to pay child support, and should provide basic information on how they will be assessed. This could be in the form of a parents' financial information brochure developed by the ORS last year. Contact with parents must include instructions to get in touch with the ORS

immediately to start the assessment process. Improved communication and cooperation between the divisions and the ORS are needed to accomplish these goals. Second, as previously discussed, workers in the DFS and DYC must understand that upon receiving a court order, a copy must be sent to the ORS immediately. Third, referrals from the agency providing service must be sent to the ORS immediately when each child enters the system. This step may be accomplished automatically when the ORS's new computer information system is installed, but steps must be taken to ensure that the referrals are sent one way or another.

Better Communication is Needed Among all Involved Parties

One cause of the problems with court orders and referrals is poor communication between the agencies and the ORS. In particular, division staff may not know enough about collection activity to understand the importance of sending court orders to the ORS quickly. In addition, staff at the divisions should provide more complete and accurate information to parents. In general, while there is often good cooperation between the divisions and the ORS, there have been enough "rough spots" and problem areas to cause us concern. Better communication to the divisions' workers about the importance of the collection effort and the information needed by the ORS to successfully complete that effort is needed.

Previously discussed examples of division staff indicating they did not want to take the time to send court orders to the ORS are indicative of a lack of understanding that everyone plays a part in the success of the collection effort. Also, we were told by Attorney General staff that DFS workers were too busy to worry about telling parents about their financial responsibility because they had too many other job requirements to fulfill. Another illustration of this lack of understanding is the caseworker at the DFS who told us he was not concerned that there was not a court order in a particular case file, because the child was receiving the services she needed. He did not appear to understand that the court order was also needed to start support collections from the parents. We agree with the DFS foster care specialist who expressed her view that the various agencies do not coordinate, there is insufficient communication on how things need to be done, and there is not enough commitment to make the system work for the good of all, especially the children.

A further illustration of the lack of cooperation that affects communication is the recent attempt by the ORS to develop, print, and distribute an informational brochure about parental financial responsibility for caseworkers to give to parents. Although the ORS delivered the brochures to the various divisions, we spoke to caseworkers and technicians at Salt Lake area offices for both the DFS and DYC and found that the brochures had not been provided to them and so were not in use. These workers expressed interest in using the brochures and felt that they would provide needed information to parents. Distribution apparently did not occur at this DFS office even though the foster care specialist had sent a memo to regional staff telling them to give the ORS brochure to parents. We believe that this is another example of the lack

of cooperation in the collection effort; the brochures represent a missed opportunity to provide more information to caseworkers and parents about the collection process.

Better communication with parents about their financial responsibility is needed. Parents should be told upon initial contact with the custody and care systems that they do have a responsibility to support their children and how to go about setting things in motion with the ORS. To do less than this is not providing adequate service to those parents. However, in reviewing case files, we noticed that in some cases parents asserted to ORS workers that they had not been told by the division's intake workers that there would be any cost to them for their child's care. For example, a case narrative noted a parent who "...complained that she was not told up front about charges..." while another narrative indicated the parents "...wanted to know why they weren't told up front about payments." A third case we reviewed noted the parent told the ORS that the probation officer felt her child needed long-term inpatient treatment, "...but he and others told her it wouldn't cost her anything."

We also reviewed a guide to services for people with disabilities that is given to parents and found incorrect information in it that indicated parents would usually not have to pay anything for DSPD services. The 1994 brochure stated that there is a fee associated with residential care, but that Supplemental Security Income (SSI) benefits generally cover that cost with money left over for personal expenses. However, prior to the implementation of the new child support policy, parents of children under 18 were assessed according to a fee schedule developed by the DSPD, while more recently they are assessed according to child support guidelines. This is in addition to coverage provided by SSI benefits to the children. The incorrect statement has been removed from the recently revised 1995 edition of the brochure.

Finally, since the service agencies meet with the families first, it seems reasonable to us that the caseworkers could provide some basic information about the support obligation and instruct parents to contact the ORS. The ORS is not involved in the early contacts with parents, and does not usually become involved with the parents until some time after care has started. Because parents are not always informed about their financial obligation of support, conflict often results when they are contacted by the ORS. Not only are they told they have an ongoing obligation but often they are also informed that they have an overdue bill for arrears that were accumulating without their knowledge. In our opinion, this is not conducive to getting the parents to voluntarily cooperate with setting up a payment schedule and comply with their support obligation.

Past Collection Practices Varied From Division to Division

Another cause for the lack of coordination among the divisions served by the ORS is the past inconsistency in collection policies and practices. Historically, the **Utah Code** contained conflicting passages regarding the basis for charging parents for services provided by the

various divisions. The 1995 Legislative Session resulted in some needed clarification of the

basis for parental support of children in custody or care.

Prior to the 1995 Legislative Session, the **Utah Code** contained different language regarding the way parents of children in the various divisions would be charged for services. For example, section 62A-4a-303 stated that parents of children receiving services from the Division of Family Services would be charged based on ability to pay for part or all of the cost of services provided to prevent and/or treat child abuse and neglect. The **Utah Code** section for the DSPD (62A-5-109(1)) indicated that parents are liable for the cost of the actual care and maintenance of their child until the child reaches the age of majority. The language regarding financial responsibility on the part of families of children at the State Hospital indicated that the Division of Mental Health shall determine the actual annual expense of care and maintenance of a patient and that amount or portion of that amount shall be assessed to and paid by the family. Finally, regarding Youth Corrections, 62A-7-124(1) indicated that the juvenile court may order the youth offender or a responsible party to share in the costs of support and maintenance for the youth offender during commitment. Thus, while the language seemed to call for parents to pay the actual cost of placements at the State Hospital and disabilities facilities, the provisions for DFS and DYC referred to ability to pay and sharing in the cost.

The divisions had a variety of payment schedules as well. The DFS and DYC used the child support guidelines to determine the amount charged to parents of children in Family Services and Youth Corrections facilities, and have contracted with the ORS to be the collection agent since the early 1980's. The DSPD developed a payment schedule that had a \$368 maximum charge. The DSPD contracted with the ORS to perform collection functions in 1988, but did not want the ORS to use any enforcement practices without permission from the board. Eventually the DSPD's board decided that the division rather than the ORS would collect from parents. At this point it decided that families earning less than \$50,000 a year would pay only \$25 per month for services. Although the division never started collecting on its own, the ORS was told not to actively pursue collections during a period from approximately September 1992 until January 1995 when the new child support policy went into effect; the ORS continued to accrue unpaid amounts for each case. Collections for the State Hospital were based on an arrears fee schedule used by the ORS, which resulted in higher assessments than those developed from the regular guidelines table. The method of collections for the hospital also included extended payments for 24 months after the child left care; this extension was an effort to recover more of the high cost of care at the hospital. The 24-month extended payment was dropped in November 1993.

The DHS has now implemented a child support policy that requires assessment of parental support for children in state care or custody according to established child support guidelines. The assessments are based on ability to pay and take into consideration the number of children in the family. According to ORS administration, the policy developed out of an interest in achieving equitable payments for families with children in care or custody, regardless of which agency provided the services. Often, these children receive services from more than one

division; according to ORS administration, parents have been confused by changes in the amount owed when a child moves from one division to another.

Recent modification has occurred in the **Utah Code** to clarify the legislative intent that collections from parents of children who are in state custody or care should be based on child support guidelines. The 1995 legislative session amended many parts of the **Utah Code** that deal with children in care and the financial responsibility of parents. For example, 62A-1-111, which lists DHS responsibilities, now has a provision (62A-1-111(18)) which says the department has the authority to apply child support provisions of the **Utah Code** to parents whose child lives out of the home in a department-licensed or certified setting. Amendments also added child support language to the provisions governing the DSPD, Mental Health, and DYC as found in 62A-5-109, 62A-12-206, and 78-3a-49(2). Families with children in full-time out-of-home placements are now charged according to child support guidelines in all these divisions.

Some language remains, however, that needs to be clarified. Code language still gives policy boards the authority to set fees or fee schedules. This language has been used in the past to set payment schedules for full-time out-of-home care as well as for daily services such as respite care and other programs. With the clarification of legislative intent regarding charging child support, these other areas in the **Utah Code** should be identified and clarified so that the fee setting authority is specific to services other than the full-time placements for which child support is now charged.

Waiver Provisions Should be Reconsidered and Clarified

Finally, in another area where departmental direction is needed, we believe that waivers have been given to DSPD parents in particular without sufficient evidence that they are justified. The amount of forgiveness in the first half of 1995 (\$33,000) equals 40 percent of all of fiscal year 1994's gross collections for DSPD cases (\$83,000). The child support policy's waiver provision should be reviewed to clarify the circumstances under which a waiver will be granted and the level of documentation required, and also to define terms used in the provision. Further, the department needs to consider whether the responsibility for approving waivers should rest with a division director or involve others as well.

Waivers or deferrals of a parent's support obligation are available under certain circumstances, according to the child support policy. Decisions to grant waivers are made by the individual division's director. The ORS, which has access to the financial information on parents, reviews the request and provides information but has no other part in the decision on a waiver. According to the policy, a waiver of arrears is justified if collections interfere with efforts at reunification, and a waiver of current or ongoing support payments is justified by hardship created by an unpreventable loss of income to the family.

Although waivers are available in all the divisions, their use by the DSPD has been more

frequent than in the other divisions. From January 1995 to the end of May, DSPD staff had applied for 14 waivers, which represents 4 percent of the division's open cases at the ORS. Of the other divisions, the next highest use has been in the DFS, with about 0.6 percent of its cases coming under consideration for a waiver.

The DSPD's use of waivers has also increased since the new policy took effect. Prior to the beginning of 1995 and the implementation of the new policy, six waivers had been granted over a two-year period. Since the new policy took effect, 14 waivers have been submitted and 11 had been given partial to full forgiveness of obligation. The increase may have occurred because the DSPD board had decided to suspend enforcement of collections from parents while consideration of the new policy was underway. As a result, many parents who chose not to pay during a two-year period accumulated a large arrears balance with the ORS. When they were contacted with a request to pay a new assessment and to eliminate the arrears, some called to complain and ask for waivers.

Justification of Waivers According to the Policy is Questionable. We believe that some DSPD waivers have been granted without sufficient justification according to the policy. The DSPD director adopted the position that parents should be held harmless during the time the new policy was under consideration. Minutes from a meeting of the policy work group indicate that there was some discussion about holding parents harmless. Thus, those who asked for waivers were often granted a waiver of all arrears. We estimated the forgiveness for the 11 whose arrears were forgiven at over \$33,000. This is an amount equal to 40 percent of the gross collections for DSPD cases (\$83,000) in fiscal year 1994.

In the letters to parents informing them that their waiver request had been granted, the division director indicated that the waiver was granted "because of the revisions to state policy that were underway at that time." We disagree with the decision to hold parents harmless because a new policy was under consideration. This decision essentially contradicts the mandated principle that parents have an obligation to support their children. Further, in the new policy, interference with reunification and unpreventable loss of income are the reasons given to justify a waiver. In many of the cases we reviewed these factors were not cited and did not appear to be operating. Also, ORS staff's reasoning in their memos recommending against approving the waivers cited the lack of justification according to established policy.

Finally, we believe that DSPD waiver practices have resulted in some families not fulfilling their support obligation when it appears they have the ability to pay. We noted that seven of the 14 waiver cases had incomes ranging from \$20,000 to \$58,000 annually, giving these parents higher income than many of the cases we reviewed in the course of the audit. Thus, although the waivers are called hardship waivers, these parents had higher income than many other parents who are paying their child support.

Because of our concerns with the process, we believe that the department needs to consider

changes to the waiver provisions and procedures. The availability of a waiver is important, and we believe there are many cases where granting a waiver is appropriate. However, we believe that the DHS should determine a level of documentation needed to show that waivers are justified according to the policy. Another option is to amend the policy to allow for reasons other than those presently listed as valid waiver situations. Also, terms used in the policy should be defined. Finally, the approval process for a waiver request may need to change so that review and approval is provided by more than one individual.

ORS can Improve Processes Used to Obtain Court Orders

Although ORS administration indicated that obtaining court orders is not part of its collection responsibility, processes have been put in place to request needed court orders. A review of these processes found that more aggressive action by ORS staff is needed to obtain court orders. Also, more frequent activity is needed to achieve greater success in obtaining court orders. Consideration should also be given to increasing staff assigned to this area. Finally, some cases can be processed without having a court order in hand based on information from a parent interested in initiating the process. While previous discussion in this chapter has dealt with the cooperation needed between the custody divisions and the ORS related to obtaining court orders, this section will focus on ORS internal processes that can improve.

More ORS Initiative is Needed in Obtaining Court Orders

ORS administration have asserted that as collection agent for the divisions, it is not their responsibility to obtain the court orders, but rather the divisions' responsibility to provide orders along with other information needed to open cases. However, because of concerns that some court orders were not being received, the ORS developed processes to obtain court orders. Therefore, we reviewed the activity initiated by the ORS to obtain court orders and found some concerns. Increased activity is needed to obtain more court orders more quickly. Timeliness and frequency of activity are areas of concern.

A review of cases needing court orders found that long periods of time elapsed between a case being identified as needing a court order and a request being sent out. A sample of cases in the "I" function found that from 2 to 7.5 months elapsed before a request letter to the court was sent from the ORS. Performance objectives for the staff responsible for obtaining court orders state that weekly request letters will be sent to the juvenile court on all new cases for a given week; monthly letters requesting orders not yet received are also called for. While we do not believe that repeated requests to the court are the best or only action needed to get court orders, a timely request to the court once it is known that a court order is needed is the minimum activity that should be done according to the performance objectives.

Once the initial request has been sent to the courts, too much time often elapses before any

further action is taken. A request to the division awarded custody does not occur quickly. We reviewed a group of 154 cases for which the ORS had requested court orders from the courts in mid-1994 and found that 69 percent were still waiting in "I" function in April 1995. From April to July 1994, the ORS sent requests to Third District Juvenile Court judges for copies of court orders on cases that were waiting at the ORS for orders. From that point, no evidence was found that requests for orders were sent from the ORS for these cases until March and April 1995, when requests were sent to the custodial divisions. The results of this sample concern us because the requests to the court were not followed up in a timely fashion. The BIC director indicated that the ORS approaches the court twice, then goes to the caseworker at the division. This process was not fully completed, and in our opinion too much time went by before such steps as were taken were accomplished.

A positive step we want to mention is that in April 1995, the ORS started to send letters to parents on cases waiting for court orders. These letters ask the parents to send in a copy of the court order so that an assessment can proceed. While many parents may not have the court order in hand, at least the letter notifies them of their financial responsibility and requests the court order.

In addition to more timely efforts at locating orders, we believe that some prioritization of the work is needed. Cases for which the ORS can find the parents and determine that there is steady income should be prioritized and orders actively pursued prior to seeking orders on those cases with little potential for collection. We found some cases waiting for court orders with parents showing steady income over time at one job. In other words, they were locatable and assessable. To illustrate, the ORS opened one case needing a court order in January 1993, a request for an order was not sent to the Juvenile Court until October 1993, and then no further action was recorded in the case file until April 1995 when a request was sent to the DFS for an order. Employment Security information for the father listed income of \$37,000 for 1994, so this is a case where there was some likelihood of collections. Not only was there too little effort put into getting the court order, but in this case, there was a fair likelihood of collecting from the parent in the case.

While some cases waiting for court orders have steady income, others do not always have steady or significant income. For example, we reviewed the cases waiting for orders in April 1995 and found that 23 percent of Youth Corrections cases and 58 percent of Family Services cases were categorized as AFDC cases, meaning that the child was from a family receiving or eligible for AFDC at the time of custody. AFDC cases are normally suspended until the custodial parent is no longer receiving public assistance. While these cases need to be processed, it makes sense to us that the worker responsible for obtaining court orders could wait on these until the cases with more likelihood for collections have been taken care of.

Another case file we reviewed illustrates the various problems we saw in the processing of cases needing court orders at the ORS. This case was part of our survey sampling early in the audit. It was opened at the ORS in late April 1993. The child had been in custody since late

February. The ORS did not have a court order, so the investigator gave the case to the technician to request an order. Six months later, a letter was sent to the judge. The next action on this case occurred 18 months later in April 1995, when a list including the child's name was sent to the Youth Corrections regional office asking whether they had copies of needed court orders. This request apparently yielded nothing, because during our audit, the case was still waiting for an order. However, in August 1995, we found a copy of the court order in the file at the Youth Corrections regional office; the order had been received at the regional office in March 1993. This sequence of events shows that breakdowns can occur in a number of places in the process. The ORS technician allowed far too much time to elapse between steps. A request should have been made to the Youth Corrections office shortly after the court did not respond to the ORS's request. Youth Corrections should have sent a copy of the order to the ORS to begin with. Also, when the request was finally made to the Youth Corrections office, for some reason the court order was not sent to the ORS. In our opinion, the ORS will have a difficult time successfully getting payment from the family because custody has ended. As it is, because this family also had steady and fairly good income, we estimate that somewhere between \$5,500 and \$8,100 in collections are owed on this case for the two years the child was in custody.

One reason we believe that ORS needs to make a request to the custodial division shortly after it makes a request to the courts is that we found the courts generally send a copy of the order to the divisions. We reviewed court orders from our sample cases and found that 82 percent of the DYC custody orders had been "cc'd" or copied to the DYC, while 86 percent of DFS custody orders had been copied to either the DFS or the department. As a result, if the ORS does not receive a copy of the court order quickly from the court, it should take steps to request it from the custodial division. Of course, this step will succeed only if the divisions cooperate in sending requested orders to the ORS as previously discussed.

Assigning More Staff Should be Considered

Because more effort is needed to get court orders for incomplete case files at the ORS, management needs to consider whether it should devote more resources to this area. At present, one part-time worker has responsibility for working on court orders as well as other responsibilities.

With 18 percent of DFS and DYC cases waiting for court orders, it appears that it might be worth putting more people to work on obtaining court orders. One part-time technician on the Family Services/Youth Corrections team spends a portion of her time working on obtaining court orders. Other responsibilities include reviewing suspended cases. Thus, less than one-half of an FTE out of a team of a dozen workers is devoted to obtaining needed documents for nearly a fifth of the case load. This seems disproportionate to us. Considering the resources currently devoted to this assignment and our concerns that more activity is

needed in obtaining court orders, we believe management should consider whether assigning

more staff to this area is needed.

Cases Should be Expedited When Parents Call

Within the group of cases waiting for court orders at the ORS are a subset of cases that need some special consideration. ORS management needs to determine whether these cases can be moved forward in the collection process without a court order in hand. Staff told us that some parents call the ORS as directed by a judge at a custody hearing, but the ORS does not take action if a court order has not been received. We believe that these cases can be moved into collections while staff aggressively pursue actions to obtain a court order.

Investigators working on the Family Services and Youth Corrections team told us that some parents call the ORS to inquire about the assessment process because the judge told them to do so in a hearing. Parents making these calls are usually calling the ORS shortly after a court hearing during which their child went into custody; they tell the ORS staff that the judge ordered them to call to find out about paying child support. Staff indicated to us that they do not take action on these cases if they do not have a court order. They ask the parents if they have a copy of the court order, and if the parents do not have one (most do not at this stage), staff tell the parents they will get back in touch with them when the order comes into the ORS.

The investigators told us there may be months-long delays before the orders are received, and this is borne out by our work with the court orders. By the time they contact these parents to set up the payment process, arrears have built up and many parents are less willing to work with the ORS. Sometimes the child is no longer in care, which can also affect the parents' willingness to pay child support.

These cases should be processed through the assessment process and into collection mode if possible after staff receive the call from the parents. It is our belief that the parents would not call the ORS unless they had been instructed to do so by a judge in a custody hearing. It appears to us that ORS's risk in processing these cases into the assessment phase is low. Minimizing risk by assessing only the parent who called is one way to avoid the risks of assessing a parent not named in the custody order. The ORS could then be collecting from one parent and later initiate collections from the other parent if he/she is named in the court order when the ORS does receive the document. These cases are good examples of our rationale in recommending the prioritization of cases needing court orders. The court orders for these cases should be aggressively pursued because of the expressed interest of at least one parent in starting the child support payment process.

Improvements are Needed in the Referral Process

During our survey review of cases, we found that the process to refer new cases to the ORS is not used by the DSPD to ensure that all new DSPD cases are referred to the ORS for collections. Specifically, only 24 percent of the open cases for the DSPD we sampled contained a referral form. In addition, until part way through our audit, the referral process for new cases at the State Hospital required an ORS worker to travel to the facility to photocopy new patient information, then return to Salt Lake City and enter the information into the ORS system. During the audit, new methods of sending new patient information were initiated, but ORS staff had some concerns about the timeliness of the new process. Further, we observed that there are often significant delays from the start of custody until a referral is received at the ORS. In general, DYC and DFS cases are referred to the ORS.

Because of the collection relationship between the ORS and the divisions, the divisions are supposed to notify the ORS of new cases for children in care or custody as they occur. This referral process is implemented to make the ORS aware that there is a new case for which to establish collections. At the point of bringing a child into the care or custody system, workers in the various divisions are supposed to complete a referral form that varies by division, then send this to the ORS.

Referral Rate can Improve for DSPD

Few of the 300 cases on DSPD children have been opened as the result of a referral from the division, according to both the ORS investigator and team manager over DSPD cases. Instead, most cases are opened as the result of ORS's own efforts. The ORS investigator indicated that a referral form is supposed to be used by DSPD workers when a child enters care in that division, but it is rarely sent to the ORS. When we asked for a copy of this form from the DSPD division director, he was unaware whether there was a specific form for his workers to use. He later found a copy of the form and sent it to us, then sent out a memo to his staff that they were to begin using the referral form that apparently had been adopted early the previous year but not put into use.

We reviewed a sample of 25 DSPD cases at the ORS and found that referral forms were in only 24 percent or 6 case files. The investigator does not rely on a referral form to open cases. The usual method of identifying new cases for DSPD placements is for the ORS investigator to review a Medicaid payments report; this report lists various types of Medicaid payments and requires extensive manual review to identify those cases that are new DSPD cases. In addition to being inefficient, this process is not timely. The sampled cases average 3.5 months from the time the child entered care until a case was opened at the ORS. With cases several months old by the time a Medicaid payment appears on the report, this causes a delay before any contact with parents occurs. This means that the first contact from the ORS to parents will include notification of an arrearage as well as an ongoing obligation to be met. Not only is this process too time consuming for the ORS, it frequently results in a notification

to parents that is not timely and not conducive to establishing voluntary payment of the assessment.

The State Hospital's Referral Process was Inefficient

At the start of our audit, we found that the method by which the ORS identified new cases at the State Hospital involved an ORS worker making a weekly trip to the hospital and going through new admission records, making copies of the ones for children in care. The worker then brought the information back to the ORS and proceeded to open cases by entering the information into the ORS computer system. This process seemed extremely inefficient to us, and we questioned the reason for its use; both the ORS and state hospital staff were receptive to changing the referral method. By the end of fieldwork, the ORS investigator responsible for State Hospital cases was receiving referrals on new patients under 18 years of age in the mail from State Hospital staff. Although this process is supposed to occur weekly, ORS staff reported that there has been some variation in the frequency of referrals arriving at the ORS.

According to the team manager over both DSPD and State Hospital cases, the ORSIS system will include an automatic referral process for new cases in these areas, as it will for Family Services and Youth Corrections. Thus, referral issues may well be resolved once the new computer system is implemented. In our opinion, the lack of referrals from the DSPD is part of a pattern of poor cooperation between the division and the ORS. Although the ORS is eventually successful in identifying new cases, parents would have been better served and unnecessary work for the ORS avoided if DSPD workers had completed and sent referral forms to the ORS in a timely fashion on every child entering care.

Referrals From DFS and DYC are Being Made, but not Always in a Timely Fashion

According to the team manager over the workers who handle both Family Services and Youth Corrections cases, DFS and DYC workers are supposed to fill out and send a referral form to the ORS on each new child entering care. A copy of this form should be in each ORS case file. We checked a sample of DFS and DYC cases to see whether all cases of children in care had corresponding cases open at the ORS. Of 25 DFS cases, we found that two or 8 percent did not have a case open at ORS; in these cases, the parents had given up parental rights, so there were no parents to pursue. There were five DYC cases in our sample of 25 (20 percent) that had no open case at the ORS; a review of available information showed that all five children had spent very little time in a chargeable facility, so initiating collections would not have been worthwhile. The ORS team manager suggested that a referral may have

been received on these cases and a decision made by the investigators not to open a case because of the small amount of time for which charges would have accrued.

We are concerned that although the referrals were sent to the ORS, a significant time lag occurred with some of them. The average lag between the start of custody and the ORS opening a case upon receiving a referral was 46 days for DFS cases and 39 days for DYC cases. This allows too much time to go by before parents are contacted about their support obligation. When the new ORS computer system (ORSIS) is implemented, it is supposed to automatically create new case files at the ORS for newly opened cases at the DFS and DYC. Assuming that this system operates as planned, our concerns with the timeliness of the referral process should be alleviated.

Recommendations:

1. We recommend that the Department of Human Services and its divisions improve the flow of court orders to the ORS by doing the following:
 - Family Services and Youth Corrections should make copies of all incoming court orders and send them promptly to the ORS;
 - DHS should request that the Juvenile Courts send copies of all DFS and DYC custody orders to the ORS.
2. We recommend that DHS administration take steps to ensure that division staff are aware of the importance of the collection effort and that they act to assist in that effort where possible.
3. We recommend that all workers having contact with parents of children in custody or care be provided with copies of the Parents' Financial Obligation brochure and give this brochure to parents.
4. We recommend that the DHS seek modification to the **Utah Code** language giving policy boards fee-setting authority to clarify that the fees are for services other than full-time out-of-home placements.
5. We recommend that the ORS make changes to its internal processes to obtain court orders by doing the following:
 - send requests for court orders to the courts in a timely fashion;
 - send timely follow-up written requests for unreceived orders to Youth Corrections and Family Services;

- prioritize its efforts to obtain court orders to give attention first to those cases where likelihood of achieving collections is higher;
 - assess whether additional staffing is needed to ensure that court orders are requested and received in a timely fashion.
6. We recommend that when parents call the ORS as the result of a judge's instructions, these cases be processed as far as possible even if a court order has not been received, and that court orders for these cases be aggressively pursued.
 7. We recommend that referrals be forwarded promptly to the ORS on each new case opened for a child at the DSPD.
 8. We recommend that the department amend the waiver provision in the child support policy to do the following:
 - require justification for granting waivers according to the policy provisions;
 - define terms used;
 - possibly amend the policy to allow for more reasons for granting waivers;
 - consider whether the approval process needs to change to provide for greater equity in waiver use across divisions.

Agency Response